



The Last Exit:

Fixing the Highway Trust Fund
while Solvency is still Solvable



**PART 3: MAINTAIN CURRENT SPENDING LEVELS WITHOUT
INCREASING TRUST FUND TAX REVENUES**

Authors

Jeff Davis

Senior Fellow and Editor, *Eno Transportation Weekly*
Eno Center for Transportation

Rebecca Higgins

Vice President of Policy
Eno Center for Transportation

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This is part 3 of the full report. To read or download the full report online, go to <https://enotrans.org/the-last-exit>.

Part 3: Maintain Current Spending Levels Without Increasing Trust Fund Tax Revenues

If Congress decides to maintain current spending levels from the HTF without increasing excise tax revenues, then they will need to transfer money from General Fund. In this case, Congress will still need to answer two questions:

- Will the General Fund financial support be transferred into the HTF and provided as contract authority, or will it be provided outside, and in addition to, HTF dollars?
- Will Congress offset the cost to the Treasury of the General Fund financial support, in whole or in part, by cutting spending or increasing revenue elsewhere in the budget?

Question One: Where will General Fund support be transferred?

Option 1. Transfers into the Trust Fund

Transferring general revenue directly into the HTF is the “path of least resistance” that Congress has been pursuing since September 2008. On nine separate occasions, Congress has passed laws making new General Fund deposits into the HTF, totaling \$271.8 billion.ⁱ

Table 7: Special General Transfers to the Highway Trust Fund

(Billion dollars. Reflects \$1 billion sequestration in FY14.)

Public Law	Enacted	Hwy Account	Transit Acct	HTF Total
PL 110-318	9/15/08	\$8.0	\$0.0	\$8.0
PL 111-46	8/7/09	\$7.0	\$0.0	\$7.0
PL 111-147	3/8/10	\$14.7	\$4.8	\$19.5
PL 112-141	7/6/12	\$15.9	\$2.0	\$17.9
PL 113-159	8/8/14	\$7.8	\$2.0	\$9.8
PL 114-41	7/31/15	\$6.1	\$2.0	\$8.1
PL 114-84	12/4/15	\$51.9	\$18.1	\$70.0
PL 116-159	10/1/20	\$10.4	\$3.2	\$13.6
PL 117-58	11/15/21	\$90.0	\$28.0	\$118.0
Total GF to HTF Transfers		\$211.7	\$60.1	\$271.8

The operative language of a transfer is very simple—just one sentence, this one from the first such law (P.L. 110-318) in September 2008: “Out of money in the Treasury not

ⁱ Congress has also transferred \$3.7 billion from Leaking Underground Storage Tank Trust Fund to HTF since 2007, but this support is consistent with the user-pay principle, since all those tax receipts were paid by highway users. Current balances in the LUST Trust Fund only total around \$1.7 billion.

otherwise appropriated, there is hereby appropriated to the Highway Trust Fund \$8,017,000,000.”ⁱⁱ

Per the CBO’s February 2026 baseline, if Congress were to pursue this approach and provide the full transfer up front to offset the estimated cost of a five-year reauthorization at current spending levels plus inflation, the required transfer would total \$126 billion. That would bring cumulative General Fund support for the Highway Trust Fund from 2008 through 2031 to \$398 billion.

The benefit of General Fund transfers into the HTF is primarily that it is a facile (if short-term) solution that does not require any changes to funding distribution nor run afoul of anti-tax pledges. Transferring money into the Trust Fund also enables those dollars to be provided as contract authority, a unique form of budget authority that is classified as mandatory and is exempt from various budget controls including sequestration.

For bailouts that enable programs to stay solvent at levels that have already been authorized, proponents of transfers emphasize that it is fundamentally unfair for the federal government to refuse to pay its debts by withholding reimbursement to states for authorized work already done and paid for out of state finances.ⁱⁱⁱ If Congress is unable to align Highway Trust Fund spending authority with projected Highway Trust Fund tax receipts, General Fund transfers ultimately become necessary to ensure payments of money obligated by the federal government to states and other non-federal partners.

And if the federal government withholds reimbursement for long enough, states can, and have, filed suit against the Department of Transportation in the U.S. Court of Federal Claims —and won. This results in the court ordering the reimbursement paid, either by USDOT from the Trust Fund or, if necessary, by the court itself from the “Permanent Judgement Appropriation” ([31 U.S.C. § 1304](#)), which is part of the General Fund. From this perspective, a General Fund bailout of the HTF in order to make reimbursement payments on time is more efficient than making states wait for a year or more to get reimbursement payments (plus interest) from the General Fund through the Court of Federal Claims.

Opponents of these transfers point out that the Highway Trust Fund was created and given privileged budgetary treatment under the “user-pay” principle, and that making general revenues fungible with special user taxes effectively nullifies the whole user-pay rationale underlying the HTF.

They also say there is nothing special about highway and mass transit programs in particular that should give them privilege above other transportation modes, not to mention all other programs in the federal budget, and allow them to print money as

ⁱⁱ There is always money in the Treasury (unless we are in the final handful of days of a debt ceiling crisis).

ⁱⁱⁱ Most Trust Fund grants are reimbursable grants – states or other non-federal partners actually perform work at their own expense, and once that work is completed, the non-federal partner then requests reimbursement from the Department of Transportation for a fixed share (at least 80 percent) of the amount spent. Reimbursements are often same-day or next-day.

needed to pay their bills. Defense, education, law enforcement, housing, environment, and most other functions of the government face more built-in constraints on their spending levels than do Highway Trust Fund programs in the age of automatic General Fund bailouts.

Opponents also point out that, as long as spending continues increasing while excise tax rates remain unchanged, and tax receipts stay stagnant, every General Fund transfer simply delays the inevitable reconciliation of the HTF's spending and revenue lines as they continue to spread farther apart. In other words, each General Fund transfer allows the HTF's financial hole to deepen.

General Fund transfers have been relied upon to pass three transportation reauthorization laws and multiple extensions across nearly two decades, but as revenues and spending decouples, they may become an unsustainable option. In addition, regardless of what Congress does this time, the overall federal attitude towards simply bailing out trust fund accounts as necessary to prevent default may change by 2032, which is the estimated insolvency date of the Social Security Trust Fund. If the American people have to endure epic, once-in-a-generation budgetary pain to keep Social Security solvent in the early 2030s, there may be much less political support afterwards for continuing to bail out the Highway Trust Fund.

[Option 2\(a\). Providing Funds Outside the Trust Fund – Regular Appropriations.](#)

Congress has always had the option of making annual appropriations for transportation funding. For highways, over the last 20 years, Congress has intermittently used the annual appropriations bills to provide the Federal Highway Administration with total additional amounts of \$25 billion for emergency relief highways, \$37.2 billion for economic aid during recessions, and \$18.9 billion to create or supplement highway programs that are of particular importance to Congress.

As table 8 shows, the delivery of this funding is somewhat lumpy, and the nature of the annual appropriations process makes it impossible for state and local partners to rely on anticipated funding in advance with any degree of certainty, which makes it difficult to plan large projects.

Table 8: Regular (Annual) General Fund Appropriations for the Federal Highway Administration, FY 2006-2025

(Millions of Dollars in Discretionary Budget Authority)

FY	Emergency Relief	ARRA / COVID Aid	Program Supplement
2006	3,452	0	0
2007	871	0	0
2008	1,045	0	0
2009	0	27,212	0
2010	0	0	650
2011	0	0	0
2012	1,662	0	0
2013	1,921	0	0
2014	0	0	0
2015	0	0	0
2016	0	0	0
2017	1,532	0	0
2018	1,374	0	2,525
2019	1,650	0	3,250
2020	0	0	2,166
2021	0	10,000	2,000
2022	2,600	0	2,421
2023	803	0	3,332
2024	0	0	2,225
2025	8,086	0	341

Source: Eno Center for Transportation

For mass transit, the picture is more complicated. For its first decade, the federal mass transit program was completely supported by the General Fund. Even after 1982 when the Mass Transit Account was established in the Trust Fund, those contract authority dollars were still less than half of total federal transit spending. Since the late 1990s, the HTF’s share has settled near 80 percent of total mass transit spending—a much lower share than highway programs. The remainder is provided from the General Fund in the annual appropriations bills, primarily for the Capital Investment Grants program.

Table 9: Regular (Annual) General Fund Appropriations for the Federal Transit Administration, FY 2006-2025

(Millions of Dollars of Discretionary Budget Authority)

FY	Capital Investment Grants	ARRA / COVID Aid	Other Program Supplement
2006	1,610	0	0
2007	1,566	0	1,747
2008	1,569	0	1,590
2009	1,809	8,400	1,971
2010	2,000	0	2,390
2011	1,597	0	0
2012	1,955	0	0
2013	1,951	0	0
2014	1,943	0	0
2015	2,120	0	0
2016	2,177	0	0
2017	2,413	0	0
2018	2,133	0	0
2019	2,553	0	700
2020	1,978	25,000	510
2021	2,014	44,674	516
2022	2,248	0	504
2023	2,635	0	542
2024	2,210	0	252
2025	2,205	0	46

Source: Eno Center for Transportation

General Fund support through the annual discretionary appropriations process can be difficult. Congress rarely passes the appropriations bills on time, necessitating short-term extensions and hampering planning. For 23 of the last 35 fiscal years, annual discretionary appropriations have been subject to some kind of sequestration-enforced spending cap, which forced all non-defense programs to fight against each other for scarce resources. And the word “discretionary” implies unpredictability—it means that Congress has the legal discretion to zero out funding for any program in any fiscal year without exposing the federal government to legal liability. That kind of certainty is the opposite of what is needed to build slow-spending capital projects.

Option 2(b). Providing Funds Outside the Trust Fund – Advance Appropriations.

The unpredictable nature of the annual appropriations process has meant that state and local transportation stakeholders demand much of their federal financial aid guaranteed several years in advance. On the highway side, there was formerly a bifurcated process from the end of World War II through the late 1970s, where the regular program was funded up to three years in advance and construction of the Interstate program was funded up to a dozen years in advance.^{iv} By the late 1970s, most of the Interstate had been completed, so the duration of the authorization laws grew to between four and six years—the “sweet spot” where state partners felt comfortable engaging in five-year capital construction plans dependent on forthcoming federal aid.

This goal of advance certainty for capital programming can be achieved outside of the HTF through advance appropriations, such as those used to supplement IIJA contract authority. Advance appropriations are enacted into law in a certain fiscal year and then become available for obligation in a later fiscal year without requiring additional Congressional action. The \$71 billion in IIJA advance appropriations for USDOT were enacted in fiscal year 2022, and 20 percent became available for fiscal year 2022, 20 percent for fiscal year 2023, and onwards through fiscal year 2026.

Once enacted, General Fund advance appropriations are just like HTF contract authority in that a subsequent Act of Congress would be required to repeal the funding.

The passage of advance appropriations can also pose some difficulties. Advance appropriations were popular for federal construction programs in the 1960s and early 1970s but were also considered a form of “uncontrollable spending” (e.g., pending outlays that cannot be reduced by Congress by lowering the amounts provided in the annual appropriations bills). In the 1970s, the growth of “uncontrollable spending” led to a reform movement that culminated in 1974 in the creation of a Congressional budget process that still governs Congressional spending.¹ Since then, the Budget Committees have tried to discourage the growth of advance appropriations in the regular budget.

Accordingly, advance appropriations are either subject to the regular budget controls, including the regular budget ceilings that govern the Appropriations Committees and their bills, or they may be declared an unforeseen emergency, so that the spending does not count toward the budget ceilings. However, the Budget Act requires that each individual appropriation given such an emergency designation is subject to a 60-vote point of order in the Senate, whereas regular appropriations that are subject to normal budget ceilings only require a simple majority vote in the Senate. In 2021, Congress chose to use advance appropriations in the IIJA, designating the funding as emergency spending, and passed the final bill with more than 60 votes.

^{iv} The 1956 authorization law provided contract authority for the regular highway program for fiscal years 1958 and 1959 and provided Interstate Construction contract authority for fiscal years 1958 through 1969, for example.

Question Two: Will Cost to the General Fund be Offset?

The first few General Fund transfers to the Highway Trust Fund were not accompanied by any sort of budgetary offset (“pay-for,” in layman’s terms). As such, when the transfers were eventually used to pay bills and make outlays, every dollar of those outlays added to the federal deficit.

The transfers made from 2012 through 2015 were, for the most part, offset via some combinations of reductions in mandatory spending and increases in federal user fees, as measured over a ten-year budget enforcement window. This was due to the efforts of Rep. Paul Ryan (R-WI), who as chairman of the House Budget Committee from 2011-2015 and then as Speaker of the House starting in October 2015, used his position to insist that such transfers be offset.

Some of the “pay-fors” were of dubious merit, particularly the “pension smoothing” used to offset \$8.7 billion of the \$18 billion transfer in the 2012 MAP-21 law. (Pension smoothing reduces federal spending during the ten-year budget enforcement window but increases spending by a greater amount after the ten-year window expires.) But because those pay-fors qualified as offsets under the same budget rules that apply to all other programs, Ryan was able to claim that the Highway Trust Fund did not get special budgetary treatment under his watch.

Table 10: History of Offsets for General Fund to HTF Transfers

Public Law	Description	GF to HTF Transfers	Amount of “Pay-For”	Party Control H-S-WH
PL 110-318	Bailout	\$8.0	0.0	D-D-R
PL 111-46	Bailout	\$7.0	0.0	D-D-D
PL 111-147	Extension	\$19.5	0.0	D-D-D
PL 112-141	MAP-21	\$18.8	\$18.0	R-D-D
PL 113-159	Extension	\$9.8	\$4.7	R-D-D
PL 114-41	Extension	\$8.1	\$6.9	R-R-D
PL 114-94	FAST Act	\$70.0	\$70.0	R-R-D
PL 116-159	Extension	\$13.6	0.0	D-R-R
PL 117-58	IIJA	\$118.0	0.0	D-D-D
	Total	\$272.8	\$99.6	

Source: Eno Center for Transportation

None of the \$118 billion General Fund transfer made by the 2021 IIJA infrastructure law was offset, and the old “Ryan rule” was not part of the Congressional budget resolution adopted by Republicans in 2025, so no offsets for General Fund transfers to the Highway Trust Fund are currently required under law or House or Senate rules.

¹ Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93–344, 88 Stat. 297 (1974).