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Highway Trust Fund Basics: A Primer on Federal Surface Transportation Spending

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Abstract

The Highway Trust Fund collects and distributes money dedicated to federal highway and transit projects. The trust fund's current authorization expires at the end of May, two months before the fund is projected to run out of money due to a $13 billion deficit in 2015. The trust fund consistently spends more on highway and transit projects than it receives in fuel tax revenues and is expected to run a cumulative deficit of $180 billion over the next 10 years if current trends continue. Congress has addressed past shortfalls with temporary patches and bailouts from the general fund, totaling $62 billion since 2008, but reform is needed now because spending is projected to outpace flattening revenues. Because the trust fund is prohibited from incurring a negative balance, states may face payment delays or across-the-board cuts if no solution is reached. Rather than continuing to patch a broken system, Congress should address the fundamental problems with the trust fund by minimizing the federal government's role in transportation spending and enabling states to invest in their transportation infrastructure free from federal mandates.

As federal transportation spending consistently outpaces the fuel tax revenues that fund it, the federal government is yet again at an impasse. The Highway Trust Fund, which disburses federal funds to build and maintain road and transit projects, faces a shortfall that will exhaust the fund shortly after the 2014 extension of the Moving Ahead for Progress in the 21st Century (MAP-21) Act expires on May 31. If necessary, the Department of Transportation can take measures to continue disbursing funds until approximately the end of July.[1]

Key Points

- The Highway Trust Fund's current authorization expires at the end of May and the fund is projected to run out of money by July 2015. The Congressional Budget Office projects that spending will exceed fuel tax revenues by $180 billion over the next decade if current trends continue.
- Stagnant fuel demand, diversions from national priorities to transit and local projects, and opaque accounting measures have jeopardized the long-term viability of the trust fund.
- Over the past six years, Congress has covered Highway Trust Fund shortfalls with $62 billion in transfers from the Treasury's general fund. Meanwhile, many states have addressed the funding uncertainty by providing for their transportation needs.
- Congress should recognize the fundamental problems with the Highway Trust Fund and develop a long-term solution that would empower states to make transportation decisions that best meet the unique needs of their citizens.

This paper, in its entirety, can be found at **http://report.heritage.org/bg3014**

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In recent years Congress has routinely addressed the Highway Trust Fund shortfall by transferring money ($62 billion since 2008) from the general fund. However, these bailouts are not a viable long-term solution and indicate that federal highway funding requires extensive structural reform.[2] This paper gives an overview of the Highway Trust Fund, its role in transportation funding, and the current state of its finances.

Highway Trust Fund Overview

The Highway Trust Fund collects and distributes money dedicated to federal highway and transit projects. The federal government provides roughly one-quarter of public spending on highways and mass transit, mostly in the form of grants to states. States and localities fund the remainder.[3] The trust fund is funded primarily by the federal taxes on gasoline and diesel fuel, which are 18.3 cents and 24.3 cents per gallon, respectively.[4] The gas and diesel tax rates have not changed since 1993, and account for 90 percent of the fund's revenues.[5] The remainder comes from taxes on tires, trucks and trailers, and certain kinds of vehicles as well as interest credited to the trust fund.

The Highway Trust Fund is divided into two accounts. The Highway Account is slated to disburse about 85 percent of combined spending on roadway infrastructure and other projects in 2015. The Mass Transit Account expends about 15 percent of spending and funds transit projects, such as rail, buses, and streetcars.[6] However, at least 25 percent of fuel tax funding is diverted to non-highway projects, which is discussed later in this paper.[7]

Budget Shortfalls. In fiscal year (FY) 2015, Highway Trust Fund spending is projected to reach $52 billion. The Highway Account is expected to spend $44 billion, but take in only $34 billion in revenue and interest, while the Mass Transit Account is expected to spend $8 billion compared with $5 billion in revenue, resulting in a combined deficit of $13 billion.

The annual deficits are expected to grow. By 2025, the Congressional Budget Office (CBO) predicts that the Highway Trust Fund will take in only $38 billion, but spend $60 billion[8] for a $22 billion deficit if current trends continue. If the Highway Trust Fund continues spending as projected by the CBO, it would generate a $180 billion deficit over the next decade, pushing the potential cumulative shortfall to $168 billion.

Because the Highway Trust Fund by law is not allowed to run a negative balance and requires approximately a $5 billion minimum balance to meet obligations as they come due, Congress would need to transfer money from the general fund, cut spending, increase revenue, or some combination of these to keep the fund solvent.[9] If Congress fails to

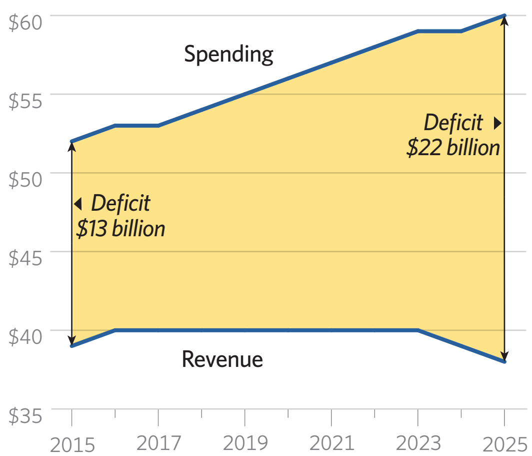
1. Keith Laing, "Feds: Highway Funding Runs Out in July," *The Hill*, April 2, 2015, http://thehill.com/policy/transportation/237757-feds-highway-funding-to-run-out-in-july (accessed April 27, 2015).
2. Sean Lowry, "The Federal Excise Tax on Motor Fuels and the Highway Trust Fund: Current Law and Legislative History," Congressional Research Service *Report*, February 23, 2015, http://www.cq.com/file/crsreports-4637729/The%20Federal%20Excise%20Tax%20on%20Motor%20Fuels%20and%20the%20Highway%20Trust%20Fund%20Current%20Law%20and%20Legislative%20History.pdf (accessed April 27, 2015).
3. Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014," March 2015, https://www.cbo.gov/sites/default/files/cbofiles/attachments/49910-Infrastructure.pdf (accessed April 27, 2015).
4. This does not include an additional 0.1 cent per gallon tax on gasoline and diesel fuel for the Leaking Underground Storage Tank Trust Fund. The Leaking Underground Storage Tank Trust Fund was established in 1986 to address petroleum releases from federally regulated underground storage tanks. It funds cleanup efforts and inspections through the Environmental Protection Agency. See U.S. Environmental Protection Agency, "Leaking Underground Storage Tank (LUST) Trust Fund," March 6, 2015, http://www.epa.gov/oust/ltffacts.htm (accessed April 27, 2015).
5. Lowry, "The Federal Excise Tax on Motor Fuels and the Highway Trust Fund."
6. Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's March 2015 Baseline," http://www.cbo.gov/sites/default/files/cbofiles/attachments/43884-2015-03-HighwayTrustFund.pdf (accessed April 27, 2015).
7. Veronique de Rugy, "The Facts About Transportation Spending," *Reason*, June 17, 2011, http://reason.com/archives/2011/06/17/the-facts-about-transportation (accessed April 8, 2015).
8. These projections from the CBO's baseline assume outlays would keep pace with inflation and that taxes set to expire at the end of FY 2016 would continue beyond their expiration date.
9. Congressional Budget Office, "Projections of Highway Trust Fund Accounts—CBO's March 2015 Baseline,"

CHART 1

Projected Highway Trust Fund Deficit Continues to Increase

If current trends continue, the CBO projects that the highway trust fund will spend $22 billion more than it raises in revenue and interest by 2025.

FIGURES IN BILLIONS



Source: Congressional Budget Office, "Projections of Highway Trust Fund Accounts – CBO's March 2015 Baseline," March 2015, http://www.cbo.gov/sites/default/files/cbofiles/attaments/43884-2015-03-HighwayTrustFund.pdf (accessed April 17, 2015).

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address the impending insolvency, the Department of Transportation estimates that it will have enough funds to continue normal operations through the end of July.[10] Then, the Department of Transportation would need to employ various cash-management measures, such as across-the-board cuts and payment delays, to keep disbursements flowing to the states. Such measures would increase uncertainty in already authorized projects.[11]

Long-Term Funding Issues. Highway Trust Fund spending has outpaced revenue by billions and will continue to do so if current policies are kept in place. Spending has expanded beyond the original purpose of building and maintaining the interstate highway system to funding a litany of non-highway projects that are not national priorities. Growth in spending has far outpaced fuel tax revenues, which have flattened (declined in real terms) primarily because technological advances, such as more fuel-efficient combustion engines and hybrid and electric vehicles, have decreased aggregate fuel consumption. Furthermore, Highway Trust Fund spending falls outside normal budgeting constraints that govern most federal expenditures. This has created the current unsustainable situation in which the Highway Trust Fund has required repeated bailouts from the general fund.

Diversions from Highway Spending. Congress and the states divert roughly 25 percent of the Highway Trust Fund spending to non-highway projects that are not federal priorities.[12] The largest of these diversions is the Mass Transit Account, which spent some $8 billion in 2014 on buses, rail, streetcars, and other projects that should fall under the responsibility of municipal or state governments. Other programs include the Transportation Alternatives Program, which spent $820 million in 2014 on undertakings such as sidewalks, bike paths, scenic overlooks, vegetation management, and recreational trails.[13] These diversions sap funds that could be spent on the highway system—the purpose of the highway trust fund—and shortchange the motorists and shippers that pay directly into the system through fuel taxes.

Unique Budgetary Treatment. The Highway Trust Fund is unique in that its contract authority—the authority to obligate funds in advance of an appropriation act, similar to budget authority—is classified as mandatory, while its outlays are classified as discretionary spending. This hybrid status

10. Laing, "Feds."
11. Federal Highway Administration, "Status of the Highway Trust Fund," April 10, 2015, http://www.fhwa.dot.gov/highwaytrustfund/ (accessed April 27, 2015).
12. See also Robert Poole, "Road to Ruin," *Reason*, March 5, 2010, http://reason.com/archives/2010/03/05/road-to-ruin (accessed April 29, 2015).
13. Emily Goff, "Next Highway Bill Should End the Transportation Alternatives Program," Heritage Foundation *Issue Brief* No. 4211, May 2, 2014, http://www.heritage.org/research/reports/2014/05/next-highway-bill-should-end-the-transportation-alternatives-program (accessed April 27, 2015).

creates an unusual scenario in which normal budget constraints for mandatory and discretionary spending do not apply to the Highway Trust Fund. As the Committee for a Responsible Federal Budget explains:

> Currently, budget rules limit new discretionary spending through statutory caps on *budget authority* and limit new mandatory spending by applying pay-as-you-go rules to mandatory *outlays*. However, highway spending evades both of these limits since its contract authority counts as mandatory while its outlays count as discretionary.[14]

Because of this unique treatment, neither statutory budget caps on discretionary spending nor across-the-board cuts (or pay-as-you-go rules) for mandatory spending apply to Highway Trust Fund expenditures.[15]

Furthermore, the way that the CBO scores future highway spending allows intragovernmental transfers ("bailouts" from the general fund) to be double counted and used to offset other spending or tax increases in addition to shoring up the fund. This is because the CBO baseline projects that Highway Trust Fund expenditures will continue at current levels, even when the Trust Fund lacks sufficient funds for new spending. Thus, because the CBO has already accounted for this future spending that would not occur under real-world conditions, any transfers are not scored as a net cost to the government even though they allow for higher spending than would be possible without the transfer.

Sequestration and Highway Trust Fund. Due to its unique hybrid status, Highway Trust Fund expenditures are essentially exempt from sequestration.[16] However, transfers *into* the Highway Trust Fund are subject to sequestration cuts. Most recently, MAP-21 transferred $18.8 billion into the Highway Trust Fund for FY 2013 and FY 2014, which was reduced to $17.6 billion after sequestration cuts. Since 2008, sequestration has had a small effect on general fund transfers, reducing total transfers from $63.1 billion to $61.9 billion.[17] Under current law, any funds transferred into the Highway Trust Fund from the general fund after the Bipartisan Budget Act of 2013 expires at the end of FY 2015 would be subject to sequestration through 2021.

Condition of the Nation's Roads and Bridges

While the common perception is that America's infrastructure is "crumbling" and thus requires more federal expenditures, the reality is not nearly as bleak. Some infrastructure certainly requires maintenance and updating, as congestion is a major concern in many metropolitan areas. Indeed, the federal government provides perverse incentives for states to spend billions on new, unneeded projects instead of maintaining existing systems.[18]

Yet taken as a whole, the nation's infrastructure performs well and is improving. The percentage of bridges that are structurally deficient—meaning that they require extensive maintenance, but are not necessarily unsafe[19]—has declined from 22 percent in 1992 to 10 percent in 2014.[20] Highways and roads have also improved: The Federal Highway Administration notes that the percentage of vehicle miles traveled on the National Highway System with "good" ride quality rose from 48 percent in 2000 to 60 percent in

14. Committee for a Responsible Federal Budget, "Why Lawmakers Should Fix the Budgetary Treatment of the Highway Trust Fund," June 26, 2014, http://crfb.org/blogs/why-lawmakers-should-fix-budgetary-treatment-highway-trust-fund (accessed April 27, 2015) (original emphasis).
15. Congressional Budget Office, "The Highway Trust Fund and the Treatment of Surface Transportation Programs in the Federal Budget," June 2014, http://www.cbo.gov/sites/default/files/45416-TransportationScoring.pdf (accessed April 8, 2015).
16. Some expenditures are subjected to sequestration cuts, such as contract authority assigned to programs that are exempt from obligation limitations set by appropriators, but such sums are relatively small. In 2014, mandatory sequestration trimmed $54 million from highway spending in these accounts.
17. Lowry, "The Federal Excise Tax on Motor Fuels and the Highway Trust Fund."
18. See Randal O'Toole, "Fix Incentives, Not Infrastructure," Cato Institute, June 6, 2014, http://www.cato.org/publications/commentary/fix-incentives-not-infrastructure (accessed April 27, 2015).
19. Randal O'Toole, "Infrastructure Is Not the Problem," Cato Institute, May 28, 2013, http://www.downsizinggovernment.org/infrastructure-not-problem (accessed April 27, 2015).
20. U.S. Department of Transportation, Federal Highway Administration, "Deficient Bridges by State and Highway System," January 27, 2015, http://www.fhwa.dot.gov/bridge/deficient.cfm (accessed April 27, 2015).

2010, while the share with "acceptable" ride quality increased from 91 percent to 93 percent.[21]

Indeed, a Reason Foundation study of infrastructure performance from 1989 to 2008 concluded that, while individual elements of the system "are continuously deteriorating over time, the *overall condition of the state-owned highway system appears to be improving*, and has possibly never been in better shape. In short, the U.S. highway infrastructure is not 'crumbling.'"[22]

State Action on Transportation Funding

In the midst of uncertainty in Washington, states have ramped up their own strategies to invest in their infrastructure. Over the past year, 23 states have acted to generate revenue devoted to infrastructure spending, and 110 transportation funding bills are awaiting action in 26 state legislatures in 2015.[23] Most notably, states are using a variety of methods to raise revenue for transportation spending aside from increasing state gas taxes. These methods include:

- State bond referenda,
- Highway tolls,
- Sales taxes dedicated to transportation,
- Long-term credit financing, and
- Private equity capital through P3s (public-private partnerships).[24]

In addition, states have opted to restrain transportation spending, with eight states cutting transportation spending for FY 2015.[25]

Collectively, these measures show that states have the capacity and willingness to determine their infrastructure spending at the state level without relying on Highway Trust Fund mandates or large gas tax hikes. Repealing the ban on tolling on segments of the interstate highway system, which are owned by the states in which they are located, would further states' ability to self-fund their transportation systems.

Proposed Approaches to Address the Highway Trust Fund Budget

Congress is considering a variety of options to address the Highway Trust Fund shortfall. These approaches range from short-term transfers or tax hikes that do not change the system's inherent problems to structural reforms that would ensure solvency by reducing the federal government's involvement in transportation spending:

- **General fund transfer.** Known as a "patch," Congress could simply transfer funds from the Treasury's general fund to keep highway funds flowing. Patches tend to be short-term measures (several months to a year) and generally do not change how the trust fund operates. To stem the tide for a year, Congress would need to transfer roughly $13 billion from the general fund.[26] According to the Department of Transportation, Congress has passed 32 short-term measures in the past six years.[27]

21. U.S. Department of Transportation, Federal Highway Administration, *2013 Status of the Nation's Highways, Bridges, and Transit: Conditions & Performance*, January 31, 2015, http://www.fhwa.dot.gov/policy/2013cpr/ (accessed April 27, 2015).
22. David T. Hartgen, M. Gregory Fields, and Elizabeth San José, "Are Highways Crumbling? State and U.S. Highway Performance Trends, 1989–2008," Reason Foundation *Policy Study* No. 407, February 2013, http://reason.org/files/us_highway_performance_20_year_trends_full_study.pdf (accessed April 27, 2015) (original emphasis).
23. Ken Orski, "A Fresh Approach to Funding Infrastructure Is Gaining Momentum," *Innovation Newsbriefs*, March 30, 2015, http://www.infrastructureusa.org/a-fresh-approach-to-funding-infrastructure-is-gaining-momentum/ (accessed April 29, 2015).
24. Ibid. See also American Road and Transportation Builders Association, "State Funding Initiatives Report," April 2015, http://www.transportationinvestment.org/wp-content/uploads/2015/04/April-2015-State-Transportation-Funding-Initiatives-Report.pdf (accessed April 27, 2015), and Transportation for America, "State Legislation to Raise Transportation Revenue," http://t4america.org/maps-tools/state-transportation-funding/ (accessed April 27, 2015).
25. National Association of State Budget Officers, "The Fiscal Survey of States," Fall 2014, https://www.nasbo.org/sites/default/files/NASBO%20Fall%202014%20Fiscal%20Survey%20of%20States.pdf (accessed April 27, 2015).
26. Congressional Budget Office, "Projections of Highway Trust Fund Accounts."
27. Press release, "U.S. Transportation Secretary Anthony Foxx Unveils President's Bold $94.7 Billion Investment in America's Infrastructure Future," U.S. Department of Transportation, February 2, 2015, http://www.dot.gov/briefing-room/us-transportation-secretary-anthony-foxx-unveils-president%E2%80%99s-bold-947-billion (accessed April 27, 2015).

- **Gas tax increase.** Some proposals would increase the tax on gasoline and diesel fuels. Proposed increases range from indexing the taxes to inflation[28] to simple fixed-denomination increases that could boost rates by 15 cents[29] or other amounts. These solutions would last longer than a patch, approximately four years to six years depending on the increase. However, a gas tax increase could hurt motorists, especially the 80 percent of low-income workers who commute by car and businesses that use highways for inexpensive shipping.[30] Furthermore, taxing declining fuel consumption would not be a long-term fix for the trust fund and would require future action.

- **Tax on multinational companies' overseas earnings (repatriation).** Some proposals would shore up the trust fund by taxing the overseas earning of U.S. companies in a process known as repatriation. These plans, such as those proposed by the Obama Administration[31] and by Senator Rand Paul (R–KY) and Senator Barbara Boxer (D–CA),[32] would apply a one-time tax to multinationals' earnings kept overseas. The revenue gained from the one-time tax would act the same as a temporary patch for about six years and would not ameliorate the trust fund's long-term fiscal situation. Furthermore, repatriation would raise corporate taxes on already overburdened U.S. businesses and be an unreliable source of revenue. Any such tax, if imposed at all, should be part of comprehensive tax reform instead of a one-off measure.[33]

- **Repeal diversions.** The Developing Roadway Infrastructure for a Vibrant Economy (DRIVE) Act, a proposal by Representative Tom Massie (R–KY), would simply repeal authorizations to the mass transit account and other local spending projects, reducing expenditures and freeing revenue for highway spending.[34] The plan would keep the Highway Trust Fund solvent and return the trust fund to its original purpose, although it would not necessarily provide long-term sustainability because it would maintain the current fuel taxes as the primary revenue source.

- **Downsize the federal role in transportation.** Some plans, such as the Transportation Empowerment Act introduced by Senator Mike Lee (R–UT),[35] would cede federal taxing and spending powers for transportation to the states while maintaining a small fuel tax to pay for maintaining the Interstate Highway System. This plan would give states, which best know the unique needs of their citizens, the ability to make their own transportation decisions without mandates from Washington and would eliminate the need for federal hand-wringing over transportation.

Conclusion

The current method of investing in infrastructure through the Highway Trust Fund is not working. Congress not only has chosen to spend more than the fund receives in revenue, but is increasingly spending it on projects that are far outside of

28. Kevin Robillard and Heather Caygle, "Pascrell, Renacci Floating Bill with a Gas Tax Trigger," *Politico*, March 23, 2015, https://www.politicopro.com/story/transportation/?id=45199 (accessed April 27, 2015).
29. American Road and Transportation Builders Association, "Funding a Six-Year $400B Federal Highway & Transit Program Authorization with No Net Tax Increase for Middle & Lower Income Americans," 2015, http://www.artba.org/wp-content/uploads/2015/03/ARTBA_Getting_Beyond_Gridlock_Plan-Model_Summary.pdf (accessed April 27, 2015).
30. Wendell Cox, "America Needs a Rational Transit Policy," Heritage Foundation *Issue Brief* No. 4368, March 24, 2015, http://www.heritage.org/research/reports/2015/03/america-needs-a-rational-transit-policy.
31. U.S. Department of Transportation, "The GROW AMERICA Act," April 2, 2015, http://www.dot.gov/grow-america/fact-sheets/overview (accessed April 27, 2015).
32. Keith Laing, "Paul, Boxer Team Up on Transportation Funding," *The Hill*, January 29, 2015, http://thehill.com/policy/transportation/231141-paul-boxer-team-up-for-invest-in-transportation-act (accessed April 27, 2015).
33. Curtis S. Dubay, "Changes to Repatriation Policy Best Left to Tax Reform," Heritage Foundation *Issue Brief* No. 4347, February 17, 2015, http://www.heritage.org/research/reports/2015/02/changes-to-repatriation-policy-best-left-to-tax-reform.
34. Press release, "U.S. Representative Thomas Massie Introduces Bill to Secure National Road and Bridge Funding," Office of Representative Thomas Massie (R–KY), March 19, 2015, https://massie.house.gov/press-release/press-release-us-representative-thomas-massie-introduces-bill-secure-national-road-and (accessed April 27, 2015).
35. Press release, "Lee, Graves, Rubio Introduce Major Highway Funding Reform Bill," Office of Senator Mike Lee (R–UT), November 4, 2013, http://www.lee.senate.gov/public/index.cfm/press-releases?ID=b7804c0b-f9bd-4106-a061-0360e67852ea (accessed April 27, 2015).

the federal purview. Local streetcar and bike path projects, while not inherently imprudent, should not be constructed using federal tax dollars collected from motorists.

Instead, Congress should strengthen the nation's highways in a fiscally responsible way by limiting spending and ending diversions to projects that are not federal priorities. Even better, Congress should minimize the federal government's role in transportation spending, leaving states to decide how best to invest in the infrastructure that their citizens deem most necessary.

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