MEMORANDUM

DATE: February 18, 2020

TO: House Appropriations Subcommittee on Transportation

FROM: William E. Hamilton

RE: Michigan's Return on Contributions to the Federal Highway Trust Fund

Background – Federal Surface Transportation Programs

The federal government provides funding for "surface transportation" programs, including highway programs, public transportation programs, and rail passenger programs. These programs are established and defined in the U.S. Code—specifically, 23 U.S. Code (Highways), 49 U.S. Code (Transportation). These programs are carried out largely in partnership with state governments. In particular, the federal-aid highway program is mainly a program of federal aid made available to states for specific authorized programs and activities.

Programs established under 23 U.S. Code and 49 U.S. Code are periodically reauthorized under multi-year authorizing acts. These authorizing acts also establish funding targets for authorized programs. The current federal-aid surface transportation authorizing act is called the FAST Act – shorthand for the Fixing America's Surface Transportation Act (Pub. L. No. 114-94) signed into law on December 4, 2015. The FAST Act authorizes federal surface transportation programs through the federal fiscal year ending September 30, 2020.

The FAST Act is largely a series of amendments to 23 U.S. Code and 49 U.S. Code and generally can't be read as a stand-alone document. The act only makes sense when read in conjunction with 23 U.S. Code and 49 U.S. Code. The Federal Highway Administration (FHWA) publishes Fact Sheets that provide a practical method of identifying key provisions of the act.

The following apportioned federal-aid highway programs are authorized under the FAST Act: National Highway Performance Program (NHPP), Surface Transportation Block Grant Program (STBG, formerly Surface Transportation Program), Highway Safety Improvement Program (HSIP), which includes Railway-Highway Crossings, Congestion Mitigation and Air Quality Improvement Program (CMAQ), Metropolitan Planning, and a National Highway Freight Program (NHFP).

Funding for each of these program categories is apportioned to states based on formulas established in the federal authorizing legislation.

Federal Highway Trust Fund

Historically, federal surface transportation programs were funded from federal Highway Trust Fund which was, in turn, supported by several dedicated federal transportation taxes. Those taxes include an 18.4 cent per gallon gasoline excise tax, a 24.4 cent per gallon tax on diesel motor fuel, federal taxes on other motor fuels, on truck tires, on commercial truck and trailer sales, and a Heavy Vehicle Use tax on vehicles of over 55,000 pounds Gross Vehicle Weight. Those taxes, which currently generate approximately $43.0 billion (FY 2019), are credited to the Federal Highway Trust Fund.

The Highway Trust Fund includes both the Highway Account, which supports federal-aid highway programs, and a Mass Transit Account, which supports federal transit programs.

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State Share of Highway Trust Fund Apportionments and Allocations
As noted above, the federal-aid highway program is largely carried out by states in partnership with the federal government. From one perspective, federal-aid highway funds are made available to states to help achieve national transportation objectives. From another perspective, the federal-aid highway funds help support state highway programs and are necessary for state highway agencies to achieve state program objectives.

The amount of federal aid a state receives can be more or less than the amount of federal transportation tax revenue attributable to that state. States that contributed significantly more in federal tax revenue to the Highway Trust Fund than they received back in federal-aid surface transportation funding have been described as “donor states.”

It is widely recognized that there are legitimate reasons some states receive a relatively higher share of Highway Trust Fund program funds than others. For example, federal highway taxes attributable to western states with large land areas and relatively small populations would not be enough to support their share of national highway systems.

For a number of years, the Federal Highway Administration (FHWA) has calculated federal taxes attributable to each state using an analytical model. The FHWA publishes an annual report on the amount of Highway Trust Fund revenue attributed to each state, as compared to the amount of federal surface transportation program funding apportioned or allocated to each state. The FHWA analysis starts with July 1, 1956 when the Highway Trust Fund was established to fund construction of the Interstate Highway System. [1]

Problems in Rate of Return Calculation
While historically, some states have been considered "donor" or "donee" states, beginning in 2001 most stats have received more in federal-aid highway program funding than they contributed to the Highway Trust Fund. In effect, there are no longer "donor states."

Since 2001, most states have been receiving more than they contribute to the Highway Trust Fund because expenditures from the fund have consistently exceeded Highway Trust Fund revenue. Expenditures from the Highway Trust Fund exceeded dedicated Highway Trust Fund revenue in five of seven years from 2001 through 2007. This was possible because Congress authorized the use of Highway Trust Fund balances in order to increase transportation spending beyond the level that could be supported by ongoing revenue. During this period the Highway Trust Fund balance fell from $27.7 billion at the end of FY 2001 to $15.4 billion at the end of FY 2007.

Expenditures from the Highway Trust Fund exceeded dedicated Highway Trust Fund revenue each year from 2008 through 2017. Congress has addressed this funding shortfall by authorizing transfers into the Highway Trust Fund.

Beginning in FY 2008 and through FY 2017, the Highway Trust Fund has been augmented with transfers, primarily from the federal general fund. Between 2008 and 2016, transfers into the Highway Trust Fund totaled $143.6 billion ($114.7 billion to the Highway Account, and $28.9 billion to the Mass Transit Account). According to a Congressional Research Service report, between FY 2009 and FY

[1] Federal transportation taxes are not collected by state governments or, for the most part, from end users. Federal fuel taxes are collected from a relatively small number of fuel suppliers. As a result, each state's tax contribution to the Highway Trust Fund can only be estimated.
See https://www.fhwa.dot.gov/policyinformation/statistics/2017/pdf/fe221b.pdf
And https://www.fhwa.dot.gov/policyinformation/statistics/2017/fe221.cfm

2021, transfers into the Highway Trust Fund, will account for approximately 22% of Highway Trust Fund outlays (based on actual and projected outlays).

Some argue that the use of federal general fund revenue to support the Highway Trust Fund breaks the connection between transportation programs and highway "user fees."

Michigan's Rate of Return

For 2017, the most recent year for which data is readily available, federal transportation taxes attributable to Michigan for credit to the Highway Trust Fund/Highway Account totaled $1.050 billion, while federal-aid highway funds apportioned to the state totaled $1.103 billion – in other words, for each dollar in Highway Trust Fund/Highway Account taxes attributable to Michigan, the state received approximately 1.05% back in federal highway program funds. This is due to the situation described above – Congress is authorizing the distribution of more in surface transportation program funding than is supported by ongoing dedicated federal transportation tax revenue.

Cumulatively, from 1957 through 2017, federal transportation taxes attributable to Michigan total $31.250 billion, while the state has received $32.237 billion in program funds – a rate of return of approximately 103%.

Even though Michigan's return on calculated contributions to the Highway Trust Fund are greater than 100%, Michigan's proportional share of Highway Trust Fund program funding is lower than most other states. Only five states have a computed rate of return of 105% or less – either for 2017 of cumulatively since 1957.