

Chapter 2: Federal Programs

State Revenue Overview

The State Highway Fund was established under NRS 408.235. It is a special revenue fund established to account for the receipt and expenditure of dedicated highway-user revenue. Revenue from the State Highway Fund primarily accrues from state gas and motor vehicle taxes, as required by NRS 365 and NRS 590. Federal gas taxes are matched by roughly equivalent state gas taxes. Counties are required by state law to impose a minimum gasoline tax, and an additional incremental county fuel tax. These taxes are administered by the local Regional Transportation Commission, and are made possible through NRS 373.030.

Federal Revenue Overview

When compared to other federal programs – or even to other state transportation resources – federal transportation funding is extraordinarily complex. Each year the State is “authorized” to obligate funds under the auspices of a multi-year federal authorization act (recent examples of such authorization acts have included the 1991 Intermodal Surface Transportation Efficiency Act, or ISTEA, and the 1998 Transportation Equity Act for the 21st Century, or TEA-21). These federal acts authorize each state to obligate a formula-driven amount in each of a number of funding categories. However, the federal appropriations process occurs separately from the authorization process. The total amount of federal funding allowed to be obligated is always less than the sum of authorizations on a category-by-category basis. In recent years the annual limitation on obligations has allowed less than ninety percent of the authorization to be obligated. Additionally, certain projects and programs such as appropriation carry their own obligation authority outside that of the state’s formula-driven limitations.

Thus, federally constrained amounts are obligated against individual projects, which must meet specific federal requirements. These requirements can be considerable. There is some flexibility in shifting of funds from one federal category to another, though generally they must be federally eligible projects within each of the federal project categories. Although the federal funding to the state is often presented, as a single dollar amount in budgetary presentations, in practice federal funding must be divided into many project categories and then be further subdivided by individual projects. For this reason, it is perhaps best to view the federal funding as a “program of projects.”

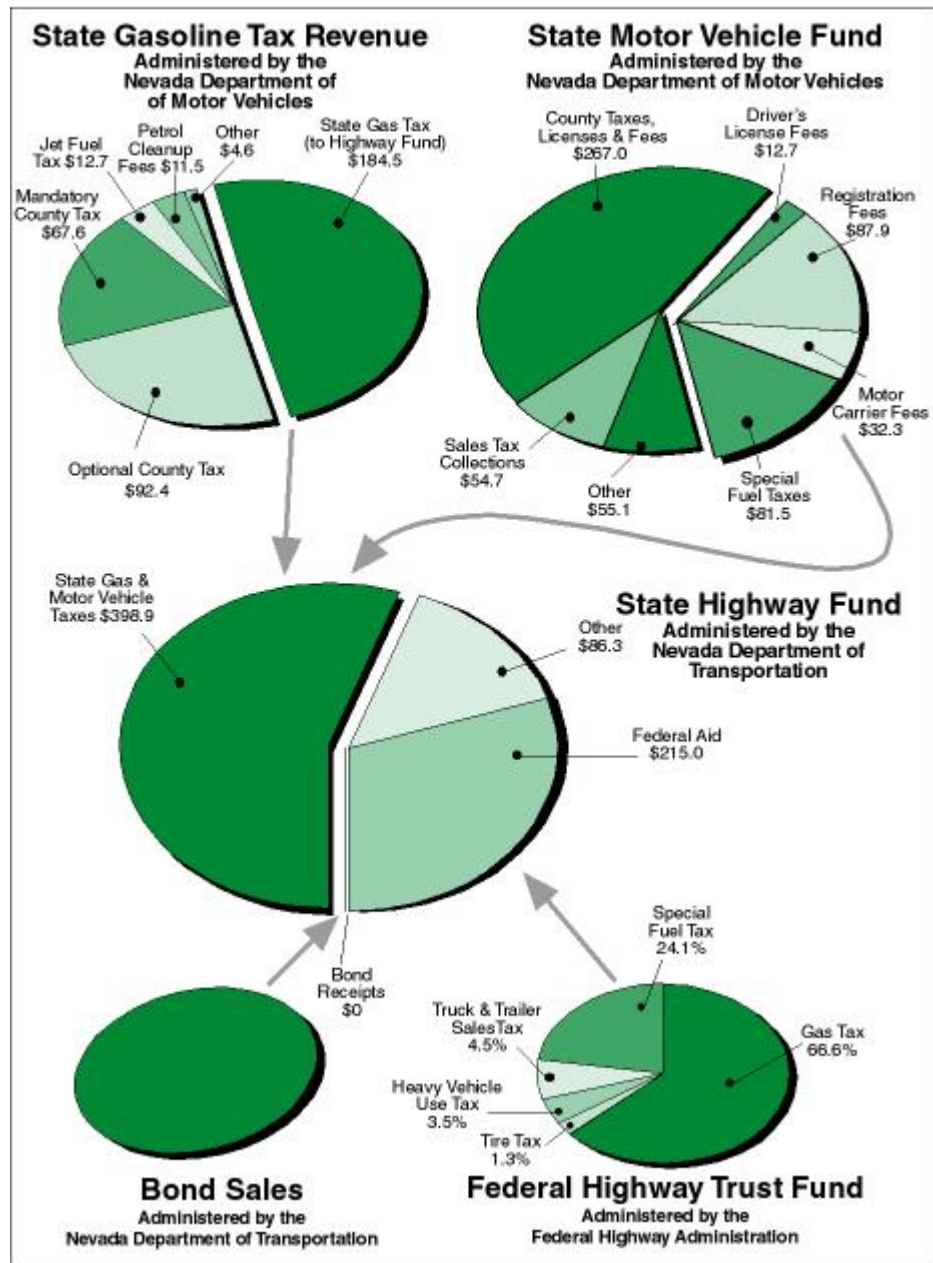
The federal obligations must be made within the federal fiscal year (October 1 to September 30) for which they are appropriated, except for certain funding categories, which allow the funds to be carried forward to the following federal fiscal year. The obligation of funding to a project is usually made at the time the Nevada Division office of the Federal Highway Administration (FHWA) approves the final plans and specifications for each project.

The requirement to obligate the federal money by the end of the federal fiscal year is a major driver of NDOT's project delivery program. If a programmed project encounters a delay late in the year, then another project package must be prepared to take its place. Failure to react in a timely manner may result in the loss of federal funding.

The federal program is a reimbursement program. Federal monies are received by NDOT only after the work is done, meaning that NDOT must maintain sufficient financial resources to provide up-front payment of projects before reimbursement. Fortunately, with modern information technology and clearinghouse financial systems, reimbursements are usually accomplished in a matter of days. However, this does present another level of complexity to understanding the federal program. The federal program is an obligation program – not a cash program. On the other hand, the state budget is presented on a cash basis. The federal revenue shown in the state budget includes revenue from federal obligations in the year shown and includes considerable revenue from federal reimbursements for project expenditures, which were obligated in previous years. Generally, there is also a matching requirement whereby the state or local entity match the federal funding provided. The match varies by federal program category. Matching rate requirements can vary, but typically the state match of federal dollars ranges from five to twenty percent.

It is important to remember that the federal program is built on appropriations subject to obligation limitations for the federal fiscal year and does not represent actual cash revenue in that year. It should further be noted that (at the time this publication goes to print) Congress has yet to pass the 2005 Federal Appropriations Bill. For the purpose of programming, the federally required Statewide Transportation Improvement Program (STIP) is developed on an “obligation” basis, not a cash basis. Much of the actual cash revenues for a particular federal obligation are not experienced until later years when money is actually paid out for design, right of way, construction, and other expenses. In contrast, NDOT's state budget and cash-flow analysis are performed on a cash basis, not an “obligation” basis. Offering two contrasting perspectives on the same state/federal funding relationship, the two approaches drive (but do not regulate) one another. Therefore, direct comparisons cannot be made between the two.

**STATE HIGHWAY FUND
REVENUE SOURCES
(2004 Revenue Shown in Millions)**



Federal Category Programs

TEA-21 defined 1,850 high-priority projects within the legislation itself. Funding for these projects totaled \$9.4 billion over the six years of the Act, with a specified percentage of the project funds made available each year. Unlike high priority projects in the past, the funds for TEA-21 projects were subject to the obligation limitation, but the obligation limitation associated with the projects did not expire.

Also subject to the annual appropriation limitations on obligations are certain Congressional appropriations or “earmarked projects” that are included in supplemental bills passed each year by Congress. NDOT works with the MPO’s to identify candidate projects for this funding each year. The process for programming these projects is addressed in a subsequent section of this manual.

TEA-21 continued the program classification structure initially set forward in ISTEA. Eight of these category programs are especially important to the Department, and are described as follows.

Interstate Maintenance Program (IM)

The 46,000-mile Dwight D. Eisenhower National System of Interstate and Defense Highways retain a separate identity within the National Highway System (NHS). In Nevada there are 562 centerline miles of Interstate Highways. To ensure the continued maintenance and improvement of this system, the IM program established under ISTEA was retained in TEA-21, and authorizations totaling \$23.8 billion were provided for FYs 1998-2003. These funds were distributed based on each State’s lane-miles of Interstate routes open to traffic, vehicle-miles traveled on those Interstate routes, and contributions to the Highway Account of the Highway Trust Fund attributable to commercial vehicles. Over \$38 million of this funding is allocated to Nevada annually. Under this Act, reconstruction became an eligible activity for IM funds. Eligibility was also expanded for certain additions to the Interstate system. A total of \$550 million of authorized funds was made available at the discretion of the Secretary for high-cost, construction-ready IM projects.

TEA-21 provided flexibility to the States to fully utilize remaining unobligated balances of prior Interstate Construction authorizations. States with no remaining work to complete on the Interstate System could transfer surplus Interstate Construction funds to their NHS fund account. States with remaining completion work on Interstate gaps or open-to-traffic segments could relinquish Interstate Construction fund eligibility for the work and transfer the Federal share of the cost to their NHS program.

National Highway System (NHS)

The National Highway System (NHS) is composed of 163,000 miles of rural and urban roads serving major population centers, international border crossings, intermodal transportation facilities, major travel destinations, and connections to terminals designated by TEA 21. It includes the Interstate System, other urban and rural principal arterials, highways that provide motor vehicle access between the NHS and major intermodal transportation facilities, the defense strategic

highway network, and strategic highway network connectors. In Nevada there are 2,148 centerline miles of NHS routes.

The NHS funding level was set at \$28.6 billion for the six years of the Act. These funds were distributed based on a formula which was revised to include each State's lane-miles of principal arterials (excluding Interstate), vehicle-miles traveled on those arterials, diesel fuel used on the State's highways, and per capita principal arterial lane-miles. Nevada receives over \$46 million in such funding annually. TEA-21 expanded and clarified eligibility of NHS funding for certain types of improvements, such as publicly owned bus terminals and Intelligent Transportation Systems (ITS).

Surface Transportation Program (STP)

The Surface Transportation Program (STP) provides a flexible funding source that may be used by States and localities for projects on any Federal-aid highway, including the NHS, bridge projects on any public road, transit capital projects, and public bus terminals and facilities. A new provision in TEA-21 permitted a portion of funds reserved for rural areas to be spent on rural minor collectors. TEA-21 expanded and clarified STP eligibilities, such as environmental provisions, programs to reduce extreme cold starts, modification of sidewalks to meet Americans with Disabilities Act (ADA) requirements, ITS improvements, and privately owned intercity bus terminals and facilities.

Over the last six years approximately \$33.3 billion was authorized for the Surface Transportation Program. These funds were distributed among the States based on each State's lane-miles of Federal-aid highways, total vehicle-miles traveled on those Federal-aid highways, and estimated contributions to the Highway Account of the Highway Trust Fund. Based on this formula, Nevada was authorized almost \$40 million dollars in the sub-state distribution. The Surface Transportation Program provides a funding distribution formula, which calls for states to set-aside ten percent for safety (i.e., hazard elimination and railway-highway crossing improvements), and ten percent for transportation enhancement. Eighty percent is then allocated for statewide distribution. The statewide distribution in Nevada is subject to the "special rule" commonly referred to as the "Nevada Rule". Under the "Nevada Rule", MPO's with populations over 200,000 (such as Clark County and Washoe County) administer approximately thirty-five percent of the statewide distribution and NDOT administers sixty-five percent of the distribution. It is proposed in the new Surface Transportation Act to eliminate the special rule. In the currently adopted STIP the special rule has assumed to be discontinued.

Highway Bridge Replacement and Rehabilitation Program

Continuing as a separate program with its own funding was the Bridge Replacement and Rehabilitation program. A national-total of \$20.4 billion was authorized for this program for FYs 1998-2003 to provide assistance for eligible bridges located on any public road. The distribution formula and program requirements remain basically unchanged from the previous legislation, except for an expansion of eligibility to cover the application of anti-icing and de-icing compositions and the installation of scour countermeasures. Nevada receives over \$10 million annually through this program. The program retained the set-

aside for off-system bridges, but eliminated the set-aside for timber bridges. A total of \$525 million was set aside for high-cost bridge projects with special provision to use a portion of these funds for the seismic retrofit of bridges. While a State may continue to transfer up to fifty percent of its bridge funds to NHS or surface transportation program apportionments, the amount transferred is deducted from national bridge needs for calculating apportionments in the following fiscal year.

Congestion Mitigation and Air Quality Program (CMAQ)

The Congestion Mitigation and Air Quality Improvement (CMAQ) program, continued in TEA-21 at a total national authorized funding level of \$8.1 billion for the 6 years of the Act, provides a flexible funding source to state and local governments for non-capacity transportation projects and programs to help meet the requirements of the Clean Air Act. Eligible activities include transit improvements, travel-demand management strategies, traffic flow improvements, and public fleet conversions to cleaner fuels, among others. Funding is available for areas that do not meet the National Ambient Air Quality Standards referred to as “non-attainment areas,” as well as former “non-attainment areas” that are now in compliance, referred to as “maintenance areas.” Funds were distributed to States based on a formula that considers an area’s population by county and the severity of its air-quality problems within the non-attainment or maintenance area. Further, greater weight is given to carbon monoxide non-attainment and maintenance areas. Nevada receives about \$14 million annually through this program.

A State may transfer up to fifty percent of its increase in Congestion Mitigation and Air Quality funds compared to what it would have received if the CMAQ program were funded at \$1.35 billion per year nationwide. The funds may be transferred to other Federal-aid programs, but can be used only for projects located in non-attainment and maintenance areas.

Recreation Trails Program

A total of \$270 million in contract authority was authorized for FYs 1998-2003 to provide and maintain recreational trails. States must establish an advisory committee that represents both motorized and non-motorized recreational trail users. Of funds distributed to a State, thirty percent must be used for motorized use, thirty percent must be used for non-motorized use, and forty percent must be used for diverse trail uses (any combination—the diverse category may overlap with the others). TEA-21 defines the Federal share to be eighty percent and Federal agency project sponsors or other Federal programs may provide additional Federal share up to ninety-five percent. In-kind match provisions are allowed, including in-kind matches from public agencies. In Nevada the Department of Conservation and Natural Resources, State Parks Division administer the Recreation Trails Program.

Minimum Guarantee

Federal-aid highway funds for individual programs are apportioned by formula using factors relevant to the particular program. After those computations are made, additional funds are distributed to ensure that each State receives an amount based on equity considerations. This provision is called the Minimum

Guarantee and ensures that each State will have a guaranteed return on its contributions to the Highway Account of the Highway Trust Fund. An open-ended authorization is provided, ensuring that there will be sufficient funds to meet the objectives of the Guarantee.

For each State, the Act specifies a certain share of the aggregate funding for the following programs: Interstate Maintenance (IM), National Highway System (NHS), Bridge, Congestion Mitigation and Air Quality (CMAQ) Improvement, Surface Transportation Program (STP), Metropolitan Planning, High Priority Projects, Recreational Trails, and the Minimum Guarantee program funding. The shares specified were set to meet the objective of a 90.5 return (described below) based on the data available at the time of enactment.

The shares described above are adjusted each year to ensure that each State's share of apportionments for the specified programs is at least 90.5 percent of its percentage share of contributions to the Highway Account based on the latest data available at the time of the apportionment. The shares of States falling below that minimum return are increased and the shares of the remaining States are decreased. Each State must receive at least \$1 million per year under the Minimum Guarantee program.

Of the Minimum Guarantee Funds made available, \$2.8 billion is administered as though it were STP funding except that the STP provisions requiring set-aside of funds for safety and transportation enhancements and statewide allocation of funds do not apply. Within each State, the remainder of the funds (the amount above \$2.8 billion) is divided among certain programs—IM, NHS, Bridge, CMAQ, and STP—based on the share the State received for each program under the program formula.

State Expenditure Overview

The NDOT budget is largely comprised of proceeds from the State Highway Fund. The funds are used for NDOT's expenses including personnel, operating and equipment as well as capital expenditures including engineering, right-of-way, and construction. The Department of Motor Vehicles (DMV) and Department of Public Safety (DPS) are also financed by appropriations from the Highway Fund. The proceeds disbursed to these departments are utilized primarily for overhead, salaries, and operating costs. Other departments and agencies, including the Departments of Administration and Public Works, also receive modest disbursements from the State Highway Fund.

HIGHWAY FUND EXPENDITURES AND DISBURSEMENTS (2004 Expenditures Shown in Millions)

