

FEDERAL HIGHWAY APPROPRIATIONS AND STATE MATCHING REQUIREMENTS STUDY - BACKGROUND INFORMATION

The Legislative Council chairman directed the study of federal highway appropriations and state matching requirements.

FEDERAL HIGHWAY APPROPRIATIONS

Federal highway appropriations were greatly affected by the passage of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA - LU), hereinafter the Act, which President George W. Bush signed into law on August 10, 2005. The Act guarantees \$244.1 billion in funding for highways, highway safety, and public transportation. The Act provides funding through federal fiscal year 2009. The Act is a continuation of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century (TEA-21). The federal highway trust fund is the source of funding for most of the programs in the Act. Federal motor fuel taxes are the major source of income into the highway trust fund. Attached as an appendix is a letter from the North Dakota Department of Transportation on the effects of the Act on federal funding and this state's matching funds required to fully implement the Act.

This state will receive an additional \$25.7 million of conventional funding for highways this biennium, of which \$6.4 million will go to cities and counties. These conventional funds are in addition to the amount the Department of Transportation projected this state would receive during the 2005 legislative session. These additional conventional funds will increase the amount needed for state matching funds for conventional funding by approximately \$3,944,000 for this biennium.

The Legislative Assembly provided budget authority to meet \$5.4 million of the anticipated \$8.4 million in federal emergency relief funds for projects to be constructed during this biennium. However, the Act provided an extra \$10 million per year for the construction of necessary measures for the continuation of roadway surfaces or the impoundment of water to protect roads at Devils Lake in North Dakota. Because only a third of this amount will be used for state roads, this state will receive approximately \$6.7 million per year in additional emergency relief funds. The additional emergency relief funds will require approximately \$1.7 million per year in additional state matching funds, or \$3.4 million for the biennium.

The North Dakota Department of Transportation estimates that because of the additional conventional

federal funds and emergency relief expenditures, this state will require \$10.6 million in additional matching funds. This figure includes \$3 million in matching funds needed to receive the full \$8.4 million in emergency relief funds. To meet the shortfall, the North Dakota Department of Transportation anticipates using North Dakota Century Code (NDCC) Section 24-02-44. This section provides that the department may borrow money from the Bank of North Dakota to match federal emergency relief funds, upon approval of the Emergency Commission. If the department does not repay the amount within the biennium, the department is required to request a deficiency appropriation from the state highway fund.

STATE MATCHING SOURCES

In addition to the \$10.6 million in the difference between the total state matching funds needed as a result of the Act and North Dakota Department of Transportation revenue this biennium, there is projected to be a \$5.9 million difference in the 2007-09 biennium and a \$21.3 million difference in the 2009-11 biennium. Unless the department finds internal savings or receives actual income that exceeds projected income, other sources of income may need to be investigated. The other major present sources of income are motor vehicle fuel taxes, motor vehicle registration fees, and special fuels taxes.

In general, fuels taxes and registration fees go into the highway tax distribution fund. However, \$13 of passenger motor vehicles, buses, and truck registration fees go directly into the state highway fund. The highway tax distribution fund is distributed 63 percent to the state, 23 percent to the counties, and 14 percent to the cities. Money received by the state goes into the state highway fund. The state highway fund is mainly used for funding the Department of Transportation.

Various income sources are used to match federal funds. In 2005, Senate Bill No. 2012 increased registration fees \$10, classified pickups as passenger motor vehicles but limited the increase due this reclassification to one-half for this biennium, and deposited \$13 of each registration fee in the state highway fund. The bill increased motor vehicle fuel and special fuels tax rates from 21 to 23 cents per gallon. In addition, the bill allows for grant or revenue anticipation financing for the Liberty Memorial Bridge improvement project and the United States Highway 2 project improvements. This financing provides for federal reimbursement for debt financing costs relating to federal aid highway projects. This financing is done through the issuance of bonds. The

bill would have redirected money collected for motor vehicle excise tax from the general fund to the state highway fund. This transfer of revenue was vetoed by the Governor because the "diversion of fund increases the risk of allotment, or could force the calling of a special session of the Legislature to deal with future revenue requirements." In 2005 the Legislative Assembly considered, but did not pass, House Bill No. 1450, which would have doubled the driver's license fee, and Senate Bill No. 2255, which would have dedicated a one-half of 1 percent increase in the motor vehicle excise tax to the state highway fund.

During the 2003-04 interim, the Budget Committee on Government Administration studied highway construction and maintenance funding, including revenue sources and distribution formulas for state, cities, and counties. The committee reviewed other states' methods of financing highway projects. The committee learned that the majority of states' highway revenue are generated from fuels taxes and motor vehicle registration fees.

In addition, states generate additional funding for highways from a variety of other sources. The following schedule summarizes select revenue sources that are used for highway purposes in other states in addition to fuels taxes and registration fees:

Revenue Type	State(s)
Sales tax - General	Arizona, Illinois, Kansas, Nevada, Utah, Virginia
Motor vehicle excise tax	Iowa, Kansas, Michigan, Missouri, Nebraska, North Carolina, South Dakota
Motor fuels sales tax	California, Georgia, Michigan
Auto parts sales tax	Michigan
Gaming tax	Colorado
Rental car tax	Florida, Hawaii, Iowa, South Dakota, Utah
Severance tax	Arkansas, Kentucky, New Mexico, Oklahoma, Tennessee, Wyoming
Corporate income tax	Maryland
Lubricating oil tax	Alabama, Mississippi, Texas
Contractor tax	Mississippi

The interim Budget Committee on Government Administration reviewed information prepared by the Florida Department of Transportation regarding alternative transportation revenue sources. Alternative revenue sources identified include:

1. Vehicle miles of travel fees - An annual assessment based on the number of miles traveled in the preceding year.
2. Weight distance fees - An annual assessment based on factors, including miles driven and vehicle weight.
3. New vehicle or auto parts sales tax - Taxes on new or used vehicle purchases or on sale of automobile parts.

4. Emissions fees - An annual fee based on a vehicle's emissions characteristics and on the annual number of miles traveled.
5. Highway right of way lease income - Collections from leases of highway right of way for fiber optic cables, cell phone towers, or other purposes.
6. Road-branding fee - A fee charged for naming a segment of a highway for an individual or business.

At the committee's request, the Department of Transportation identified the following potential options for providing additional transportation revenue:

1. Increasing the motor vehicle fuel tax on gasoline, gasohol, and diesel fuel (a one cent per gallon increase would generate \$5 million per year, or \$10 million per biennium).
2. Increasing motor vehicle registration fees (a \$1 increase would generate \$700,000 per year, or \$1.4 million per biennium).
3. Increasing the 2 percent special fuels tax (a 1 percent increase, from 2 to 3 percent, would generate \$2.3 million per year, or \$4.6 million per biennium).
4. Increasing the excise tax on the sale of new and used motor vehicles (a 1 percent increase would generate \$10.75 million per year, or \$21.5 million per biennium).
5. Dedicating a portion of the general sales tax to transportation (a .25 percent sales tax increase would generate \$20.5 million per year, or \$41 million per biennium).
6. Increasing the tax on rental cars (a tax of \$1 per day on rental cars would generate \$360,000 per year, or \$720,000 per biennium, while a 1 percent rental car tax would generate \$180,000 per year, or \$360,000 per biennium).
7. Dedicating a portion of severance tax revenues on natural resources to transportation.
8. Imposing a sales tax on motor fuels (a 1 percent sales tax would generate \$6.4 million per year, or \$12.8 million per biennium at \$1.20 per gallon).
9. Increasing the sales tax on auto parts (a 1 percent increase would generate \$1.5 million per year, or \$3 million per biennium).
10. Shifting the funding for the ethanol incentive program to another source (this change would generate \$1.25 million per year, or \$2.5 million per biennium).
11. Providing funding for the Highway Patrol from sources other than the highway fund.
12. Enacting a personal property tax on vehicles.
13. Dedicating gambling funds to transportation.
14. Establishing toll bridges and toll roads.
15. Developing private/public partnerships.

16. Enacting a vehicle miles of travel tax.
17. Enacting a weight distance tax.
18. Bonding for highway projects; however, a revenue source would be needed to repay the bonds.
19. Appropriating money from the general fund.
20. Enacting taxes on other petroleum products.
21. Utilizing corporate income tax collections.
22. Developing rest area concessions.
23. Utilizing traffic fine collections.
24. Increasing taxes on beer and cigarettes.
25. Enacting a contractor tax.
26. Utilizing collections from mineral leases on state-owned land.
27. Utilizing room tax collections.
28. Charging for use of highway right of way.
29. Utilizing collections from an annual insurance underwriters' fee.

30. Taxing alternative fuel sources.

SUGGESTED STUDY APPROACH

The information provided by the Department of Transportation in this memorandum was based on estimates because actual apportionment and spending numbers for fiscal year 2005 have not been issued by the Federal Highway Administration. The committee may update and correct figures as necessary to determine whether additional funds will be needed to match federal funds. The committee may receive testimony from the Department of Transportation, Association of Counties, League of Cities, contractors, and the driving public.

ATTACH:1



North Dakota Department of Transportation

David A. Sprynczynatyk, P.E.
Director

John Hoeven
Governor

September 9, 2005

The Honorable Robert Stenehjem
Chairman, Legislative Council
Senate Majority Leader
ND Legislative Council
600 East Boulevard Avenue
Bismarck, ND 58505

Dear Chairman Stenehjem:

Subject: Analysis of SAFETEA-LU Impact on the Current and Future Biennium Budgets

In response to Tim Dawson's request, the following summarizes both known and projected impacts to the current and future bienniums resulting from passage of the transportation funding reauthorization bill also known as Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, or SAFETEA-LU, which was signed into law on August 10, 2005. Also included are changes in Emergency Relief funding and the changes in the corresponding matching funds needs which have occurred since the legislative session.

The analyses contained within were based on estimates of actual funding, as the FHWA has not yet issued actual apportionment and spending numbers for FY 2005, which ends September 30. We hope to have that information soon.

NDDOT estimates that an additional \$10.6 million in state matching funds will be needed during the current biennium. This figure includes the \$3 million shortfall from the past legislative session, and \$7.6 million to match funding provided by SAFETEA-LU. Of the \$7.6 million, \$3.9 million will match formula funding and \$3.7 million will match Emergency Relief funds.

I. SAFETEA-LU IMPACT ON STATE MATCH

A. Conventional/Formula Federal Funding for Highways--When compared to the figures provided during the 2005 legislative session, implementation of SAFETEA-LU will require an additional \$3.9 million in state funding to match the increased federal funding North Dakota is to receive through the formula process. In total, North Dakota will receive an additional \$25.7 million this biennium, of which the state will get \$19.3 million and the balance will go to counties and cities.

Table 1 shows the change in state match assumptions from the time the 2005 legislative session adjourned to the passage of SAFETEA-LU. The table shows the legislative assumptions, as well as the most recent information on conventional and formula spending authority for highways that NDDOT expects to receive over the life of SAFETEA-LU and in the year following the expiration of the bill.

A five percent growth factor was used for the additional year (state FY 2011) following expiration of SAFETEA-LU. This is a conservative estimate as SAFETEA-LU provides a 30 percent increase over the previous transportation funding bill, TEA-21.

The corresponding match changes were calculated and shown in the right-hand column of the table.

Table 1

Analysis of Match Changes Between Legislative Session and SAFETEA-LU					
State Fiscal Year	Federal Fiscal Year	Original Legislative Estimate *	Current Estimate *	Change *	Change in State Match **
2004	2003	182.5	182.5	0	0
2005	2004	182.5	182.5	0	0
2006	2005	202.3	210.0	7.7	1.184
2007	2006	205.0	223.0	18.0	2.760
2008	2007	213.8	232.0	18.2	2.800
2009	2008	230.0	241.0	11.0	1.692
2010	2009	268.0	251.0	17.0	-2.615
2011	2010	281.0	263.0	18	-2.769

* Federal Funding, in \$ millions

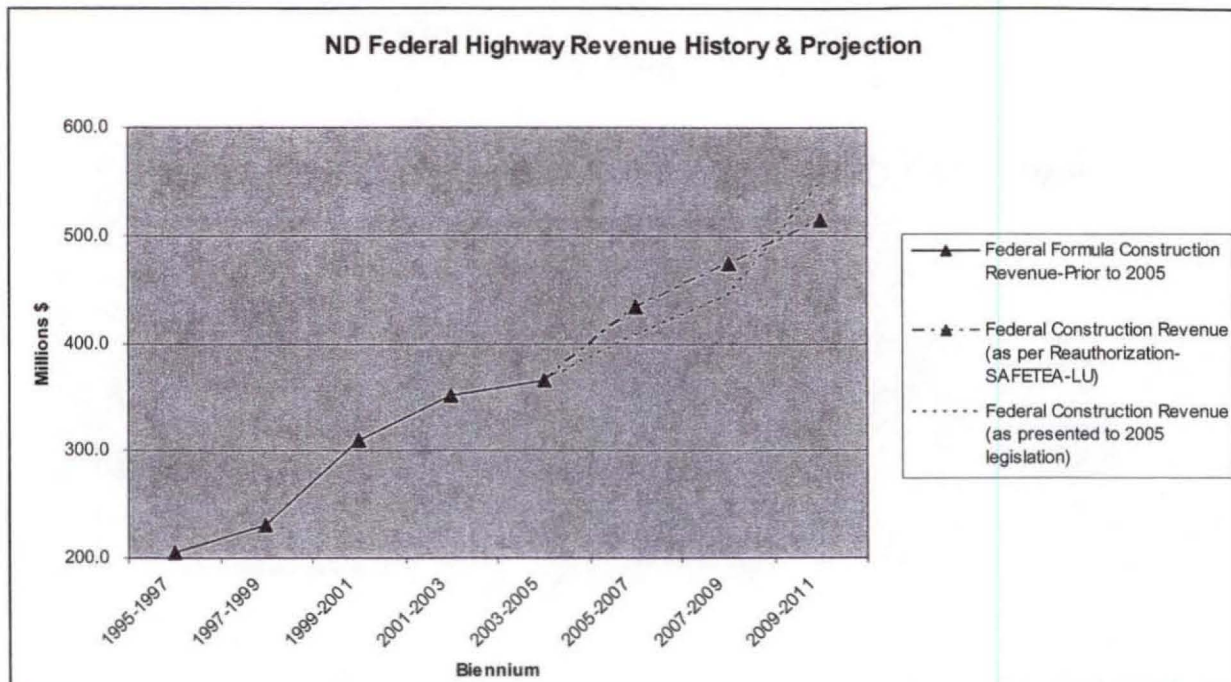
** State Funding, in \$ millions

Note: Emergency Relief funding not included.

The analysis presented during the legislative session was based on the administration's January 2005 budget figures, which called for end-loading the program during the last several years of the reauthorization. SAFETEA-LU provides for more uniform growth, which resulted in higher match numbers in the early years and reduced match numbers in the out years when compared to the administration's proposal. Therefore, it is important to note that the final years of SAFETEA-LU show a decline in the needed match with respect to that presented during the legislative session.

B. Long-Range Outlook for Federal & State Transportation Funding--Figure 1 shows the actual formula federal funding from 1995 through 2005, plus the outlook for funding through 2011. This reflects the changes in SAFETEA-LU.

Figure 1



C. Emergency Relief--The 2005 legislature provided sufficient budget authority to cover all but \$3 million of the anticipated \$8.4 million in Emergency Relief (ER) match needed for projects that were originally expected to be constructed during 2005 and 2006. Budget assumptions included that the department would use the borrowing authority provided by the 2001 legislature to cover the original \$3 million shortfall. The anticipated revenue and expenditures per the enrolled budget resulting from the 2005 legislative session is shown as Attachment A.

SAFETEA-LU provided additional ER funding to address the current Roads-As-Dams situation in the Devils Lake Basin. A total of \$70 million was provided at a maximum annual allocation of \$10 million per year. The Roads-As-Dams issue involves both the Bureau of Indian Affairs and state routes.

About one-third of the cost to resolve this issue will occur on BIA routes which will be cash-flowed by the Federal Highway Administration (FHWA) with no impact to the NDDOT budget. The remaining two-thirds of the cost will come through the NDDOT with a 20 percent state match requirement.

D. Summary--Figure 2 shows that the higher than anticipated formula revenue from SAFETEA-LU and the ER match requirement for the Roads-as-Dams provision of SAFETEA-LU will result in a match shortfall for this and the coming bienniums. A detailed analysis indicates that for this biennium, a state match shortfall of approximately \$10.6 million will be experienced. Attachment B illustrates the resulting anticipated revenue and expenditure budget shortfalls.

In order to accommodate this shortfall, it is anticipated that the department will need to use the legislatively-granted borrowing authority to cover the state fund shortfall. (NDCC 24-02-44: The department of transportation, subject to the approval of the emergency commission, may borrow moneys from the Bank of North Dakota to match federal emergency relief funds.)

II. FUTURE INTEREST--In our conversation with Tim Dawson, he also expressed the desire to be aware of any topics that may be of future interest. I've summarized three below.

A. Escalating Cost of Fuel/Potential Impact to the NDDOT Budget--We are concerned that the rising price of fuel will have an impact on the NDDOT operations budget with regard to snow and ice control fleet rental rates. Approximately a million gallons of fuel are used during the winter months for snow and ice control. We anticipate continuing the same level of service as in the past but will need to look for ways to accommodate this in our budget for the short term.

There is also the possibility that the higher motor fuel prices will impact fuel usage and ultimately reduce the amount of revenue going into the state highway distribution fund.

B. Impacts from Hurricane Katrina--Concerns about the future purchasing power of the state's construction funds, particularly in the areas of steel, cement, fuel, and labor prices, existed prior to Hurricane Katrina. Steel prices in particular have been at a high value for the last two years due to production shortages.

According to a September 1 news release distributed by the Associated General Contractors of America, cement is in short supply in 32 states. The same news release also pointed out that Hurricane Katrina had impacted ocean, barge, and rail transportation in the gulf. Power outages have impacted production of several key cement plants. These factors are likely to result in escalating cement prices and shortages.

In addition, labor costs and costs for materials in general are likely to inflate as the rebuilding of New Orleans moves forward.

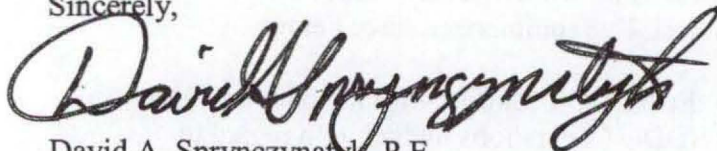
C. REAL ID Act--This requires states to upgrade their driver license systems so the driver's license system is more secure. It will require more documentation and verification for getting a driver's license. The system will need to comply with and interact with a national system and

The Honorable Robert Stenehjem
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standards which will likely result in a significant investment into a new system. New rules will probably be in place in a year with a requirement to comply in three years.

III. NDDOT US 2 PROJECT--During the 2005 session, NDDOT received the authority to bond for up to \$53.5 million during this biennium for the Memorial Bridge and the US 2 project. We had also indicated the possibility of returning for additional bonding authority for US 2 during the 2007 legislative session. It does not appear that we will need to seek additional authority next session for the US 2 request. As a result of the earmarks received for Memorial Bridge and the favorable bond rating and interest rate (3.81 percent), we were able to bond for \$52 million for those two projects, which will address the needs for the Memorial Bridge as well as the remaining funding needs for US 2.

Sincerely,



David A. Sprynczynatyk, P.E.
Director

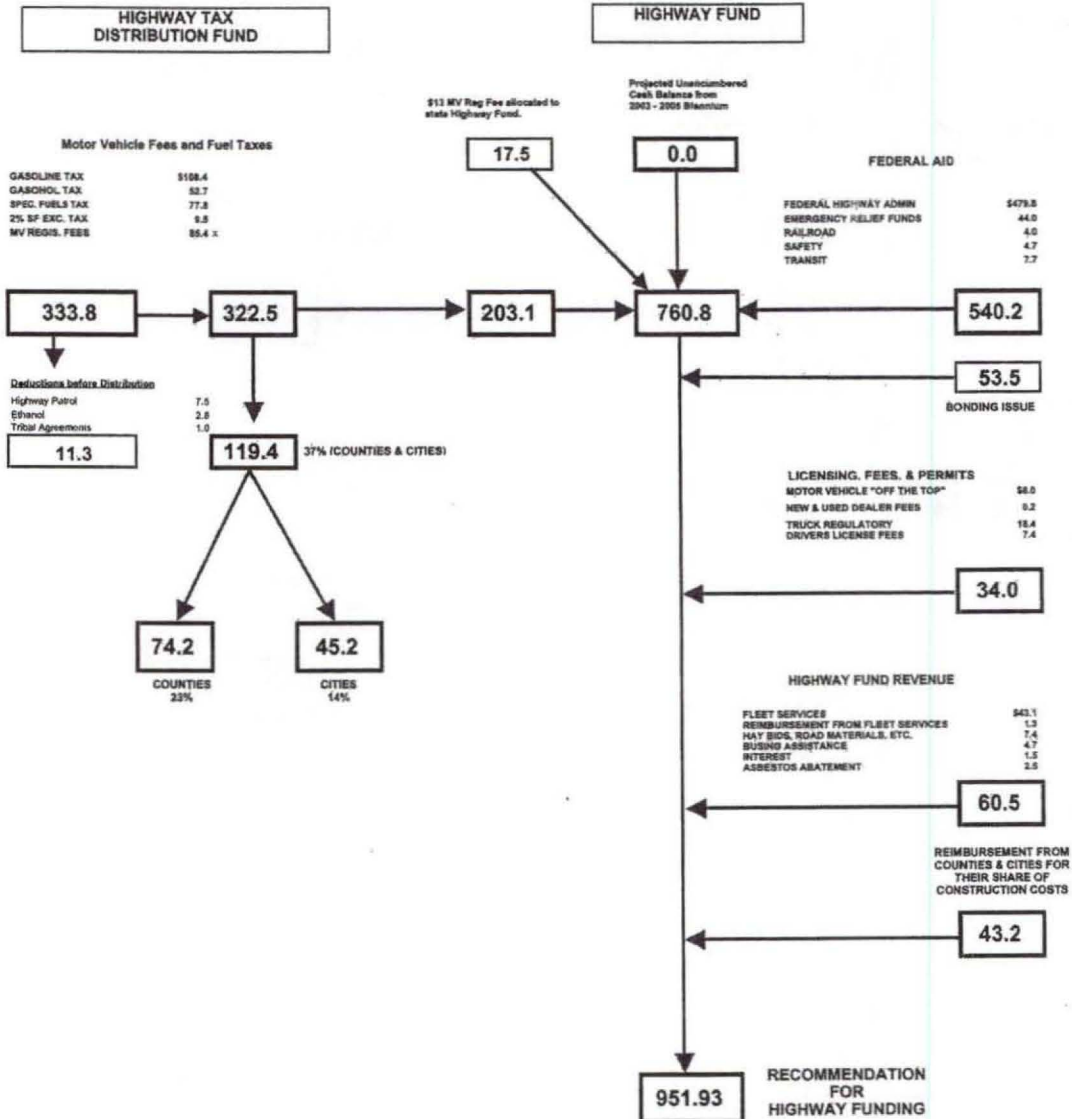
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c: Bill Goetz, Governor's Office
Tim Dawson, Legislative Council
Senator David O'Connell
Representative Rick Berg

Attachment A-1

DEPARTMENT OF TRANSPORTATION 2005 - 2007 BIENNIUM ENROLLED SENATE BILL 2012 REVENUE

(MILLIONS)



X TOTAL MV REGIS. FEES
(less "off the top" & dealer fees)
AVAILABLE FOR DISTRIBUTION

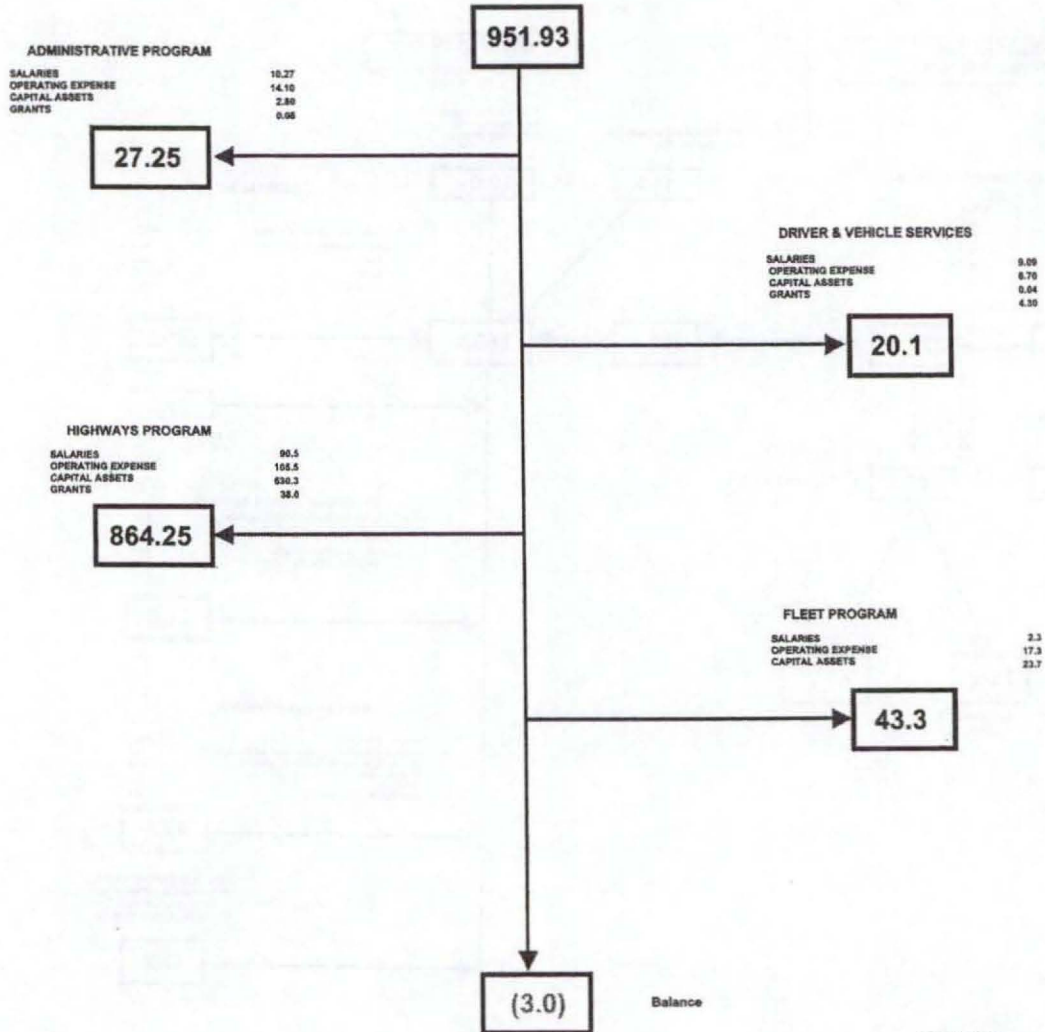
\$88.4
(58.2)
30.2

PREPARED BY 2002
FINANCIAL MANAGEMENT DIVISION
May 4, 2005

Attachment A-2

DEPARTMENT OF TRANSPORTATION
2005 - 2007 BUDGET
ENROLLED SENATE BILL 2012
EXPENDITURES

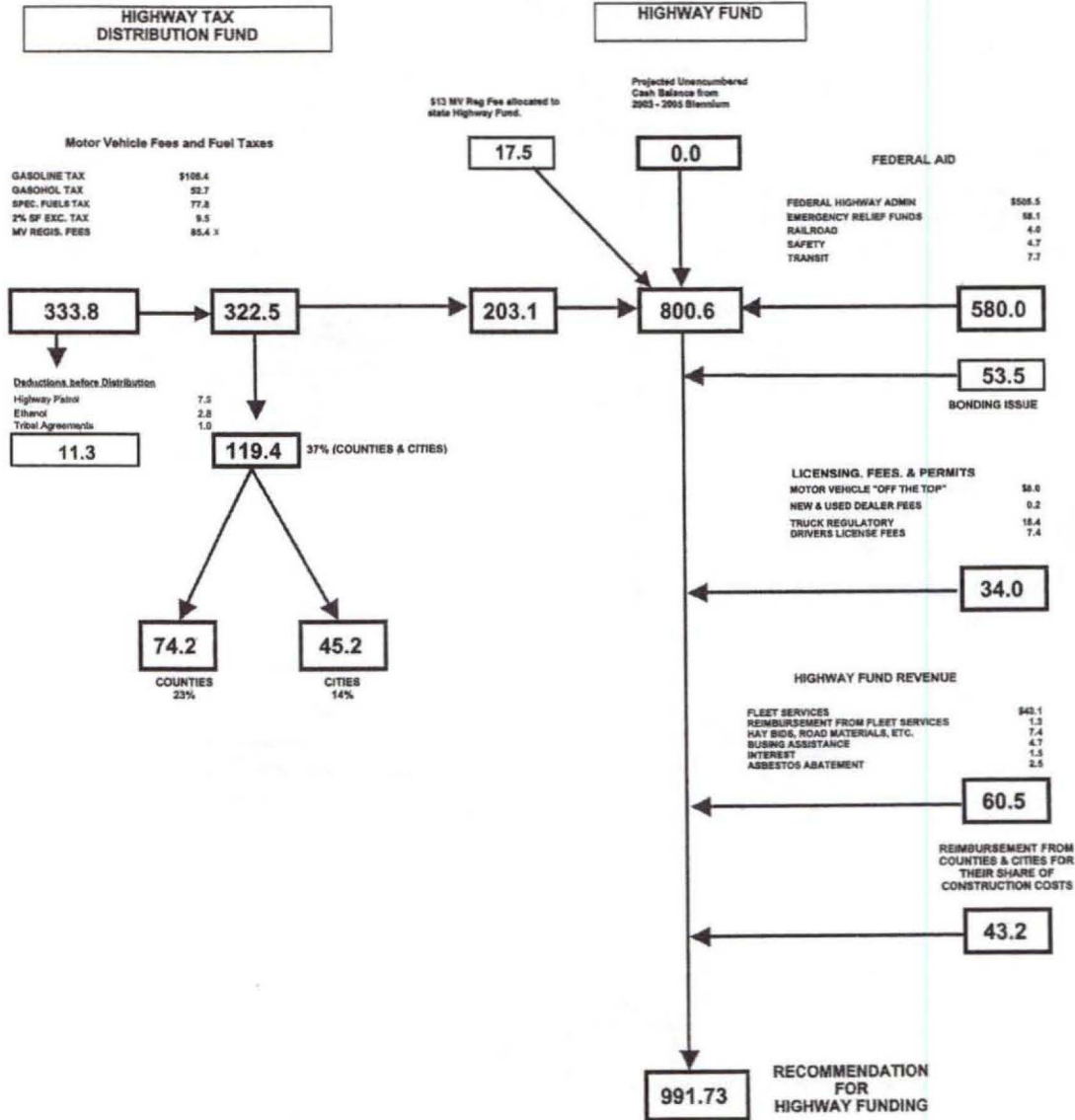
(MILLIONS)



Attachment B-1

DEPARTMENT OF TRANSPORTATION 2005 - 2007 BIENNIUM ADJUSTED FEDERAL FUNDS AND EMERGENCY RELIEF REVENUE

(MILLIONS)



X TOTAL MV REGIS. FEES 339.8
 (less "off the top" & dealer fees) (64.7)
 AVAILABLE FOR DISTRIBUTION 275.1

PREPARED BY RUDOLPH
 PHOENIX, ARIZONA STATE DEPARTMENT OF TRANSPORTATION
 August 19, 2003

Attachment B-2

DEPARTMENT OF TRANSPORTATION
2005 - 2007 BUDGET
ADJUSTED FEDERAL FUNDS AND EMERGENCY RELIEF
EXPENDITURES

(MILLIONS)

