THE JOSIAH BARTLETT Center for PUBLIC POLICY

POLICY MATTERS

Using Information and Ideas to Transform Public Policy

Charting the Highway Fund Diversion

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In New Hampshire, not only is spending on highways paid for entirely with user fees like gas taxes and registration fees but the user fees are often diverted to other uses. The largest recipient is the Department of Safety, ostensibly to pay for state troopers but smaller amount of money have been transferred to other departments as varied as Cultural Resources, Health & Human Resources, and the Board of Land & Tax Appeals.

In 2008, legislation was enacted to limit the diversions and ensure a greater share of dedicated revenues remained at the Department of Transportation. However, Governor Hassan's proposed budget, rather than building on the progress made, reverses the gains made over the last two budget cycles.

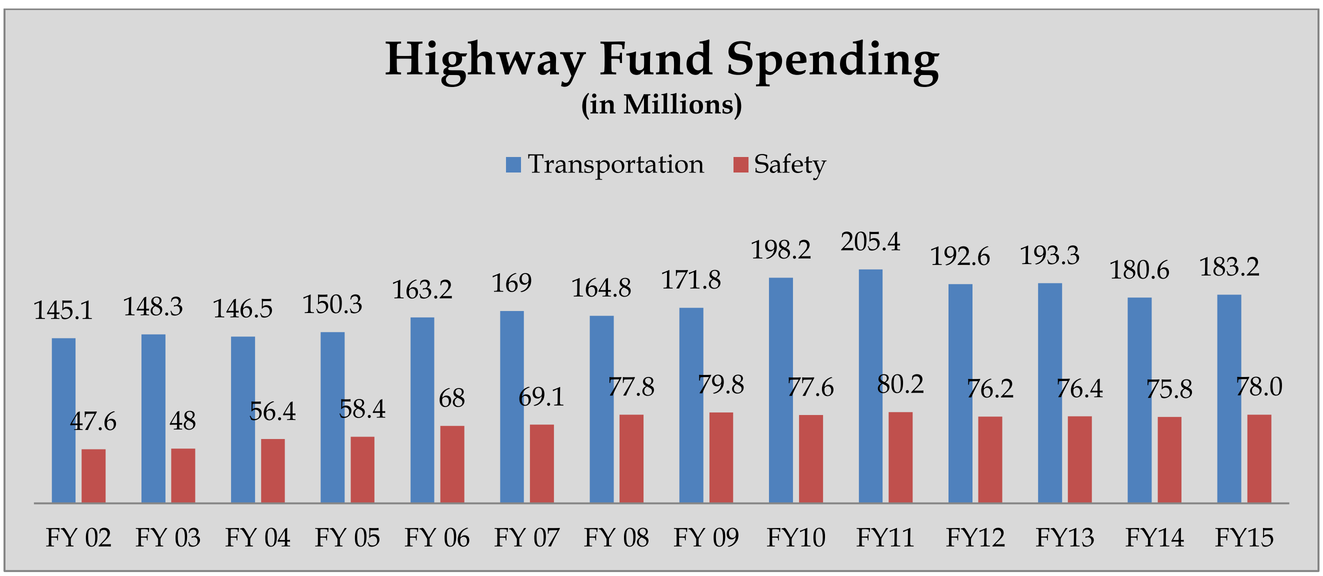

Figure 1: Spending as budgeted, net of Highway Block Grants to municipalities, not accounting for lapses

The Constitutional Carve Out: "*... including the supervision of traffic thereon*"

In 1938, the New Hampshire Constitution was amended to require all taxes and fees related to roads, fuel, and motor vehicles be dedicated to highway construction and maintenance. The amendment was passed after attempts were made in the 1938 session to divert highway taxes to other purposes. While the purpose of the law was to "prohibit the use of motor vehicle taxes and gasoline taxes being used for any purpose but for highways," the language of the constitution specifically allows funds to be spent for "the supervision of traffic thereon." That language authorizes funds, now segregated in a dedicated Highway Fund, to pay for those state troopers who patrol the highways.

Highway Fund Diversion Cap:

When the highway fund seemed flush with money, loose interpretation of the constitutional language permitted larger share of the total highway revenues to be transferred not just to Safety but to as many as a dozen other agencies as well to pay for things loosely related to highways.

In 2008, the Legislature passed HB 1618 to limit diversions and ensure a greater share of the limited revenue went to its primary purpose. Phased in over three budgets, the new law requires 73%of the total revenue to stay at Transportation, caps the amount diverted to Safety at 26% and limits all other uses to 1% of total revenue.

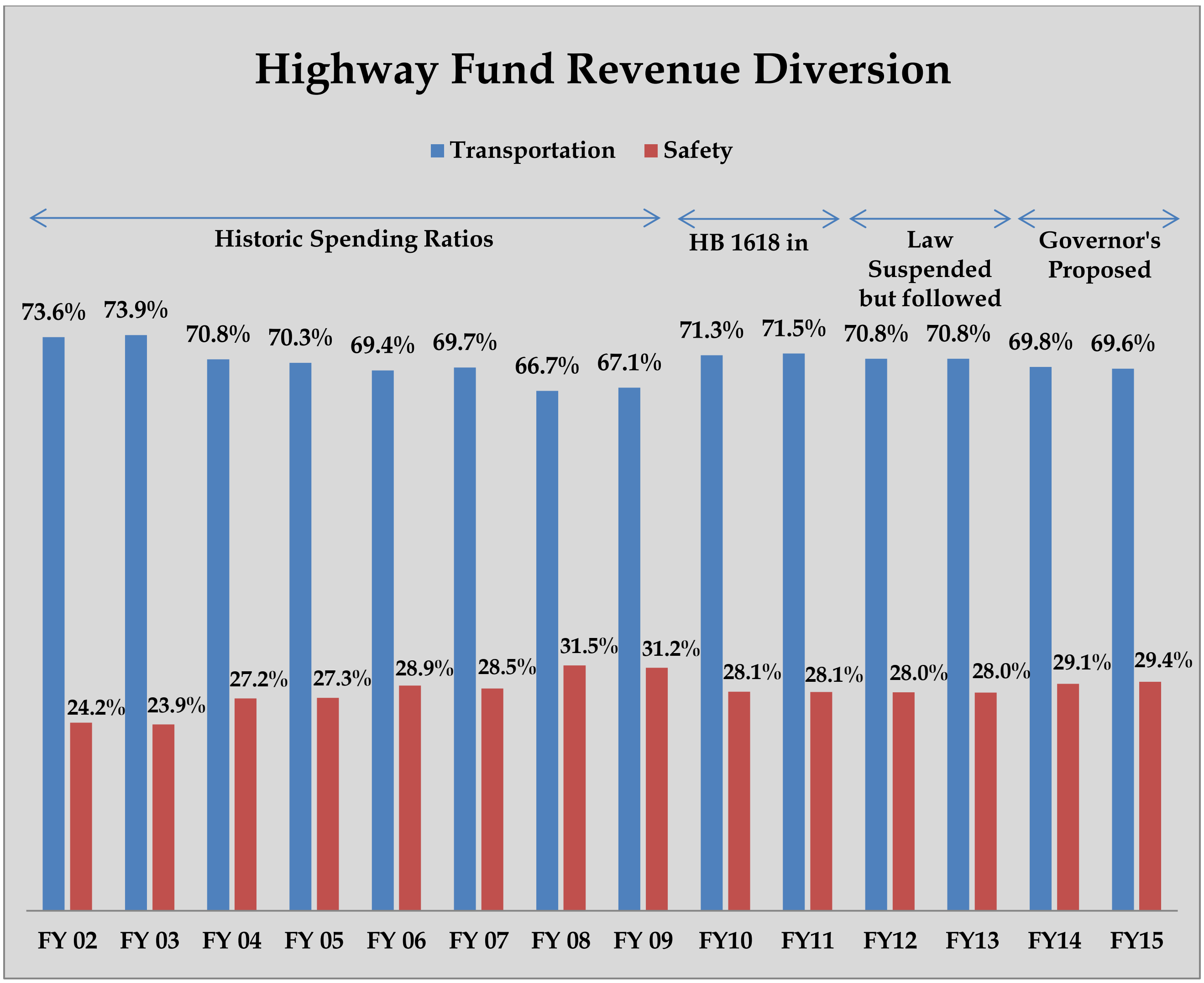

Figure 2: Spending as budgeted, net of Highway Block Grants to municipalities, not accounting for lapses

The FY10-11 required at least 68.5% to stay at Transportation, a goal budget writers exceeded. For the FY12-13 budget, the minimum ratcheted up to 70.75% which budget writers met although they suspended the second half of the law to allow Safety to spend slightly more if needed but not at the expense of Transportation. They ended up meeting the goals and rendering the suspension moot.

Looking Forward: The Governor's Budget and Full Suspension

The Highway Fund Diversion Cap law would require 73% of dedicated revenues stay with the Department of Transportation rather than 69.8% in the Governor's current proposal. The Governor's proposal would allow safety to spend 29.1% rather than their 26% statutory limit and would divert 1.1% of revenues to other sources rather than the 1% limit required by law. Though the differences in percentages seem small, the result is a diversion of $28 million away from highways.

In the recently released HB 2, the budget trailer bill, the entire section of the law stipulating the ratchets for the FY14-15 biennium have been suspended.

Result: Less Money for Roads and Bridges

While it is easy to get bogged down in ratios and statutes, the end result is that under the Governor's proposed budget, more of the state's Highway Fund, which is entirely funded by user fees, is not being used to fix bridges and repave roads. Instead it is being used for spending on other state agencies.

Though substantially paring down the Department of Safety's take of Highway Fund revenues would not be enough to cover all of the costs of repairing the state's infrastructure, it would be a good start.