

# Surface Transportation Funding Options for States

By  
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James B. Reed

At the direction of the  
NCSL Transportation Funding Partnership Committee  
and the NCSL Transportation Committee



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# ABOUT THIS REPORT

State lawmakers face a critical challenge when they consider funding for transportation programs in their jurisdiction. How can they provide enough money to support a safe, efficient, reliable and effective transportation system when the money available for transportation has become more uncertain and transportation needs continue to grow?

This report provides detailed information about transportation funding options for state legislatures.

- The initial chapter makes the case for transportation funding by providing information about travel trends, the effects of growth on the transportation network, congestion, new transportation challenges, and growing transportation funding needs.
- The second chapter explains what states buy with funding for highways and public transportation and analyzes the economic benefits of transportation investments.
- Chapter three details the sources and distribution of surface transportation funding including, federal, state and local contributions.
- The fourth chapter identifies obstacles to transportation funding, including economic conditions, changing consumer preferences, political concerns and legal restrictions.
- Chapter five lists and analyzes options available to state legislatures to raise additional funds for transportation or to leverage existing resources, including potential new revenue sources, procurement tools that can save time and money, bonds and financing mechanisms, and tools to facilitate better state and federal cooperation.
- The sixth chapter examines trends in state transportation funding approaches including greater reliance on public-private partnerships, the increased use of bonding and debt financing and the growth of tolling. Innovative approaches are also mentioned including a vehicle-miles-traveled fee and performance and accountability measures.
- Chapter seven uses a comparative analysis to give states tools to consider revenue sources of which they have not taken full advantage.
- Chapter eight includes case studies on the Chicago Skyway deal and recent transportation election results.

- Appendices address current state transportation funding programs, current gas tax rates, state legislation on design build and public private partnerships, accountability legislation in the state of Washington, and aggregate state highway revenues.



# THE NCSL TRANSPORTATION FUNDING PARTNERSHIP

The NCSL Transportation Funding Partnership was created to bring important transportation funding information and resources to the nation's state legislatures. The partnership brought together key players in transportation funding, including members of the NCSL Transportation Committee who are legislators and legislative staff expert in state transportation funding matters, other key state legislators, transportation finance experts, and an array of private sector companies. The committee created a guide for state legislators on both existing and innovative transportation funding solutions and options. The guide catalogues the various transportation funding options available to states and is intended as a tool that state legislators and others can use to develop their own transportation finance solutions.

The guide was developed with the oversight of a Transportation Funding Partnership Committee, which met four times over the course of the project to formulate, develop and review the guide. Members of the partnership committee were:

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- Chair:* Senator Bruce Starr, Oregon (R)—NCSL Transportation Committee vice-chair
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# EXECUTIVE SUMMARY

State lawmakers find themselves at a critical juncture for making decisions about investments in the nation's surface transportation system. By many standards, U.S. transportation needs are growing. On the nation's highways, more people are traveling more miles—vehicle miles traveled have grown by more than 35 percent since 1990—than at any point in the history of the country. Freight shipments through the United States are expected to double in volume by 2020, and truck travel connected to international trade should double by 2015. The demand for public transportation services has increased by 23 percent since 1995 and is at its highest point since World War II. Since 1993, urban traffic has increased 45 percent, while rural highway traffic has increased 23 percent. Traffic congestion on U.S. highways is now estimated to cost Americans nearly \$65 billion each year in wasted time and fuel. In addition, in the aftermath of the events of September 11, 2001, Hurricane Katrina and other natural disasters, many states are confronted with billions of dollars of new and unexpected costs for security and the replacement of damaged transportation infrastructure.

Undeniably, state investment in the nation's surface transportation system can help address these growing needs. With an unlimited budget, state lawmakers could build more highways, use the latest technologies to improve the capacity of existing roads, promote and support greater use of public transportation, and provide money to meet all transportation demands. Of course, no state has an unlimited budget and, in fact, in most jurisdictions the resources available for transportation projects are gradually shrinking.

Transportation costs are rising for both consumers and states. Gas tax revenues, which provide more than one-third of all highway funding, are not growing sufficiently to match inflation rates. With gasoline prices in some communities at more than \$3.50 a gallon in May 2006, gas tax increases are clearly not a popular option in any jurisdiction.

State general fund money, which could help offset the diminished purchasing power of the gas tax, are being increasingly consumed by Medicaid, corrections and education, leaving little for transportation projects. In 2005, less than one-third of state budgets were not dedicated to those three major items. By comparison, 41 percent of state general fund budgets were not dedicated to education, corrections and Medicaid in 1995.

In this environment of apparent need, state lawmakers are confronted with the stark reality that less money is available for transportation projects. Is this an accurate assessment and, if so, what—if anything—can be done?

*Surface Transportation Funding: Options for States* attempts to answer these questions by analyzing current transportation funding needs and providing options for state legislators. It makes the case that significant investment is needed from all levels of government not only to maintain the current transportation network but also to enhance and improve the system to meet growing demands. The report cites several studies that indicate the funding gap is widening, including one recent survey that predicted a \$1 trillion cumulative national transportation funding deficit by 2015.

To assist state lawmakers, *Surface Transportation Funding* explains the basics of transportation funding. It details federal, state and local revenue and funding sources and provides information about specific highway and public transportation expenditures. Beyond funding mechanics, the report explores potential obstacles to surface transportation funding decisions, including economic conditions, changing consumer preferences, political concerns and legal considerations. The report finds that many challenges—including the declining value of the gas tax against inflation, opposition to tax and fee increases, citizen initiatives, constitutional and statutory restrictions on the use of gas tax revenues, and federal lawmaking—significantly affect state transportation resources.

*Surface Transportation Funding* provides a menu of options for legislators to consider to improve transportation funding in their state. Although many new or previously untapped transportation revenue sources may be available to state lawmakers, the report finds that a variety of other options can be used to provide a more balanced approach to transportation funding. Some may be as simple as eliminating the diversion of transportation-derived revenues to non-transportation purposes. Other options can include the use of different procurement tools to speed project delivery or lower projects costs, tapping private investment through public-private partnerships, using different bond and financing mechanisms, and utilizing different matching options to better leverage funds used on federal-aid transportation projects. The report closely examines three long-term state transportation funding trends: greater use of public-private partnerships, greater reliance on financing, and exploration of funding innovations such as the vehicle mileage fee. It also provides a case study of the trend-setting deal to privatize the Chicago Skyway toll road and examines recent state legislative initiatives.

# 1. THE CASE FOR TRANSPORTATION FUNDING

Everyone in the United States benefits from a national surface transportation system that moves people and freight safely, reliably, efficiently and effectively. Manufacturers and consumers profit when the nation's network of highways and railroad tracks helps goods move quickly and cheaply across the country. Motorists appreciate roads that are safe, smooth and congestion free. Transit riders want trains and buses that are on time and can speed them quickly to their destination. Families benefit when parents know that traffic will not prevent them from arriving home from work in time to see their daughter play in a softball game or their son sing in the school choir. Pollution is reduced when cars and trucks can pass quickly through a stretch of highway and are not stuck in stop-and-go traffic.

Although everyone benefits from the surface transportation system, state lawmakers are facing a serious challenge to find sufficient funding to meet growing transportation needs. Population growth, greater amounts of individual travel, and increases in economic activity and freight shipments are deteriorating existing transportation infrastructure, causing congestion and increasing the overall burden on the surface transportation network. At the same time, many states have less money available to spend on transportation. Gas taxes—the staple of transportation funding in most states—have declined in their purchasing power, are less capable of filling the funding need, and have increasingly become politically difficult to increase. Other funding sources, such as state general funds, are being squeezed by major items such as education, and many states have found it difficult to keep pace with transportation funding needs.

## More People and More Freight

From 1990 through 2005, the total population in the United States grew by approximately 40 million to nearly 300 million people.<sup>1</sup> Concurrent with the population growth were even faster increases in travel. According to the U.S. Bureau of Transportation Statistics (BTS), travel increased across almost every transportation mode during the last 15 years, sometimes at rates greater than the overall population growth.<sup>2</sup>

Most people in the United States rely on motor vehicles for mobility, accounting for 88 percent of overall travel.<sup>3</sup> It is not surprising then, that much of the increase in travel has occurred on the nation's highways. Now, more people are traveling more miles on the nation's highways than at any point in our history. The Federal Highway Administration

(FHWA) estimates that, in 2004, motor vehicles traveled more than 2.9 trillion miles on U.S. highways, up from 2.85 trillion miles traveled in 2002.<sup>4</sup> Vehicle miles traveled increased by 35 percent from 1990 to 2003 and by 161 percent from 1970 through 2003.

Travel by mass transit has also increased. According to BTS, the passenger miles traveled on mass transit from 1990 to 2003 increased by nearly 15 percent.<sup>5</sup> Since 1995, transit use has increased by 23 percent, a rate higher than highway travel.<sup>6</sup> Cambridge Systematics reports that demand for public transportation is at its highest point since World War II. Passengers now make 9.5 billion trips by public transportation each year.<sup>7</sup>

In addition to individual travel, a substantial growth in freight movement will continue to place greater demands on the surface transportation network. According to a report by the Hudson Institute, in 2000, well over 12 billion tons of goods worth roughly \$10 trillion moved through the U.S. freight system (not including pipelines).<sup>8</sup> FHWA estimates that by 2020, the volume of freight movement in the United States may double.<sup>9</sup> Although some of the expected freight movement increases can be traced to domestic production, growth in international trade will probably have the most significant influence.

Economic growth in Asia, most notably China, the NAFTA agreement, the widening of the Panama Canal and the development of trade corridors from Latin America through Canada, will increase freight movement in the United States. Experts predict that trade between the United States and Asia is likely to double over today's rates to more than 700 million tons of freight by 2020. Similarly, trade between the United States and South America will likely increase to 600 million tons of freight by 2020, up from less than 300 million tons of freight in 1998.<sup>10</sup>

Freight growth has a direct effect on the use of the national transportation system. More freight means more demand for trucks, trains, barges and planes to transport the goods. The Hudson Institute report estimates that, under current scenarios, by 2020, freight growth will increase trucking-ton miles by 64 percent, increase rail-ton miles by 49 percent, increase barge traffic by 15 percent, and double the demand for air freight.

The greatest effects of freight growth may be on truck use and the highway system. The majority of freight travels by truck in the United States, and since 1990, the demand for trucking has grown at an annual rate of nearly 4 percent.<sup>11</sup> Under current scenarios, U.S. truck traffic connected to international trade is expected to double between 2002 and 2015 from 3.8 billion vehicle miles traveled to 7 billion vehicle miles traveled.<sup>12</sup> If other transportation modes are insufficiently supported, however, an even greater burden for freight transport will shift to the trucking industry and, ultimately to the highways.

There are indications that trains and barges may have difficulty meeting the growing demands for freight movement. Since 1980, the physical infrastructure needed to support freight rail traffic has steadily diminished. The number of miles of track has dropped by approximately 37 percent.<sup>13</sup> Moreover, a significant portion of the rail network, built in the 1800s, was designed for east-west traffic and to facilitate travel between hubs.<sup>14</sup> Infrastructure in many locations, particularly bridges and tunnels, is in disrepair. In addition, some rail tunnels may lack the necessary height clearances for double-stacked freight boxes.<sup>15</sup> Many rail terminals are located in dense urban areas with little room for expansion. Where facilities have been developed away from urban centers, they often lack the good roads necessary to make their use most efficient.<sup>16</sup> Some turnaround has occurred in this trend

during the last five years as railroads have seen an increase in profitability and have committed more resources to infrastructure investment. For example, BNSF reports that it now spends over \$1 billion every year on railroad maintenance.<sup>17</sup> Nonetheless, railroads still face an enormous challenge.

Similarly, water freight operations may face infrastructure challenges that make it difficult to meet growing demands. Barges transport approximately 20 percent of the nation's coal and 60 percent of the nation's grain.<sup>18</sup> Many inland waterways that support barge travel need to be modernized. The U.S. Army Corps of Engineers reported in 1997 that the median age of locks on inland waterways was 37 years, and that locking delays averaged six hours.<sup>19</sup> Without sufficient investment in water and rail infrastructure, an even greater burden for freight traffic may be shifted to trucks and to the nation's highways, roads and bridges.

## Travel Growth Increases Need for Transportation Funding

Everyone wants a transportation network that is safe, reliable, efficient, cheap to use and free from congestion. The growth in travel, however, already has affected the ability of the transportation system to meet these goals. Much of the transportation infrastructure is aging and in poor condition, roads are congested, and costs for travelers, consumers and others who rely on transportation are rising. Many experts believe that additional and substantial financial investment is needed to meet modern transportation needs and support a multi-modal transportation system.

There are many signs that transportation system performance has already dropped. Among the most apparent is the wear and tear on existing transportation infrastructure. According to the *National Transportation Statistics 2005*, approximately 18 percent of the more than 912,000 miles of America's roads and highways are in poor or mediocre condition.<sup>20</sup> In Missouri, 59 percent of roads—the third highest percentage in the nation—are in poor or mediocre condition, costing motorists an additional \$2 billion per year in extra vehicle operating costs.<sup>21</sup> Approximately 27 percent of the nearly 594,000 U.S. bridges are structurally deficient or functionally obsolete.<sup>22</sup>

Poor road and bridge conditions are not only an aesthetic concern. Bumpy roads and decaying bridges have significant economic and personal costs. Outdated facilities can handle fewer vehicles at slower speeds, meaning that both individual motorists and freight shipments travel at slower speeds to their eventual destination. Poor roads and bridges also can create safety hazards and cause damage to vehicles. According to TRIP, a nonprofit transportation research group, roadway conditions were a factor in approximately 30 percent of fatal traffic crashes in 2003, in which approximately 12,700 people died.<sup>23</sup> Annually, motor vehicle crashes cost U.S. citizens more than \$230 billion in medical costs, lost productivity, travel delay, loss in work productivity, additional insurance costs and legal costs.<sup>24</sup> TRIP also estimates that driving on roads in need of repair costs motorists in the U.S. \$54 billion per year in extra vehicle repairs and operation costs.

Signs of age also are apparent in rail and transit systems. Tracks, bridges, tunnels and many rail and transit vehicles are beginning to age. According to the National Transit Database, in 2003 approximately 28 percent of transit and rail vehicles in the active fleet were 12 years old or older.<sup>25</sup> The problem is particularly acute for rail cars. The average age for commuter rail locomotives in 2003 was 16.6 years. The average for heavy rail passenger

cars was 19 years, 15.6 years for light rail vehicles, 20.5 years for commuter rail passenger cars and 25.4 years for commuter rail self-propelled passenger cars.<sup>26</sup>

Travel growth has also significantly intensified highway and road congestion. Congestion results when traffic exceeds the road capacity. Although travel on highways and roads has increased significantly during the last two decades, road capacity has not expanded to handle increased need. FHWA reports that between 1980 and 1999, the total number of miles traveled by motorists in the United States increased by 76 percent. Concurrently, the number of new highway miles increased by only 1.5 percent. As a result, during the last two decades, traffic congestion has increased everywhere. According to the Texas Transportation Institute (TTI), traffic congestion in the United States delayed travelers 0.7 billion hours in 1982. In 2003, traffic congestion delayed travelers by 3.7 billion hours. The number of urban areas that reported 20 hours of annual delay per peak traveler grew from just five in 1982 to 51 in 2003. Only 33 percent of travel occurred on uncongested roads in 2003, compared with 70 percent of travel that occurred on uncongested roads in 1982. Twenty percent of travel occurred in extreme congestion conditions, and another 20 percent of travel occurred in severe congestion conditions in 2003, up from 5 percent in extreme conditions and 7 percent in severe conditions reported in 1982.

In addition to mere inconvenience, traffic congestion costs money, wastes time, wastes fuel and causes environmental damage. Congestion has particularly acute economic effects. Growing international trade has increased traffic in U.S. ports and on roads leading from the ports. Congestion delays the movement of freight, increasing the costs for manufacturers, shippers, retailers and, ultimately for consumers. According to TTI, congestion costs grew considerably during the last 20 years. In 1982, delays wasted 0.4 billion gallons of fuel and cost \$12.5 billion. In 2003, congestion resulted in 2.3 billion gallons of wasted fuel and cost Americans nearly \$65 billion.<sup>27</sup>

## **Emerging Transportation Funding Needs—Security and Natural Disasters**

In addition to the greater transportation funding needs caused by population growth and increased economic activity, states will increasingly be challenged to find money to pay for recent security concerns and natural disasters. Following the events of September 11, 2001, the costs for securing the national transportation system skyrocketed. Although the federal government has spent more than \$18 billion to upgrade aviation security since 9/11, less attention and, more significantly, less federal money have been used to upgrade security for the nation's highways, roads, bridges, tunnels, public transportation system, and other transportation facilities.<sup>28</sup> Instead, much of the financial burden for upgrading surface transportation security has fallen to state and local governments.

Heightened security requirements for public transportation systems are becoming particularly expensive for states and local agencies. Around the world, many more terrorist attacks have occurred on transit buses, trains or other public transportation systems than on aircraft. Since 9/11, however, the federal government has spent only \$250 million for transit security.<sup>29</sup> During the same period, transit agencies in the United States invested more than \$2 billion for security and emergency preparedness, almost all from their own budgets and with no grant assistance.<sup>30</sup>



Security funding requirements for transit continue to grow. Federal threat levels issued by the Department of Homeland Security, for example, have a dramatic effect on budget requirements. According to the American Public Transportation Association (APTA), the heightened “orange alert” following the July 2005 attacks on the transit system in London cost U.S. transit systems more than \$900,000 per day, or an estimated \$33 million over the 36-day code orange period.<sup>31</sup> APTA reported that transit agencies across the country have identified more than \$6 billion in additional transit security needs—\$5.2 billion in security-related capital investment and \$800 million to support personnel and related operational security measures—to ensure transit security and readiness.<sup>32</sup> Capital investment needs include reliable and interoperable radio communications systems, security cameras on vehicles and in stations, automated vehicle locator systems, and controlled access to facilities and secure areas. Funding needs for operations include support for current and new transit agency and local law enforcement personnel, training for security personnel, and money for preparatory drills.

State and local costs for improving security for bridges, tunnels, highways and other surface transportation facilities will also be likely to increase. A blue ribbon panel sponsored by AASHTO and FHWA concluded in 2003 that security concerns about the nation’s highway system needed to be addressed. Most fixed transportation infrastructure is easily accessible, unguarded and vulnerable to terrorist attack. The panel noted that there were approximately 1,000 bridges in the United States where substantial casualties, economic disruption and other societal ramifications would result from terrorist attacks.<sup>33</sup> The report also observed that the U.S. surface transportation system includes 337 highway tunnels and 211 transit tunnels. Many are located beneath water and have limited alternative routes. The panel determined that the loss of a critical bridge or tunnel could result in “... hundreds or thousands of casualties, billions of dollars worth of direct reconstruction costs, and even greater socioeconomic costs.”<sup>34</sup>

With such potential dire consequences from terrorist attacks to surface transportation infrastructure, the panel warned that “... significant investment to prevent or reduce the consequences of such attacks may well be justified as an alternative to the high cost of response and recovery and subsequent socioeconomic damage.”<sup>35</sup> Funding is needed to increase the number of security personnel necessary to maintain security and guard facilities, make structures less vulnerable to damage, purchase and deploy ITS technologies to monitor infrastructure, plan and facilitate emergency evacuation, and allow responders to move quickly to emergencies.

Hurricane Katrina and other natural disasters that struck the United States in 2005 also will significantly affect future transportation funding needs. In the states directly affected by the storms, cost estimates to fix and upgrade transportation infrastructure are high. An October 2005 letter from Louisiana Governor Blanco and the director of the Louisiana Department of Transportation and Development (LA DOTD) estimated that the state would need \$32.6 billion in federal aid to repair, replace and upgrade transportation infrastructure, meet future transportation needs and upgrade hurricane protection systems.<sup>36</sup> Mississippi officials testified before Congress in October 2005 that the state would need approximately \$695 million just to rebuild Highway 90, clean up debris, and pay for other post-Katrina emergency work in the state. The officials estimated that it would cost an additional \$400 million to repair bridges over the Biloxi and St. Louis bays.<sup>37</sup>

In addition to the Gulf Coast region, many other states' transportation costs were affected by flooding, tornadoes, earthquakes and landslides in 2005 and 2006. The U.S. Department of Homeland Security reported 48 declared natural disasters in 2005, and 19 declared disasters as of May 2006. Although exact costs for these disasters are unknown, they could be high. New Hampshire Department of Transportation officials, for example, estimated that it would cost the state roughly \$25 million to repair transportation infrastructure damaged by severe floods in October.

In addition to the direct damage to transportation infrastructure, Hurricane Katrina and other natural disasters in 2005 demonstrated that investment still may be needed to improve emergency evacuation plans and reroute transportation. Many of the most vulnerable populations in New Orleans—those who were elderly, disabled or indigent—had no access or ability to use a motor vehicle and were left stranded in the city. States and local communities now may be required to reevaluate their emergency evacuation resources to ensure that they are able to cope with future disasters.

In states not directly damaged by Katrina and other hurricanes, transportation funding needs also may be affected by the disasters. Before the hurricanes, 10 of the 15 largest U.S. tonnage ports were located in Louisiana and Texas. Although the longer-term effects of the hurricanes on these ports is not fully known, it is clear that freight shipments already have been diverted to other facilities, putting further strain on the highway and rail networks in those states. The hurricanes also have driven up the costs of construction in other states. Shortages in building materials, cement and skilled labor raised costs in some states by as much as 20 percent to 30 percent in the months following Katrina.

### Transportation Funding Insufficient

Funding can be used to help transportation needs. Money can pay for maintenance and construction of transportation facilities, purchase new transit vehicles or systems to help alleviate highway congestion, and provide new technologies to improve highway operation. Although there are significant and growing needs for transportation spending, many experts agree that the amount spent on transportation so far has not matched the requirements. In 2002, FHWA estimated that revenues for 2004 were \$21 billion short of the level of expenditure needed to maintain the nation's roadway system and \$15 billion short of the level needed to maintain the nation's transit system.<sup>38</sup> AASHTO projected even more significant spending deficiencies, with revenue \$37 billion short for highway spending and \$19 billion short for transit.<sup>39</sup>

According to a report published by the Hudson Institute, even if highway and transit revenues were increased by amounts that FHWA and AASHTO estimate they are deficient, the increase would be sufficient only to maintain the current physical condition of pavement, bridges and transit infrastructure. It would not be enough to improve the transportation system to meet the rapid growth in population and economic activity.<sup>40</sup> FHWA estimated that 2004 revenues were \$52 billion short of the amount needed to improve the highway system and \$21 billion short of the amount needed to improve the transit system.<sup>41</sup> AASHTO estimated a \$71 billion shortfall in 2004 revenues to improve highways and a \$29 billion shortfall needed for improvements to the transit system.

A 2005 report published by the National Chamber Foundation of the U.S. Chamber of Commerce estimated that it would cost \$222 billion in 2005 from all levels of govern-

ment—\$125 billion in capital investment and \$97 billion in operations and maintenance—to maintain the current condition of the nation’s pavements, bridges and transit infrastructure, and \$295 billion per year by 2015.<sup>42</sup> Government would need to invest \$271 billion in 2005 and \$356 billion per year by 2015 improve highway and transit systems. According to the report, current revenue projections fall well short of these targets. In 2005, revenues from all sources were estimated to be \$180 billion, \$42 billion short of the amount needed to maintain the national transportation network and \$91 billion short of the amount needed for improvements. The report estimated that the cumulative deficit in the amount of money needed to improve the transportation system would exceed \$1 trillion by 2015.<sup>43</sup>

An additional concern is that revenues added to the Highway Trust Fund may not meet current expenditure levels by 2009 and the Mass Transit Account will be in deficit by 2013. These projections were included in the national budget for FY 2007.

### State Spending on Transportation Is More Uncertain

Although transportation needs appear to be growing, the revenues available for transportation spending are becoming more uncertain. Motor fuel and vehicle taxes—which account for approximately 64 percent of state funding for transportation projects—have not kept pace with inflation in many states and nationally have declined in value and purchasing power. With the cost of gasoline remaining high at the pump, motor vehicle fuel tax increases to pay for transportation projects are politically unpopular. In Georgia, motor fuel taxes were actually suspended temporarily, and increases in other jurisdictions have been under attack.

Other sources of state transportation funding—such as tolls, registration fees, driver’s license fees, truck fees, and a host of miscellaneous taxes and fees—can be politically unpopular, making it difficult to derive additional funding from these mechanisms to compensate for the increased need for transportation funding.

State general fund budgets—which account for about 4 percent of transportation spending—have faced various challenges in recent years, from declining revenue collections to rapidly increasing costs for programs such as Medicaid and education. The availability of state resources for programs other than Medicaid, elementary and secondary education, corrections and public welfare continues to diminish. According to NCSL’s *State Budget Actions* reports, Medicaid has been the fastest growing major program in state budgets since 2000.<sup>44</sup> State general expenditures for Medicaid in FY 2005 grew an estimated 14.6 percent, while state general fund expenditures as a whole grew 6.8 percent during the same period.

The second fastest growth in a major program in FY 2005 was in corrections, which grew an estimated 8.4 percent. Although revenues in 2005 are generally recovering after several years of underperformance, additional spending requirements for Medicaid and K-12 education will continue to limit state legislatures’ flexibility to use general funds to cover transportation expenditures. In 1995, 59 percent of state budgets were dedicated to K-12 education, Medicaid, higher education and corrections. In 2005, 68 percent of state budgets were dedicated to those programs, leaving only 32 percent of state revenue for all other programs, including transportation.

## 2. TRANSPORTATION FUNDING NEEDS: WHAT DOES THE MONEY BUY?

As spending decisions are considered in state legislatures, understanding how transportation dollars are spent helps to make the case for needed transportation funding. Expenditures for surface transportation fall into several categories for highway and public transportation.

### Expenditures for Highways

#### *Capital Outlay*

States spend approximately 48 percent of their highways budgets on capital outlay. Capital outlay costs for highways and roads are those associated with improvements to the physical highway infrastructure. These include costs for land acquisition and right-of-way; preliminary engineering; construction engineering; construction; reconstruction; resurfacing; rehabilitation; restoration; environmental impact mitigation; wetland and stream preservation; installation of traffic service structures and facilities such as guard rails, fencing, signs and signals; safety improvements; and installation of intelligent transportation system technologies and devices.

#### *Maintenance and Highway and Traffic Services*

States spend approximately 25 percent of their highway budgets on maintenance and highway and traffic services. Maintenance costs are those costs needed to keep a highway or road in usable condition, such as expense to fill pot holes. These do not include costs for activities such as resurfacing that are intended to extend the life of the highway or road beyond its originally intended design.

Highway and traffic service costs are those associated with highway and road operations and management techniques that are designed to improve traffic flow, relieve congestion, reduce environmental impact and improve aesthetic appeal. These include expenses for operating highway management centers, traffic surveillance and control systems, snow and ice removal, highway beautification activities, litter control, vegetation management, erosion control, and air quality programs. In some states this also may include the construction and operation of visitor centers and rest areas.

### *Administration*

States use approximately 8.4 percent of their highway budgets for administration costs, which are general expenses not attached to a specific project for administering a state or local highway program. These include costs for overhead, engineering, research, highway planning, litigation, publications and revenue collection activities.

### *Highway Law Enforcement and Safety*

States use approximately 9.4 percent of their highway budgets for law enforcement and safety. These include costs to support state highway patrols, highway safety programs, state driver education and training activities, vehicle safety inspections, vehicle size and weight enforcement, and motorcycle safety programs.

### *Debt Service*

States use approximately 4.6 percent of their highway budgets to cover debts. These include expenses from borrowing funds for highway, road and street projects. Costs are the expenses incurred from the sale of highway bonds, bond administration, and repayment of interest and principal.

### *Intergovernmental Payments*

States transfer funds to local governments for many highway, road and street projects. Counties, cities and smaller municipalities receive funding from state governments.

## **Expenditures for Public Transportation**

Many of the public transportation expenditure categories are similar to expenditures for highways and roads. There are some differences, however. According to APTA, in 2004 approximately two-thirds of state funding for transit was used for operation expenses, and one-third was used for capital expenditures. Fifty-seven percent of capital expenditures for public transportation are for facilities, guideways, stations and administrative buildings.<sup>1</sup> Vehicles account for 29 percent of public transportation capital expenditures, and equipment and services account for the other 14 percent.

Approximately 44 percent of public transportation operation budgets are dedicated to scheduling and operations. Another 18 percent of operation expenditures goes vehicle maintenance, 15 percent to maintenance of facilities, 13 percent for purchased service, and 15 percent for general administration.

## **Other Surface Transportation Costs**

### *Costs for Individuals*

In addition to costs for governmental agencies, the use of surface transportation facilities also places costs on individuals. People who wish to travel must pay for gas, vehicle maintenance, transit fares, insurance, the purchase price of a motor vehicle, tolls, and many other transportation-related costs. Often, these costs go up or down, depending on how much the government spends on transportation. When government spends more on sur-

face transportation, individual travelers spend less, and when government spends less, travelers spend more. For example, if a state spends less money to repair pot holes and improve road conditions, a driver might spend more to repair vehicle wear and tear. If the state invests less for public transit systems, fares might increase to cover costs. Less government spending on transportation can mean that facilities are less safe, resulting in greater burden and costs to individuals when motor vehicle crashes occur. A report by the Surface Transportation Policy Project in 2000 estimated that families spend at least five times more than what all levels of government spend on highways.<sup>2</sup>

Individuals also pay less obvious costs for failure to invest in the surface transportation system. Prices for consumer goods can fluctuate, depending on the speed and efficiency of transporting goods to market. If road, train or travel conditions slow the shipment of goods and products to market, costs increase for the shipper, retailer and manufacturer. Those cost increases ultimately raise the price of consumer goods.

### *Other Costs for Transportation Departments*

State departments of transportation (DOT) may have additional expenses beyond those for surface transportation. For example, some states DOTs help with development of local and regional airports. In other states, DOTs may be required to pay for environmental expenses for activities such as underground fuel tank clean up.

## **Economic Benefits of Surface Transportation Spending**

Surface transportation spending can have significant economic and societal benefits. Transportation infrastructure underlies the entire U.S. economy and contributes to economic growth, job creation, corporate profits and worker productivity. Good transportation systems connect people to jobs. New projects can encourage livable communities and promote business development. As noted in a recent study by the Eno Transportation Foundation:

Transportation improvements foster improvements in the business environment. Cheaper transportation increases the size of markets. With larger markets, firms can realize greater economies of scale in production. Inputs to the production process may become cheaper because of lower transport costs. The size of the labor pool expands. Inventory management becomes easier. New land and new resources can be put to productive use, and greater specialization can occur.<sup>3</sup>

It is estimated that each \$1 billion in federal spending on transportation infrastructure supports approximately 47,500 jobs.<sup>4</sup> According to APTA, every \$1 invested in public transportation projects generates between \$4 and \$9 in local economic activity.<sup>5</sup> Moreover, public transportation helps reduce overall fuel consumption and improves safety for travelers. TRIP estimates each \$1 invested in the nation's highway system yields \$5.40 in economic benefits from reduced delays, improved safety and reduced vehicle operating costs.

As reported by the Eno Transportation Foundation in a 1999 study, a \$1 billion investment in Maryland highways during five years in the 1990s yielded 23,000 additional jobs and an increase of \$2.7 billion in the output of Maryland goods and services.<sup>6</sup> Over time, the annual rate of return on highway investment was estimated to be 17 percent.

A study by the Appalachian Regional Commission on the effects of the creation of 3,000 miles in the Appalachian Development Highway System found that, by the time of completion of the system in 2015, 42,000 jobs would be created in all sectors of employment, most notably construction and retail trade and services.<sup>7</sup> Total economic benefit to the region over the time period was estimated to be \$2.7 billion, with an investment return of \$1.32 for every \$1 invested.<sup>8</sup>

Iowa's "Revitalize Iowa's Sound Economy" program, created in 1985, promotes economic development through construction, improvement and maintenance of certain roads and streets. Funded by a 1.55 cent per gallon fuel tax, it raises approximately \$30 million per year. It is estimated to have helped create more than 3,500 jobs in 2004 and to have leveraged almost \$600 million in private capital.

It should be noted that estimating the precise economic effects of transportation investment is an inexact science; however, enough work has been done in recent years to indicate that the government's expenditure of tax dollars on transportation infrastructure benefits the economy in many ways, some of which are difficult to measure. Economists and researchers continue to refine models that will more accurately portray the effects of transportation investment on the economy.<sup>9</sup>

### 3. SOURCES AND DISTRIBUTION OF SURFACE TRANSPORTATION FUNDING

During the last 10 years, much of the financial burden for surface transportation projects has been on state and local governments. In 2003, approximately \$143 billion in revenues from federal, state and local sources were used for surface transportation projects.<sup>1</sup> In 2005, it was estimated that approximately \$180 billion in revenues would be available for surface transportation needs.<sup>2</sup> The majority of these funds, however, come from state sources. The federal share for highway improvements during the last decade averaged approximately 42 percent; the federal share for public transportation during the same period averaged 47 percent.<sup>3</sup>

#### Federal Surface Transportation Funding

Federal funding for surface transportation projects occurs mostly through the federal aid highway program. Under the program, the federal government distributes money to states for the construction and improvement of urban and rural highway systems and for transit system capital expenditures. The program is funded from proceeds of the federal motor-fuel tax, the federal heavy vehicle use tax, and federal motor carrier excise taxes (on truck and trailer sales and tires) collected in the Federal Highway Trust Fund (HTF) and in the Mass Transit Account within the HTF. On federal aid projects, although the federal government provides much of the funding, the state or local government retains some control. A state develops a plan that is in accordance with federal regulations, signs contracts and supervises construction. Operation and maintenance of the roads or facilities remain under state or local administrative control.

The Federal Highway Act of 1956 established the HTF, and subsequent reauthorizations established formulas for apportioning surface transportation funding to the states. For most programs, states must match a portion the federal money; 80 percent of the federal aid project is paid for with federal money, and 20 percent is paid by non-federal sources.

In 2005, Congress passed the highway funding reauthorization bill, known as the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU). The bill authorized \$286.5 billion in federal funding for federal aid highway, transit and safety programs through 2009 and granted \$295 billion in contract authority. The bill increased the average annual federal funding to states for highway projects by approximately 30.3 percent above the amount in the previous transportation bill and the average annual



transit funding to states by approximately 45 percent over the previous legislation.<sup>4</sup> SAFETEA-LU authorized \$241 billion for highways and \$52.6 billion for transit programs.

An aspect of SAFETEA-LU that attracted media attention was the amount earmarked by federal lawmakers for specific transportation projects in their home jurisdictions. The bill contained a record 6,372 earmarked projects that totaled \$24.3 billion—5,671 earmarked highway projects that totaled \$22.1 billion, and 701 transit projects that cost \$2.1 billion. The bill included \$14.8 billion for “High Priority Projects” and \$7.3 billion for “Transportation Improvements,” “Projects of National and Regional Significance,” “National Corridor Infrastructure Improvements” and other specific earmarks. The earmarks actually totaled less than 10 percent of the funding contained in the entire bill.<sup>5</sup>

SAFETEA-LU also created several new pilot tolling programs and amended other existing federal highway tolling mechanisms that will have implications for states’ ability to fund highway projects and manage existing infrastructure. Changed policies include a new pilot project that allows some tolls on interstate federal aid highways to fund highway construction; continuation of another tolling pilot program to fund reconstruction and rehabilitation; continuation of a value pricing pilot program that allows jurisdictions to charge tolls based on congestion levels; and a new Express Lanes Demonstration Program that will allow a total of 15 demonstration projects through 2009 to permit tolling to manage high levels of congestion, reduce emissions in a nonattainment or maintenance area, or finance added Interstate lanes for the purpose of reducing congestion.

Federal law also provides states with several options for financing or borrowing money to pay for surface transportation projects. These tools, known as innovative financing mechanisms, allow states to borrow or leverage federal money to accelerate completion of surface transportation projects. Federal innovative finance mechanisms (described in more detail in chapter 5 of this report) include the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, Grant Anticipation Revenue Vehicles (GARVEES), State Infrastructure Banks (SIBS), Section 129 Financing, and other programs.

To receive federal funds for transportation projects, states must abide by federal regulations. Under joint planning regulations developed by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), states must develop a long-range transportation plan (LRTP) that must cover a period of at least 20 years. The plan must be intermodal and consider connections between rail, commercial motor vehicle, waterway and aviation facilities. It also must be statewide in scope to best facilitate the efficient movement of people and goods.<sup>6</sup> The plan must consider bicycle and pedestrian needs, coordinate with metropolitan transportation plans, and consider various planning studies. In carrying out the plan, a state must cooperate with metropolitan planning organizations (MPOs) and tribal governments and provide for public involvement. The plan must be fiscally constrained.

States also must develop a statewide transportation improvement plan (STIP) that covers a period of not less than three years.<sup>7</sup> The STIP must list priority projects to be carried out and be consistent with local transportation improvement plans (TIPs) and the statewide LRTP. The STIP must conform to other federal regulations, be financially constrained and contain all capital and noncapital transportation projects proposed for funding. For each project listed in the STIP, the state must describe the project and provide detailed information about cost and funding, including the estimated total cost, the amount of federal funds proposed to

be obligated toward the project, and nonfederal sources of funding for the project. At least every two years, each state must submit its entire STIP and amendments to FHWA and FTA for joint approval, which is required for the state to receive federal funds.

In many states, the legislature has minimal involvement with federal-aid transportation funds. On such transportation projects, the federal government operates on a reimbursement basis, paying states only for the federal share of costs actually incurred. States generally start a federally assisted project with their own funds and must draw on a federal line of credit and obligate it to a project. States receive cash from the federal government by submitting vouchers for reimbursement over the course of the project. In most states, mechanisms are in place that allow funds to be transferred directly to a state transportation account without legislative appropriation.

## Federal Traffic Safety Funding

Although progress is being made in reducing traffic-related fatalities in the United States, more than 40,000 people die each year in traffic crashes and more than 2 million are injured. The annual economic burden of traffic crashes is approximately \$230 billion. Federal funding for state highway safety programs (both behavioral and infrastructure) is determined through the passage of transportation reauthorization legislation. SAFETEA-LU authorizes new core programs and various incentive grants, providing flexibility to the states in tackling traffic safety issues using tools and resources that work best for each state.

SAFETEA-LU creates a new core Highway Safety Improvement Program (HSIP) that will allow the states to target funding to priority highway safety needs, and authorizes nearly \$5.1 billion for the HSIP for 2006–2009. About \$880 million of the amount is reserved for the Railway-Highway Crossing program. The remaining funds will be distributed to the states through a formula using state lane miles, vehicle miles traveled and the number of fatalities in each state. SAFETEA-LU authorizes \$90 million to be set aside for improvements on high-risk rural roads.

Under the HSIP, each state must develop and implement a highway safety plan and submit annual reports to the U.S. Secretary of Transportation. The reports must detail the hazardous road locations that are being targeted, progress made in implementing the highway safety improvements, and effects on traffic-related injuries and fatalities. Each state's highway safety plan is based on safety data and involves key stakeholders. The plan sets goals that address infrastructure and behavioral issues and is approved by the governor or the state agency responsible for traffic safety. States that do not have an approved highway safety plan by October 1, 2007, will be locked into the 2007 apportionment level, pending development of a plan.

Safe Routes to School—another new safety program incorporated into SAFETEA-LU—is geared toward enabling and encouraging primary and secondary school children to walk or bicycle to school safely. A state may use its money from this program to provide assistance to state, local and regional agencies, including nonprofit organizations and for both infrastructure-related projects and noninfrastructure-related activities. This money also includes funds for a full-time Safe Routes to School coordinator, and establishes a clearinghouse and a national task force to provide technical assistance and to develop information and educational programs and new strategies. SAFETEA-LU authorizes a total of \$558 million for this program from 2006–2009.

SAFETEA-LU also contains incentive programs that target occupant protection, impaired driving, motorcycle safety, and child safety seat and booster seat use. It authorizes \$100 million for fiscal years 2006 through 2009 for the Occupant Protection Incentive Grant program, providing funds to states if they meet four of the following six eligibility criteria:

- Safety belt use law.
- Primary safety belt use law.
- Minimum fine or penalty points.
- Special traffic enforcement program.
- Child passenger protection education program.
- Child passenger protection law.

SAFETEA-LU also authorizes nearly \$500 million for one-time only safety belt performance grants during fiscal years 2006 through 2009 to states that enact and enforce primary safety belt use laws within certain time periods or achieve 85 percent or higher safety belt use for two consecutive years without a primary safety belt use law. The statute also encourages states to enact booster seat laws through a new child safety and child booster seat incentive grant program. SAFETEA-LU authorizes \$25 million for the booster seat incentive program for fiscal years 2006 through 2009.

SAFETEA-LU reauthorizes the impaired driving incentive grant program for nearly \$515 million from fiscal years 2006 through 2009. To qualify for funds under this program, a state must have an alcohol-related fatality rate of 0.5 or less per 100 million vehicle miles traveled (VMT) or satisfy three of the eight specific programs and activities in FY 2006, four in FY 2007 and five in FY 2008 and FY 2009. The criteria are:

- High-Visibility Impaired Driving Enforcement Program.
- Prosecution and Adjudication Outreach Program.
- BAC Testing Program.
- High-Risk Drivers Program.
- Alcohol Rehabilitation or Driving while Intoxicated Court Program.
- Underage Drinking Prevention Program.
- Administrative License Suspension or Revocation System.
- Self-Sustaining Impaired Driving Prevention Program.

An additional grant is available to help the 10 states with the highest impaired driving-related fatalities as identified by data contained in the Fatality Analysis Reporting System. Fifteen percent of the \$515 million available under the impaired driving incentive program is earmarked for this grant and at least half the grant funds are to be used for sobriety check points or saturation patrol programs.

Other impaired driving sanctions remain in force and were not changed by SAFETEA-LU. These include:

- Repeat Offender.
- Open Container.
- .08 BAC.
- Zero Tolerance.
- National Minimum Drinking Age.

SAFETEA-LU authorizes a total of \$25 million for a Motorcyclist Safety Grant program for fiscal years 2006 through 2009. To qualify for funds under this program, a state must satisfy one of six criteria in FY 2006 and two of six criteria in fiscal years 2007, 2008 and 2009. The eligibility criteria are:

- Motorcycle Rider Training Courses.
- Motorcycle Awareness Program.
- Reduction of fatalities and crashes involving motorcycles.
- Impaired Driving Program.
- Reduction of fatalities and accidents involving impaired motorcyclists.
- Fees collected from motorcyclists for training and safety programs used for motorcycle training and safety programs.

The grant funds under this program can be used for a variety of activities, including making improvements to motorcycle safety training, recruiting and retaining motorcycle safety instructors, and creating public awareness campaigns.

**Table 1. Summary of State Behavioral Grant Program Authorizations**  
(dollars in millions)

Program	FY 2005	FY 2006*	FY 2007*	FY 2008*	FY 2009*
402	163.68	217.00	220.00	225.00	235.00
405	19.84	25.00	25.00	25.00	25.00
406	0.00	124.50	124.50	124.50	124.50
408	0.00	34.50	34.50	34.50	34.50
410	39.68	120.00	125.00	131.00	139.00
2010	0.00	6.00	6.00	6.00	7.00
2011	0.00	6.00	6.00	6.00	7.00
157	112.00				
163	100.00				
Total	445.20**	533.00	541.00	552.00	572.00

\*Does not include the NHTSA takedown for grant program administration. NHTSA administrative funds are authorized separately in FY 2006-2009.

\*\* Includes the NHTSA administrative takedown.

Source: National Highway Transportation Safety Administration, 2006.

**Table 2. Summary of Safety Infrastructure Authorizations**  
(dollars in millions)

Program	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
HSIP		1,235*	1,255*	1,275*	1,296*
Safe Routes to Schools	54	100	125	150	183
Total	54	1,335	1,380	1,425	1,479

\* includes \$220 million for rail-grade crossing improvements and \$90 million for high risk rural road improvements annually.

Source: National Highway Transportation Safety Administration, 2006.

## State Surface Transportation Funding

State surface transportation spending in 2003 totaled approximately \$68 billion. In most states, the primary source of transportation revenue is the state motor vehicle fuel tax. A unique feature of transportation funding, compared with many other publicly funded programs in the United States is that it historically has been supported by user fees, generally in the form of gas taxes.

From 1998 to 2004, the gas tax was the main source of highway funding for 25 states.<sup>8</sup> Federal money, primarily from gas tax revenues, was the primary source of highway funding in 17 states and the District of Columbia. In Kentucky, motor vehicle and motor carrier taxes were the primary source of revenue. Connecticut, Delaware, Kansas, Massachusetts, New Jersey, New Mexico and New York relied primarily on bond revenue proceeds during the six-year period (see table 7 on page 59).

In addition to highways, states also are an important source of funding for transit programs, they provide more annual transit funding than the federal government. In 2004, state transit funding was \$2.3 billion more than federal transit funding. States paid approximately \$9.3 billion for transit in 2004, compared to approximately \$7 billion in federal expenditures for transit.<sup>9</sup> In 2004, 90 percent of states provided at least \$100,000 to support transit programs.

State transit funding is growing. Total state annual transit funding has increased more than 250 percent since 1985. According to an APTA survey, 27 states increased their transit funding in 2004, and total transit funding from states grew by \$300 million in 2004 over the previous year.

States use several sources for revenue to fund transit programs. In 19 states, the primary source of transit money is the state general fund. Fifteen states fund transit with gas tax revenues; nine use motor vehicle and rental car sales taxes; nine use bond proceeds; eight use registration, title or license fees; and seven use general sales tax revenues.

## Local Transportation Funding

In 2002, states transferred \$12.7 billion to local governments for surface transportation. Of that, states intended \$11.8 billion for highway purposes, \$99 million for mass transit and \$821 million for other local purposes. Local governments collected \$2.1 billion in local motor-fuel taxes and motor vehicle receipts. Local governments collected \$1.7 billion in toll revenues.<sup>10</sup>

Local government participation in addressing transportation priorities is increasingly important. Such participation may involve greater cost sharing on projects desired by the local community, but doing so requires that the state authorize funding options for local governments to meet expanded obligations. Local option taxes often are an effective way to meet growing needs.

Local option transportation taxes fund a variety of transportation-related purposes in 46 states.<sup>11</sup> These taxes allow citizens in a local region to address pressing local needs that cannot be met with existing resources. A vote of affected citizens generally is required to proceed. At least 10 states authorize local option gasoline taxes, including Alabama, Alaska, Florida, Hawaii, Illinois, Mississippi, Nevada, Oregon, Virginia and Washington.<sup>12</sup> In five states with such authority—California, Montana, New Mexico, South Dakota and Tennessee—no local governments have adopted such a tax.<sup>13</sup> In Pinellas County, Fla., the county commission voted in March 2006 to assess an extra penny on each gallon of gas to pay for the installation of intelligent systems on heavily congested roads to create better traffic flow, including electronic message boards and smart traffic signals that adjust to the flow of traffic. The tax runs through 2026 and total gas tax in the county now totals 45.7 cents.<sup>14</sup>

Local governments in at least 34 states assess vehicle license and registration taxes.<sup>15</sup> Thirty-three states authorize local option sales taxes for transportation capital projects, while 20 allow local taxes for transit.<sup>16</sup> In California, local sales taxes approved by voters for transportation purposes raise \$2.6 billion annually.<sup>17</sup>

In 15 states, local income or payroll taxes generate a limited amount of transportation funding.<sup>18</sup> Other local option taxes include lodging taxes, severance taxes and development impact fees.<sup>19</sup> Other local revenue sources for transportation are parking fees, street utility fees, property taxes and local improvement districts. Local governments also issue revenue bonds and general obligation bonds to pay for transportation projects.

Locally generated transportation revenues are an important source for both local and state transportation projects. Local payments to state government generated more than 4 percent of the state's total transportation revenue over six years in Alaska, Arizona, California, Nebraska and Wisconsin.<sup>20</sup>

## 4. FUNDING OBSTACLES FOR STATES

States are finding it more difficult to raise sufficient revenue to support transportation projects. Many obstacles make it difficult for legislatures to generate money and allocate it to various transportation programs. Funding hurdles fall into five general categories—economics, changing consumer preferences, political concerns, legal restrictions on the use of transportation funds, and other potential obstacles.

### Economics

Changing economic conditions have hindered funding for transportation projects. Of primary concern is the declining purchasing power of the gas tax. Federal and state excise taxes on motor fuel—which account for one-third of total revenue for highway spending<sup>1</sup> and are the primary source of transportation funding in many jurisdictions—have generally not kept pace with inflation and have diminished in real dollar value.

The federal excise tax on gasoline—currently 18.4 cents per gallon—has not changed since 1993. According to AASHTO, from 1996 to 2008, the federal gas tax will decline 26 percent in real purchasing power and will have a real value against inflation of only 13.5 cents per gallon. This decline in value will eliminate a projected 9 percent growth in gas tax revenue due to travel increase and will significantly affect on the continued viability of the Federal Highway Trust Fund. A 2005 study published by the U.S. Chamber of Commerce Foundation predicted that, without further action, the Highway Trust Fund will become bankrupt by 2010 and will run a \$41.7 billion deficit by 2015.

State transportation spending also has suffered from the motor fuel excise tax purchasing power decline. State excise taxes on motor fuel alone provided approximately 28 percent of all highway revenues, and combined federal and state gas taxes accounted for over 50 percent of state highway revenues over the 1999-2004 period.<sup>2</sup> From 1970 to 2001, the inflation adjusted average state tax rate fell from 35 cents to 20 cents a loss of 43 percent.<sup>3</sup> An Oregon study indicated that the state's gas tax revenue in cents per vehicle mile traveled fell 50 percent from 1970 to 2003.<sup>4</sup> Virginia has experienced a 43 percent loss in buying power of the gas tax since 1986.<sup>5</sup> In South Carolina, transportation revenue, which consists largely of the gas tax, fell 36 percent in constant dollars from 1965 to 2000.<sup>6</sup>

Gas taxes have declined as a revenue source, due primarily to the effect of inflation on the fixed rate tax (and to difficulty passing large enough gas tax increases in state legislatures and signed by governors or approved by voters). Although 28 states raised gas taxes from 1992 to 2002, only three—Missouri, Utah and Wyoming—raised the rate enough to keep

pace with inflation.<sup>7</sup> The average increase fell from 5.8 cents during the 1980s to 1.7 cents since 1992.<sup>8</sup> As of January 1, 2005, state excise taxes on gasoline ranged from 7.5 cents per gallon in Georgia to 31 cents per gallon in Rhode Island.<sup>9</sup>

Another economic concern is the rising construction costs following Hurricane Katrina and other natural disasters. Hurricane Katrina and high prices for gasoline have increased the cost of road construction. In 2005, prices for building materials, cement and skilled labor rose. In some states, officials reported that the average cost of building a freeway rose 20 percent to 30 percent in the last few months of 2005. The high construction costs mean that states can do less with available funds. The cost of materials used for highway construction generally rose 22 percent from early 2004 to the end of 2005.<sup>10</sup>

## Changing Consumer Preferences

Changing consumer preferences may have a future effect on transportation revenue. The most significant change would be the effect of more fuel-efficient vehicles on gas tax revenue. Although hybrid vehicles and alternatively fueled cars have many desirable characteristics—such as reduced emissions and lessened fuel expenses for consumers—from the tax collection perspective, they potentially could affect the amount of transportation revenue available for states. Simply put, if consumers use less gasoline because their cars are more fuel efficient or use alternative fuels, the state will collect less money from gasoline excise taxes.

The full effects of hybrid vehicles and alternatively fueled vehicles are unknown, although hybrid vehicle sales are growing rapidly in the United States. According to hybridcars.com, U.S. hybrid sales to private and fleet owners have generally doubled every year since 2000, with more than 205,000 vehicles sold in 2005. If gasoline prices remain high, many analysts predict that hybrid sales will continue to grow. ABI Research predicts that sales of hybrid vehicles will account for 10 percent of the 2 million midsize vehicles sold annually in the United States by 2006 and will account for 5 percent to 6 percent of all cars sold in the United States by 2010.<sup>11</sup> J.D. Power predicts 400,000 hybrid sales in the United States by 2007, and Oak Ridge Labs predicts that 1.2 million hybrids will be sold in the United States market by 2008.<sup>12</sup>

Despite the dramatic growth in hybrid sales, hybrid vehicles still account for a small percentage of the overall motor vehicle fleet. According to the FHWA, U.S. motor vehicle registrations topped 231 million in 2003.<sup>13</sup> New car sales for 2005 were expected to be approximately 17 million vehicles, meaning that hybrids would account for about 1 percent of all U.S. car sales. The small overall numbers of hybrids could limit their affect on gas tax revenue.

In addition to hybrid vehicles and alternatively fueled vehicles, slower travel growth and fuel consumption also may affect transportation revenue. Although the number of vehicle miles traveled by motorists continues to grow, it is no longer growing fast enough to cover the loss in purchasing power of the gas tax.

The effects of changing consumer preferences on transportation revenue is uncertain. According to the FHWA, in 2003, 11 states and the District of Columbia taxed less gasoline than they did in 2002.<sup>14</sup> Three states had no changes in the volume of gasoline taxed in 2003 compared with 2002, and 36 states taxed greater volumes of gasoline.



## Political Concerns

It probably goes without saying that politics are a factor in states' ability to raise money for transportation projects. Political maneuvering in Congress can affect the amount of money distributed to states or the amount states need to pay for a project. Within state government, individual lawmakers may be unwilling to support funding mechanisms that could be unpopular with constituents or that are perceived to benefit only certain parts of the state. Citizen campaigns and initiatives can jeopardize transportation funding programs. Several political obstacles have consistently affected state transportation funding.

### Political Obstacles to Transportation Funding

- Opposition to gas taxes.
- Federal politics.
- Citizen initiatives and legislative referendums.
- Resistance to referendums, tolls, fare increases and motor vehicle fees.
- Concerns about financing versus pay-as-you-go.
- Concerns about private investment.

#### 1. *Opposition to gas taxes*

Taxes on motor vehicle fuel are a main staple of transportation funding for the federal government and for most state governments. States impose two types of gas taxes—excise taxes and sales taxes. Excise taxes are fixed rates on each gallon of gas that are imposed on oil distributors or suppliers, not directly on gasoline purchasers or consumers. However, it is very difficult for lawmakers in most jurisdictions to muster the political support necessary to raise gas taxes sufficiently to cover inflation. Since 1997, only 14 states have raised the excise tax on motor vehicle fuel. The increase for those states averaged only 4 cents per gallon. In every example, strong bipartisan support was needed to pass an increase through the legislature. As gasoline prices soared in the latter half of 2005, however, much of the support for gas taxes has eroded.

Following the devastation caused by Hurricane Katrina in August 2005, lawmakers in many states—including Alaska, Hawaii, Idaho, Illinois, Maine, Maryland, Missouri, Montana, North Carolina, Pennsylvania, Texas, Washington, West Virginia, Wisconsin and others—called for the suspension of state gas taxes to ease the burden on motorists caused by rising fuel prices. In September 2005, Georgia Governor Sonny Perdue signed an executive order that suspended for one month collection of the state 7.5 cent per gallon excise tax on motor fuel and a 4 percent sales tax on gas.

Although it is appealing for lawmakers to attempt to ease the burden on families caused by soaring gasoline prices, gas tax suspensions can dramatically affect transportation funding and may not even benefit consumers. In Georgia, state officials estimated that the one-month moratorium on gas taxes cost the state \$75 million, but it is unclear whether that savings was passed along to motorists. For consumers to benefit from a moratorium on motor vehicle excise taxes, the oil or gas supplier must be willing to pass along the savings.

Because much of the 2005 growth in gasoline prices was not related to state taxes, it is unlikely that savings from excise tax suspensions will be passed along to consumers. According to a brief from the Center on Budget and Policy Priorities, in July 2005, before

Hurricane Katrina, less than one-fifth of the price of a gallon of gas was represented by state and federal taxes.<sup>15</sup> Following the hurricane, that percentage was even lower.

In addition to excise taxes, nine states—California, Delaware, Georgia, Hawaii, Illinois, Indiana, Michigan, New York and West Virginia—also collect taxes on motor vehicle fuel sales or gross receipts.<sup>16</sup> These taxes are imposed as a percentage of the retail price per gallon of gasoline. As with the excise tax, it is not clear that a moratorium on retail sales taxes would automatically be passed along to the consumer.

## *2. Federal politics*

Activity in Congress can significantly affect states' ability to pay for transportation programs. The most direct effect is the result of congressional decisions on the allocation of federal money to the states through the transportation reauthorization bill. The 2005 reauthorization bill, SAFETEA-LU, contains formulas for distributing money to the states and direct earmarks for individual transportation projects and much-needed transportation money.

Although SAFETEA-LU provides many benefits for the states, the political maneuvering in Congress needed to pass the bill actually could negatively affect states' ability to successfully promote transportation funding to the public. It took more than two years to complete the reauthorization bill and, in the process, federal lawmakers approved several controversial projects that have drawn attention from pressing transportation needs.

Federal decisions also can negatively affect state transportation funding by shifting the financial burden to states. An example of federal political maneuvering that could affect state transportation funding needs is the battle over the future of Amtrak. In December 2005, President Bush signed legislation to provide \$1.3 billion in federal aid over the next year to Amtrak. Earlier in the year, however, President Bush and Secretary of Transportation Mineta proposed breaking up Amtrak, possibly selling off segments of the rail line to private entities, and shifting many of Amtrak's costs to the states. If the plan is approved, states could be faced with the choice of spending millions of dollars to support passenger rail service or eliminating the service altogether.

Other federal mandates also could affect transportation costs for the states. Legislation passed in 2005—the REAL ID Act—that creates federal standards for state issuances of driver's licenses will place significant financial burden on states for implementation. Some estimates put the cost at billions of dollars. States that hope to comply with REAL ID may be forced to shift money from other transportation programs.

## *3. Citizen initiatives and legislative referendums*

Although state legislatures and governors make many of the decisions regarding transportation funding, citizens often are directly involved in the process through initiatives and legislative referendums. Twenty-four states have an initiative process, and the same number use the popular referendum process.<sup>17</sup> Direct citizen involvement can work positively to assist with fundraising or can have an opposite effect by preventing funding or eliminating needed transportation money from the state budget.

In many instances, voters have been asked to approve tax or bond measures intended to enhance transportation resources. When voters approve such initiatives and referenda, they help inject money into the state budget for transportation projects. In 2005, for example, New York voters approved the “Rebuild and Renew New York Transportation Bond Act of 2005,” which authorized creation of a state debt of \$2.9 billion for construction, improvement, reconditioning and preservation of transportation systems and facilities. Texas voters approved a legislative referendum that will support rail improvements throughout the state. In 2004, Rhode Island voters authorized the issuance of \$66 million in bonds for transportation projects.

Voters also can negatively affect transportation funding by failing to support initiatives or by voting to eliminate transportation funding. Dramatic examples of voter effect on state transportation funding are the measures approved by Washington voters in 1998 and 1999. In two separate elections, Washington voters approved a referendum and an initiative that eliminated a state motor vehicle excise tax and most of the taxes and fees imposed on motor vehicles. If both measures had been fully implemented, Washington could have lost more than \$1 billion in funding for transportation programs throughout the state. In 2000, a court ruled that one of the proposals, Initiative 695, was unconstitutional because it addressed more than one subject. However, passage of I-695 forced state lawmakers to reduce transportation spending, and legislators later passed a bill that implemented some of the proposed provisions.

In 2005, Washington voters were again asked to decide on a proposal that would significantly affect transportation spending. If passed, Initiative 912 would have repealed a motor vehicle fuel tax increase passed by the Legislature and signed by the governor in 2005. The initiative failed, however, and Washington’s four-step gas tax increase will proceed as planned.

#### *4. Resistance to tolls, fare increases and motor vehicle fees*

State lawmakers who wish to raise additional transportation revenue through greater use of toll roads, fare increases on transit vehicles, or motor vehicle fee impositions or increases often face stiff resistance from motorists, transit riders and commercial interests. Many of the arguments against such fee increases concern fairness. Motorists do not want to be unfairly burdened with tolls and forced to supplement other transportation expenses throughout the state. Some argue that trucks and commercial motor vehicles (CMVs), which are heavier than passenger vehicles, should pay more because they cause more damage to the roads. Truck and CMV operators, however, often argue that they are unfairly punished and asked to pay too much for transportation expenses.

#### *5. Concerns about financing versus pay-as-you-go*

Historically, states have funded transportation projects on paying for construction, maintenance and administration as money becomes available from user fees and federal grants. Now, existing revenues may not be enough. In many states, legislatures cannot solve transportation problems because they cannot afford to do so. Rapid growth has increased public demand for transportation services, strained existing infrastructure and drained financial resources. Some states are projecting transportation budget shortfalls in the tens of billions of dollars.

To pay for projects, states more frequently are turning to bonds and other forms of debt to meet transportation needs. Although states previously have used such mechanisms, the greater reliance on financing may generate political barriers to transportation programs. Lawmakers, reluctant to create more debt for the state, may be less willing to support finance mechanisms. At least eight states have constitutional provisions that prevent them from going into debt, making it extremely difficult to consider use of debt financing for transportation projects.

### *6. Concerns about private involvement*

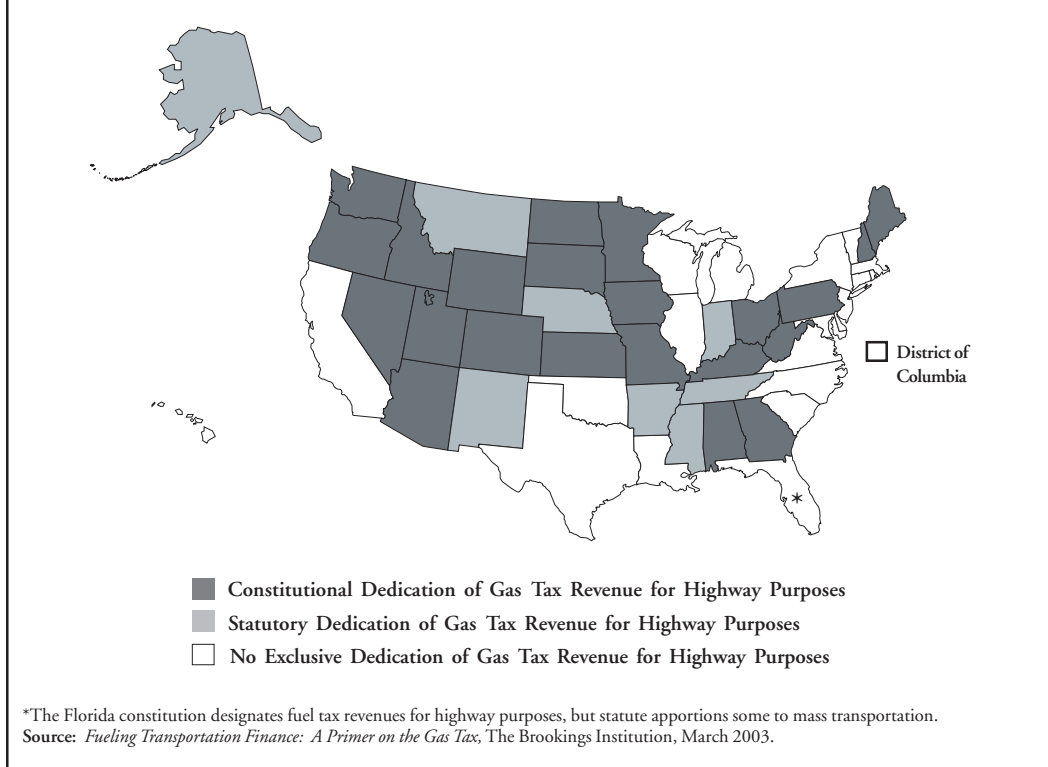
Some of the plans to fund transportation involve attracting private investment. However, some are concerned that privatization will lessen the public's say over what historically have been public assets, may diminish the quality of facilities and could increase costs for consumers.<sup>18</sup> In privatized highways in California and Colorado, state officials have been concerned that roads did not meet ridership projections and were poorly maintained. In other examples, tolls increased almost immediately on roads that had been privatized.<sup>19</sup> Although many of these concerns can be addressed through the contract that gives control of a road or transportation facility to a private company, concerns about private involvement can create political obstacles to privatization and diminish opportunities for obtaining private funding.

After authorities in Chicago signed a 99-year, \$1.8 billion agreement to give control of the Chicago Skyway to a private firm in 2005, several states—including Delaware, Georgia, Illinois, Indiana, New Jersey, South Carolina and Virginia—considered similar agreements. In some states the proposals have generated controversy, with numerous lawmakers voting against them.<sup>20</sup> In January 2006, however, Indiana lawmakers approved a similar lease totalling nearly \$4 billion to privatize a toll road. Proposals in other states gained traction in 2006 and privatization of highways is now a growing phenomenon.

### **Legal Restrictions on Transportation Funds**

The use of transportation revenue by the states often is restricted by a variety of constitutional and statutory provisions. A key restriction relates to use of gas tax revenue. Thirty states restrict use of gas tax revenues to highway and road purposes only. Of these, 22 states have constitutional restrictions and eight states have statutory restrictions (see figure 1). These restrictions are derived from the concept that the gas tax is a user fee and, therefore, should be linked to spending on highway and road projects.<sup>21</sup> The other 20 states allocate part of such revenues to other transportation spending. An unusual dedication in Texas law allocates one-fourth of gas tax revenues to the Permanent School Fund to provide aid to the public school system.<sup>22</sup>

Figure 1. Use of Gas Tax Revenue for Highways



In 2005, South Dakota eased its restriction on spending from the state highway fund, allowing expenditures for public transportation.

One consequence of gas tax use restriction is that it limits states' ability to spend on transit. From 1998 to 2001, only 11 states spent more than 5 percent of gas tax revenues on transit,<sup>23</sup> and only 4 percent of states spent more than 15 percent of gas tax receipts on transit. If states do not use gas tax revenue for transit, it often is difficult for them to receive federal funds for transit projects due to federal matching requirements. Funding for transit in Rhode Island, South Carolina and Tennessee is totally funded by gas tax revenue.<sup>24</sup> Gas tax assists with public transportation funding in 15 states.

Another restriction issue relates to distribution of gas tax receipts within states. The 2003 Brookings report on the gas tax concluded that gas tax distribution in some states appears to penalize cities and urban areas.<sup>25</sup> In many states—such as Colorado, Ohio, Missouri and Washington—urban areas are “donors” of gas tax revenue to other regions. Distribution formulas in some states date to the time when the state highway network was under construction and greater investment needs existed in rural areas.<sup>26</sup> Other states apportion funds evenly among all counties. Such formulas hurt the heavily populated, congested urban areas. Washington has acted to change the formula to more accurately reflect current needs, and California uses a formula based on tax receipts, registered motor vehicles and in each county.<sup>27</sup>

## Federal Earmarking

Federal earmarks decrease the amount of flexible transportation money for states and divert money from higher priority projects.

For example, Congress authorized more than \$1 billion in federal earmarks to Alaska in SAFETEA-LU. Because these earmarks are counted against the rest of the money intended for the state, about \$119 million per year for other state highway projects in Alaska will be displaced by the earmarking.<sup>28</sup> Moreover, earmarks alone frequently do not cover the entire expense for a project, placing additional burdens on state transportation budgets.

Two of the most notorious Alaska earmarks—the “Bridge to Nowhere” project, that will link Ketchikan, Alaska, to Gravina Island, and the Knik Arm Crossing between Anchorage and Matanuska-Susitna Borough—were underfunded and would have required significant state investment if the projects had not been eliminated by Congress in November 2005. Planners estimated costs for completion of the Gravina bridge project at \$300 million and for the Knik Arm project at \$600 million. Congressional earmarks for the Gravina project totaled only \$223 million and for the Knik Arm project only \$229 million before they were eliminated during negotiations for the SAFETEA-LU appropriations bill.

## 5. OPTIONS FOR LEGISLATURES TO RAISE MORE MONEY OR LEVERAGE EXISTING RESOURCES

State legislatures have many options for obtaining new revenue for transportation or leveraging existing funding resources. These options can be grouped into four categories: mechanisms to collect new revenue, procurement tools that can be used to save money or accelerate projects, bonds and financing tools, and tools that facilitate state and federal cooperation. Each mechanism has potential advantages and disadvantages for states. This chapter captures the most common funding options used by states.

### **Mechanisms to Collect New Revenue<sup>1</sup>**

This category includes funding mechanisms that are intended to provide new revenue for transportation projects without incurring additional debt. States can find “new revenue” for transportation by imposing new transportation-related taxes or fees, raising existing transportation related taxes or fees, shifting money from other programs, or changing the way taxes and fees are collected or imposed.

For transportation projects, new revenue funding mechanisms are appealing. At first glance, such mechanisms do not require the state to go into debt and can place the cost for transportation projects squarely on the users who benefit most from the transportation system. Not all new revenue sources are equal, however. Tax and fee impositions or raises can be politically unpopular, and many new revenue sources generate limited money for transportation projects. In addition, some argue that many new revenue mechanisms are not truly new, but merely reallocate money from other sources.

Potential sources for new transportation revenue include elimination of transportation revenue diversions, gas tax, the state general fund, a statewide general sales tax dedication, other taxes and fees, congestion pricing, tolling, fees tied to mileage and other new revenue sources.

#### *Eliminate Transportation Revenue Diversions*

One way to increase revenue is to eliminate the diversion of transportation-derived revenue to nontransportation purposes. Many states use transportation revenues for other state programs. For the 2003-04 Wisconsin budget, 25.6 percent of revenue to the transporta-

tion fund—\$370 million—was provided for general fund programs.<sup>2</sup> Initiative 51 in California in 2002, which failed, would have reallocated 30 percent of certain state revenues collected on motor vehicle sales or leases from the general fund to the Traffic Congestion Relief and Safe School Bus Trust Fund. The money would have been allocated for transportation programs, including highway expansion, specific freeway interchange improvements, mass transit improvements, bus purchase, and expansion of light and commuter rail.<sup>3</sup> A Washington legislative committee studying financing alternatives recommended in 2004 that all transportation-related fees and charges be dedicated to transportation purposes.<sup>4</sup> It specifically referenced the sales tax on transportation construction labor and materials. As a first step, states may want to examine the issue of revenue diversion to see if it is viable to shift transportation-derived revenue sources for use solely on transportation purposes.

### *The Gas Tax*

State taxes on motor vehicle fuel are one of the most significant sources of transportation funding, providing the majority of transportation revenue in 25 states. Often referred to simply as gas taxes, state motor vehicle fuel taxes actually can include several types of taxes on several different types of fuel. State motor vehicle fuel taxes include excise taxes that are assessed as a flat rate per gallon of fuel and sales taxes that are assessed as a percentage of the retail price. States have imposed taxes on gasoline, diesel and gasohol. All states levy excise taxes on gasoline and diesel fuel, and all states except Alaska also impose excise taxes on gasohol. As already noted, only nine states—California, Delaware, Georgia, Hawaii, Illinois, Indiana, Michigan, New York and West Virginia—levy sales taxes on gasoline.

States do not collect motor fuel taxes directly from motorists. Although the point of taxation varies from state to state, motor vehicle fuel can be taxed when first imported into the jurisdiction, at the motor vehicle fuel distributor, or at the terminal rack, which is the facility where fuel from bulk storage tanks is loaded into tanker trucks for delivery to retail stations or to bulk users.

Because motorists are major consumers of motor fuel—edging close to 2 trillion gallons each year<sup>5</sup>—gas taxes are a tempting source of new transportation revenue. Even small changes in fuel tax rates can dramatically affect the amount of fuel tax revenue collected by a state.

### *Fuel Excise Tax Increases*

The most common method of increasing revenue through the gas tax is with an increase of the fuel excise tax. Through this option, the state raises the flat tax rate on each gallon of motor vehicle fuel. The advantage is that even small fuel tax increases can generate significant revenue for transportation programs. Motorists consumed more than 1.74 trillion gallons of motor fuel in 2003. A 1-cent increase in taxes on that motor vehicle fuel would have generated \$17.4 billion in additional transportation revenue in the United States.

Gas tax increases to fund transportation often are viewed as more equitable than other new revenue mechanisms. Motor fuel excise taxes are a “user fee” that puts the burden for funding transportation squarely on the people who use it the most. The more motor vehicle fuel a motorist uses by traveling on roads and highways in the state, the more that motorist will pay for the system in gas tax revenue.



Motor fuel excise taxes are assessed as a flat fee on each gallon of fuel, and fluctuations in motor fuel prices do not affect the amount of tax collected by the state. In fact, as motor fuel prices rise, the motor fuel excise tax becomes a smaller percentage of the total cost of a gallon of motor fuel. Because motor fuel prices change so often naturally, there is little public recognition at the pump when motor fuel excise taxes are changed or imposed by legislative action.

The disadvantage of relying on motor vehicle fuel excise tax increases to fund transportation is the political challenge of the tax increase. Because these taxes are not elastic, they lose value against inflation every day; however, new or higher taxes are never popular. Many proposals to increase gas taxes have been defeated in state legislatures or by citizen initiatives, and most states have been unable to adjust rates quickly enough to match inflation.

Since 1997, legislatures in 14 states—Arkansas, Indiana, Kansas (twice), Maine (twice), Michigan, North Dakota (twice), Ohio, Pennsylvania, Rhode Island, South Dakota (twice), Utah, Vermont, Washington (twice) and Wyoming—voted to increase their state gas taxes a total of 19 times.<sup>6</sup> The average of all the state gas tax hikes was 4 cents. In most cases where the gas tax was raised, strong bipartisan support was the key to successful passage.<sup>7</sup>

Connecticut lowered its tax from 32 cents to 25 cents in 2000. In 2005, gas tax increases in Minnesota and South Carolina were voted down by the legislature and in Oklahoma by the voters. Arkansas voted down a 4 cent diesel fuel increase to help fund a bond program for interstate highway repairs in December 2005.<sup>8</sup> Pennsylvania's complex oil company franchise tax resulted in a 1.2 cent increase in its gas tax effective Jan. 1, 2006.<sup>9</sup> Michigan is considering the elimination of gas tax collections when the price of gas exceeds \$2.30 per gallon.<sup>10</sup>

Two states raised gas taxes in 2005. North Dakota increased its rate by 2 cents to 23 cents. Washington passed a 9.5 cent per gallon gas tax increase in April 2005, to be phased in over four years; it is projected to raise \$8.5 billion in the four-year period. Initiative 912, which would have repealed the increase, was defeated in the November 2005, election, with 47 percent in favor of repeal and 53 percent opposed. Voter support of the largest gas tax increase in the state's history was attributed to voter frustration with traffic congestion in the central Puget Sound area.<sup>11</sup> To address public concern about accountability and efficiency in use of the funds, performance audit provisions were included in the legislation. The Washington Legislature voted in 2003 to raise the gas tax by 5 cents to 28 cents.

### *Indexing the Gas Tax*

Some states have attempted to overcome motor fuel tax inelasticity problem by indexing or linking gas tax rates to inflation, federal tax rates or other measures. The most common form of indexing is to link gas tax rates with inflation. To do this, state lawmakers must pass a law to require changes in motor fuel excise tax rates based on changes in inflation. Generally, states use a widely acceptable mechanism such as the Consumer Price Index (CPI) to measure inflation changes.

The advantage of inflation indexing is that the gas tax can be adjusted to fluctuations in inflation without legislative approval each legislative session for the increases. Moreover, adjustments can occur much more rapidly, ensuring a consistent revenue stream for transportation projects. According to a Brookings Institute report, "... variable rate taxes have emerged as an effective strategy to increase the tax rate and offset declines in revenue with-

out the politically acrimonious task of tax increases by the legislature or through public referendums ... inflation indexing remains an important option for augmenting transportation funding, regardless of inflationary pressures.”<sup>12</sup>

The disadvantage to indexing is the perceived lack of control. Some citizens may be opposed to the notion of an automatic tax increase that does not require legislative or executive approval.

At least seven states—Florida, Iowa, Kentucky, Maine, Nebraska, New York and North Carolina—have some form of “variable rate” tax linked to inflation, fuel prices or fuel sales.<sup>13</sup> Florida and Maine link their gas tax increases to the CPI, while Iowa’s gas tax rates vary according to the amount of ethanol blended fuel sold in the state. Kentucky’s variable element is based on 9 percent of the average wholesale price of gasoline, with a minimum price of \$1.34. New York’s Petroleum Business Tax is assessed according to a formula that is linked to inflation based on the producer price index. North Carolina assesses a flat rate gas tax plus a variable component that is automatically altered twice per year based on 7 percent of the average wholesale price of gasoline during a six-month period. Four states—California, Nevada, Oklahoma and Tennessee—have statutory provisions in their statutes that would increase the state motor fuel excise tax rate if the federal motor fuel tax rate decreases.

Some states have evaluated indexing in recent years. A joint committee in Washington studying transportation financing alternatives recommended the use of an index so that existing collections can grow with the economy and population.<sup>14</sup> A 2005 Texas bill to index the state gas tax to inflation had initial support in the House Transportation Committee, but failed to win support in the Ways and Means Committee. Nevada may consider indexing in its 2007 legislative session. Wisconsin repealed its gas tax index in December 2005.

### *Indexing the Gas Tax to Fleet Fuel Efficiency Improvements*

This option envisions adjusting the fuel tax rate for changes in average fuel economy for a passenger vehicle. Indexing the fuel tax for fuel economy protects the fuel tax revenue stream from changes in fuel economy because vehicles with high fuel economy pay less in fuel tax than other vehicles. However, the method punishes motorists in high efficiency vehicles, which may compete with other governmental interests such as environmental protection. It also could be politically unpopular and generate opposition.

### *Motor Fuel Sales Taxes*

In addition to the flat excise tax rate assessed on each gallon of fuel, at least nine states—California, Delaware, Georgia, Hawaii, Illinois, Indiana, Michigan, New York and West Virginia—also levy a sales or gross receipts tax as a percentage of the retail price.<sup>15</sup> Revenues from these taxes are linked to motor fuel prices so that states with sales or gross receipt taxes on motor fuel experienced revenue growth as gas prices rose to more than \$3 per gallon in late summer 2005 in the wake of hurricanes Katrina and Rita. If these sales taxes are dedicated to transportation purposes, they could become another method of maintaining the purchasing power of transportation revenues.

In addition, motor fuel sales tax revenues usually are not dedicated to transportation purposes. State DOTs often face competition from other state agencies that believe they

should have first right to sales tax revenues since transportation already receives motor fuel excise tax funds.

### *Local Gas Taxes*

As noted above, at least 15 states allow local governments to assess an additional gas tax. Allowing local option gas tax is a way for communities willing to tax themselves to solve transportation problems without involving other parts of the state, which may not have the same issues and may be unwilling to support a statewide tax increase. The local gas tax is an important part of a state's overall transportation funding.

The disadvantage of a local option gas tax is that rates may differ from jurisdiction to jurisdiction. Rate changes could cause consumer migration to non-taxing areas.

### *The State General Fund*

State lawmakers may consider using general fund revenues for transportation projects. The general fund—a large pool of money allocated at the discretion of the state legislature and the governor—seems to be an appealing source of new transportation revenue. In theory, if a majority of lawmakers were convinced that transportation is a primary need, the amount of general fund revenue allocated to transportation could be increased.

In fact, many states already provide money for transportation through their general funds. The state general fund is a particularly important source of revenue for public transportation and other nonhighway transportation projects. In many jurisdictions, gas taxes are dedicated by law only to highway purposes and cannot be used for other transportation projects, so general fund revenue helps fill the gaps for transit and other nonhighway transportation. In 2004, the general fund was the most used source of funding for transit in 19 states.<sup>16</sup>

Although it is a seemingly appealing source of revenue, in practice, the general fund cannot be used for much new funding in most states. Although legislative control of the general fund allows states to allocate more revenue to certain projects, it also makes transportation funding more susceptible to politics.

In the 1990s, the United States experienced an economic downturn that reduced many state general funds. More significantly, since 1995, several major areas—most notably Medicaid and K-12 education—have consumed significant portions of the general fund, reducing the amount available for transportation projects. In 1995, 59 percent of state general funds were dedicated to Medicaid, K-12 education, higher education and corrections, leaving only 41 percent for all other items. In 2005, only 68 percent of state general funds were dedicated to the four major areas, leaving only 32 percent for transportation and all other competing issues.

### *Statewide General Sales Tax*

Many public transit districts assess a general sales tax to pay for transit operations, but statewide sales taxes for transportation purposes are less common. Twenty percent of California's statewide sales tax goes to public transit. This is an option for legislatures to explore.

### *Other Taxes and Fees*

A variety of other taxes or fees can be used to enhance transportation revenue. Many may not generate sufficient money to cover emerging transportation needs or could be unpopular with constituents. All the options are listed, however, give an idea of the scope of taxes and fees levied in the states.

- *Battery Tax*—States could consider an excise tax on the sale of car batteries either as a flat fee or as a percentage of the sales price. A few states charge taxes or fees on battery sales; but in almost every example, the tax is imposed to help fund battery disposal, not transportation projects.
- *Bicycle Fees*—This option creates an excise tax on bicycle sales or bicycle registrations. Such a tax would likely meet resistance from environmental groups and bicycle advocacy organizations. Only a handful of states and some localities currently tax or impose fees on bicycle sales or registrations.
- *Driver's License Fee Increases*—All states charge fees to issue and renew driver's licenses. Fee amounts can differ according to the type or class of license issued, the age of the driver, and other variables. License renewal periods range from four years to 10 years, depending on the jurisdiction. One transportation funding option for states is to increase driver's license fees—application fees, issuance fees or renewal fees. States also may increase fees for particular drivers or require drivers to pay for driver's licenses more frequently by shortening renewal periods.

License fee increases have some potential for raising money. States collectively license nearly 200 million drivers. However, license fee increases usually are unpopular. New federal licensing rules contained in the REAL ID Act also could have significant fiscal implications for the states that will already require them to raise current rates.

- *Drive-Through Service Fee*—This option envisions a transaction fee on drive-up service at any retail establishment. The revenue potential of this approach is unknown and could be politically unpopular. It also is an imprecise user fee that simply targets people who like drive-through food, not necessarily people who use the transportation system.
- *Electricity Generated by Vehicle Tax*—This option envisions a charge on wattage generated by an electric or hybrid electric vehicle. The tax would recognize that motorists who use electric and hybrid vehicles benefit from roads but contribute less in gas taxes than other drivers. However, because the hybrid and electric vehicle fleet is still small, such a tax would generate limited revenue. It also is likely to be unpopular with environmental groups, and conflict with the public policy goal of cleaner air.
- *Emissions Fees*—This option envisions a fee on motorists for the amount of pollution their vehicles emit. Because it is a user fee and taxes motorists for pollution, the fee would be appealing. However, collection would likely be imprecise.
- *New Vehicles Tax*—Most states impose a sales tax option on new vehicles purchased in the state or taxing vehicles imported into the state. Although it taxes vehicles, it does not necessarily target those people who use their vehicles the most.

- *Parking Fees*—This option envisions placing fees on parking spaces. Parking fees typically are viewed as a behavior modification device rather than a fund raiser. More significantly, it is an option for local government and is not used by state governments.
- *Property Taxes, Vehicle Ownership Tax, or Use Fees*—This option envisions state taxes or use fees on personal or real property dedicated to transportation purposes. At least 16 states impose some type of tax or use fees on motor vehicles in their state. Taxes rates usually are determined as a percentage of the assessed value or purchase price of the vehicle or are based on the age of the vehicle. In some examples, states levy taxes on certain types of vehicles such as motor homes.

Property taxes on motor vehicles can generate significant revenue for transportation. However, property taxes are not strict user fees because they tax only ownership rather than use of the transportation system. In several examples, property taxes on vehicles have proven to be politically unpopular. In 1999, Washington voters eliminated a statewide motor vehicle excise tax, causing severe reductions in the state transportation budget. In 2003, Arnold Schwarzenegger ran a successful recall campaign against California Governor Gray Davis in part by challenging the state tax on motor vehicles.

- *Registration Fees*—Registration fees are flat or variable fees a vehicle owner pays for the privilege of driving a particular vehicle within a state. State registration renewal periods vary from as little as six months to up to seven years for certain types of vehicles, and registration are fees usually differ depending on the vehicle type. States can increase revenue from registration renewals by increasing registration fees for all or some vehicles or by shortening the renewal period. Registration fee increases generally are not politically popular.
- *Rental Car Tax*—Thirty states levy taxes on motor vehicle rentals. States have taxed rental cars as a percentage of the total rental fee, as a flat amount levied per day of rental, or as a combination of percentage and flat rate. A few states assess car rental taxes in lieu of a sales tax on the rental transaction. Most states, however, combine rental taxes or fees with sales taxes. Rental car taxes are a user fee, however, they do not necessarily target the people who use the transportation system most.
- *Road Utility Fees*—This option, which is more likely to be employed by a local government, adds an access charge to a utility bill for property that provides access to the trunk highway system. Key to these fees is the basis upon which the fee is charged. Possibilities include motor vehicle trip generation estimates, the number of parking spaces, the number of employees, front footage or a flat fee. Road utility fees are mainly a local option for transportation revenue.
- *Safety Violation Fee*—All states fine drivers who are convicted of traffic safety offenses. One option to increase funding for transportation is to enhance fines for violations. Greater penalties target the drivers who are the greatest safety threat on the road. Larger fines for traffic safety violations also can be politically unpopular, but states as diverse as Hawaii and Texas have increased fines and generated significant new transportation income.

- *Sales Tax on Transportation-Related Goods*—Battery and tire fees are discussed elsewhere, but sales taxes or charges on transportation-related goods such as auto parts and auto repairs are a possible source of transportation funding.
- *Special License Plate Fees*—In addition to regular registration fees, states charge fees for special license plates, including personalized plates or organizational plates. States could enhance transportation funding by increasing fees for special plates.
- *Studded Tire Fee*—This option envisions charging purchasers of studded tires for each tire sold at retail in the state. The advantage of a studded tire fee is that it taxes users who potentially could cause more damage to roads. However, a studded tire fee would generate little revenue in states with mild winter weather, and may generate limited revenue in other states if few drivers use studded tires.
- *System Development Charges or Impact Fees*—These charges are paid by a developer for placing a new burden on a specific part of the road system that will require road improvements to accommodate the increased traffic flow related to the development or a combination of developments. Development charges usually are imposed by local governments, but can be imposed at the state level. They would likely produce only an incremental amount of transportation funding.
- *Temporary Visitor Access Fee*—This option envisions a fee charged to tourists for temporary access to the state's road system. A temporary visitor access fee seems appealing because it would not directly impose new funding requirements on state residents. Such a fee might not generate much income for transportation needs, however. More significantly, it could be an unconstitutional burden on interstate commerce.
- *Tire Tax*—Some states impose an excise tax on the sale of tires in the state. The tax can be a percentage of the sales price or a flat fee. Such a tax seems appealing because it directly correlates with highway and road use. The more often motorists use a road, the more frequent they will need to buy tires.
- *Title Fees*—Most states charge a transaction fee to process a certificate of title for motor vehicles. Fees range from as little as \$2 to as high as \$33 per transaction. States could increase titling fees to raise money for transportation projects.
- *Transportation Impact Fee*—These fees are imposed on new development to pay for the transportation improvements required to support the development. Impact fees are determined based on the number of vehicle trips each class of property generates. Impact fees usually are a local funding mechanism but also can be used for state transportation projects. Washington has considered a state-level impact fee for new roads that benefit new developments.
- *Use Fuels Tax Increase*—This option envisions charging a tax for the use of electricity, natural gas, hydrogen and similar fuels in a vehicle in a manner similar to the gas tax. The advantage of a use fuels tax increase is that it would reflect use of the highway system by motorists who pay little through gas taxes. However, such a tax would provide a disincentive to use alternative fuels that can provide environmental and economic benefits. As a consequence, they would likely be unpopular with environmental groups.

- *Vehicle Impact Fee (Transportation Access Fee)*—This option is a one-time charge placed on a vehicle when the vehicle is titled or registered in the state for the first time. A vehicle impact or transportation access fee is not a user fee because it is imposed only on vehicle ownership, not on actual vehicle use.
- *Weight Mile Truck Tax*—This option is a user fee that allows the state to charge trucks that exceed 26,000 pounds by their weight and distance traveled in the state. The advantage of a weight-mile truck tax is that it precisely targets heavy vehicles that are likely to cause more damage to roads than regular passenger vehicles. It also seems fair because it taxes vehicles according to miles traveled. Opponents have argued that weight-distance taxes unfairly burden the trucking industry and, ultimately, hurt consumers by raising the costs for shipping goods.

### *Congestion Pricing*

This option considers charging motorists tolls for using congested roads during peak driving hours. This option is appealing because it directly affects highway users and could generate significant revenue. It also allows motorists the choose between congested highways or congestion free toll roads. Congestion pricing has more frequently been used as a behavior modification tool rather than a fundraising mechanism. There are concerns that congestion pricing could not generate sufficient funding to meet transportation needs.

### *Facility Tolling*

This option envisions charging a toll for a motorist's use of a transportation facility such as a limited access roadway or bridge. Collection of the toll can occur through tollbooths, electronic tolling or other means. Toll rates can be variable, depending on the purpose of the toll. Tolls are a true user fee that taxes only those who use a particular facility. Electronic tolling can eliminate congestion caused by traditional toll booths.

Public pressure, however, can make tolling politically difficult. Some motorists and truck drivers may feel unfairly burdened by tolls, and there may be a perception that the public should not be forced to pay for a road that is already built. Tolls also can be viewed as disproportionately affecting low-income motorists who can less afford to pay. Some may view tolls as double taxation because motorists already pay motor fuel taxes. In addition, although technological advances can speed the time of toll collection, tolls frequently are associated with long lines and high emissions at toll booths. Tolls sometimes can be expensive to collect—as high as 22 percent of gross revenue in some jurisdictions.<sup>17</sup> High-occupancy tolls (HOT), used in California, Colorado and Virginia, allow single occupants of vehicles to access HOV facilities by paying a toll. HOT lanes have the ability to shift traffic from free congested lanes to less congested tolled high-occupancy lanes.

### *Privatizing Transportation Facilities*

Another mechanism that can raise new revenue for transportation projects is the sale of highways or other transportation facilities to private industry. In 2005, Chicago completed a \$1.83 billion transaction to sell the rights to operate the Chicago Skyway—a 7.8-mile, six-lane toll bridge—to a private company. Since then, lawmakers and transportation officials in at least 13 states have taken steps to evaluate proposals or legislation to privatize public transportation facilities. Although such transactions are relatively new, they already

are fairly common in Europe and Asia. At least 19 other countries have sold facilities or concession rights for airports, ports, railways, roads and waterways to private entities. A bill introduced in New Jersey in March 2006 would allow the New Jersey Turnpike and the Garden State Parkway to be sold to a new corporation owned 51 percent by the New Jersey Turnpike Authority and 49 percent by private investors.<sup>18</sup>

For state and local governments, the most significant advantages of privatizing a transportation facility are the up-front revenue and elimination of the risk of future losses. Rather than wait for money to collect over many years, the government receives revenue from the facility right away without an immediate tax or rate increase. By selling a facility or concession, the jurisdiction also can shift the operating risk to the private party.

Privatization also can provide incentive for the private entity to improve services and streamline operations. For example, a toll road operator can best boost income without raising rates by increasing the traffic volume and the corresponding number of tolls collected. The operator therefore has incentive to make the road more appealing to motorists by improving road capacity, enhancing pavement conditions, shortening the time for toll collections, reducing congestion and increasing travel speeds. Operators also are motivated to use innovative mechanisms such as congestion pricing or electronic fare collection to solve congestion problems.

Lawmakers may have some concern about ceding control of public facilities to private entities. In the Chicago Skyway and other privatization examples, the jurisdictions that sold the transportation facility or concession have stipulated the terms of operation in extensive contracts with the buyer. Contracts can address many issues that might arise from the sale, including limits on toll pricing, enforcement, maintenance, snow removal and other operating standards. The contract can provide penalties if the private entity fails to comply, including fines or loss of control of the facility. However, in a long-term contract—Chicago signed a 99-year lease ceding control of the Chicago Skyway—there are questions about whether the penalties would effectively deter problems at the end of the contract. In year 90 of a 99-year contract, for example, a private company might stand to lose less than they might lose in year five of the agreement.

Another potential flaw to many plans to sell rights to transportation facilities is the inability to predict long-term conditions. Government officials may become limited by a long-term contract and be unable to adapt to changing needs. In California, for example, Orange County officials signed a \$120 million contract with private investors in the 1980s to build and operate express lanes in the median of Highway 91. The contract included a non-compete clause that eventually prevented the county from making improvements to meet rapid growth. The county eventually spent \$207.5 million to buy back the lanes.

The jurisdiction also will inevitably lose control of employment decisions related to the facility. A private entity may be motivated to save money by employing fewer workers for lower pay and benefits than might be provided by the government.

Another privatization concern is whether the revenue from the sale of a transportation facility actually is spent on transportation projects. State laws usually do not mandate that proceeds from a sale must be used for transportation purposes. Chicago officials, for example, elected to spend Chicago Skyway revenues on housing programs and other nontransportation-related projects.



### *Mileage Fee (Vehicle Miles Traveled Fee)*

Under this option, motorists are charged a fee for every mile driven within the state rather than for the amount of gasoline they consume. Mileage data can be collected from a variety of methods, such as paper reporting or electronic means. The fee charged can be flat or variable, depending on numerous factors such as time of day, amount of congestion, cost of improvements or other factors.

Oregon has undertaken an ambitious plan to launch the nation's first mileage fee program. Under test projects in the state, the Oregon Department of Transportation (ODOT) has equipped a limited number of vehicles with electronic odometers to record their mileage at specially equipped gas pumps. Drivers then are taxed a rate for every mile driven instead of on gasoline purchases. Cars also are equipped with a Global Positioning System (GPS) to ensure that they are not taxed for miles driven outside the state. Out-of-state drivers or those drivers without the technology would pay normal gas tax rates at regular gas pumps.

Proponents argue that the Oregon system—which was recommended by a state task force in 2001—is a good mechanism to decrease reliance on gas taxes. Although flat rate excise taxes on motor fuel lose their purchasing power over time, the mileage fee measures the true number of miles traveled and is not influenced by inflation. Advocates also argue that the system will require all drivers to pay equally for use of the roads, regardless of the fuel efficiency of their vehicles.

Privacy advocates are concerned that the Oregon plan will give the government an alarming ability to track a driver's location and movements. Although ODOT officials claim that regulations and technological solutions will safeguard privacy, the program, by definition, will give transportation officials information about the driver's miles traveled, travel inside and outside the state, and information about the driver's in-state travel. The GPS installed in the car might even make it possible to pinpoint a driver's exact location.

Environmental groups also are concerned that the Oregon plan will eliminate incentives to purchase more fuel efficient vehicles. ODOT officials, however, have suggested that Oregon drivers could be charged less for more fuel efficient cars.

### *Fare Programs*

Transit agencies in some states have developed innovative fare programs to increase ridership and generate greater revenue. In such programs, the local transit operators have negotiated agreements to provide transportation for universities, businesses, school districts or other entities that cannot economically provide their own transportation or wish to promote alternatives to single-vehicle commuting. Under the fare programs, transit providers agreed to provide transportation at a flat annual rate or rates based on the number of rides to be reimbursed annually. The system encourages more people to use the transit services and can generate greater revenue for transit services. Examples of fare programs can be found in Denver, Colo.; Pullman, Wash.; Lubbock, Texas; and Iowa City, Ia.

### *Advertising Revenue*

State transportation departments and transit agencies have many opportunities for generating revenue from advertising. A variety of interior and exterior spaces can be sold for

advertising purposes. State and local agencies can charge fees for billboards along highways, sell advertising space in bus stops and metro stations, put advertisements on buses and transit vehicles, paint advertisements on benches and sell advertisement space at rest areas. Although the opportunities for revenue are plentiful, some may be concerned that too many advertisements can blight a highway or building.

### *Concessions*

Rest areas, transit stations and other locations that have many travelers passing through are ideal locations for snack shops, retailers, restaurants and other businesses. States can raise transportation revenue by selling concession rights at these high volume areas.

### *Naming Rights*

Sale of facility naming rights is receiving increased attention as a potential revenue source for transportation. Most people are familiar with sales of naming rights for sports stadiums, where a private company pays to attach its name to a facility. Transportation officials in several states—including Massachusetts and Virginia—have explored options for selling naming rights to highways, rest areas, rail and transit stations, and toll plazas. Such money, while likely insufficient to meet capital expenses, could help pay for maintenance and facility operations. Experts have estimated that naming rights at stadiums generate approximately \$1 million to \$2 million in annual revenue.<sup>19</sup>

Opponents argue that the sale of naming rights can overly commercialize public venues. People may object when corporate names are attached to historic or popular transportation facilities. If a corporation that purchases the naming rights is disagreeable to many people, the project could become even more controversial. For example, a *Hustler* train station might be objectionable to many people.

### *Shared Resource Agreements*

State and local agencies may be able to generate revenue or in-kind donations from telecommunications companies in exchange for right-of-way access. Under shared resource agreements, the state or local agency grants access in exchange for cash or, in some examples, in exchange for use of the telecommunications technology to develop an Intelligent Transportation System (ITS) network. The telecommunications company might use right-of-way access to lay fiber optic cable. Another type of shared resource agreement can generate money by granting site access to wireless companies to install antennas on building tops, towers, signs and bridges. Examples of shared resource agreements can be found in Minnesota and New York.<sup>20</sup>

## **State Procurement Tools**

Procurement tools—mechanisms that states can use to save money or accelerate projects—are not new revenue sources. Instead, they are intended to improve efficiencies, help stimulate involvement by private investors, and otherwise enhance the process of paying for and developing transportation projects.

### *Special Purpose Agencies*

States establish special purpose agencies to develop a single project. Such agencies are intended to facilitate and streamline the process because the agency is completely focused on a single task. In comparison, a state DOT might manage multiple projects and tasks that divert it from any single transportation project. The mission-oriented focus of a special purpose agency can eliminate some bureaucratic slowness and provide more purposeful completion of the work. The downside may be elimination of oversight by state transportation officials. Examples of special purpose agencies can be found in many states, including California and Texas.

### *Special Districts*

States can establish special transportation districts in local or regional areas to oversee construction of needed transportation infrastructure. Legislatures give these districts the ability to incur debt to build transportation projects and assess a voter-approved tax to repay the bonds. Several states have used this approach, including Missouri, Texas and Washington. Missouri has 69 districts with transportation project costs totaling \$578 million.<sup>21</sup>

### *Development Agreements*

Several states authorize negotiated agreements between local governments and private developers that stipulate the rights and obligations of each party regarding certain planning issues or problems related to a specific development or redevelopment project. Such agreements can reduce sprawl and facilitate the construction of transportation infrastructure needed to support comprehensive, large-scale development. Development agreements contain provisions that establish the character, rate and intensity of the development and usually provide financing for roads and other public facilities that are needed to complete the development.

One advantage of a development agreement is that it encourages private investment in transportation infrastructure by making more predictable the process for large-scale, comprehensively planned developments. Without an agreement, developers may decide that risks are too great for building transportation infrastructure that can accommodate significant growth. For example, a developer might want to build a multiphase project over many years. During the project, construction circumstances can change. People who move into an area during initial phases could organize opposition to the project. If there is no guarantee that the developer will be able to complete the more extensive project, the incentive may be to build only enough to cover the project phases as they are built, rather than constructing a larger and more efficient network. Development agreements protect a developer's right to complete a previously planned and approved development.

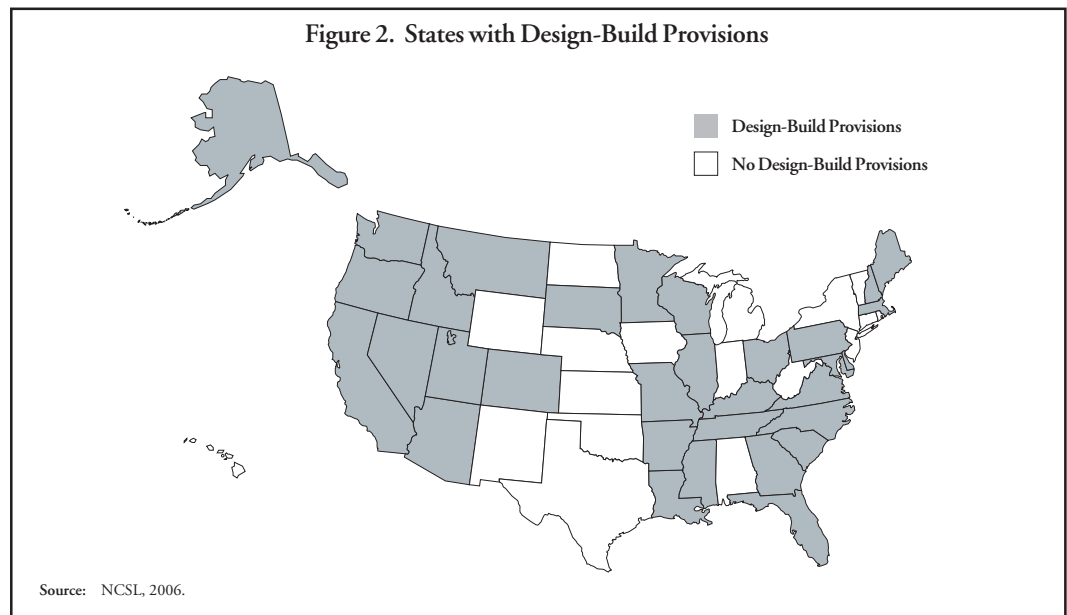
A disadvantage of development agreements is that they limit the public's ability to challenge a development well before they may be aware of the development plans. Over time, developments may become less desirable in the community, and residents may not want to be bound by an agreement that was drafted years earlier. In addition, such agreements may not always be necessary because developers may already have rights under other state laws.

Development agreements are fairly common in high-growth states. Examples can be found in Arizona,<sup>22</sup> California,<sup>23</sup> Delaware, Florida,<sup>24</sup> Hawaii,<sup>25</sup> Idaho,<sup>26</sup> Maryland,<sup>27</sup> Massachusetts, Nevada,<sup>28</sup> South Carolina, Texas and Virginia.

### *Design-Build and Design-Build-Operate-Maintain Contracts*

These procurement tools are arrangements whereby a single bid is accepted for both the design and construction of a project. This contrasts with traditional procurement for transportation projects where separate contracts are awarded for a project's design phase and construction phase. Design-build or design-build-operate-maintain contracts are intended to accelerate the project schedule by keeping together design and construction or design and maintenance and allowing construction to begin sooner.

Many states have successfully used design-build to speed up needed transportation projects. Utah, for example, used design-build contracting to help complete highway improvements in time for the 2002 Winter Olympics.<sup>29</sup> In 2005, Louisiana lawmakers enacted a design-build provision designed to speed recovery of transportation infrastructure in areas devastated by Hurricane Katrina.<sup>30</sup> At least 32 states have statutory or administrative provisions that authorize or regulate the use of design-build contracts for transportation projects and procurement (see appendix D). These include Alaska, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Virginia, Washington, and Wisconsin (figure 2).



### *Long-Term Warranties*

To guarantee quality of work, some states authorize or require long-term agreements or warranties with contractors, builders or others involved in transportation projects. These warranties are intended to increase the quality and longevity of transportation construction projects because they encourage private contractors and builders to create better products or risk fines and penalties. Because they create an incentive for better work, long-term warranties also can reduce the necessity for state and local inspections and oversight. Long-term warranties have been used in several states, including Illinois, Indiana, Kansas, Louisiana, Michigan, New Mexico, Ohio, Tennessee, Texas, Utah, Washington and Wisconsin.<sup>31</sup> Louisiana, for example, which requires that, “ ... every contract for the construction

of or improvements to highways shall include a warranty by the contractor as to the quality of materials and workmanship for a duration of three years.”<sup>32</sup> Kansas statutes require that a contractor shall guarantee to maintain and repair any curbing, guttering or paving performed on any street or alley for a time deemed proper by the state governing body.<sup>33</sup>

### *Outsourcing*

States may be able to save money by outsourcing maintenance and asset preservation responsibilities to private entities. Outsourcing has become a popular because it gives state officials more definite cost projections. Outsourcing also provides incentives for private entities to save money and, theoretically, encourages private innovation in maintenance and preservation techniques. The potential disadvantages of outsourcing are loss of governmental oversight and quality control. Private companies might have incentive not only to cut costs but also to cut corners. Outsourcing of maintenance and asset preservation responsibilities has occurred in Louisiana, Massachusetts, New Mexico, Texas, Utah and Virginia.

### *Tax Increment Financing*

State tax increment financing statutes allow cities to create special development districts that allow special tax breaks to generate growth. The city creates the district and makes improvements to public facilities within those districts to stimulate private-sector investment. During the development period, the city freezes the tax base at predevelopment levels. Businesses continue to pay property taxes, but taxes derived from increases in assessed property values (the tax increment) as the result of new development either go into a special fund created to retire bonds or help stimulate future growth in the district. Examples of tax increment financing can be found in South Carolina, Illinois, Michigan and the District of Columbia.

### *Public-Private Partnerships*

The Federal Highway Administration (FHWA) defines a public-private partnership as “... a contractual agreement formed between public and private sector partners, who allows more private sector participation than is traditional. The agreement usually involves a government agency contracting with a private company to renovate, construct, operate, maintain, and/or manage a facility or system. While the public sector usually retains ownership in the facility or system, the private party will be given additional decision rights in determining how the project or task will be completed. The term public-private partnership defines an expansive set of relationships from relatively simple contracts to development agreements that can be very complicated and technical such as a design-build-finance-operate-maintain.”<sup>34</sup>

In practice, these partnerships can describe a variety of different types of relationships between the government and the private sector. The potential advantage of such partnerships is that they can encourage private investment and innovation in transportation projects. Some may be concerned, however, that these partnerships can cause a state to lose control over a public facility. Public-Private partnerships are discussed in more detail in chapter six of this report.

## Bonds and Financing Tools

In addition to new revenue sources and procurement tools, states can borrow money for transportation projects. The benefit of borrowing money is that a state can accelerate project completion. Rather than waiting until it has accumulated all necessary revenue is accumulated to complete a project—a process that could delay a project by many years—bonds and financing mechanisms allow a state to proceed a much more rapid pace. A variety of mechanisms are available that allow states to borrow money from different sources or repay loans with different types of revenue. Finance mechanisms can be grouped into four categories: bonds, federal credit programs and state credit assistance.

### *Bonds*

Bonds are a common mechanism that states use to borrow money for transportation projects. An investor buys a bond on a promise that, on a specified maturity date, the issuing entity will repay the full principal amount. The issuing entity also pays the investor a specified rate of interest for the bond. Bonds can be issued by public authorities or sold by private entities and come in a variety of different forms.

### *Municipal and Public Bonds*

Bonds issued by state and local governments to finance transportation projects or other public works are known as municipal or public bonds. Interest income from public bonds is exempt from federal income taxes and often exempted from taxation by state and local governments. State and local governments issue several types of bonds.

- *General Obligation Bonds*—These public bonds are issued for projects that do not generate revenue, such as office buildings. The state or local jurisdiction that issues general obligation bonds backs them with the full faith and credit of the jurisdiction. Investors who purchase a general obligation bond have the security that a jurisdiction can raise property taxes or other taxes to repay the bonds.
- *Anticipation Notes*—Anticipation notes are public securities issued when money is expected from a specific source. States can issue anticipation notes that can be paid off with future bond issues (bond anticipation notes—BANs) or through future tax revenue (tax anticipation notes—TANs). States also can use two federal tools—grant anticipation revenue vehicles (GARVEES) and transit grant anticipation notes (GANS)—to issue bonds for highway and transit projects that can be repaid with future aid grants from the federal government.

Some states have passed anticipation note bonding laws that tap funds from unique sources. Arizona, for example, established an innovative program that allows local communities to issue anticipation notes for transportation projects that are repayable with funds established by the Arizona Regional Area Road Fund (RARF) law.<sup>35</sup> The state RARF statute created special funds for transportation projects that were supported with transportation excise taxes. A state statute allows local counties to authorize and issue bonds that are payable solely with excise tax money that is accumulated in the RARF.

- *Revenue Bonds*—Revenue bonds are public bonds issued to finance projects that generate revenue, such as toll roads or bridges or fares collected from transit projects. The

revenue from the project is used to make principal and interest payments to bond holders. Revenue bonds can be risky for investors because future toll or fare revenues are never certain. As a consequence, revenue bonds often have higher yields than bonds that are secured with taxes or other sources.

- *Limited and Special Tax Bonds*—Limited and special tax bonds are paid through proceeds from a special tax. Unlike a general obligation bond, where a state or local government can raise taxes indefinitely to repay the loan, limited or special tax bonds are tied to a particular tax levied for an express purpose. Often, voter approval may be required for the tax.
- *Hybrid Bonds*—Hybrid bonds include bonds with characteristics of both revenue and general obligation bonds. For example, the bond can be backed by both anticipated future revenues and by the full faith and credit of the issuing state.<sup>36</sup>
- *Certificates of Participation (COPs)*—COPs are state-issued, tax-exempt bonds that are secured with revenue from leases on equipment or facilities. Under this arrangement, a state public entity purchases equipment that it then leases to a local transit agency or other transportation department. The state entity concurrently issues bonds that match the lease term and secures the bonds with proceeds from the lease. These bonds often are used for transit projects that involve capital investments such as train cars, buses and other equipment. However, COPs also can be used to finance highway investments such as toll booths; electronic fare collection systems; truck size, weight and credentialing systems; and ITS technologies.

The advantage of COPs is that they allow states to finance capital projects but avoid restrictions on long-term debt. Many state constitutions and statutes require voter approval for certain long-term bonds. The COPS arrangement allows many states to avoid such restrictions.

- *Private Bonds*—Private companies can sell bonds to raise money to pay for transportation investments. However, interest paid on bonds sold by private entities is usually taxable, making private bonds a less attractive source of revenue for transportation projects. SAFETEA-LU changed the law to create private activity bonds that are more appealing for transportation projects.
- *Private Activity Bonds*—To provide the opportunity for new sources of investment capital to finance the U.S. transportation infrastructure system, SAFETEA - LU expands bonding authority for private activity bonds by adding highway facilities and surface freight transfer facilities to the list of other activities eligible for tax-exempt facility bonds. Qualified projects, which must already be receiving federal assistance, include surface transportation projects eligible under Title 23, international bridge or tunnel projects for which an international entity authorized under federal or state law is responsible, and facilities for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities related to the transfers). These bonds are not subject to the general annual volume cap for private activity bonds for state agencies and other issuers, but are subject to a separate national cap of \$15 billion.

### *Federal Credit Programs*

The federal government often provides part of the funding for transportation projects. On federal aid projects, federal laws control how much states must contribute and restrict how states can match federal dollars. Federal laws have established several programs to help states finance projects for highways, transit, rail and intermodal facilities. Federal credit and financing programs include Transportation Infrastructure Finance and Innovation Act, Grant Anticipation Revenue Vehicles bonds, Transit Grant Anticipation Notes bonds and other programs. Federal laws also have helped establish or promote other funding mechanisms, such as state infrastructure banks (SIBs), private activity bonds and tolling.

SAFETEA-LU changed or expanded many of the federal financing options. The law expanded eligibility for the Transportation Infrastructure Finance and Innovation Act, broadened loan policies for state infrastructure banks, and changed policies for private activity bonds and tolling used to finance transportation infrastructure improvements. This section describes federal transportation financing programs and changes to those programs created by SAFETEA-LU.

- *TIFIA*—The Transportation Infrastructure Finance and Innovation Act of 1998 established a credit program administered by the U.S. Department of Transportation to provide federal credit assistance to major surface transportation programs—including highway, transit and rail projects—of national or regional significance. The program was intended to leverage federal resources and stimulate public and private investment by providing projects with supplemental or subordinate debt. TIFIA assistance can be provided through direct loans for construction and capital costs, loan guarantees for project investors, and standby lines of credit.

States that apply for TIFIA assistance must go through a competitive process. Eligible projects must cost at least \$50 million (or \$15 million for intelligent transportation system [ITS] projects),<sup>37</sup> and TIFIA contributions cannot exceed 33 percent of the total project costs. In 2005, Congress expanded TIFIA eligibility to include public freight rail facilities or private facilities that provide public benefit for highway users; intermodal freight transfer facilities; access to such freight facilities; and service improvements to such facilities, including capital investment for intelligent transportation systems. The U.S. DOT evaluates projects that meet the initial eligibility thresholds and selects TIFIA recipients based on criteria established by statute, including the project's ability to generate economic activity, leverage private investment and promote innovative technologies.

As of May 2005, the Federal Highway Administration had approved 13 TIFIA projects and provided \$3.6 billion in credit support under the program. Two projects—the Cooper River Bridge in South Carolina and the Tren Urbano rail line in Puerto Rico—are at or near completion. Other examples of TIFIA projects include a \$70 million Reno rail corridor project in Nevada, a \$450 million project on the San Francisco-Oakland Bay Bridge, the \$917 million Central Texas Turnpike project, and the \$432 million Miami Intermodal Center. More information about TIFIA is available on the FHWA Web site at <http://tifa.fhwa.dot.gov/>.

- *GARVEE Bonds*—Grant anticipation revenue vehicles (GARVEEs) are bonds issued by states and backed by anticipated federal aid funding. GARVEEs allow states to receive



up-front capital for major projects that otherwise might not be funded through traditional methods. Future federal aid funds can be used to service the debt associated with the up-front costs on highways and can be used to make interest payments, retire principal, and pay any other costs associated with the bond issue.

Voter or legislative approval often is required for states to issue GARVEE bonds. According to FHWA, as of November 2005, 14 states, Puerto Rico and the Virgin Islands had issued more than \$4.8 billion in GARVEE bonds since 1997.<sup>38</sup> In 2005 alone, four states—Montana, Kentucky, Oklahoma and North Dakota—issued GARVEE bonds. Montana issued \$122.8 million in GARVEE bonds to help finance work on U.S. 93 north of Missoula. Kentucky issued \$139.6 million in GARVEE bonds in 2005 to help finance widening projects on I-65, I-75 and I-74. Maturity dates of the notes range from 2005 through 2017.

Oklahoma issued nearly \$50 million in GARVEE bonds in 2005 as part of a larger transportation financing program authorized by the Legislature in 2000. Under the legislation, the state will spend nearly \$800 million to improve 12 corridors of economic significance in the state. Nearly \$500 million for the projects is expected to come from GARVEE issues.<sup>39</sup>

- *Transit Grant Anticipation Notes*—Transit grant anticipation notes (GANS) are used to help transit agencies receive up front funding for transit projects. Similar to GARVEE bonds for highway projects, GANs allow transit agencies to issue bonds that are secured by a pledge of future federal money. In most examples, transit agencies have used the pledge of future federal funds as one source of revenue used to guarantee bond payments, but not as the sole source of revenue. Examples of GANs use can be found in California and New York.<sup>40</sup>

### *State Credit Assistance*

- *State Infrastructure Banks*—State infrastructure banks (SIBs) are state or multi-state revolving loan funds that provide loans, credit assistance and enhancements, and other financial assistance for surface transportation projects. SIBs are established with initial seed capital from states and administered by states. Revenue from borrowers goes back to the SIB to help fund future projects.

In 1995, The National Highway System Designation Act authorized SIB pilot programs in 10 states. Subsequent legislation in 1997 and 1998 allowed all states to develop SIBs and enabled several states to fund their SIBs with revenue from the federal Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21).

In 2005, SAFETEA-LU established a new SIB program that allows all states, American Samoa, the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands to capitalize SIBs with federal transportation funds authorized for fiscal years 2005-2009 using an 80-20 federal to non-federal funds match. The new law allows states to establish three different SIB accounts for highway, transit and rail projects and allows SIBs to provide loans and credit enhancement to both public and private entities for authorized projects.

According to the U.S. DOT, 38 states and Puerto Rico have established SIBs. As of June 2005 SIBs in 33 states had completed more than \$5 billion in loans for transportation projects.<sup>41</sup>

## Tools to Facilitate State and Federal Cooperation

States must work closely with the federal government on many transportation projects. When federal funds are used, federal laws determine how much matching money states must contribute, revenue sources that can be used to match federal funds, and the rules under which projects can be managed. States have some options for matching federal funds and managing federal aid transportation projects.

### *Federal Matching Flexibility*

For most federal aid transportation projects, federal law requires that 20 percent of the total funds used for the project come from nonfederal sources. State and local governments have several options for where they can raise the 20 percent match or how they can leverage the federal share until nonfederal revenues are available. The matching flexibility can help states find revenue for projects or accelerate project completion.

- *Tapered Match*—A change in federal matching requirements enacted in TEA-21 allows state and local contributions to transportation projects to vary annually, as long as the required matching ratio is met over the entire duration of the project. The provision, referred to as a tapered or delayed match, allows state and local governments to start projects with higher percentages of federal funds until they are able to fully secure financing for the nonfederal share. This tool may be particularly useful when a state does not have sufficient money for the match at the beginning of a project but expects to accumulate the funding by project completion through special taxes or other means. It allows state and local governments to accelerate project completion and meet near-term funding gaps. The tapered match is not available for every project, and projects must meet certain federal criteria to be eligible. Transportation officials in Washington used the tapered match to expedite completion of a \$35.9 million HOV lane.
- *Third-Party Donations and Flexible Match Provisions*—Federal law allows state and local governments to use contributions from a variety of public and private sources to fulfill the 20 percent nonfederal match requirement. Donations can include money, land, materials or services. Third-party donors can include private companies, organizations and individuals.

State and local governments also have some options for matching requirements. States can put the value of public-owned property toward the nonfederal match requirements. They also can count funds from certain federal agencies toward the nonfederal share of recreational trails, transportation enhancement projects and some federal aid highway projects. States can apply funds from the Federal Lands Highway Program to the nonfederal match for projects that are within or provide access to federal or Indian lands. Another option allows states to seek program-wide approval from the U.S. Department of Transportation for Surface Transportation Program projects. Upon approval, the matching requirement would apply to the entire program, rather than to individual projects.

The advantage of using a flexible match or third-party donations is that it allows the state or local government to reallocate funds that would have been used as a match. It also can accelerate project completion and can promote private investment in transportation projects. A flexible match was used in Auburn, Maine, to help construct an intermodal truck/rail transfer facility. In this example, a private railroad company donated materials, equipment and labor that counted toward the nonfederal match.

- *Toll Credits*—Federal law allows states to apply toll revenues used for capital expenditures to build or improve highway facilities as a credit toward the nonfederal match requirement for certain transportation projects. A state, toll authority or private entity earns toll credits by funding a highway facility with toll revenues from existing facilities. The amount of toll revenues spent on nonfederal highway capital improvements earns the state an equivalent dollar amount that the state or local government can apply to the nonfederal share of a federal aid transportation project. Federal law requires that the state must certify that its toll facilities are properly maintained and must pass an annual maintenance of effort test to use this tool.

Toll credits allow states to essentially raise the federal share for a transportation project to as much as 100 percent of the total cost. Such credits encourage states to make investments in transportation infrastructure and allow states to direct money to other transportation needs. According to FHWA, by the end of FY 2001, 20 states had accumulated \$9.2 billion in toll credits for transportation needs.<sup>42</sup>

### *Advance Construction Authority*

Advance construction is a cash management tool that allows states to begin federal aid transportation projects with their own funds before they actually apportion federal funds or have sufficient obligation authority for federal funds. With this tool, states can later convert an advance construction project to a federal aid project when sufficient federal funds and obligation authority become available. The advanced construction authority allows a state to begin the project sooner, expedite construction and improve cash flow. As of 2000, 47 states had \$19.6 billion in advance construction projects under agreement with FHWA.<sup>43</sup>

## 6. TRENDS IN STATE LEGISLATION AND PROGRAMS

States fund transportation through a variety of sources. Historically, states have primarily funded transportation projects by paying for construction, maintenance and administration as money became available from user fees—such as tax revenues, registration and driver’s license fees, tolls, sales and property taxes, and other sources—and federal grants. During the last decade, new federal transportation funding laws, growing transportation funding demands, the declining value of the gas tax against inflation, the uncertainty of other user fees, and changing economic conditions in the states have forced legislatures to explore options beyond traditional pay-as-you go methods.

In this environment, three clear, long-term trends are shaping state approaches to transportation funding. First, states are more often seeking partnerships and contributions from private entities to supplement transportation funding needs. Second, states are relying more on proceeds from bonds and other financing mechanisms such as tolling to obtain sufficient up-front money to pay for transportation projects. Third, states are more frequently exploring innovative mechanisms to replace the traditional reliance on motor fuel taxes.

This chapter more closely defines and examines these state surface transportation funding trends. It examines increased state usage of public private partnerships, bonding, tolling and other innovations.

### Greater Interest in Public-Private Partnerships

More states are now exploring the use of public-private partnerships (PPPs) to fund and support needed transportation projects. As many as 23 states have statutes that enable the use of various transportation funding approaches involving private entities.<sup>1</sup> Proponents claim that, by introducing private capital into the mix of transportation funding, states can leverage public transportation dollars and bring projects to completion much sooner and at a lower cost. A variety of obstacles also can limit the use and effectiveness of PPPs, however.

#### *Potential PPP Benefits*

Public-private partnerships can provide significant benefits for states. Potential advantages can include cost savings, cost predictability, reduced project completion time and greater private sector investment. By definition, PPPs give to private entities varying degrees of

responsibility for project management and completion. The state and the private entity can agree on a set price, giving the state more predictability on project cost. Because the private entity wants to make a profit, it has greater incentive to reduce costs, improve efficiency and shorten completion time. The FHWA has estimated that PPPs can save as much 6 percent to 40 percent of the cost of construction and limit the potential for cost overruns.<sup>2</sup>

### *Potential PPP Obstacles or Concerns*

State and local governments that are considering the use of PPPs may have several concerns about private involvement in transportation projects or may face several challenges in PPP implementation. Obstacles to greater use of PPPs include the following.<sup>3</sup>

- Legal prohibitions, regulatory restrictions or procedural restrictions that amount to a lack of authority to engage in PPPs. For example, a legal impediment is that most states do not allow innovative forms of procurement, which limits the potential for such partnerships.<sup>4</sup> Relying only on the low-bid approach for procurement is not conducive to the use of public-private partnerships.
- Agencies, potential private sector partners or the general public may. Lack familiarity with the PPP process and allocation of roles, responsibilities, risk and returns, and limited knowledge of examples of successful PPPs.
- An overly bureaucratic approach by state transportation or other agencies and/or lack of consistency in how transportation agencies interpret statutes and regulations regarding PPPs.
- A disconnect in approach and understanding between potential public and private sector partners;
- Institutional inertia or opposition by parties that fear change to traditional project delivery approaches or harbor distrust for the opposite sector.
- Lack of dedicated revenues or innovative financing mechanisms to support projects. According to FHWA, dedicated revenues, whatever their source, are generally the best way to support a PPP project's financial plan.<sup>5</sup>

Some objections to PPP use may arise from concerns about the perceived loss of public control. In examples where private entities have purchased concession rights or tolling on public facilities, the perception is that the state or local government can lose the ability to control rates or ensure the quality of the facility.

Although only a few dozen projects have been completed using public-private partnerships, interest is growing.<sup>6</sup> The recent successful completion of a long-term agreement between a private consortium with the city of Chicago to operate the Chicago Skyway Toll Bridge System has renewed interest in PPPs.

Congress also has promoted PPPs. In the FY 2004 Department of Transportation (USDOT) Appropriations Act, the USDOT was asked by Congress to identify the impediments to greater involvement of PPPs in large capital-intensive highway and transit projects. In

response, FHWA held several workshops and published an extensive report containing useful information to help states evaluate the possible use of public-private partnerships.<sup>7</sup>

To further encourage PPPs, FHWA established Special Experimental Project 15 (SEP-15) in 2004 to “... encourage transportation agencies in seeking to attract private sector investment, innovation, efficiency and new revenue streams for U.S. transportation infrastructure.”<sup>8</sup> The program creates a process for state transportation agencies to seek the waiver of FHWA statutory and regulatory restrictions that are impeding the project delivery process.

Of the 23 states with PPP legislation, several—including Florida, Oregon, Texas and Virginia—are aggressively using such partnerships. Legislation passed by the states tends to focus on authorizing the state departments of transportation and other transportation agencies to enter into partnerships and giving powers to undertake specific activities associated with a partnership. Many allow acceptance of both solicited and unsolicited proposals.

#### Indiana Toll Road Sale

The Indiana legislature approved legislation in mid-March 2006 to lease the 157-mile Indiana Toll Road to Cintra-Macquarie, the same consortium that leased the Chicago Skyway in 2005. The lease deal was part of the “Major Moves” road construction program advanced by Governor Mitch Daniels, a 10-year program involving more than 200 projects. Indiana will receive \$3.8 billion for the 75-year lease.

#### Virginia

Virginia’s original legislation regarding public-private partnerships was passed in 1995. The law enables the state to enter into contracts authorizing private entities to acquire, construct, improve, maintain and operate certain transportation facilities. Based on its past experiences, the Virginia General Assembly passed changes to its Public Private Transportation Act in 2005. The revisions required that timelines and activities within each phase of procurement be identified; that mandatory risk sharing be required on the part of project proposers; that more flexibility in the development of interim agreements be allowed to accelerate required activities; and that transparency and public involvement be promoted.<sup>9</sup> Virginia currently has 50 proposals under consideration.

In reviewing its 10 years of experience with public-private partnerships, the Virginia Department of Transportation identified several lessons learned.<sup>10</sup>

1. A partnership is not appropriate for every project.
2. Engineering is the easy part.
3. Private partners need to take some risk for after its built.
4. Less confusing federal programs and more consistent guidance are needed.
5. The development of expertise takes time.
6. Beware of conflicts of interest and political interference.
7. It takes a significant time commitment by the senior staff of both the public and private partners.
8. Set and manage realistic expectations.

#### Texas

In 2003, the Texas Legislature enacted HB 3588, providing many new tools to assist in the delivery and completion of transportation projects, including the formation of public-private partnerships.<sup>11</sup> The legislation authorizes the formation of regional mobility authorities (RMAs); expands the tolling authority of the state; authorizes comprehensive development agreements (CDAs); and provides flexibility in funding the Trans Texas Corridor, a proposed multi-use statewide network of transportation routes incorporating existing and new highways, railways and utility rights-of-way. A development agreement to begin work on the corridor was negotiated between the state and the Spanish firm Cintra in March 2005.

Under an RMA, an individual county or several counties establish a regional approach to meeting their transportation needs. RMAs have the power to issue bonds or collect tolls and are able to convert existing segments of the state's highway system to toll roads with the approval of the Texas Transportation Commission (TTC). Public outcry against tolling has accompanied TTC hearings on this topic.<sup>12</sup> RMAs have authority to purchase rights-of-way and may lease portions of the land for nontransportation-related purposes.

Under HB 3588, Texas may commingle toll revenue with state highway funds to build public and private toll roads. Pass-through toll agreements, also known as "shadow" tolls, are allowed. Under a pass-through toll agreement, a local or private entity makes highway improvements using its own funds, and then is reimbursed by the state based on the number of vehicles that use the highway. Williamson County, north of Austin, recently became one of the first to receive approval for a pass-through toll agreement with the state to build six highway projects at a cost of \$132 million.<sup>13</sup> The legislation also allows the use of the design-build approach to highway construction through CDAs. A CDA may include project design, construction and financing, right-of-way acquisition, and highway operation and maintenance.

### **Increased Use of Bonding and Debt Financing<sup>14</sup>**

States historically have funded transportation projects by paying for construction, maintenance and administration as money became available from user fees and federal grants. States also have financed projects by assuming debt that could be paid back by state funds, and this trend has accelerated. Bonds typically are repaid by gas taxes and other state revenue. In the last several years, however, more states are turning to bond financing for transportation projects as a way to speed project delivery. This has occurred in part due to greater availability of "innovative" financing techniques promoted by the federal government, as noted elsewhere in this report. While only 26 states used bond proceeds to pay for highway projects in 1998, 34 did so in 2003.<sup>15</sup>

Bond financing has several advantages. Selling bonds allows governments to spread the cost of transportation infrastructure over time so that both present and future users share the cost. A key benefit is that bonds allow governments to construct large projects more quickly than if financed through traditional methods. As a recent South Carolina transportation funding report notes, "If governments had to wait until all federal and state funds necessary for a particular multiyear project were available, large amounts of money would be underutilized and construction would move slowly. Bonding allows governments to capitalize future cash flows today in order to obtain needed funds up front and then slowly repay them over the project's lifetime."<sup>16</sup>

In addition, by obtaining and spending large portions of project financing in one time frame, state agencies can somewhat mitigate the problem of project budgets increasing in response to rising construction prices. A recent example of this is in New Mexico, where the cost of the \$1.6 billion transportation program endorsed by the Legislature in 2003 is expected to increase by \$60 million due to rising construction costs.<sup>17</sup>

The use of debt financing for transportation has skyrocketed in the last six years. As table 3 shows, outstanding state obligations for highway indebtedness grew 75.4 percent between 1998 and 2004. As of 2004, eight states—Idaho, Iowa, Montana, Nebraska, North

Dakota, South Dakota, Tennessee and Wyoming—had no outstanding debt, according to the Federal Highway Administration Finance Series.<sup>18</sup>

**Table 3. State Outstanding Debt, 1998-2004**

Year	Obligations Outstanding	Percent Increase	Number of States
1998	\$45.9 billion		39 (plus D.C.)
2004	\$80.5 billion	75.4	41 (plus D.C.)

Source: Federal Highway Administration Highway Finance Series for 1998 and 2004, Table SB-2.

The use of bond proceeds to pay for highway projects has likewise increased dramatically in just five years. As table 4 shows, the use of bond proceeds rose from \$6.1 billion in 1998 to \$9.5 billion five years later, an increase of 55.7 percent. This compares to an overall increase in total user tax revenues for state highway projects of 7.9 percent, from \$40.5 billion to \$43.7 billion. The use of bond proceeds increased seven times faster than user tax revenue. Part of this growth was due to the fact that 12 additional states used bond proceeds, while five states who used bond proceeds in 1998 Georgia, Hawaii, Michigan, Mississippi and North Carolina did not in 2003.<sup>19</sup>

**Table 4. Bond Proceed Growth, 1998-2003**

Year	Bond Proceeds	Percent Increase	Number of States
1998	\$6.1 billion		26
2003	\$9.5 billion	55.7	34

Source: Federal Highway Administration Highway Finance Series for 1998 and 2003, Table SF-21.

Finally, the cost for retiring bonds grew fast as well. Thirty-nine states and the District of Columbia paid bond retirement costs of \$2.9 billion in 1998, compared to \$4.7 billion in 2004, an increase of 62 percent (table 5).

**Table 5. Bond Retirement Cost Growth, 1998-2004**

Year	Bond Retirement Costs	Percent Increase	Number of States
1998	\$2.9 billion		39 (plus D.C.)
2004	\$4.7 billion	62.1	40 (plus D.C.)

Source: Federal Highway Administration Highway Finance Series for 1998 and 2004, Table SB-2.

Although bond financing (and other debt instruments) help accelerate transportation projects and are an important tool in the mix of financing mechanisms, there are drawbacks. The funding received is not new money and has to be repaid with interest into the future. This can potentially take funding away from other vital projects in the future. The legal instrument used to obtain bond proceeds obligates the state to repay interest and principal before other less senior obligations and priorities.

New Jersey has faced problems because its obligations for debt repayment have overwhelmed available funding. The state's Transportation Trust Fund (TTF) was projected to be empty by July 2006, based on existing debt obligations, unless the Legislature acted to replenish the fund.<sup>20</sup> Among the proposals considered to increase revenue were refinancing existing debt, potentially raising the 14.5 cent gas tax, increasing turnpike tolls and transit fares,



and stopping the annual diversion of \$115 million in TTF monies to the general fund.<sup>21</sup> At publication a final deal was still in negotiations.

As noted, several states do not use debt financing for transportation projects. State legislatures that are interested in this option will want to consider the need for legislation to remove barriers for issuing certain types of debt and to ensure efficient debt management. Creation of a debt management policy and statutory debt limit are possible approaches. To avoid the problem that New Jersey and other states are facing, state policy should ensure that adequate revenue is generated to pay for maintenance and operation of the transportation system in addition to debt repayment. A specific debt management policy and debt limits are tools to assist legislatures exercise discipline in the use of debt for transportation purposes.

## More Tolling Interest

In 1772, Pennsylvania chartered the first turnpike in America. The Philadelphia and Lancaster Turnpike Road, opened in 1774, was the first crushed stone and gravel surfaced road. In the late 18<sup>th</sup> and early 19<sup>th</sup> centuries, before rail transportation became widely available, many privately owned turnpikes were built and operated by private investors who charged tolls for vehicle passage. Today, more than 30 states collect toll revenue in some form, either through roadway or bridge tolls or ferry fares.<sup>22</sup> In the last five years, as other revenue sources—particularly the gas tax—have declined in purchasing power, states have taken more interest in tolls as a way to finance transportation projects. Toll collecting often is viewed as the purest form of user-related revenue because the user pays directly for the services used.

Table 6 shows the growth in toll collection by the states from 1998 to 2004. Revenues grew by 36.6 percent, from \$4.1 billion to \$5.6 billion. By contrast, user fee revenues grew by less than half as much, 15.7 percent.<sup>23</sup>

Table 6. Toll Revenue Growth, 1998-2004

Year	Road and Crossing Tolls	Percent Increase	Number of States
1998	\$4.1 billion		29
2004	\$5.6 billion	36.6	31

Source: Federal Highway Administration Highway Finance Series for 1998 and 2004, tables SF-1 and SF-3B.

Tolls are becoming more of a revenue factor nationally, although several states rely heavily on tolls to pay for transportation infrastructure. Delaware, Florida, Maine, New Hampshire, New Jersey, New York, Oklahoma and Pennsylvania rely on toll revenues for at least 10 percent of their total revenue for state-administered highways.<sup>24</sup>

In an age of political reluctance to increase motor fuel taxes, toll roads have become an attractive option. Several states have made tolling the centerpiece of the next wave of highway construction. The Texas legislation mentioned previously represents a major commitment to tolls as a source of transportation revenue. States that are considering new toll roads or tolling authorization in 2006 include California, Colorado, Indiana, Maryland, North Carolina, South Carolina, Texas, Utah, Washington and Virginia. A truck-only toll lane is under consideration in Georgia. Several states also are evaluating the use of different tolling mechanisms such as variable pricing toll lanes and high occupancy toll (HOT) lanes.

Typically, states establish separate agencies or arms of their state departments of transportation to oversee construction, operation and maintenance of toll facilities. A number of states have created new tolling agencies in recent years (Colorado, North Carolina and Texas) while other states (such as Kansas, Maine and Pennsylvania) have had turnpike authorities or commissions for years.

Creating public support for imposition of tolls on new facilities has been a struggle. It is difficult to overcome the perception that motorists who use toll facilities have paid twice is difficult to overcome. In addition, the negotiations to build toll facilities usually include non-compete clauses that prevent improvements and expansions of public roads in the vicinity of the toll road for a certain period of time, reducing the availability of free, comparable alternatives. This helps assure bondholders that the toll facility will produce the revenue needed to repay them.

SAFETEA-LU includes several provisions to boost tolling in the states. A new Interstate System Construction Toll Pilot Program allows for three projects in a state or compact of states to collect tolls on interstates for the purpose of constructing interstate highways. Virginia is considering tolls on I-81. A new Express Lanes Demonstration Program will allow 15 demonstration projects through 2009 to permit tolling to manage high levels of congestion, reduce emissions in a nonattainment or maintenance area, or finance added interstate lanes designed to reduce congestion. Automatic toll collection is required and, for HOV facilities, variable pricing must be employed. The Variable Pricing Pilot Program, funded at \$59 million through 2009, and the Interstate System Reconstruction and Rehabilitation Toll Pilot Program were previously authorized and were carried forward. As of March 2006, 14 states were participating in the value pricing pilot project, including California, Colorado, Florida, Georgia, Illinois, Maryland, Minnesota, New Jersey, North Carolina, Oregon, Pennsylvania, Texas, Virginia and Washington.<sup>25</sup>

The December 2005 report of the Transportation Research Board (TRB), *The Fuel Tax and Alternatives for Transportation Funding*, noted that an “... important opportunity exists today to create an extensive system of tolled expressways and expressway lanes employing existing electronic toll collection technology and variable pricing.”<sup>26</sup> This study envisions tolls as a key element of a staged movement toward transportation funding sources other than the fuel tax. Another analyst has stated that tolls may account for only 10 percent of the funding mix in the future.<sup>27</sup> The degree to which tolls are used to fund transportation expenditures will depend on the particular needs and available financing methods of particular states. Since more than 30 states already collect toll revenue, the level of comfort seems high and the potential for future use will remain significant.

C. Kenneth Orski noted in *Innovation Briefs* that “... fresh evidence exists that highway tolling and private financing are gaining new converts among governors and state transportation officials, in state legislatures and in the media. Growing transportation budget shortfalls, eroding value of highway tax revenues, and a supportive federal policy toward tolling and public-private partnerships have helped nurture the idea. Fanning its spread are visions of highway projects built entirely with private funds and prospects of multi-billion-dollar concessionary cash payments that could jump start ambitious transportation improvements years in advance of their planned execution.”<sup>28</sup>

## Innovations

States are exploring many options for increasing transportation revenue. Two innovations are receiving a lot of attention in states. One proposal, tested in Oregon and considered elsewhere, involves charging drivers for miles traveled rather than for motor fuel consumed. The second innovation involves state efforts to measure performance and exercise better oversight over transportation infrastructure funding and construction.

### *Vehicle-Miles Traveled (VMT) Fee*

Because the need is great and current funding is inadequate, the transportation funding system in the United States will require reform during the next two decades. The TRB report, *The Fuel Tax and Alternatives for Transportation Funding*, noted that road use metering and mileage charging appear to be “... the most promising technique for directly assessing road users for the cost of individual trips within a comprehensive fee scheme that will generate revenue to cover the costs of highway programs.”<sup>29</sup>

In a November 2005 report, the National Chamber Foundation also endorsed a mileage-based transportation revenue system that would help address long-term funding shortfalls.<sup>30</sup> The chamber suggests both a state VMT fee and a local option VMT fee. The state fee would supplement—and eventually replace—the state motor fuels tax, while the local option fee “... could be implemented at state and local discretion to address urban congestion and local transit needs.”<sup>31</sup> According to the report, the state VMT fee should represent the average cost of providing a vehicle mile of travel and be applied to the aggregate annual VMT total of each vehicle operated in the state. States could vary the fee by vehicle weight environmental impact or other factors to meet other public policy goals. Such a system will provide a sustainable source of funding, enable governments to manage congestion, ensure that all drivers pay their fair share, and separate highway use fees from fuel use and taxation.<sup>32</sup>

Oregon’s Mileage Fee Proposal is a novel proposal to replace declining gas taxes during the next several decades. A Road User Fee Task Force, established by the Oregon legislature in 2001, recently recommended a mileage fee and congestion pricing to replace the revenue generated by the state’s declining gasoline tax. The proposal, which is contained in a June 2005 report to the legislature, would be phased in over a 20-year period, and the mileage fee will be pilot tested starting in March 2006.<sup>33</sup>

The task force determined that 80 percent of Oregon’s road revenues depend either directly or indirectly on gasoline taxes and that this revenue source is “in increasing peril.”<sup>34</sup> Gasoline tax revenue expressed in inflation adjusted dollars per vehicle miles traveled has declined by 50 percent, from 2.31 cents per VMT in 1973 to 1.16 cents in 2003. Meanwhile, the state’s population grew by 69 percent, and statewide VMT grew by 171 percent. Gas tax revenues actually grew by 36 percent but, allocated over the increase in VMT, show a significant 50 percent decline. The report states, “The gasoline tax is failing the purpose for which it was originally intended—funding the operation and maintenance of Oregon’s road system.”<sup>35</sup>

The task force stated that the existing gap will be compounded by fuel efficiency improvements and the increasing use of vehicles powered by non-gasoline fuel sources such as natural gas and hydrogen fuel cells. It is estimated that gasoline fuel tax revenues will

flatten from 2017 to 2023 and then drop on a permanent basis thereafter.<sup>36</sup> Other contributing factors to the declining purchasing power of the Oregon gas tax include the fact that no gas tax increase have been enacted since 1993, the gas tax is not indexed for inflation, road construction and maintenance costs have escalated, and record gasoline prices have dampened gasoline consumption.<sup>37</sup>

To replace the gas tax, the task force recommended two market-based solutions that it considered fair and stable. One is a mileage fee—a distance-traveled charge imposed according to the amount a vehicle uses the road system in Oregon. To replace the amount of revenue currently collected by the 24 cent per gallon fuels tax rate, the mileage fee would need to be 1.2 cents per mile.<sup>38</sup> The second solution is congestion pricing or peak period pricing, where the vehicle is charged a fee for using certain roads during periods of high congestion. It could be incorporated into the mileage fee system, as could a local option addition to the fee.

The mileage fee would be collected at the gas pump, using equipment installed in newer vehicles by the manufacturer. Motorists with older vehicles would continue to pay the fuels tax at the pump. Oregon's weight-distance tax for heavy trucks would remain the same; only in-state miles would be subject to the mileage fee.

The privacy of motorists would be protected by eliminating the possibility that their movements could be tracked through the design of the data transmission system. No behavior changes would be required of motorists, and the increased administration burden on fuel retailers would be negligible because the system is paperless.<sup>39</sup>

The task force adopted these proposed solutions based on the following criteria:<sup>40</sup>

- *User Pay System*—Any future revenue collection system should be a “user pay” system.
- *Acceptable to Public*—A new revenue system must be acceptable to the public.
- *Transparent to the Public*—A new revenue source should be visible to the taxpayers and not confusing.
- *Support Entire Public Highway and Road System*—A new revenue mechanism should be designed to support the operation, maintenance and preservation of the highway and road system for the state and cities and counties in all parts of the state as the fuel tax does today.
- *Revenue Sufficiency*—The sources comprising the new system must collectively have the ability to raise revenue sufficient to ultimately replace the fuel tax on gasoline as the primary revenue source for Oregon's roads.
- *Minimal Non-Governmental Burden*—A new revenue source should not impose substantial financial burdens on taxpayers or the private sector.
- *Enforceability*—A new revenue source must be enforceable to ensure tax evasion is not substantial.

- *Non-Local Government Revenue Source*—Revenue sources that are traditionally and primarily the province of local governments should not be usurped by the state.

The concept will be tested through the Road User Fee Pilot Program using 300 vehicles in Portland from March 2006 through March 2007. A final report and recommendations to the Oregon legislature are expected in late summer or early fall 2007.

Other states are watching Oregon for the results of the pilot tests. A few states are beginning to consider the idea. A recent analysis of the South Carolina transportation funding system, for example, made this recommendation:

“Over the long term, the state will need to consider alternatives to the fuel tax to address revenue losses associated with expected technological change and greater fuel efficiency in vehicles. Smart odometer and GPS units are in development and should be operational within the next decade. The state should be proactive in terms of an eventual transition to a VMT and/or weight/distance based funding system.”<sup>41</sup>

### *Oversight and Accountability*

Several states have taken steps to exercise more diligent oversight over transportation funding and project completion. Many have established performance measures and accountability criteria in an effort to make transportation spending more efficient and create better accountability for the public. States that have undertaken such efforts include Oregon and Washington. (For more information about the Washington approach, see appendix E.)

## 7. A BALANCED APPROACH TO TRANSPORTATION FUNDING

This report discusses a wide variety of transportation funding alternatives. It demonstrates that states may want to consider expanding and diversifying their transportation funding bases to close large and widening transportation funding gaps during the next two decades. States may wish to consider revenue sources that have not yet been fully developed. This section gives states a tool for considering this possibility.

### State Highway Revenue Analysis

NCSL used the *Highway Statistics* series on State Highway Finance, produced by the Federal Highway Administration (FHWA),<sup>1</sup> to analyze state revenues used for highways to determine trends and patterns. Data was aggregated from 1999 through 2004, combined by revenue category, and then divided by total receipts by states for those years to derive a percentage that each state received in nine revenue categories (see table 7). The categories used by the FHWA include:

- Motor fuel taxes.
- Motor vehicle and motor carrier taxes.
- Road and crossing tolls.
- Appropriations from general funds.
- Other state imposts.
- Miscellaneous revenues.
- Bond proceeds. (Bond proceeds are included as a revenue source to show the states' use of this transportation funding source. However, since bonds are repaid with some of the other revenue sources listed, some double-counting of revenue is contained in this analysis.)
- Payments from federal funds.
- Payments from local governments.

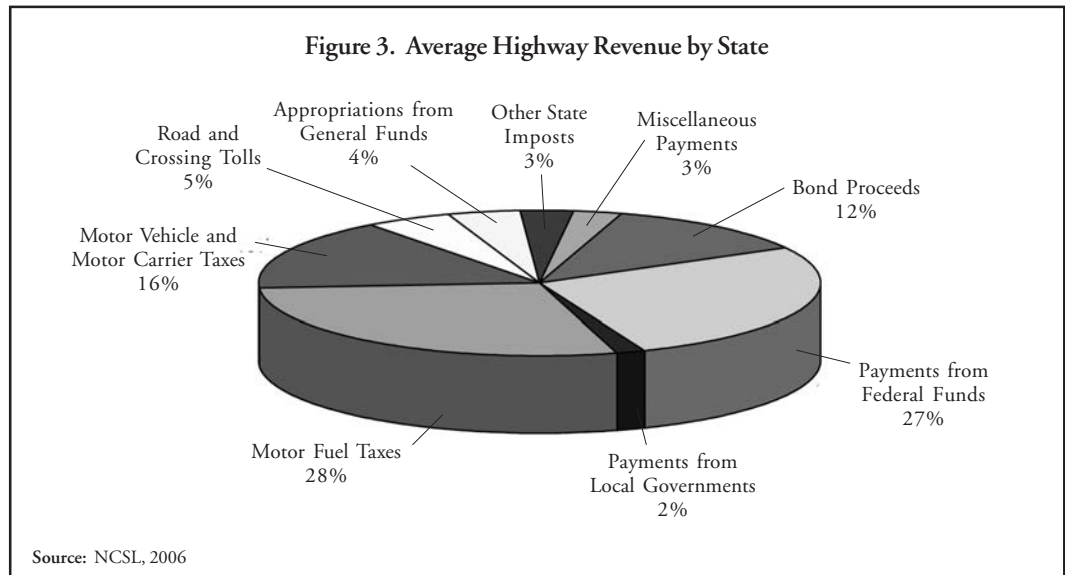
Table 7. Total Revenues Used By States For Highways from 1999-2004, by Percentage of Total Annual Receipts

State/ Jurisdiction	Motor-Fuel Taxes	Motor Vehicle and Motor Carrier Taxes	Road and Crossing Tolls	Appropriations from General Funds	Other State Imposts	Miscellaneous	Bond Proceeds*	Payments from Federal Funds	Payments from Local Gov't's
Alabama	37.9%	13.4%	0.0%	3.5%	0.5%	0.6%	2.3%	40.7%	1.1%
Alaska	4.7	4.9	3.2	19.5	0.0	4.3	3.5	54.1	5.7
Arizona	25.5	9.8	0.0	4.4	19.3	1.9	15.0	19.5	4.5
Arkansas	38.9	11.6	0.0	2.6	0.2	2.5	9.6	34.0	0.7
California	35.9	20.6	3.4	3.3	3.1	3.1	1.5	22.5	6.6
Colorado	27.6	19.2	0.0	3.5	5.3	2.9	20.4	19.8	1.2
Connecticut	21.2	11.0	0.0	2.3	1.7	6.7	29.3	27.0	0.7
Delaware	14.4	12.7	20.2	6.8	0.0	4.3	26.0	15.7	0.0
Florida	28.5	12.7	12.6	0.8	2.0	2.8	13.7	24.5	2.5
Georgia	16.4	10.1	1.1	10.1	9.8	4.6	7.9	39.9	0.0
Hawaii	19.8	22.1	0.0	3.2	0.6	5.4	14.2	34.7	0.0
Idaho	37.2	22.0	0.0	0.0	0.0	0.1	0.0	39.8	0.8
Illinois	29.7	25.8	9.4	1.1	0.7	1.4	9.1	21.8	1.0
Indiana	34.3	9.8	3.6	2.4	0.0	0.6	19.8	26.3	3.1
Iowa	28.6	25.2	0.0	4.4	17.3	0.8	0.0	23.7	0.0
Kansas	23.7	8.0	4.2	1.2	9.0	3.5	27.9	21.1	1.4
Kentucky	26.4	35.7	0.5	3.2	0.0	4.2	0.2	29.7	0.0
Louisiana	40.0	9.6	2.4	7.1	2.0	2.0	5.6	31.3	0.0
Maine	29.3	9.8	10.1	17.5	0.0	1.2	6.0	26.0	0.0
Maryland	26.9	23.3	7.0	0.7	6.2	2.3	8.1	25.3	0.1
Massachusetts	17.1	7.5	6.0	23.7	0.0	5.8	25.4	14.5	0.0
Michigan	34.3	27.2	1.1	4.9	0.6	2.8	4.3	23.5	1.4
Minnesota	33.3	29.9	0.0	2.6	5.0	3.4	3.4	21.2	1.2
Mississippi	36.6	12.7	0.0	0.8	6.2	1.3	9.0	32.5	1.0
Missouri	32.1	11.2	0.0	0.6	10.8	1.0	9.4	33.4	1.4
Montana	34.0	10.3	0.0	0.0	0.0	0.5	0.0	54.6	0.5
Nebraska	36.6	8.7	0.0	3.0	17.6	1.5	0.0	25.8	6.8
Nevada	49.1	16.1	0.0	0.8	0.0	2.1	6.9	24.8	0.1
New Hampshire	27.7	16.9	13.4	0.7	0.0	2.6	7.9	29.1	1.6
New Jersey	7.0	7.0	12.2	4.0	0.0	3.0	39.7	27.1	0.0
New Mexico	18.2	16.5	0.0	6.0	0.5	1.4	32.2	25.0	0.2
New York	18.0	9.9	15.8	3.3	0.1	1.5	28.9	22.2	0.3
North Carolina	37.4	11.2	0.1	3.8	11.8	4.0	2.4	29.0	0.3
North Dakota	25.2	13.6	0.0	8.0	1.4	0.2	0.0	48.0	3.4
Ohio	41.7	16.8	5.3	0.4	0.0	2.7	7.6	24.2	1.4
Oklahoma	22.1	15.0	11.7	5.8	3.0	2.7	12.1	26.7	0.7
Oregon	33.6	23.3	0.0	3.0	0.5	1.8	4.2	33.6	0.0
Pennsylvania	32.0	14.5	9.8	5.0	0.0	4.4	9.2	24.5	0.4
Rhode Island	23.4	9.9	3.4	1.8	0.0	1.7	16.6	43.3	0.0
South Carolina	30.9	8.3	0.3	4.8	0.0	2.3	10.1	42.7	0.5
South Dakota	24.8	10.9	0.0	0.0	11.9	4.0	0.0	46.2	2.2
Tennessee	43.7	14.9	0.0	4.0	1.8	3.0	0.0	30.6	1.9
Texas	31.0	23.0	2.0	0.3	0.5	2.7	1.4	35.2	3.9
Utah	28.8	7.3	0.0	12.8	3.0	2.7	22.4	22.8	0.2
Vermont	23.4	29.3	0.0	1.2	0.3	3.0	0.6	41.6	0.6
Virginia	23.7	19.9	2.9	3.0	13.5	2.5	12.9	20.3	1.4
Washington	32.4	18.4	5.0	1.2	0.0	2.3	14.9	24.4	1.4
West Virginia	26.0	20.5	4.6	3.8	0.1	1.4	9.7	33.9	0.0
Wisconsin	38.4	15.7	0.0	0.0	0.0	1.6	11.7	28.3	4.2
Wyoming	21.9	10.3	0.0	0.4	2.8	1.3	0.0	62.7	0.6
District of Columbia	9.2	21.0	0.0	13.4	6.3	3.2	3.8	43.1	0.0
<b>Totals</b>	<b>28.3%</b>	<b>15.9%</b>	<b>5.0%</b>	<b>4.0%</b>	<b>3.2%</b>	<b>2.7%</b>	<b>12.4%</b>	<b>26.8%</b>	<b>1.7%</b>

\* Includes bond proceeds as a revenue source, which leads to some double-counting of revenues.

Source: NCSL Compilation from *Highway Statistics*, Finance Series, Federal Highway Administration, Table SF-1, 1999-2004.

Based on the six-year average of highway revenues by state, the analysis shows the following state average percentages by category:



State motor fuel taxes and federal payments, which consist largely of federal motor fuel taxes, make up the largest shares and together account for more than 55 percent of all revenue spent for highways. The next significant revenue source is motor vehicle and motor carrier taxes and fees, accounting for nearly 16 percent. Annual average bond proceeds account for 12.43 percent, while the rest each account for less than 5 percent.

This data is useful in comparing individual states to the national average and determining if a particular state may have additional capacity to use a funding source that may be underutilized, compared to the national average. Conversely, the data also indicate if a particular state is overly dependent on a particular revenue source as compared to the national average. The caveat is that each state has unique demographic, geographic and transportation characteristics that must be considered in addition to the national comparisons.

For example, 15 states have no revenue under the category of other state imposts. These states may wish to explore this category, which includes a variety of sources designated for transportation, including sales and use taxes, oil royalties, severance taxes, traffic impact fees, specific ownership taxes, corporate income taxes, special assessments and special taxing districts. Miscellaneous revenues include items such as billboard permits, rental car fees and sale of surplus property. Connecticut, Hawaii and Massachusetts generate more than 5 percent of their transportation revenues from miscellaneous sources.

In the toll category, 21 states have had no toll income during the past six years, compared with the average state revenue collection through tolls of 5 percent. This may be an area of potential revenue growth in the states where tolls are feasible and politically acceptable.

Seven states use no bond proceeds to build roads, although the national average is during 12 percent. This is due to state constitutional or statutory prohibitions on incurring indebtedness.



Several states show possible overreliance on certain funding sources compared to the national average. For example, seven states rely on bond proceeds for more than 25 percent of total receipts for highways, which is double the national average. With such reliance on debt, these states may face future bond repayment difficulties as did New Jersey in 2006.

States that have an above average reliance on the state gas tax may face funding declines as the purchasing power of the gas tax continues to erode. Twelve states depend on state gas taxes for more than 35 percent of their funding; the national average is 28 percent. Some states, due to small geographic size and small number of lane-miles, simply cannot generate the national average in gas tax collections.

Payments from federal funds varies from about 63 percent in Wyoming to 14.5 percent in Massachusetts; the average is about 27 percent.

The importance of motor vehicle and motor carrier taxes varies, ranging from a high of 36 percent in Kentucky to a low of less than 5 percent in Alaska. The national average is about 16 percent.

Local government payments to states are more than 5 percent in Alaska, California and Nebraska, denoting strong local revenue collection efforts.

In any of these categories, states with averages well over or well under the national average may want to consider a more balanced approach to the collection of transportation revenue. This can help to protect against unforeseen changes that could decrease funding in particular categories and contribute to a more robust funding structure. As noted, characteristics particular to each state must be considered in addition to the national comparisons.

## Per-Capita Transportation Revenue Analysis

Considering per-capita revenue collection shows how states rank when transportation revenue is compared to total state population (see table 8). This is only one method of comparing across states. Other factors that could be considered for comparative purposes would be number of road and highway miles, quality of the roadway network and vehicle miles traveled. Nonetheless, the per-capita figure gives a sense of the relative position of the states and may be helpful to those states that find themselves at one extreme or the other.

## Public Transportation Revenue Analysis

The same type of data used above for the highway revenue analysis is not available in the same format for public transportation. However, information from the *Survey of State Funding for Public Transportation 2004* yields some similar information on sources and per capita spending that is useful in considering the overall picture of transportation funding in a state.<sup>2</sup>

From 1990 to 2004 overall state funding for public transit rose from \$3.7 billion to \$9.3 billion an increase of over 150 percent, not adjusted for inflation.<sup>3</sup> Three states make up nearly one-half of this amount, \$4.4 billion in 2004—California, Massachusetts and New York. Five states provided no state funding in 2004 for public transportation—Alabama, Alaska, Colorado, Hawaii and Utah, though Colorado under Senate Bill 1 will allocate \$21 million in state funding to transit in 2006. Major sources of state funding for transit include

Table 8. Total State Per-Capita Spending on Highways, 1999-2004

State/ Jurisdiction	2003 Population (in thousands)	Total Revenue 1999-2004 (000s)	Annual Average Revenue (000s)	Per Capita Annual Revenue over six years	Rank by Highest
Alabama	4,501	\$8,695,137	\$1,449,189.50	\$321.97	37
Alaska	649	3,233,066	538,844.33	830.27	2
Arizona	5,581	13,827,597	2,304,599.50	412.94	21
Arkansas	2,726	6,177,229	1,029,538.17	377.67	24
California	35,484	45,636,206	7,606,034.33	214.35	51
Colorado	4,551	11,385,693	1,897,615.50	416.97	20
Connecticut	3,483	9,173,463	1,528,910.50	438.96	17
Delaware	817	4,438,056	739,676.00	905.36	1
Florida	17,019	30,460,456	5,076,742.67	298.30	44
Georgia	8,685	11,437,666	1,906,277.67	219.49	50
Hawaii	1,258	1,923,476	320,579.33	254.83	48
Idaho	1,366	3,082,423	513,737.17	376.09	26
Illinois	12,654	23,087,364	3,847,894.00	304.09	42
Indiana	6,196	13,886,235	2,314,372.50	373.53	27
Iowa	2,944	8,376,024	1,396,004.00	474.19	14
Kansas	2,724	9,310,034	1,551,672.33	569.63	10
Kentucky	4,118	10,077,755	1,679,625.83	407.87	22
Louisiana	4,496	8,256,714	1,376,119.00	306.08	40
Maine	1,306	3,587,942	597,990.33	457.88	16
Maryland	5,509	10,665,053	1,777,508.83	322.66	36
Massachusetts	6,433	21,847,870	3,641,311.67	566.04	11
Michigan	10,080	17,077,298	2,846,216.33	282.36	45
Minnesota	5,059	10,852,652	1,808,775.33	357.54	28
Mississippi	2,881	6,063,234	1,010,539.00	350.76	31
Missouri	5,704	12,114,125	2,019,020.83	353.97	30
Montana	918	3,065,722	510,953.67	556.59	12
Nebraska	1,739	4,565,265	760,877.50	437.54	18
Nevada	2,241	4,345,479	724,246.50	323.18	35
New Hampshire	1,288	2,759,223	459,870.50	357.04	29
New Jersey	8,638	34,017,895	5,669,649.17	656.36	4
New Mexico	1,875	7,198,183	1,199,697.17	639.84	5
New York	19,190	35,221,708	5,870,284.67	305.90	41
North Carolina	8,407	17,127,669	2,854,611.50	339.55	34
North Dakota	634	2,323,497	387,249.50	610.80	7
Ohio	11,436	20,534,194	3,422,365.67	299.26	43
Oklahoma	3,512	7,947,211	1,324,535.17	377.15	25
Oregon	3,560	6,790,557	1,131,759.50	317.91	38
Pennsylvania	12,365	28,903,595	4,817,265.83	389.59	23
Rhode Island	1,076	2,048,273	341,378.83	317.27	39
South Carolina	4,147	5,959,947	993,324.50	239.53	49
South Dakota	764	2,652,562	442,093.67	578.66	8
Tennessee	5,842	9,312,531	1,552,088.50	265.68	47
Texas	22,119	35,486,445	5,914,407.50	267.39	46
Utah	2,351	6,533,626	1,088,937.67	463.18	15
Vermont	619	1,788,945	298,157.50	481.68	13
Virginia	7,386	18,552,410	3,092,068.33	418.64	19
Washington	6,131	12,708,268	2,118,044.67	345.46	32
West Virginia	1,810	6,787,942	1,131,323.67	625.04	6
Wisconsin	5,472	11,321,791	1,886,965.17	344.84	33
Wyoming	501	2,467,612	411,268.67	820.90	3
District of Columbia	563	1,946,134	324,355.67	576.12	9
<b>Totals</b>	<b>290,810</b>	<b>\$597,039,452</b>	<b>\$99,506,575.33</b>	<b>\$342.17</b>	

\* Includes bond proceeds as a revenue source, which leads to some double-counting of revenues.  
Source: NCSL Compilation from *Highway Statistics*, Finance Series, Federal Highway Administration, Table SF-1, 1999-2004.

the general fund in 19 states, other sources such as trust funds and miscellaneous fees in 24 states, the state gas tax in 15 states, and registration and license fees in eight states.<sup>4</sup>

Table 9 shows major sources for transportation funding in the states. Table 10 shows per-capita spending on public transportation in the states. Taking into account state demographics and overall state policy considerations, states may fund the per-capita data useful in comparing their state to others.

**Table 9. Major Sources for Overall Transit Funding<sup>1</sup>**

State/Jurisdiction	General Fund	Gas Tax	Motor Vehicle Rental/Car Sales Tax	Registration/License/Title Fees	Bond Proceeds	General Sales Tax	Interest Income	Other <sup>2</sup>
Arizona	0.3%							99.7%
Arkansas			100%					
California		X			X	X		X
Connecticut		X	X	X			X	X
Delaware		X		X				X
Florida		X	X	X				
Georgia	100%							
Idaho								100%
Illinois	X				X			
Indiana						100%		
Iowa			100%					
Kansas								100%
Kentucky	100%							
Louisiana								100%
Maine	100%							
Maryland		29%	31%	17%	18%			4%
Massachusetts	X				X	X		X
Michigan		X	X	X				X
Minnesota	X		X					
Mississippi	100%							
Missouri	100%							
Montana		19%		81%				
Nebraska	X							X
Nevada							100%	
New Hampshire	56%				44%			
New Jersey	23%	X				X		3%
New Mexico								100%
New York	6%					X		X
North Carolina								X
North Dakota				100%				
Ohio	100%							
Oklahoma	69%	31%						
Oregon	X	X			X			X
Pennsylvania	X		X		X	X		X
Rhode Island		97%			X			X
South Carolina		100%						
South Dakota								100%
Tennessee		100%						
Texas								100%
Vermont								100%
Virginia		X	X			X	X	X
Washington								100%
West Virginia	100%							
Wisconsin		X		X				X
Wyoming							X	X
District of Columbia	79%				21%			
Alabama	These five states do not use state funds for public transit							
Alaska								
Colorado								
Hawaii								
Utah								
<b>Number of States</b>	<b>19</b>	<b>15</b>	<b>9</b>	<b>8</b>	<b>9</b>	<b>7</b>	<b>4</b>	<b>24</b>

**Notes**  
 1. A percentage figure is shown when the share or contribution of a particular source could be discerned. Where the exact share cannot be computed, an "X" is placed to illustrate the state's reliance on that source.  
 2. "Other" includes state highway funds, trust funds, miscellaneous revenues, fees, taxes, lottery funds, tolls, or other types of assessments.

**Source:** U.S. Department of Transportation, 2005.

Table 10. Per-Capita State Funding for Public Transportation, 2004

State/ Jurisdiction	FY 2004 Funding	FY 2004 Per Capita Costs	Population
District of Columbia*	\$208,252,896	\$376.23	553,523
Massachusetts	1,291,363,175	201.26	6,416,505
Maryland	789,511,418	142.05	5,558,058
New Jersey	837,476,000	96.27	8,698,879
New York	1,811,372,000	94.21	19,227,088
Delaware	72,000,000	86.71	830,364
Pennsylvania	785,151,000	63.29	12,406,292
Illinois	778,700,000	61.25	12,713,634
Connecticut	200,167,000	57.13	3,503,604
Minnesota	214,255,000	42.00	5,100,958
California	1,317,933,858	36.72	35,893,799
Rhode Island	36,839,916	34.09	1,080,632
Michigan	209,652,400	20.73	10,112,620
Wisconsin	109,077,870	19.80	5,509,026
Virginia	140,100,00*	18.78	7,459,827
North Carolina	154,680,000	18.11	8,541,221
Vermont	6,103,254	9.82	621,394
Oregon	31,444,655	8.75	3,594,586
Tennessee	38,532,100	6.53	5,900,962
Indiana	36,200,751	5.80	6,237,569
Florida	96,504,077	5.55	17,397,161
Washington	29,150,000	4.70	6,203,788
Wyoming	2,466,127	4.87	506,529
Arizona	20,068,000	3.49	5,743,834
Iowa	8,600,000	2.91	2,954,451
North Dakota	1,545,700	2.44	634,366
Kansas	6,000,000	2.19	2,735,502
Ohio	18,100,000	1.58	11,459,011
South Carolina	5,864,000	1.40	4,198,068
South Dakota	996,000	1.29	770,883
West Virginia	2,294,162	1.26	1,815,354
New Mexico	2,402,000	1.26	1,903,289
Texas**	27,741,068	1.23	22,490,022
Missouri	6,600,000	1.15	5,754,618
Louisiana	4,962,500	1.10	4,515,770
Arkansas	2,800,000	1.02	2,752,629
Nebraska	1,500,000	0.86	1,747,214
Oklahoma	2,750,000	0.78	3,523,553
Georgia	4,858,257	0.55	8,829,383
Montana	390,000	0.42	926,865
Maine	505,000	0.38	1,317,253
Kentucky	1,400,000	0.34	4,145,922
Mississippi	800,000	0.28	2,902,966
Idaho	312,000	0.22	1,393,262
New Hampshire	225,000	0.17	1,299,500
Nevada	125,000	0.05	2,334,771
Alabama***	0	0.00	4,530,182
Alaska***	0	0.00	655,435
Colorado***	0	0.00	4,601,403
Hawaii***	0	0.00	1,262,840
Utah***	0	0.00	2,389,039

\* The District of Columbia per capita figure is artificially high. WMATA extends well beyond District boundaries into Maryland and Virginia and, therefore, serves a population much larger than that of the District. Per-capita figure is calculated only for District investment per District resident population.

\*\* Texas provides funds on a biennial basis. Figures shown are average annual funds for the biennium.

\*\*\*State provides no state funds for public transit.

Source: U.S. Department of Transportation, Bureau of Transportation Statistics, *Survey of State Funding for Public Transportation, 2004* (Washington, D.C.: U.S. DOT, Feb. 23, 2005), 3-9.

## 8. CASE STUDIES

This chapter details a few key recent developments in state transportation funding. It provides information about the Chicago Skyway transaction and 2005 state election results on transportation issues.

### Chicago Skyway

The Chicago Skyway, built in 1958 for \$101 million, is a 7.8 mile, six-lane, toll bridge that connects Chicago to Indiana and the east. In January 2005, the city of Chicago signed a 99-year lease of the Skyway for \$1.83 billion with a private company. This transaction, the first of its kind in the United States, caused many states and localities to look more closely at public-private partnerships.

As in many cities, Chicago hoped to boost revenues without raising taxes. Leasing the Skyway would provide a new source of capital for the city, potentially eliminating the city's risk of Skyway ownership, and result in improved toll road services for the public. From the city's perspective, it was the right time for the sale; with completion of the \$250 million Skyway reconstruction project, the market value of the asset had never been higher. Private sector interest in the asset could be traced to a 45-year operating history, potential for modernization (electronic tolling), and strong toll revenue growth rates were appealing. Plus, limited future capital expenditures and lack of competing direct routes also added value to the Skyway.

Under the guidance of financial advisors Goldman, Sachs & Co. and Loop Capital Markets, in March 2004, Chicago issued a Request for Qualifications. Bidders were required to prove they were technically qualified to manage the Skyway in operations, maintenance, customer service and safety standards and that they were financially qualified to purchase and maintain the Skyway. By the May 5, 2004, deadline, the city received qualification statements from 10 teams, five of which, the city deemed five qualified. Qualified bidders were given extensive information about the Skyway's financial history, the engineering of the asset, traffic models, and operations and maintenance requirements. In October 2004, the Cintra-Macquarie Consortium was chosen as the concessionaire. Cintra-Macquarie Consortium is composed of Cintra Concesiones de Infraestructuras de Transporte, S.A. of Spain and Macquarie Investment Holdings, Inc. of Australia. The consortium has experience operating more than 30 toll roads, including the Highway 407 Toll Road in Toronto.

Under the lease agreement, the concessionaire makes an up-front, single payment to the city of Chicago and retains the right to collect tolls on the Skyway for 99 years. The conces-

sionaire also has rights to skyway restaurant revenues, but all other revenue rights, such as billboard revenue and sale of naming rights, remain with the city. Other lease terms include detailed operating standards to ensure safety in operations and capital maintenance; city minority and female-owned business requirements in contracting activities; and compliance with Chicago Living Wage Ordinance for employees. Additionally, the Chicago Police Department retains jurisdiction to enforce laws on the Skyway for which the city is reimbursed. Future passenger auto toll limits also are stipulated in the agreement. Through 2008, the toll will remain at \$2.50, with an allowed increase of \$0.50 every two years until 2017. For the years beyond 2017, rates can increase annually by the greater of inflation (CPI) or the increase in per capita gross domestic product, with a minimum guaranteed increase of 2% per year.

Allowing governmental control over tolls/pricing, operating standards, and other key parameters were critical measures for the city to protect public interests. The city retains the right to inspect the Skyway, make repairs in the event of default, or address an emergency or actions that may impair the continuous operation of the facility. The concessionaire is required to provide various reports on financial status, traffic, accidents, environmental issues and the like. In addition, should the private operator not perform satisfactorily, the city can reclaim control of the asset and keep the up-front payment.

Before deciding how to handle the lease proceeds, Chicago Mayor Richard M. Daley directed his financial team to meet with financial rating agencies to recommend specific uses of the funds. Final distribution included Chicago retiring existing Skyway debt, eliminating short-term debts, paid down long-term debt obligations, establishing a people neighborhood and business investment fund, and establishing a long-term reserve of \$500 million. Due to the influx of money and the way it was spent, Chicago's financial rating improved. Standard & Poor's Rating Services revised the city's financial outlook from stable to positive, citing one of the main drivers to revise the city's outlook was the prudent use of funds and in particular the establishment of the \$500 million long-term reserve fund.

The Chicago Skyway lease has proven to be a catalyst for activity across the country, with several states exploring similar agreements. The Texas Department of Transportation entered into a public-private partnership for the new Trans Texas Corridor, and Indiana's Governor Mitch Daniels spearheaded a 75-year, \$3.85 billion lease plan of the Indiana Toll Road, using the same consortium that operates the Skyway. In Virginia, state transportation officials reviewed proposals to privatize the 14-mile Dulles Toll Road, opting to hand over control to the region's airport authority. In Delaware, state officials are considering leasing out several roads, including a section of Interstate 95; and in New Jersey, Governor Jon Corzine has indicated he would consider leasing the New Jersey Turnpike the Garden State Parkway.

## Recent State Election Results on Transportation Issues

Voters, frustrated by traffic congestion, have approved various initiatives and referendums during the past two years relating to transportation. In 2004, of 55 ballot measures in 21 states asking voters to initiate, extend or increase taxes to fund transportation improvements, 46 were approved.<sup>1</sup> Of 31 ballot measures to launch or expand bus and rail lines in 11 states, 23 were approved, at a price of \$40 billion.<sup>2</sup> Fewer measures were on the ballot in 2005. These are described below.

### *Maine*

In 2005, Maine voters approved a \$33 million bond measure to make improvements to highways and bridges, airports, public transit, state-owned ferries and port facilities, and statewide bicycle and pedestrian trails. It also makes the state eligible for \$158 million in matching funds.

### *New York*

In 2005, New York voters approved the “Rebuild and Renew New York Transportation Bond Act of 2005.” The measure authorized state debt in the amount of \$2.9 billion for construction, improvement, reconditioning and preservation of transportation systems and facilities.

### *Oklahoma*

In a special election, Oklahoma voters rejected a proposal to amend the state constitution to establish an Oklahoma Bridge and Highway Trust Fund. The proposal would have required that fixed percentages of existing gasoline and diesel taxes be paid into the fund, and that money collected be used solely to pay the costs of building, construction and reconstruction of bridges and highways. It would have prohibited the fund from incurring debt and would have required oversight from an oversight commission.

### *Texas*

Texas voters approved a referendum to fund rail projects in the state. HJR 54 creates a Texas rail relocation and improvement fund and authorizes grants of state revenue and issuance of public debt to relocate, rehabilitate and expand privately and publicly owned passenger and freight rail facilities and to construct railroad underpasses and overpasses.

### *Washington*

Washington voters rejected an attempt to repeal a gas tax increase approved by the Legislature in 2005. Initiative 912 would have repealed a four-step gas tax increase and returned gas tax rates to pre-2005 levels. The state gas tax now will increase by 9.5 cents by 2008.





## APPENDIX A. MOTOR FUEL TAX RATES

State	Gasoline (cpg)	Diesel (cpg)	Gasohol (cpg)	Notes
Alabama	18.0	19	18	Includes a 2 cpg inspection fee. Counties can levy additional motor fuel taxes up to 5 cpg with approval from the state legislature. Cities can levy additional taxes up to 4 cpg with approval from the county. An additional 1 cpg environmental transportation fee is levied at the wholesale level to cover remediation costs.
Alaska	8	8	8	The law provides a .06 cpg tax credit for gasohol used during a mandated control period in a CO non-attainment area.
Arizona	18	18	18	Certain commercial vehicles and commercial motor carriers may pay additional taxes. Use class vehicles pay an additional 9 cpg on diesel with an exemption for vehicles under 26,000 pounds.
Arkansas	21.5	22.5	21.5	In addition, the state assesses a .2 cpg environmental assurance fee at the wholesale level for its underground storage tank fund.
California	18	18	18	In addition to the excise tax, the state levies a 6 percent sales tax. County and local governments may assess additional sales taxes. The state also assess a 1.2 cpg state UST fee.
Colorado	22	20.5	22	
Connecticut	25	26	25	The state assesses an additional 5.8 percent gross receipts tax at the wholesale level. The gross receipts tax will gradually increase to 8.1 percent by July 1, 2013.
Delaware	23	22	23	The state assess an additional .9 percent gross receipts tax at the wholesale level for the state hazardous substance cleanup fund.
Florida	14.9	27.9	14.9	The state indexes its gas tax against inflation. The statewide gasoline tax includes a 10.9 cpg sales tax and a 4 cpg excise tax. This figure does not include a 2.2 cpg environmental inspection fee. The gasoline tax figure also does not reflect local or federal taxes on motor fuels. The diesel tax rate is flat across the state and includes an excise tax, a sales tax and various local option taxes.
Georgia	7.5	7.5	7.5	The state also assesses a 4 percent sales tax. Local option sales taxes can range from 1 percent to 4 percent.

## Appendix A. Motor Fuel Tax Rates (continued)

State	Gasoline (cpg)	Diesel (cpg)	Gasohol (cpg)	Notes
Hawaii	16	16	16	The state assesses an additional 4 percent sales tax and a 0.12 cpg environmental response tax. Additional local option taxes, which range from 8.8 cpg to 18 cpg, may also apply. Effective April 2, 2006 gasoline sold in the state must contain 10 percent ethanol. Ethanol-blended gasoline is exempt from the 4 percent sales tax.
Idaho	25	25	22.5	
Illinois	19	21.5	19	The state also assesses a 6.25 percent sales tax and a \$0.003 per gallon UST fund tax. Diesel taxes are 27.5 cpg for commercial highway users.
Indiana	18	16	18	The state also assesses a 6 percent sales tax and a \$0.008 per gallon inspection fee. For diesel, the state also levies a 11 cpg surcharge paid on a quarterly self-reporting basis.
Iowa	20.7	22.5	19	The state also levies a 1 cpg UST fee. Iowa computes its rate on gasoline based on sales of ethanol blended fuels. June 30, 2006, the 20.7 cpg rate on gasoline could change based on the rate of sales of ethanol blended fuels in 2005.
Kansas	24	26	24	
Kentucky	18.5	13.1	18.5	The rate is variable based on 9 percent of the average wholesale price of gasoline with a minimum price of \$1.22 or 11 cpg. The state also collects a 1.4 cpg UST fee and 5 cpg supplemental highway user tax. The state assesses a 2 cpg supplemental highway user tax for special fuels.
Louisiana	20	20	20	
Maine	25.9	27	25.9	For gasoline, the state also levies a .07 cpg tax for the Coastal and Inland Water fund, a 1.38 cpg tax for the Groundwater Fund and 40 cpg/10,000 gallons for Petroleum Market Share Act. For diesel, the state assesses a .07 cpg tax for the Coastal and Inland Water Fund and a .6 cpg tax for the Groundwater fund. In 2002, the state passed a law that indexes the gas tax to inflation.
Maryland	23.5	24.25	23.5	
Massachusetts	23.5	23.5	23.5	Includes a 2.5 cpg UST fund tax.
Michigan	19	15	19	The state also assesses a 6 percent sales tax and a 0.875 cpg environmental regulation fee for a refined petroleum fund.
Minnesota	20	20	20	The state sometimes assesses a 2 cpg UST cleanup fee that depends on the balance in the UST fund.
Mississippi	18	18	18	The state also assesses a 0.4 cpg Environmental Protection Fee.
Missouri	17	17	17	The state also assesses a .05 cpg agriculture inspection fee and a .5 cpg transportation load fee. A 6 cpg temporary tax increase adopted in 1992 will expire in 2008.
Montana	27	27.75	27	The state also assesses a 0.75 cpg fee at the pump for a state cleanup fund.

## Appendix A. Motor Fuel Tax Rates (continued)

State	Gasoline (cpg)	Diesel (cpg)	Gasohol (cpg)	Notes
Nebraska	26.1	26.1	26.1	These rates include a 12.5 cpg base and a 13.6 cpg variable rate. The variable rate component increased from 12.8 cpg to 13.6 cpg for the period January 1, 2006 through June 30, 2006. The state also assesses a 0.9 cpg release prevention fee for gasoline and a 0.3 cpg release prevention fee for diesel and other fuels.
Nevada	23	27	24	Drivers must also pay a 10 cpg county tax on gasoline. The state assesses an additional 0.75 cpg cleanup fee and a 0.55 cpg inspection fee.
New Hampshire	18	18	18	The state also assesses a 0.1 cpg fee for an oil pollution control fund, a 1.5 cpg fee for UST cleanup, a 1 cpg fee for AST and a bulk storage fund, and 2 cpg for fuel oil and bulk fuel oil storage.
New Jersey	14.5	17.5	14.5	This rate includes a 4 cpg Petroleum Products Gross Receipts Tax.
New Mexico	17	18	17	The state also assesses a 1.9 cpg petroleum loading fee.
New York	23.9	22.15	23.9	The State rate includes a 8 cpg excise tax, a Petroleum Business Tax of 15.9 cpg on gasoline and a 14.15 cpg tax on diesel. The state also assesses a 0.3 cpg spill tax on gasoline and diesel and a petroleum-testing fee of 0.05 cpg on gasoline. The state charges a statewide volume weighted average sales and use tax of 4 percent and counties charge sales and use taxes between 3.25 percent and 5.75 percent. The taxes are based on an average price of \$2.69/gallon for gasoline and \$2.76/gallon for diesel and amount to an additional tax of 21.52 cpg for gasoline and 22.08 for diesel.
North Carolina	29.9	29.9	29.9	The state also assesses a 0.25 cpg inspection tax. The overall rate consists of a 17.5 cpg flat rate plus a variable rate of 12.4 cpg wholesale component based on 7 percent of the average wholesale price over a specified period.
North Dakota	23	23	23	
Ohio	28	28	28	The state also assesses a 3 cpg surcharge for commercial vehicles.
Oklahoma	16	13	16	The state also assesses a 1 cpg UST fee.
Oregon	24	24	24	Counties have the option to assess additional taxes on gasoline ranging from 1 cpg to 3 cpg. Cities have the option to assess additional taxes on gasoline that range from 1 cpg to 5 cpg.
Pennsylvania	31.2	38.1	31.2	These rates include excise taxes on motor fuels, a 1.1 cpg fee on gasoline going into USTs, a 19.2 cpg oil company franchise tax on liquid fuels (primarily gasoline) and 26.1 cpg oil company franchise tax on fuels (primarily diesel) and a 12 cpg liquid fuels tax. The oil franchise tax is based on the average wholesale price of gasoline during a 1-year period and revised annually.
Rhode Island	30	30	30	These rates include a 3 cpg wholesale distributor tax. The state also assesses a 1 cpg environmental protection regulatory fee for the UST program.
South Carolina	16	16	16	The state also assesses a 0.25 cpg inspection fee and a 0.50 cpg environmental fee for UST cleanup.

## Appendix A. Motor Fuel Tax Rates (continued)

State	Gasoline (cpg)	Diesel (cpg)	Gasohol (cpg)	Notes
South Dakota	22	22	20	
Tennessee	20	18	20	The state also levies a 1 cpg petroleum tax for gasoline and a 0.4 cpg environmental assurance fee.
Texas	20	20	20	
Utah	24.5	24.5	24.5	
Vermont	19	25	19	The state also assesses a 1 cpg license fee for the UST fund.
Virginia	17.5	16	17.5	The state also levies a 0.6 cpg petroleum storage tank fee. Localities that are part of the Northern Virginia Transportation District or border the District levy a 2 percent sales tax on motor fuels.
Washington	31	31	31	Legislation passed in 2005 will increase rates 3 cpg July 1, 2006, 2 cpg July 1, 2007 and 1.5 cpg July 1, 2008.
West Virginia	20.5	20.5	20.5	The state also assesses a 5 percent variable wholesale tax based on the statewide average wholesale price of gasoline with a minimum price of \$1.30/gallon. The tax in January, 2006 was 6.5 cpg.
Wisconsin	32.9	32.9	32.9	The state tax includes a 3 cpg UST that will be reduced to 1 cpg April 1, 2006. The tax is indexed to inflation rates, but indexing will end April 1, 2007.
Wyoming	14	14	14	Includes 13 cpg base rate plus 1 cpg tax for environmental cleanup costs.

Sales taxes—10 states levy motor fuel sales taxes. These include California, Delaware, Georgia, Hawaii, Illinois, Indiana, Kentucky, Michigan, New York and West Virginia.

Variable or indexed rates—7 states link rates to inflation or other measures. These include Florida, Iowa, Kentucky, Maine, Nebraska and North Carolina. In 2005, Wisconsin lawmakers repealed a provision that links fuel tax rates to inflation rates. The repeal will take effect April 1, 2007.

Key: cpg = cents per gallon

- UST = Underground Storage Tank
- LUST = Leaking Underground Storage Tank

Sources: Federation Tax Administrators; American Petroleum Institute; NCSL, January 2006.

## APPENDIX B. 2006 STATE TRANSPORTATION INITIATIVES

State	Initiative	Description	Status as of May 2006
California	Strategic Growth Plan	<p>\$107 billion over next decade on transportation, including issuing \$5.6 billion in bonds for certain projects. Specific bills included in plan:</p> <p>AB 1838 (Oropeza, D)/SB 1165 (Dutton, R)—Places before California voters a \$6 billion transportation bond in 2006 and another \$6 billion bond in 2008 to improve capacity and reduce congestion.</p> <p>AB 850 (Canciamilla, D)—Authorizes the California Department of Transportation to contract with public and private entities to expand the number of toll roads and other toll facilities and high-occupancy toll (HOT) lanes, to increase capacity on our roads.</p> <p>SB 371 (Torlakson, D)—Provides design-build authority to the California Department of Transportation and regional transportation agencies to make construction more efficient and cost effective.</p> <p>AB 1266 (Niello, R)—Allows the California DOT design-sequencing authority for projects to make construction more efficient and cost effective.</p>	<p>Governor rolled out plan 01/10/06. Lawmakers continue to negotiate a public works bond package that includes \$19.2 billion for transportation and would require voter approval.</p> <p>AB 1838—Introduced 01/10/06.</p> <p>SB 1165—In Transportation and Housing Committee.</p> <p>Died in committee 01/31/06.</p> <p>Passed Senate, sent to Assembly 01/30/06.</p> <p>Died in committee 01/31/06.</p>
Colorado	<p>HB 1163</p> <p>2006 Governor's Budget Proposal</p>	<p>Relates to the disposition of specified streams of state revenue, increases state funding for transportation to accelerate the completion of transportation projects included in the Strategic Transportation Project Investment Program of the DOT. Exact funding levels are being debated.</p> <p>Added another \$80 million for transportation funding for the next year.</p>	<p>Introduced 01/18/06.</p> <p>House Committee on Finance, lay over, amended 03/08/06. Postponed indefinitely, 04/13/06.</p> <p>Submitted 11/05, offered as amendment to above bill; died on party-line vote.</p>
Connecticut	<p>Governor's Budget Initiative</p> <p>HB 5715</p>	<p>Adds another \$344 million in additional transportation improvements over the next several years. Heavy focus on public transportation.</p> <p>Multi-year, multi-billion dollar bill entitled Statewide Transportation Improvements.</p>	<p>Rolled out 02/08/06.</p> <p>Introduced 03/02/06. Public Hearing 03/08/06. To Finance Committee 03/17/06. Favorable substitute 04/04/06.</p>

## Appendix B. 2006 State Transportation Initiatives (continued)

State	Initiative	Description	Status as of May 2006
Connecticut (continued)	Governor's Transportation Improvement Program	\$26.5 million in state bond funding to finance a comprehensive package of transportation projects and initiatives for 2006. Includes \$12.5 million dedicated for the I-95 corridor.	Announced 03/27/06. Approved by the State Bond Commission 03/31/06.
	HB 5844	A 10-year, \$2.3 billion transportation package that would fund mass transit improvements without requiring tolls or an increase in the gas tax. The bill makes steps to improve coordination of transportation projects by making the Transportation Strategy Board part of the state budget office. It also would require the governor's office to start formal discussions with Massachusetts, New York and Rhode Island on ways to enhance commuter and freight mobility. Also authorizes the state to issue up to \$1 billion in special tax obligation bonds for the projects and allows the state to borrow \$1.3 billion against future federal funds.	Emergency Certification 04/24/06. Passed House 04/26/06. Passed Senate 05/01/06.
Delaware	EO 78	Establishes a Transportation Finance Advisory Committee to conduct a comprehensive review of revenue and expenditure estimates in coordination with a review of the Capital Improvements Program. The committee will present findings and conclusions concerning the feasibility and sustainability to the Council on Transportation and to the governor. This review also will include an assessment of the extent to which the Capital Improvements Plan meets the 50/50 "pay go" standard and the 2.25 coverage test historically used in the state's transportation budget program.	Signed 01/09/06.
	HB 350	A bond and capital improvements act for FY ending June 30, 2007. Authorizes the issuance of general obligation bonds; appropriates funds from the Transportation Trust Fund; proposes to add \$20 million to the Trust Fund from the General Fund.	Introduced 01/26/06.
Hawaii	SB 2758	Allows moneys in the state highway fund to be used by the counties to construct and improve county roads and to defray the costs of ancillary county transportation programs.	Introduced 01/25/06.
	SB 2872	Repeals one-half percent county surcharge on state tax established to fund public transportation systems.	Introduced 01/25/06.
Illinois	Governor's Budget Plan	Includes \$2.3 billion to build or rebuild 100 miles of streets and highways statewide and create 140,000 jobs. It will match the projects in the federal road bill. Improves mass transit. The mass transit component of the capital construction plan will create 85,000 jobs. It will allow Chicago to connect between CTA and Metra lines, allows the Chicago suburbs to upgrade their train stations, and enable communities to purchase new buses.	Rolled out 02/15/06.
	SB 2988	Provides for the transfer of \$170,000,000 from the General Revenue Fund to the Road Fund in each of fiscal years 2007, 2008 and 2009. Directs the Department of Transportation to use this money to make grants to certain counties for the mitigation and relief of traffic congestion and for road or other transportation projects relating to business development.	Introduced 01/20/06.

**Appendix B. 2006 State Transportation Initiatives (continued)**

State	Initiative	Description	Status as of May 2006
Indiana	Major Moves	<p>A fully funded, comprehensive 10-year investment plan in Indiana’s infrastructure to improve the economy and create job opportunities for Hoosiers. Major Moves eliminates the state’s transportation \$2.8 billion budget deficit and invests in the state’s future through public-private partnerships to maximize the value and improve the Indiana Toll Road, construct the I-69 extension from Evansville to Indianapolis, and complete over 200 other vital transportation projects.</p> <p>MAJOR MOVES LEGISLATION:                      HB 1008: Relates to public-private agreements for transportation. Establishes the Major Moves construction fund. Provides for the distribution of \$50 million per year during 2006, 2007 and 2008 from the Major Moves construction fund to the Motor Vehicle Highway Account (MVHA). Amends current laws concerning toll roads and tollways and adds new provisions to authorize the finance authority to enter into public-private agreements with private entities concerning: 1) toll road projects; and 2) tollway projects, roads and bridges.</p>	<p>Rolled out 01/06.</p> <p>Introduced 01/10/06.                      Passed House, referred to Senate 02/01/06.                      Passed Senate with amendments, conferees appointed 03/02/06.                      Conferee Report adopted by House and Senate 03/14/06.                      Signed by Speaker of the House, President of the Senate 03/15/06.                      Signed by governor 03/15/06.</p>
Kentucky	Kentucky Six-Year Highway Plan	<p>FY 2007- 2012. Emphasis on building roads to pave the way for economic development that already has been identified. Additional emphasis on alleviating congestion and improving safety. The Six-Year Plan includes \$4.8 billion in federally funded highway programs and \$3 billion in state-funded programs. It also includes over \$948 million in pavement repair and bridge replacement projects.</p>	<p>Rolled out 02/10/06.</p>
Michigan	HB 4853	<p>Allows for the allocation of transportation funds contingent upon locality submission of an asset management plan.</p>	<p>Introduced 06/01/05. Passed House and transferred to Senate 12/14/05. Referred to Transportation Committee 01/11/06.</p>
Minnesota	SB 2446	<p>Proposes an amendment to the Minnesota Constitution to dedicate motor vehicle sales tax revenues to transportation and allocates revenue between public transit assistance and highway user tax distribution fund. To be brought to a vote of the people in the 2006 election.</p>	<p>Introduced 03/01/06.</p>
New Jersey	<p>AB 1522</p> <p>AB 1955</p>	<p>Establishes in the General Fund a separate, nonlapsing fund, the “Transportation Project Capital Fund.” All amounts received by the state of New Jersey from the Port Authority of New York and New Jersey as the state’s allocation of the proceeds resulting from approved increases in tolls and fares for the use of port authority trans-Hudson River crossings shall be credited to this fund. The Transportation Project Capital Fund shall be used to finance construction of new transportation projects or improvements to existing transportation projects, and for permitted maintenance.</p> <p>Transportation Trust Fund Renewal and Reform Act of 2005- creates a Financial Policy Review Committee, provides enhanced funding, limits debt the New Jersey Transportation Trust Fund Authority, among other things.</p>	<p>Introduced 01/10/06.</p> <p>Introduced 01/10/06.</p>

## Appendix B. 2006 State Transportation Initiatives (continued)

State	Initiative	Description	Status as of May 2006
New Jersey (continued)	AB 2072	Transportation Trust Fund Fiscal Integrity Restoration and Enhancement Act. Creates a Financial Policy Review Committee, provides enhanced funding, and limits debt the New Jersey Transportation Trust Fund Authority, among other things	Introduced 01/26/06.
	SB 186	Enhances funding to the Transportation Trust Fund; relates to restoring fiscal integrity.	Introduced 01/10/06.
	SB 614	Enhances funding to the Transportation Trust Fund; relates to restoring fiscal integrity.	Introduced 01/10/06.
	SCR 23	Proposes dedication of \$900 million from the General Fund for transportation purposes via Constitutional Amendment to be placed on ballot.	Introduced 01/10/06
	SCR 50	Amends state Constitution to dedicate all motor fuel tax revenues for costs of the state transportation system and prohibits funding of costs of routine and operational maintenance from Transportation Trust Fund sources.	Introduced 01/17/06.
Oklahoma	SB 1029	Relates to the State Transportation Fund; changes it to a revolving fund; provides for appropriation and expenditure of funds therein; states purposes for which funds may be expended.	Introduced 02/06/06. Do pass committee recommendation 02/13/06. Passed Senate 03/06/06. House committee recommends do pass 04/06/06.
	SJR 58	Constitutional amendment creating Oklahoma Safe Roads Trust Fund; funded by revenue from taxes levied upon the sale of motor fuel; prohibits use of fund for certain purposes. To be placed on ballot.	Introduced 02/06/06. Passed Senate 03/06/06. House committee recommends do pass 04/13/06.
Pennsylvania	Governor's 2006-2007 Budget	Includes an additional \$130 million investment in the state's transportation system. Part of that money will push spending for bridge repairs to a record high of \$500 million.	Proposed budget released 02/08/06.
South Carolina	HB 4632	Provides revenue for transportation and mass transit facilities by issuing bonds.	Introduced 02/09/06.
Tennessee	HB 2664	Requires 80 percent of state transportation funds be allocated equally by congressional district over a four-year period.	Introduced 02/09/06.
Utah	HB 112	Provides that the portion of the sales and use tax revenue that is deposited annually into the Centennial Highway Fund Restricted Account shall be deposited annually in the Transportation Investment Fund of 2005 when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account.	Introduced 01/18/06. Passed House, transmitted to Senate 02/14/06. Passed Senate with amendment to House 02/15/06. House concurs with Senate amendments 02/16/06. Signed by Speaker of the House 02/16/06. Signed by President of the Senate 02/16/06. Signed by governor 02/28/06.



**Appendix B. 2006 State Transportation Initiatives (continued)**

State	Initiative	Description	Status as of May 2006
Virginia	The Kaine Transportation Plan	<p>Major components include: Better Planning, Greater Accountability and Responsible Investments.</p> <p>BILLS INTRODUCED TO SUPPORT BETTER PLANNING:                      HB 1542: Transfer of development rights. Authorizes localities, as part of their zoning ordinances, to provide for transfer of development rights from one parcel of land to another parcel of land, thereby increasing the density of development on one parcel while restricting development on the other parcel.                      HB 1609: Zoning; traffic impact. Requires localities to prepare and consider a traffic impact analysis before approving zoning amendments.                      HB 1610: Zoning; road capacity. Allows a locality to deny or modify a request for rezoning when the existing and future transportation network, which will serve the proposed development, is inadequate to handle the anticipated transportation impact of the proposed development.                      SB 373: Transfer of development rights. Allows localities to provide for the transfer of development rights from a parcel of property located in the locality to another parcel of property located elsewhere in the locality.                      SB 724: Zoning; traffic impact. Requires localities to prepare and consider a traffic impact analysis before approving zoning amendments.</p> <p>GREATER ACCOUNTABILITY LEGISLATION:                      HJR 238 and SJR 180: Requires the General Assembly to maintain permanent and separate Transportation Funds to include the Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, Priority Transportation Fund, and other funds dedicated to transportation by general law. All revenues dedicated to Transportation Funds on January 1, 2006, by general law, other than a general appropriation law, shall be deposited to the Transportation funds, unless the General Assembly by general law, other than a general appropriation law, alters the revenues dedicated to the funds. The amendment limits the use of fund moneys to transportation and related purposes. The General Assembly may borrow from the funds for other purposes only by a vote of two-thirds plus one of the members voting in each house, and the loan or reduction must be repaid with reasonable interest within three years.</p> <p>RESPONSIBLE INVESTMENT-RELATED BILLS:                      HB 1611 and SB 726: Relates to motor vehicle sales and use tax increase. Increases the motor vehicle sales and use tax from 3 percent to 5 percent and dedicates the revenue generated for transportation purposes. The authority to impose the additional tax ceases on December 31 of any year in which any of the additional revenue is not used for transportation purposes.</p>	<p>HB 1542: Introduced and referred to Committee On Counties, Cities and Towns 01/20/06.</p> <p>HB 1609: Introduced at request of governor. In committee 01/27/06.</p> <p>HB 1610: Introduced at request of governor. In committee 01/27/06.</p> <p>SB 373: Introduced 01/11/06. Passed Senate 01/30/06. Introduced in House 02/14/06. Passed House with substitute 03/08/06. Signed by Speaker 03/15/06. Signed by Senate President 03/16/06. Approved by governor 04/05/06.</p> <p>SB 724: Introduced at request of governor 01/27/06.</p> <p>HJR 238: Introduced at request of governor 01/27/06. Continued to 2007 in Privileges and Elections Committee, 02/10/06.                      SJR 180: Introduced 01/27/06. Passed Senate, transmitted to House 02/14/06. Committee continued resolution to 2007, 02/17/06.</p> <p>HB 1611: Introduced 01/27/06. Passed by indefinitely in Finance Committee 02/06/06.                      SB 726: Introduced 01/27/06 In Finance Committee 02/14/06.</p>

## Appendix B. 2006 State Transportation Initiatives (continued)

State	Initiative	Description	Status as of May 2006
Virginia (continued)	The Kaine Transportation Plan	HB 1612 & SB 722: Relates to assessment of fees by the Department of Motor Vehicles on certain drivers; use of fees collected. Requires the courts to impose, in addition to any other penalties imposed, an initial additional fee for each conviction as shown on the driving record of certain motor vehicle law offenders. These fees, minus cost of collection, will be deposited into the Highway Maintenance and Operating Fund for highway maintenance purposes.	HB 1612: Introduced 01/27/06. In Appropriations Committee 02/15/06. SB 722: Introduced 01/27/06. In Finance Committee, incorporated into SB 708, 02/14/06.
		HB 1613 and SB 725: Relates to insurance license tax revenue dedication to mass transit. Dedicates an amount equal to the difference between one-third of the estimated revenue to be collected for all insurance license tax for each fiscal year and the estimated revenue from the motor vehicle insurance license tax; and increases the motor vehicle insurance license tax from 2.25 percent to 4.5 percent.	HB 1613: Introduced 01/27/06. Passed by indefinitely in Finance 02/06/06. SB 725: Introduced 01/27/06. In Finance Committee, incorporated into SB 708, 02/14/06.
		HB 1614 and SB 723: Increases vehicle registration fees and dedicates the proceeds to transportation purposes.	HB 1614: Introduced 01/27/06. In Appropriations Committee 02/15/06. SB 723: Introduced 01/27/06. In Finance Committee, incorporated into SB 708, 02/14/06.
	HB 85	Increases the amount of sales and use tax revenue dedicated to the Transportation Trust Fund from an amount generated by a .5 percent sales and use tax, to an amount generated by a 1 percent sales and use tax.	Introduced 01/11/06. Assigned to Appropriations Subcommittee 02/09/06.
	HB 118	Increases the amount of sales and use tax revenue dedicated to the Transportation Trust Fund from an amount generated by a .5 percent sales and use tax, to an amount generated by a .75 percent sales and use tax.	Introduced 01/11/06. Assigned to Appropriations Subcommittee 02/09/06.
	HB 661	Increases the amount of sales and use tax revenue dedicated to the Transportation Trust Fund from an amount generated by a .5 percent sales and use tax, to an amount generated by a .75 percent sales and use tax.	Introduced 01/11/06. Assigned to Appropriations Subcommittee 02/09/06.
	HB 767	Dedicates to the Transportation Trust Fund 75% of any annual general fund surplus revenues remaining after any required deposits to the Revenue Stabilization Fund and to the Virginia Water Quality Improvement Fund.	Introduced 01/11/06. Assigned to Appropriations Subcommittee 02/09/06. Continued to 2007 Appropriations, 02/10/06.
	HB 1555/ SB 701	Provides new funding for transportation for localities in northern Virginia. The sources of the new funds include: i) civil penalties for certain offenses relating to the operation of a motor vehicle by people residing in any of the localities; ii) additional motor vehicle registration fees for trailers, semi-trailers, and trucks; iii) an additional fee on the rental of motor vehicles in the localities; iv) a transportation impact fee on the sale of real property in any of the localities; v) dedication of current sales and use tax on motor vehicle repair parts and accessories sold in any of the localities; and vi) a transient occupancy tax on rooms in the localities.	HB1555: Introduced, referred to Committee on Transportation. 01/20/06. Referred from Transportation to Finance Committee, 02/07/06. Reported out of Finance with substitute, referred to Committee on Appropriations, 02/13/06. SB701: Introduced, referred to Finance 01/20/06. Left in Finance 02/14/06.
	SB 193	Allows the Commonwealth Transportation Board to allocate up to 10% of funds available for highway construction to undertaking and financing of rail projects that, in its determination, will result in mitigation of highway congestion.	Introduced 01/11/06. Passed Senate, transmitted to House 02/01/06. Passed House 02/20/06. Signed by Speaker 02/08/06. Signed by Senate President 03/01/06. Senate agrees with governor's amendments 04/19/06. House rejects governor's amendments 04/19/06.

**Appendix B. 2006 State Transportation Initiatives (continued)**

State	Initiative	Description	Status as of May 2006
Virginia (continued)	SB 630	Increases the amount of sales and use tax revenue dedicated to the Transportation Trust Fund from an amount generated by a .5 percent sales and use tax, to an amount generated by a .75 percent sales and use tax.	Introduced, in Finance Committee 01/16/06.
	SB 686	Establishes the Transportation Future Fund to support the design and construction of surface transportation infrastructure of long-term statewide significance. The Fund is to be financed through a 1-cent increase in the sales and use tax and through establishment of toll roads.	Introduced, in Finance Committee 01/20/06.
	SB 699	Coordination of state and local transportation planning. Provides that, before adoption of any comprehensive plan or amendment, the locality shall submit such plan or amendment to the Department of Transportation for review and comment.	Introduced 01/20/06. Passed Senate 02/13/06. Passed House 03/01/06. Approved by governor 04/04/06.
	SB 708	Provides several mechanisms for funding transportation needs. Provides that all money credited to specified transportation-related funds shall be used for the purposes relating to the funding and maintenance of highways, public transportation, congestion mitigation, railways, seaports and airports; making payments on bonds and obligations related to funding transportation projects; or making loans to finance transportation projects. Establishes three new funds to focus on some of these needs. Two of these funds, The Virginia Urban Congestion Relief Fund and the Virginia Rural Transportation Fund, will be administered by the Commonwealth Transportation Board, and the third, the Shortline Railway Preservation Fund, will be administered by the Department of Rail and Public Transportation. The bill would raise vehicle registration fees by \$10 for most vehicles and \$20 for large passenger cars and pickup or panel trucks; impose the retail sales and use tax on labor and service charges for vehicle maintenance and repair; increase the tax levied on diesel and alternative fuels to the same 17.5 cents currently levied on gasoline; impose an additional tax on gasoline, diesel and alternative fuels based on a percentage of the statewide average retail price of gasoline; and would phase-in an increase of the motor vehicles sales tax.	Introduced 01/20/06. Passed Senate, transmitted to House 02/17/06. Introduced in House, referred to Committee on Finance 02/20/06.
Washington	HB 2157	The development of transportation improvements will require both state, and regional and local efforts. This act is intended to enhance this partnership, not replace the need for resources to be provided by the state.	Carried over from 2005 session; reintroduced 01/09/06.
	HB 2312	Provides funding (motor vehicle fuel tax) for transportation projects.	Carried over from 2005; reintroduced 01/09/06.
	HB 2871	Establishes a nine-member commission in charge of a new regional transportation district covering the urban areas of King, Pierce and Snohomish counties.	Introduced 01/16/06. Reported "Do Pass" from committee, 02/06/06. Passed House 02/21/06. Introduced in Senate 02/22/06. Passed Senate with amendment 03/01/06. Speaker of House, Senate President Signed 03/08/06. Governor Signed 03/29/06.
	SB 6599	Modifying central Puget Sound regional transportation governance and funding.	Introduced 01/16/06. Favorable Committee Report 02/03/06. Referred to Rules 03/08/06.

Source: NCSL compilation, 2006

## APPENDIX C. PUBLIC-PRIVATE PARTNERSHIP ENABLING STATUTES

State/Jurisdiction	Statute	Provision
Alabama	Ala. Code §23-1-81	Gives counties and the state DOT authority to enter into agreements with private entities to establish or operate toll roads, toll bridges, ferries or causeways and authorizes the licensee to establish and fix the rates of toll.
Arizona	Ariz. Rev. Stat. Ann. §28-7701 et seq.	Authorizes agreements with private entities for the construction or lease of transportation facilities. Includes specific requirements for such agreements. Establishes a pilot program for public-private partnerships.
Arkansas	Ark. Stat. Ann. §27-86-201 et seq.	Allows counties to grant franchises to private entities to build toll bridges, turnpikes or causeways over or along swamps, watercourses, lakes or bays whenever it is in the public interest. Requires consent from the federal government for construction of the bridge. Gives counties superintending authority on rates.
Colorado	Colo. Rev. Stat. §43-3-202 (c.5); §43-3-202.5; §43-3-301 et seq.	<p>Authorizes the DOT to make or enter into contracts or agreements with one or more public or private entities to design, finance, construct, operate, maintain, reconstruct, or improve a turnpike project by means of a public-private initiative.</p> <p>The enabling statute specifically finds that public-private agreements can result in time and cost savings, risk reduction and new tax revenues. It also requires that the public or private entity secure and maintain liability insurance coverage.</p>
Delaware	Del. Code Ann. Tit. 2, §2001 et seq.	Comprehensive statute that authorizes public-private partnerships.
Florida	Fla. Stat. §334.30	<p>Authorizes the DOT, with legislative approval, to enter into agreements with private entities for the building, operation, ownership or financing of transportation facilities. Public-private partnership projects must be in the public's best interests, must not require state funds to be used unless the project is on the State Highway System, and must have adequate safeguards to ensure that no additional costs or service disruptions will be realized in the event of default by the private entity or cancellation of the agreement by the department.</p> <p>Agreements under the statute may allow the private entity to impose tolls or fares, but rates and use of funds must be regulated by the DOT to avoid unreasonable costs to the users of the facility.</p>
Georgia	Ga. Code §32-2-78 et seq.	Authorizes the DOT to solicit and accept proposals for public-private initiatives that comply with certain requirements in the statute. Proposals must be unique or innovative, independently developed by the proposer, and accompanied by detailed information about the project and costs. Includes public notice and comment requirements for proposals submitted to the DOT and criteria for the DOT to use to make decisions about proposals. Prohibits the delegation of eminent domain authority to private entities under these provisions.

**Appendix C. Public-Private Partnership Enabling Statutes (continued)**

State/Jurisdiction	Statute	Provision
Illinois	Ill. Rev. Stat. ch. 20, §2705-450	Authorizes the DOT to enter into agreements with any public or private entity for the purpose of promoting and developing high-speed rail and magnetic levitation transportation within the state.
Indiana	Ind. Code §8-10-1-1	<p>Authorizes the Indiana Port Commission to construct, maintain and operate certain transportation projects and to issue revenue bonds to pay the cost of such projects. The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide or promote economic development, public-private partnerships and other industrial, commercial, business and transportation purposes.</p> <p>Encourages parishes and municipalities to use public-private partnerships to assist the state in financing improvements to the state highway system and meeting local transportation needs.</p>
Louisiana	La. Rev. Stat. Ann. §48:2020; §48:2072	Creates the Louisiana Transportation Authority to pursue alternative and innovative funding sources, including but not limited to, public-private partnerships, tolls and unclaimed property bonds to supplement public revenue sources and to improve Louisiana's transportation system.
Maryland	Md. Ann. Code Transportation Code §8-204.	<p>Authorizes the DOT to consult, confer, and contract with any person in furtherance of the duties of the Administration and the purposes of the transportation code.</p> <p>A 1996 State Attorney General Opinion states that this provision authorized the Maryland Transportation Authority to enter into public-private partnerships.</p>
Minnesota	Minn. Stat. Ann. §160.84 et seq.	Authorizes agreements with private entities to finance, build and operate toll facilities. Authorizes development agreements and defines the terms that must be included in such agreements.
Missouri	Mo. Rev. Stat. §238.305; 68.305	General authorizing statute for the state DOT gives authority to enter into agreements with private entities. Specific provision provides for the creation of transportation corporations with private entities.
Nevada	Nev. Rev. Stat. §338.161 et seq.	Allows private entities to submit a request to a public body to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility. Specifically excludes toll roads and toll bridges.
North Carolina	N.C. Gen. Stat. §136-89.171 et seq.; §136-89.180 et seq.	Section 136-89.171 et seq. establishes a private pilot toll project that allows the construction and operation of two private toll roads. Section 136-89.180 et seq. governs public toll roads and bridges.
Oregon	Or. Rev. Stat. §367.800 et seq.	<p>Establishes the Oregon Innovative Partnerships Program. The statute expresses the legislature's findings that entrepreneurial approaches can save money and bring substantial benefits to the public. The statute lists specific goals, including the legislature's goal to speed project delivery, maximize innovation and develop partnerships with private entities.</p> <p>The statute authorizes the state Department of Transportation to solicit concepts and proposals for transportation projects from private entities or accept unsolicited concepts and proposals from private entities. Section 367.806 authorizes the DOT to enter into agreements with private entities relating to transportation projects. Such agreements can relate to planning, acquisition, financing, development, design, construction, improvements, maintenance, management and other aspects of transportation projects. The statute lists specific requirements for such agreements, including financing, risk management, penalties for nonperformance and incentives for performance.</p>
South Carolina	S.C. Code Ann. §57-3-200	Authorizes the state Department of Transportation to expend such funds as it deems necessary to enter into partnership agreements with private entities to finance, by tolls and other financing methods, the cost of acquiring, constructing, equipping, maintaining and operating highways, roads, streets and bridges in South Carolina.

## Appendix C. Public-Private Partnership Enabling Statutes (continued)

State/Jurisdiction	Statute	Provision
Texas	Transportation Code Chapter 227	<p>Enacted as part of the 2003 Trans-Texas Corridor legislation. Section 227.023 requires the state transportation department, to the maximum extent possible, to encourage the participation of private entities in the planning, design, construction and operation of transportation facilities. The statute also authorizes the transportation department to enter into comprehensive development agreements for the financing, development, design, construction or operation of transportation facilities.</p> <p>The statute includes specific contract requirements for agreements with private entities for fee collection by the private entity for the use of a facility or a combination of facilities that are part of the Trans-Texas Corridor.</p>
Utah	Utah Code Ann. §72-6-118; §72-2-120.	Section 72-6-118 authorizes toll roads, including those operated by private entities. The statute requires that revenue generated from toll projects be deposited into the Tollway Restricted Account created in Section 72-2-120 and to be used for acquisition of right-of-way and the design, construction, reconstruction, operation, maintenance and enforcement of transportation facilities within the corridor served by the tollway.
Virginia	Va. Code §56-556 et seq.	The Public-Private Transportation Act of 1995 is intended to encourage private investment in transportation facilities. The statute authorizes private entities to develop and/or operate transportation facilities in the state. It requires approval from the responsible public entity of public-private agreements and includes specific requirements for all public-private agreements. The statute also stipulates the powers and duties of a private entity in a public-private agreement and provides financing mechanisms.
Washington	Wash. Rev. Code §47.46.010 et seq.; §47.10.834.	Authorizes public-private transportation initiatives. The statute includes provisions for public involvement and approval of public-private initiatives. Section 47-10-834 authorizes bonds to fund public-private partnerships.
Wisconsin	Wis. Stat. §84.01(30)	Authorizes the transportation department to enter into build-operate-lease or transfer agreements with private entities for the construction of transportation projects. The statute lists specific provisions that must be included in every agreement.
Puerto Rico	9 Leyes P.R. An. §2001 et seq.	Gives a toll transportation facility authority the power to authorize private participation in public highway projects.

Source: NCSL compilation, 2006.

## APPENDIX D. STATE DESIGN-BUILD ENABLING LEGISLATION

State	Statute	Provision
Alaska	Alaska Stat. §36.30.200; §36.30.990.	The state procurement code authorizes competitive sealed proposals, defines design-build and authorizes design-build contracts for all state agencies.
Arizona	Ariz. Rev. Stat. Ann. §§28-7361 et seq.	<p>Authorize the transportation department to use the design-build method of project delivery. The statutes prohibit the department from entering into a contract to operate any structure or facility under the design-build provisions. Each design-build agreement must be for a specific single project.</p> <p>Section 28-7364 lists specific criteria to determine when design-build is appropriate. These include the extent to which the department can define the project requirements, time constraints for project delivery, the capability and experience of the potential design-build teams and other criteria. Section 28-7365 defines specific solicitation methods that must be used for design-build proposals and criteria for selecting a design-builder.</p>
Arkansas	Ark. Stat. Ann. §27-67-206	Authorizes the State Highway Commission to establish written procedures and regulations for procuring design-build services and administering design-build contracts for new highway construction projects. The statute allows the commission to receive solicited and unsolicited proposals for design-build construction projects from a design-builder and to award design-build contracts. The commission may contract with a design-builder for an unlimited number of contracts if no state money is used, but is limited in the number of contracts with a design-builder if state revenues are used.
California	Cal. Pub. Cont. Code §§20209.5 et seq.	Authorizes transit operators to enter into transit design-build contracts. Describes in detail the process that must be used for each design-build project and provides specific criteria for evaluating design-build proposals. Section 20209.10 includes requirements for design-builders, including bonding and errors and omissions insurance coverage. The statute allows transit operators to establish minimum performance criteria and design standards for quality, durability, longevity, life-cycle costs and other standards. Transit operators that award design-build contracts must submit a report to the legislative analyst's office that includes project details.
Colorado	Colo. Rev. Stat. §§ 43-1-1401 et seq.	<p>Authorizes the Department of Transportation to enter into design-build contracts and to use an adjusted score design-build selection and procurement process for particular transportation projects, regardless of the minimum or maximum cost of such projects, based on the individual needs and merits of such projects, and subject to approval by the Transportation Commission.</p> <p>Allows the department to include warranty provisions in any design-build contract that requires maintenance of the completed product. The statute also includes criteria for awarding design-build projects, public notice requirements, and general procedures for soliciting and awarding proposals.</p>

## Appendix D. State Design-Build Enabling Legislation (continued)

State	Statute	Provision
Delaware	Del. Code Ann. tit. 2, §2003	This section, which is part of the state's larger public-private partnership initiative statute, authorizes the Delaware Department of Transportation to enter into agreements with private entities for projects using in whole or in part private sources of financing involving all or a portion of the study, planning, design, construction, leasing, financing, operation and maintenance of transportation systems; or the repair, and/or expansion, leasing, financing, operation and maintenance of existing transportation systems; or any combination of these functions. The statute contains specific eligibility criteria and procedures for developing proposals.
Florida	Fla. Stat. Ann. §337.11(7)	Authorizes the transportation department to combine the right-of-way services and design and construction phases of any project into a single contract, except for a resurfacing or minor bridge projects, the right-of-way services and design and construction phases of which may be combined under §337.025. The statute includes guidelines for rules and procedures to administer design-build agreements and procedures for accepting proposals.
Georgia	Ga. Code §32-8-81	Authorizes the transportation department to use the design-build contract method for certain transportation projects when it is in the public interest. Such projects cannot begin until title to the necessary rights-of-way have vested in the state or local government entity. The statute requires the transportation department to adopt procedures for administering design-build contracts, including prequalification requirements, public advertisement procedures, scope of service requirements, letters of interest requirements and requests for proposals. It includes criteria for selecting and awarding design-build contracts.
Idaho	Idaho Code §67-2309	Authorizes the design-build construction method in contracts for the construction, repair or improvement of public works, public buildings, public places or other work. The statute defines a design-build contract as a contract between a public entity and a nongovernmental party in which the nongovernmental party contracting with the public entity agrees to both design and build a structure, roadway or other item specified in the contract.
Illinois	Ill. Rev. Stat. ch. 70, §3615/4.06(b)(2)	Authorizes regional transportation authorities to use design-build contracting methods for transportation facilities. It includes criteria for soliciting and evaluating design-build proposals.
Kentucky	Ky. Rev. Stat. §45A.180 et seq.	Gives the secretary of the Finance and Administration Cabinet authority to develop regulations guiding the design-build contract process for capital projects. It includes requirements for design-build proposals and criteria for the selection of proposals. The secretary may develop procedures for a multi-phased proposal that is based on qualifications, experience, technical requirements, the guaranteed maximum price and other criteria.
Louisiana	La. Rev. Stat. Ann. §48:250.2 et seq.	<p>Section 250.2 authorizes the state Department of Transportation and Development, with legislative approval, to develop a pilot program to test the cost-effectiveness of design-build contracting for transportation projects. The statute limits legal challenges to the selection of design-build projects and restricts cost increases by design-builders for projects under contract.</p> <p>Section 250.3 provides specific requirements for design-build contracts and the qualifications of design-build entities. It also includes procedures for publicly announcing design-build proposals and bids and defines the selection process for bid awards.</p> <p>Section 250.4 authorizes the Department of Transportation and Development, with legislative approval, to use the design-build contracting method for transportation infrastructure projects in areas affected by a hurricane, including those areas where infrastructure is adversely affected by increased population and traffic as a result of the hurricane. Compliance with the provisions of §48:250.3 when selecting a design-build entity under this section is mandatory.</p>



**Appendix D. State Design-Build Enabling Legislation (continued)**

State	Statute	Provision
Maine	Me. Rev. Stat. Ann. tit. 23, §753-A	Authorizes the Department of Transportation to use design-build contracting to deliver projects. The DOT may evaluate most proposals on a best value or low-bid basis, although projects involving substantial engineering judgment must be evaluated on a best-value basis. The statute allows the DOT to require that design-build firms be prequalified and includes specific requirements for design-build proposals. It includes standards for low-bid and best-value awards and indicates the process for resolving procurement disputes.
Maryland	Md. State Fin. & Proc. Code Ann. §3-602(g)	Authorizes design-build and fast-track construction methods for capital projects by state agencies. The statute defines design-build as a single solicitation to design and build the facility. Fast-track allows the design and construction to be implemented concurrently.
Massachusetts	Mass. Gen. Laws Ann. ch. 149A, §14 et seq.	Authorizes state agencies to use design-build contracting for construction, reconstruction, alteration, remodeling or repair of public works projects with cost estimates that exceed \$5 million. By statute, the Massachusetts Highway Department, the Massachusetts Port Authority and the Massachusetts Water Resources Authority are exempt from requirements that each design-build contract be submitted to the inspector general for approval. Instead, the inspector general must annually approve procedures developed by these agencies for the procurement and use of design-build.
Minnesota	Minn. Stat. Ann. §473.3993; §160.262; §161.3410 et seq.	<p>Section 473.3993 authorizes the commissioner of transportation to use a design-build method of project development and construction for light rail transit. Absent any law to the contrary, the commissioner may award a design-build contract on the basis of requests for proposals or requests for qualifications without bids. “Design-build method of project development and construction” is defined by the statute as a project delivery system in which a single contractor is responsible for both the design and construction of the project and bids the design and construction together.</p> <p>Section 160.262 authorizes the acceptance of performance-specification bids, made by the lowest responsible bidder, for constructing design-build bridges for bicycle paths, bicycle trails and pedestrian facilities that are: 1) designed and used primarily for nonmotorized transportation, but may allow for motorized wheelchairs, golf carts, necessary maintenance vehicles and, when otherwise permitted by law, rule, or ordinance, snowmobiles; and 2) located apart from any road or highway or protected by barriers, provided that a design-built bridge may cross over and above a road or highway.</p> <p>Sections 161.3410 et seq. authorize the transportation commissioner to solicit and award design-build contracts for transportation projects on a best value selection basis. The projects can be awarded only by use of a two-step competitive process involving public solicitation. The number of design-build contracts awarded for transportation projects cannot exceed 10 percent of the total number of transportation construction contracts awarded by the commissioner in the previous fiscal year. The commissioner must notify the chairs of the Senate and House of Representatives committees with jurisdiction over transportation policy and transportation finance each time the commissioner decides to use the design-build method of procurement and explain why that method was chosen. Use of design-build contracting is subject to state law regarding municipal consent.</p> <p>The statutes contain general and specific criteria for using design-build projects. They also contain public notice requirements for design-build projects, proposal and selection criteria, and requirements for design-builders.</p>
Mississippi	Miss. Code Ann. §65-1-85	Authorizes the transportation department to use design-build contracting for projects for the Mississippi Development Authority, a limited number of projects with an estimated cost of less than \$10 million, and a limited number of projects with an estimated cost exceeding \$50 million. The statute requires the department to keep detailed records about design-build projects and to submit a report to the Legislature that compares design-build contracting with the low-bid contracting method.

## Appendix D. State Design-Build Enabling Legislation (continued)

State	Statute	Provision
Missouri	Mo. Rev. Stat. §227.107	Authorizes the highways and transportation commission to enter into three design-build project contracts before 2012. The statute authorizes the commission to issue RFPs to a maximum of five prequalified design-builders and includes other specific requirements for design-build proposals, contract content and criteria for awards. Requires the commission to submit status reports to the legislature and the governor regarding design-build projects.
Montana	Mont. Code Ann. §§60-2-111, 112, 135-137	Section 60-2-135 authorizes design-build contracting for a limited number of projects from April 1, 2003, through Dec. 31, 2008. The total number of projects authorized cannot exceed \$20 million, and the transportation department must submit a comparative benefit analysis of design-build to the governor and the Legislature. Section 60-2-136 requires the director of the transportation department to appoint a design-build contracting board to establish criteria for project selection and make recommendations for evaluating and selecting proposals. Section 60-2-137 contains specific requirements for soliciting and evaluating design-build proposals.
Nevada	Nev. Rev. Stat. §§338.1711 et seq.; §§408.3875 et seq.	Sections 338.1711 et seq. authorize design-build contracting for public works projects with estimated costs that exceed \$100,000. The statutes includes specific qualifications for design-build contractors and procedures for advertising and awarding contracts.  Sections 408.3875 et seq. specifically authorize design-build contracting for highway projects, including construction, reconstruction or improvement with an estimated cost that exceeds \$20 million. The statutes also authorize one project per year with an estimated cost that exceeds \$5 million but is less than \$20 million. The design-build contracting method can be used only if it enables the transportation department to lower project costs, lowers the time requirements for project completion, or ensures that the design and construction of the project is properly coordinated, if the project is unique, highly technical and complex in nature. This section contains specific requirements for design-build teams and procedures for advertising, submitting, evaluating and awarding design-build proposals.
New Hampshire	N.H. Rev. Stat. Ann. §228:4(I)(c)	Authorizes design-build contracting for projects with costs that don't exceed \$5,000,000. Selection of design-build projects must be based on an objective standard and measurable criteria for evaluation of the proposals. The commissioner shall report the results of any statewide transportation improvement program project using the design build concept to the capital budget overview committee within 90 days after the completion of the project.
New Mexico	N.M. Stat. Ann. §13-1-119.1	Statute specifically excludes highway and road projects from the design-build authorization.
North Carolina	N.C. Gen. Stat. §136-28.11	Authorizes a specific number of design-build contracts for transportation projects through 2009. Allows design-build contracts of any amount, but the transportation department must ensure that design-build contracts are awarded on a basis to maximize participation, competition and cost benefit. For each design-build contract, the transportation department must determine that the delivery must be expedited and that it is not in the public interest to comply with normal design and construction contracting procedures. The department must present information to the legislature about design-build projects with costs estimated to exceed \$100 million.
Ohio	Ohio Rev. Code Ann. §5517.011; §5543.22	Section 5517.011 authorizes the state transportation department to use design-build for highway and bridge projects. The statute requires the director to prepare and distribute a scope of work document upon which the bidders shall base their bids. The total number of design-build contracts authorized under this section cannot exceed \$250 million each biennium.  Section 5543.22 authorizes county engineers to combine the design and construction elements for highway, bridge and safety projects into a single contract. The cost for design-build contracts authorized under this section cannot exceed \$1.5 million.
Oregon	Or. Rev. Stat. §§383.005	Authorizes the Department of Transportation to enter into design-build contracts for toll-way projects.

**Appendix D. State Design-Build Enabling Legislation (continued)**

State	Statute	Provision
Pennsylvania	Pa. Cons. Stat. tit. 62 §§ 103 and 322(2)	Title 62 section 103 defines design-build contracting. Section 322 authorizes the use of design-build contracting methods.
South Carolina	S.C. Code Ann. §57-5-1625	Authorizes the transportation department to award highway construction contracts using a design-build procedure. The design-build contract provides for the design, right-of-way acquisition, and construction of a project by a single entity. The design-build contract also may provide for the maintenance, operation or financing of the project. The agreement may be in the form of a design-build contract, a franchise agreement, or any other form of contract approved by the department. Selection criteria shall include the cost of the project and may include contractor qualifications, time of completion, innovation, design and construction quality, design innovation, or other technical or quality related criteria.
South Dakota	S.D. Codified Laws Ann. §5-18-26 et seq.	Authorize public corporations to enter into design-build contracts for public improvement projects. Section 5-18-26 requires the state Bureau of Administration to establish procedures for design-build proposals and awards. Each design-build contract must contain performance criteria. Design-builder must be prequalified and meet certain criteria for prequalification. The statutes contain specific requirements for evaluating and accepting proposals.
Tennessee	Tenn. Code Ann. §12-10-124	Requires a request for proposal process for design-build contracts.
Utah	Utah Code Ann. §63-56-502	Authorizes the state transportation department and other transportation agencies to award design-build contracts for projects with an estimated cost of at least \$50 million. A public transit district with more than 200,000 people residing in its borders also may award a design-build contract. The statute contains specific requirements for design-build proposals and awards.
Virginia	Va. Code §2.2-4303; §2.2-4306; §33.1-12	Section 2.2-4306 authorizes design-build contracts. Procurement for design-build projects must go through a two-step process, with procedures developed by the secretary of administration.  Section 33.1-12 authorized design-build for transportation projects. However, the statute was effective only until Oct. 1, 2005.
Washington	Wash. Rev. Code §39-10.051; §47.20.780; §47.20.785; §47-60-810 et seq.	Section 39-10.051 is a general authorization that allows certain state agencies to use design-build contracting. This section contains criteria for design-build projects and some procedures for advertising and awarding contracts.  Section 47.20.780 requires the Department of Transportation to develop a process for awarding competitively bid highway construction contracts for projects over \$10 million that may be constructed using a design-build procedure. The process developed by the department must, at a minimum, include the scope of services required under the design-build procedure, contractor prequalification requirements, criteria for evaluating technical information and project costs, contractor selection criteria, and issue resolution procedures. This section expires April 30, 2008.  Section 47.20.785 limits design-build to projects over \$10 million where the construction activities are highly specialized and a design-build approach is critical in developing the construction methodology; or the project selected provides opportunity for greater innovation and efficiencies between the designer and the builder; or significant savings in project delivery time would be realized. This section expires April 30, 2008.  Section 47.60.810 et seq. authorizes the purchase of new auto ferries through a design-build contracting method.
Wisconsin	Wis. Stat. Ann. §§84.11 (5n) et seq.	Authorize the use of design-build contracting for bridge construction. Design-build contracts under this section must be selected through a competitive process and must be approved by the U.S. Department of Transportation and the governor. By October 2004, the state transportation department was required to submit a report to the Legislature describing the effectiveness of design-build contracting under this section.

Source: NCSL compilation, 2006.

## APPENDIX E. WASHINGTON ACCOUNTABILITY MEASURES

The Washington Legislature has enacted a variety of measures during the past three years to increase the accountability and efficiency of transportation in the state.<sup>1</sup>

### 2003 Accountability Measures

**Chapter 362, Laws of 2003 (SSB 5748)**—Performance Audits of Transportation Agencies  
SSB 5748 created the Transportation Performance Audit Board. Since its creation, TPAB has completed five major audits: Washington State Department of Transportation's (WSDOT) capital management program, environmental permitting, highway and ferry programs, and transportation programs in the Department of Licensing and the Washington State Patrol.

**Chapter 8, Laws of 2003 (ESB 5279)**—Permit Streamlining  
ESB 5279 reauthorized the Transportation Permit Efficiency and Accountability Committee (TPEAC) for another three years to continue its work to develop one-stop permitting and programmatic permits, to integrate local permitting into the streamlined process, and to better coordinate state permit requirements.

**Chapter 363, Laws of 2003 (SSB 5248)**—Workforce Efficiencies  
SSB 5248 authorized contracting out of transportation construction and engineering services and prevailing wage process improvements and increased apprenticeships and required local government transportation efficiencies as a condition of receiving state funds.

**Chapter 360, Laws of 2003, Partial Veto (ESHB 1163)**—2003-05 Transportation Budget  
Strict project appropriations ensure WSDOT cannot move money from one project to another without legislative approval.

### 2005 Accountability Measures

**Chapter 319, Laws of 2005, Partial Veto (ESB 5513)**—Transportation Governance  
The Washington State Department of Transportation (WSDOT) is now directly answerable to an elected official. The governor appoints the secretary of transportation, subject to Senate confirmation. The secretary serves at the pleasure of the governor.

The Transportation Performance Audit Board (TPAB) is moved out of the legislative environment and under the Transportation Commission. The Transportation Commission is no longer directly responsible for oversight of the Department of Transportation. TPAB will establish benchmarks and milestones for monitoring and evaluating the department's efforts in implementing the construction projects designated in the 2005-07 biennium transportation budget project list.

**Chapter 314, Laws of 2005 (ESSB 6103)—Transportation Funding**

The state auditor is authorized to conduct performance audits on state transportation agencies, including WSDOT, the Transportation Improvement Board (TIB), the County Road Administration Board (CRAB), and the Washington Traffic Safety Commission. The state auditor becomes a member of TPAB. The sum of \$4 million is appropriated to cover the costs of the performance audits for the 2005-07 biennium. If the State Auditor's financial audit indicates that a performance audit is warranted, the TPAB must include this performance audit in its annual work plan.

**Chapter 313, Laws of 2005, Partial Veto (ESSB 6091)—2005-2007 Transportation Budget** Strict project appropriations ensure that the projects funded in the budget are the projects that are built. Project changes must be approved by the Legislature.

## November 2005

Initiative I-912 was a proposal to repeal the phased in 9.5 cent fuel tax increase. On the same ballot, I-900 was an initiative to grant the performance audit authority to the state auditor. That authority was in addition to the direct appropriation of \$4 million provided by the transportation budget in 2005. It is possible that the presence of the performance audit initiative helped allay voters' concerns.

**Source:** Mike Groesch, Washington State Senate Transportation Committee, 2006.

APPENDIX E: AGGREGATE REVENUES USED BY STATES FOR HIGHWAYS FROM 1999-2004

State /Jurisdiction	Beginning Balance	Motor-Fuel Taxes	Motor Vehicle and Motor Carrier	Road and Crossing Tolls	Appropriations from General Funds	Other State Imposts	Miscellaneous	Bond Proceeds	Payments from Federal Funds	Payments from Local Governments	Total
Alabama	\$2,177,572	\$3,296,094	\$1,161,356	\$0	\$306,454	\$40,254	\$52,818	\$200,000	\$3,539,925	\$ 98,236	\$8,695,137
Alaska	78,969	151,939	157,811	104,731	630,721	431	140,515	113,866	1,750,213	182,839	3,233,066
Arizona	3,309,072	3,530,536	1,359,176	0	611,758	2,669,901	256,136	2,080,190	2,702,091	617,809	13,827,527
Arkansas	1,399,844	2,400,580	713,652	0	161,865	9,443	153,829	594,866	2,099,659	43,335	6,177,299
California	2839,6499	16,391,775	9,404,848	1,542,389	1,508,127	1,401,104	1,419,563	676,065	10,288,536	3,003,779	45,636,206
Colorado	4,930,702	3,145,230	2,188,316	0	402,296	603,358	331,184	2,322,059	2,255,075	138,175	11,385,693
Connecticut	4,377,941	1,949,271	1,006,826	873	213,816	155,956	618,806	2,686,884	2,480,584	60,447	9,173,463
Delaware	1918,554	639,636	563,467	897,684	300,336	0	189,024	1,511,925	695,984	0	4,438,056
Florida	9043,962	8672,668	3866,782	3,841,528	243,955	595,525	838,995	4,167,618	7,476,813	756,572	30,460,456
Georgia	8,177,655	1,871,053	1,154,453	127,721	1,160,423	1,126,555	525,896	909,080	4,562,468	17	11,437,666
Hawaii	2,143,447	380,651	424,637	0	61,506	10,764	104,538	273,549	667,831	0	1,923,476
Idaho	1,002,845	1,147,314	678,867	0	0	0	3,678	0	1,227,550	25,014	3,082,423
Illinois	9,452,615	6,868,132	5,947,560	2,175,540	261,848	163,147	316,159	2,103,666	5,021,823	229,489	23,087,364
Indiana	3,394,741	4,756,136	1,365,526	506,822	327,443	0	85,222	2,752,100	3,656,429	436,557	13,886,235
Iowa	463,636	2,393,800	2,111,173	0	366,403	1,453,039	64,853	0	1,986,756	0	8,376,024
Kansas	5,493,902	2,206,697	743,826	390,772	110,748	841,983	323,557	2,596,170	1,967,985	128,296	9,310,034
Kentucky	6,546,164	2,662,609	3,600,772	53,861	326,725	0	424,603	16,180	2,993,005	0	10,077,755
Louisiana	4,096,562	3,305,038	788,840	201,071	583,654	168,286	167,966	461,342	2,580,364	153	8,256,714
Maine	1,898,032	1,051,958	352,819	362,003	628,244	0	44,069	215,175	933,674	0	3,587,942
Maryland	2,718,428	2,873,940	2,481,565	751,444	75,563	664,177	249,534	861,666	2,699,474	7,690	10,665,053
Massachusetts	7,690,274	3,736,767	1,628,962	1,301,146	5,180,731	0	1,277,708	5,555,599	3,166,922	35	21,847,870
Michigan	4,708,950	5,858,984	4,648,628	183,648	842,036	97,797	47,641	731,031	4,009,716	230,817	17,077,298
Minnesota	5,150,147	3,616,929	3,241,156	0	284,121	545,878	364,774	366,922	2,303,626	129,246	10,852,652
Mississippi	2,243,479	2,216,971	770,413	0	76,339	375,527	545,249	545,249	1,971,717	57,956	6,063,234
Missouri	1,949,476	3,886,359	1,351,037	0	77,848	1,312,036	124,721	1,142,152	4,052,032	167,940	12,114,125
Montana	452,528	1,043,750	315,917	0	0	0	16,268	0	1,673,130	16,657	3,065,722
Nebraska	841,796	1,672,983	397,545	0	138,439	801,224	1,176,959	67,300	1,176,959	310,815	4,563,265
Nevada	1,548,632	2,135,655	700,557	463	33,211	0	90,573	300,911	1,078,400	5,709	4,945,479
New Hampshire	1,008,801	764,675	466,683	371,082	218,688	0	70,680	804,126	804,126	44,602	2,759,223
New Jersey	11,297,266	2,377,494	2,382,273	4,141,810	1,365,375	0	1,008,828	13,515,170	9,226,945	0	34,017,895
New Mexico	1,870,402	1,310,164	1,188,607	0	428,581	34,937	103,662	2,318,018	1,803,056	11,158	7,198,183
New York	81,017	6,351,810	3,493,901	5,554,434	1,161,975	27,025	543,813	10,187,859	7,802,863	98,028	35,221,708
North Carolina	5,640,196	6,411,614	1,911,530	11,624	653,945	2,027,932	681,765	416,254	4,968,753	44,252	17,127,669
North Dakota	252,614	586,677	315,634	0	186,888	33,570	5,689	0	1,115,469	79,570	2,323,497
Ohio	8,385,722	8,555,332	3,448,848	1,090,899	7,216	0	557,531	1,554,531	4,970,073	284,764	20,534,194
Oklahoma	4,633,713	1,756,367	1,195,353	929,309	460,759	237,905	218,304	965,569	2,124,341	59,304	7,947,211
Oregon	1,039,307	2,281,603	1,584,290	0	203,911	36,249	120,496	284,991	2,279,017	0	6,790,557
Pennsylvania	11,763,941	9,241,155	4,204,236	2,840,500	1,444,262	0	1,284,158	2,671,047	7,090,297	127,940	28,903,595
Rhode Island	241,182	478,754	202,247	69,793	37,244	0	33,959	339,896	886,380	0	2,048,273
South Carolina	2,167,806	1,842,460	492,090	17,164	287,364	0	139,466	604,624	2,544,279	32,500	5,959,947
South Dakota	309,818	657,869	288,018	0	702	316,439	105,344	0	1,224,685	59,505	2,652,562
Tennessee	6,394,243	4,068,743	1,384,572	150	375,805	169,328	283,859	0	2,852,121	17,953	9,312,531
Texas	10,634,410	11,009,848	8,165,976	723,276	114,712	178,023	948,038	481,105	12,483,793	1,381,674	35,486,445
Utah	2,159,293	1,878,524	480,101	1,357	836,434	198,452	177,393	1,461,666	1,486,713	12,986	6,533,626
Vermont	87,909	418,736	523,978	4,865	21,768	53,820	743,703	10,654	2,124,341	11,421	1,788,945
Virginia	6,487,282	4,399,263	3,694,663	537,673	553,105	2,511,540	457,314	2,386,134	3,760,908	251,810	18,552,410
Washington	2,876,142	4,120,051	2,332,973	640,511	1,499,769	61	1,894,672	3,098,926	3,098,926	172,748	12,708,268
West Virginia	1,437,639	1,767,905	1,389,425	309,488	254,717	3,638	97,953	661,655	2,300,186	2,975	6,787,942
Wisconsin	2,120,695	4,352,986	1,772,788	0	1,191	182,958	1,328,710	3,207,465	3,207,465	475,693	11,321,791
Wyoming	359,269	539,284	253,426	0	9,876	68,067	32,858	0	1,548,341	15,760	2,467,612
District of Columbia	130,641	178,689	408,045	0	260,094	122,806	62,355	74,688	839,457	0	1,946,134
<b>Totals</b>	<b>\$206,985,332</b>	<b>\$169,213,458</b>	<b>\$94,706,144</b>	<b>\$29,680,766</b>	<b>\$23,786,713</b>	<b>\$19,007,222</b>	<b>\$16,272,069</b>	<b>\$74,200,196</b>	<b>\$160,180,658</b>	<b>\$9,992,226</b>	<b>\$597,039,452</b>

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