Primer

Highway Trust Fund

Federal Highway Administration **Office of Policy Development**

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Highway Trust Fund Primer

Summary

This Highway Trust Fund Primer is designed to provide basic information about the Highway Account of the Highway Trust Fund (HTF). It describes how the fund works, its sources of revenue, what the balances are, funding levels, and budgetary constraints on spending levels. It does not address, in any detail, the Mass Transit Account of the HTF. The Primer is designed as a handy reference tool, in a "question and answer" format, covering frequently asked questions concerning the HTF. It provides a solid foundation for common discussion regarding the current status and future outlook for the HTF as implementation of the Transportation Equity Act for the 21st Century (TEA-21) progresses. The following is a summary of basic HTF facts:

- Establishment: The HTF was established by the Highway Revenue Act of 1956 as a mechanism to finance an accelerated highway program, including construction of the Interstate Highway System. The taxes dedicated to the HTF are extended periodically by Congress—most recently by TEA-21. These taxes are currently scheduled to expire on September 30, 2005.

- Yearly contributions: In fiscal year 1997, earmarked tax revenues brought in $23.9 billion to the HTF. Of this amount, $20.5 billion was directed to the Highway Account and $3.4 billion was directed to the Mass Transit Account.

- Balance: The balance of the HTF as of the end of fiscal year 1997, was $22.4 billion. Of the $22.4 billion balance, $12.6 billion was in the Highway Account and $9.9 billion was in the Mass Transit Account.

- To determine the status: The balance cannot automatically be considered surplus. The status of the Highway Account must be determined by comparing outstanding and future commitments to the sum of the current balance and the future income through the "life" of the fund. Current projections of the Highway Account status through the end of TEA-21 (comparing program commitments through fiscal year 2003 and Highway Account income through fiscal year 2005) indicate a surplus of $19.8 billion.

- The Byrd test: The Byrd test requires an across the board reduction in Federal-aid apportionments if the Highway Account balance, plus estimated income for the next 2 years, is insufficient to cover outstanding commitments in a given fiscal year. No Byrd test reductions are anticipated in the foreseeable future.

- Available future resources: The current highway authorization period covers fiscal years 1998-2003, and the HTF taxes are extended through fiscal year 2005. The funding resources for the Highway Account for the TEA-21 authorization period are about

$202.5 billion. The $202.5 billion is composed of: (1) an estimated $179.5 billion in income from tax receipts income for fiscal years 2000-2005 and (2) the $23.0 billion Highway Account surplus after all ISTEA authorizations are liquidated.. That $23.0 billion surplus was calculated as follows: the fiscal year 1997 balance of $12.5 billion, plus estimated future income (through fiscal year 1999) of $55.5 billion, minus outstanding commitments of $45.0 billion at the close of FY 1997—the end of the ISTEA authorization period.

- New provisions from TEA-21 provide special budgetary treatment for a portion of the highway program and the first real link between the receipts of the Highway Account and the funding for the programs it supports. The link, known as Revenue Aligned Budget Authority, allows the adjustment of highway program funding levels when the Highway Account revenue levels differ from the baseline levels assumed in the development of TEA-21.

The Highway Trust Fund

What is the HTF?

The HTF was created by the Highway Revenue Act of 1956 (Pub. L. 84-627) primarily to ensure a dependable source of financing for the National System of Interstate and Defense Highways and also as the source of funding for the remainder of the Federal-aid Highway Program. Prior to that time, Federal financial assistance to support highway programs was provided from the General Fund of the U.S. Treasury. While Federal motor fuel and motor vehicle taxes did exist before the creation of the HTF, the receipts were directed to the General Fund, and there was no relationship between the receipts from these taxes and Federal funding for highways. The Highway Revenue Act provided that revenues from certain highway-user taxes would be credited to the HTF to finance a greatly expanded highway program enacted in the Federal-Aid Highway Act of 1956. In the original Highway Revenue Act, the crediting of user taxes to the HTF was set to expire at the end of fiscal year 1972[1]. Legislation has periodically extended the imposition of the taxes and their transfer to the HTF. TEA-21 extended the imposition of the user taxes and their transfer to the HTF through September 30, 2005.[2]

Like other Federal trust funds, the HTF is a financing mechanism established by law to account for tax receipts that are collected by the Federal Government and are dedicated or "earmarked" for expenditure on special purposes. Originally, the HTF focused solely on highways, but later the Congress determined that some revenues from the highway-user taxes dedicated to the HTF should be used to fund transit needs. As a result, the Mass Transit Account was created within the HTF effective April 1, 1983[3]. Since that time, a portion of the revenues earmarked for the HTF has been credited specifically to the Mass Transit Account. Although never legally described and named, the portion of the Highway Trust Fund outside the Mass Transit Account has come to be called the Highway Account and receives all HTF receipts not specifically designated for the Mass Transit Account.

[1]At the time, the Federal fiscal year began July 1 and ended June 30. The HTF was created effective July 1, 1956, the first day of fiscal year 1957. Under the Highway Revenue Act of 1956, transfer of the proceeds of the various highway user taxes to the HTF would end after June 30, 1972, the last day of fiscal year 1972. Thus the fiscal "life" of the HTF was to be 16 years.

[2]A portion of the motor fuel tax (4.3 cents per gallon on most highway fuels) does not expire and will continue to be imposed after September 30, 2005, but under current law, such amounts will not be deposited in the HTF.

[3]The Mass Transit Account was established by the Highway Revenue Act of 1982 (Public Law 97-424).

What constitutes HTF income?

Tax revenues directed to the HTF are derived from excise taxes on highway motor fuel and truck related taxes on truck tires, sales of trucks and trailers, and heavy vehicle use. The Mass Transit Account receives a portion of the motor fuel taxes, usually 2.86 cents per gallon, as does the Leaking Underground Storage Tank Trust Fund[4], usually 0.1 cent per gallon. The General Fund receives 2.5 cents per gallon of the tax on gasohol and some other alcohol fuels plus an additional 0.6 cent per gallon for fuels that are at least 10 percent ethanol. The Highway Account receives the remaining portion of the fuel tax proceeds. For example, as of October 1, 1997, the 18.4 cents per gallon gasoline tax was split as follows: 2.86 cents per gallon to the Mass Transit Account, 0.1 cent per gallon to the Leaking Underground Storage Tank Trust Fund, 0 cents to the General Fund, and 15.44 cents to the Highway Account. All of the receipts from the non-fuel taxes are deposited in the Highway Account. Details on the tax rates and the distribution of the proceeds to the various funds and accounts are found in table 1.

Note that the tax rate on diesel fuel, used primarily by trucks, is 6 cents more per gallon than the tax on gasoline. This "diesel differential," along with the non-fuel taxes that target the heaviest trucks, reflects an effort to charge heavy-vehicle users for the substantially higher damage (and the resulting repair and replacement costs) their vehicles inflict on our Nation's highways.[5]

From its inception, the HTF earned interest from the investment of the portion of its balance not needed for immediate use in nonnegotiable U.S. Treasury securities known as special certificates of indebtedness. However, beginning October 1, 1998, HTF balances will be invested in non-interest bearing Treasury securities[6].

How do fuel taxes affect Highway Account income?

On average, each penny of the Federal motor fuel tax produces over $1.5 billion in revenues annually. Fuel taxes are by far the largest part of Highway Account income, constituting 83 percent of the Account's revenue in FY 1997. The chart below illustrates the importance of the fuel taxes to the Highway Account.

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[4]The Leaking Underground Storage Tank Trust Fund, administered by the Environmental Protection Agency, funds leaking underground storage tank cleanup activities.

[5]For more information on highway cost allocation issues, see the report on the results of the U.S. Department of Transportation's 1997 Federal Highway Cost Allocation Study.

[6] TEA-21 provided that interest on the investment of HTF balances would no longer be credited to the HTF. The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Public Law 105-277) specified that the balances would be invested in non-interest bearing securities.

Table 1
Federal Highway User Taxes

Fuel Type	Effective Date	Tax Rate (cents per gallon)	Distribution of Tax				
			Highway Trust Fund		Leaking Under-ground Storage Tank Trust Fund	General Fund
			Highway Account	Mass Transit Account		
Gasoline	10/01/1997	18.4	15.44	2.86	0.1	-
Diesel	10/01/1997	24.4	21.44	2.86	0.1	-
Gasohol (10% ethanol)[7]	10/01/1997	13	6.94	2.86	0.1	3.1
Special Fuels:						
General rate	10/01/1997	18.4	15.44	2.86	0.1	-
Liquefied petroleum gas	10/01/1997	13.6	11.47	2.13	-	-
Liquefied natural gas	10/01/1997	11.9	10.04	1.86	-	-
M85 (from natural gas)	10/01/1997	9.25	7.72	1.43	0.1	-
Compressed natural gas (cents per thousand cu. ft.)	10/01/1997	48.54	38.83	9.70	-	-
Truck Related Taxes — All Proceeds to Highway Account						
Tire Tax	0-40 pounds, no tax Over 40 pounds - 70 pounds, 15¢ per pound in excess of 40 Over 70 pounds - 90 pounds, $4.50 plus 30¢ per pound in excess of 70 Over 90 pounds, $10.50 plus 50¢ per pound in excess of 90					
Truck and Trailer Sales Tax	12 percent of retailer's sales price for tractors and trucks over 33,000 pounds GVW and trailers over 26,000 pounds GVW					
Heavy Vehicle Use Tax	Annual tax: Trucks 55,000 pounds and over GVW, $100 plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds (maximum tax of $550)					

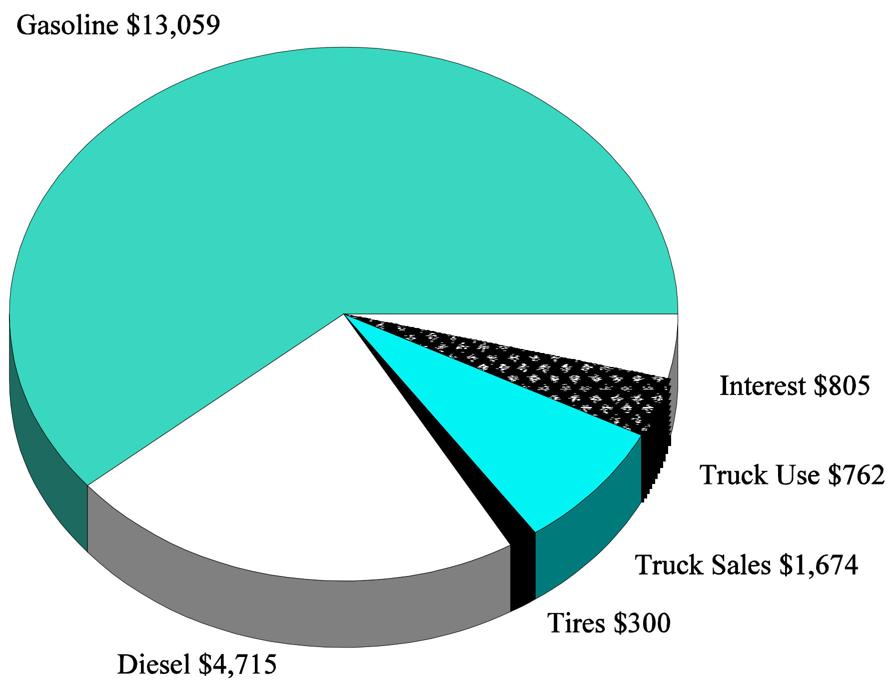
Trust Fund fuel tax revenues have risen in recent years due to increased fuel consumption and to legislation dedicating a larger portion of each of the fuel taxes to the HTF. Fuel tax increases originally levied for deficit reduction and deposited in the General Fund of the Treasury are now

[7]Other rates apply to gasohol blends less than 10% ethanol or blends made with methanol.

credited to the HTF. The 2.5 cents per gallon fuel tax levied for deficit reduction on December 1, 1990 was redirected to the HTF on October 1, 1995. The 4.3 cents per gallon fuel tax levied for deficit reduction on October 1, 1993 was redirected to the HTF on October 1, 1997. Deficit reduction levies remain only on gasohol and certain other alcohol fuels.

Overall HTF revenues in this decade also have been raised by greatly improved compliance with the diesel fuel tax law. In the early 1990s, it is estimated that the Federal highway program faced an annual loss of over $1 billion in revenues due to motor fuel tax evasion schemes. These schemes were often masterminded by organized crime. The States, in the aggregate, suffered comparable revenue losses due to evasion of State level fuel taxes.

Highway Account Income - FY 1997 (millions)



In an effort dedicated to reducing motor fuel tax fraud, FHWA began the Joint Federal-State Motor Fuel Tax Compliance Project, which forged alliances among the IRS, State revenue agencies, other Federal and State regulatory and enforcement agencies, and petroleum industry members. The tangible benefits of the Joint Project are clear: after adjusting for changes in motor fuel tax rates, the total amount of diesel fuel tax receipts credited to the HTF increased by over $1.2 billion between calendar years 1993 and 1994. The Treasury Department has estimated that up to $700 million of this amount was due to improved tax compliance alone.

Also, State revenues rose by an average of approximately 7 percent, largely due to these increased enforcement initiatives.

TEA-21 extended funding of the Joint Project through FY 2003, and also authorized States to use up to 1/4 of 1 percent of their Surface Transportation Program apportionments for efforts to reduce motor fuel tax evasion.

How does the Treasury Department account for HTF revenues?

In order to ensure the soundness of Federal trust funds, they are accounted for separately from the U.S. General Fund. HTF income is composed of both tax revenues and, until October 1, 1998, interest earnings. Revenues from motor fuel taxes and other taxes on highway users are collected by the Internal Revenue Service and deposited in the General Fund of the Treasury. Each month the Treasury Department estimates the amount of highway-user taxes that will be collected. Based on those estimates, an accounting transaction is made which credits the HTF for the estimated amount of revenue. The revenue is distributed among the two HTF accounts (Highway and Mass Transit), the Leaking Underground Storage Tank Trust Fund and, in some cases, the Treasury's General Fund. Typically, this accounting function is accomplished by listing certain non-negotiable securities to the credit of the HTF. Adjusting transactions are made periodically to bring the deposits, originally based on estimates, into line with actual tax collections.

How does the HTF operate?

The HTF begins the year with a positive balance, to which is added income from the various highway-user taxes. A small amount of transfers (e.g., to other trust funds in the case of motorboat gasoline and small engine gasoline and special fuel) and tax refunds (e.g., to farmers and others exempt from paying particular fuel or vehicle taxes) are deducted during the year. From the net income, a portion is spent or disbursed during the year. If the amount disbursed is less than net income, the balance will increase for the year. Table 2 shows the financial operations of the HTF in FY 1997.

What is the HTF balance?

Since the establishment of the fund, more has been earned through tax receipts and interest income than has been spent. Over the fiscal years 1957-1997, income has totaled $394.3 billion ($366.2 billion from tax receipts and $28.1 billion from interest earnings) while outlays have totaled $371.8 billion, leaving a balance of $22.4 billion. Of that $22.4 billion balance, $12.6 billion is credited to the Highway Account and $9.9 billion is credited to the Mass Transit Account.

Table 2
Highway Trust Fund Operation - FY 1997
(millions)

	Highway	Mass Transit Account	Total
Opening balance	$12,118	$9,525	$21,642
Tax receipts	21,263	3,622	24,885
Less:			
Transfers to other trust funds[8]	189	32	222
Tax refunds	564	232	797
Net tax receipts	20,509	3,358	23,867
Interest	805	638	1,443
Expenditures	20,857	3,663	24,519
Closing balance	$12,575	$9,858	$22,433

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Why is there a balance?

The Highway Account must maintain a positive balance to ensure that prior obligations can be liquidated. The structure of the highway, safety and transit programs financed by the HTF is such that the timing and amount of outlays necessary to liquidate obligations (reimburse the States for eligible costs) cannot be forecast with certainty. In any given year, the required withdrawals may exceed the HTF's income for that year. Also, income to the HTF could be disrupted by disruptions in the world petroleum market. Thus, a minimum balance must be maintained. A safety cushion equal to 3 months of expenditures is recommended for the Highway Account to ensure that obligations could be liquidated (funds available to reimburse States) during an emergency until Congress acted to reduce future commitments or to increase future revenues. Based on current projections of Highway Account expenditures for the 6-year TEA-21 authorization period, a minimum balance averaging $7 billion would be needed to provide the 3-month safety cushion. The reduction of the Highway Account balance to $8 billion on October 1, 1998 will leave a sufficient safety cushion and projections of receipts and expenditures indicate that the safety cushion will be maintained unless an emergency occurs.

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[8] The portion of the gasoline and special fuel tax receipts estimated to be derived from use in motorboats is transferred to the Aquatic Resources Trust Fund with $1 million of that amount annually transferred to the Land and Water Conservation Fund. The portion of the gasoline tax receipts estimated to be derived from use in small engines, such as lawnmowers and chain saws, is transferred to the Aquatic Resources Trust Fund.

What does the balance mean?

The amount of the current Highway Account balance should not automatically be considered "excess" or "surplus." There are current and potential commitments against the account's balance and future income. While the balance was $12.6 billion at the end of fiscal year 1997, there were also current and potential commitments of $45.0 billion against the Highway Account. These current and potential commitments reflect both unpaid obligations—current outstanding commitments—and unobligated authorizations—potential future commitments. These commitments are not overdue payments; rather they are like lines of credit—authorized amounts which have not yet been obligated—and promises to pay—amounts obligated, but not yet spent.

Thus, the true status of the Highway Account can be determined only by comparing outstanding and future commitments to the balance plus future income through the end of the fund's fiscal "life." Currently the authority of the highway program to distribute new spending authority ends in 2003, but the authority to collect revenues extends through 2005. Current projections of the Highway Account status indicate a surplus of $19.8 billion: this includes the fiscal year 1997 balance of $12.6 billion, less $6.6 billion (estimated) to reduce the balance as of October 1, 1998 to $8 billion as required by TEA-21. Add to this amount the estimated future income (through fiscal year 2005) of $235.8 billion; subtract outstanding commitments at the end of 1997 of $45.0 billion and estimated future commitments (through fiscal year 2003—the end of the TEA-21 authorization period) of $177.0 billion. The projected $19.8 billion surplus would carry over to be used for programs supported by the next (post TEA-21) highway authorizing legislation.

Why is the current balance so large?

The Highway Account balance has consistently stayed at "larger-than-necessary" levels for 30 years due to budget-driven spending controls. Those controls began with administrative deferrals or impoundments (which began in 1966) and continue today with legislative limitations on obligations (which began in fiscal year 1976). Essentially this has restricted highway spending to levels below levels supportable by the Fund's income. The Highway Account surplus of $23.0 billion at the end of fiscal year 1997 (the end of the previous authorization period) represents the cumulative effect of those spending controls over the life of the fund. Under TEA-21, the balance is projected to grow, but, because of higher authorization levels, the surplus will be lower than at the end of the ISTEA period.

If the Highway Account has a surplus, why is highway spending controlled?

The Federal Government has a unified budget process that gives little recognition to the source of funding for individual programs. The Federal budget deficit or surplus is computed as the difference between the government's income for the year and its outlays. Budgetary controls, intended to achieve a balanced budget, are applied on a similarly broad basis. With the exception of entitlement programs like Social Security and Medicare, most programs are subject to a spending control known as the domestic discretionary budget cap[9]. This cap limits spending for discretionary programs, including highways, transit, education, housing, and a host of others, taken as an aggregate. Thus limiting highway spending would allow additional spending for education or vice versa. Each year in formulating budget and appropriation legislation, the Congress weighs the relative priorities of the programs under the domestic discretionary cap and allocates spending authority to the programs based on this evaluation.

TEA-21 provides that, beginning with the FY 1999 budget, a substantial portion of the highway program receives special budgetary treatment[10]. This was accomplished by creating a separate budget category outside the domestic discretionary cap for a significant part of the funding. This creation of a separate category is often referred to as putting up a "firewall" around the spending. The firewall ensures that the protected funding no longer has to compete with other programs for a place in the annual budget. Authorizations in excess of this guaranteed funding level remain subject to the domestic discretionary budget cap and must continue to compete with other discretionary spending priorities.

The highway firewall provides a minimum or floor for the combination of the motor carrier safety program, highway traffic safety grants, operations and research for the National Highway Traffic Safety Administration, and the Federal-aid highway program obligation limitation. The obligation limitation covers a broad range of highway infrastructure and safety programs, including Interstate Maintenance, the National Highway System, the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Programs and many others. Thus, the firewall protection is broad and does not single out some highway programs for guaranteed funding leaving others in jeopardy.

How is the new highway program budgetary treatment linked to the Highway Account?

The highway program funding level protected by the firewall is the result of a negotiated process. All the parties recognized the increasing disparity between the receipts from highway user taxes and highway spending, but they also shared a commitment to attaining a balanced Federal budget. The guaranteed funding levels reflect a compromise between those competing goals and will not use all the resources of the Highway Account.

TEA-21 included a process for adjusting the firewall levels should the income the HTF be higher than projected at the time the firewall levels were set. In setting the highway firewall levels, the Congress used projections of Highway Account tax receipts and specified these projections in the legislation (TEA-21). Each year, as part of the preparation of the President's budget submission to the Congress, new projections of tax receipts will be made. If these projections are higher or

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[9]The entitlement programs are subject to a different budgetary control know as "pay as you go" or paygo. A small portion of the highway program—$739 million per year—is subject to paygo.

[10]A new budget category was also created for the transit program, providing a guaranteed funding level for the transit program, but the funding level is not directly linked to income to the Mass Transit Account.

lower than the projections used in setting the firewall amounts, the firewall levels will be increased or decreased by the amount of the difference. Corresponding adjustments are made to Federal-aid highway program authorization levels and the related obligation limitation. Thus *change* in highway spending is linked to *change* in the receipts to the Highway Account.

What is the Byrd amendment (test)?

The Byrd amendment, also known as the Byrd test, is designed to ensure that the Highway Account will be able to pay its commitments. It requires that a comparison of projected Highway Account financial resources and commitments be made. If a situation of insufficient resources is anticipated to arise, the Byrd amendment requires an across-the-board cut in Federal-aid highway apportionments. The resources in the Byrd amendment calculation consist of the current Highway Account balance plus estimated income for the next 2 years. The resources are compared to the outstanding commitments of the Highway Account, that is, unliquidated authorizations.

In the HTF's history, The Byrd Amendment has been triggered only once resulting in the reduction in the Interstate System construction apportionments for FY 1961. No Byrd amendment reductions are anticipated in the foreseeable future. The Transit Account was subject to a similar test provided known as the Rostenkowski test; the only difference was that the Rostenkowski test measured outstanding commitments against estimated income for 1 year instead of 2. With the enactment of TEA-21, the Mass Transit Account is subject to the same 2-year test as the Highway Account.

How does Highway Account income affect the overall highway program funding level?

The resources available from the Highway Account define the maximum highway program funding (authorization level) that could reasonably be enacted. For example, at the end of the ISTEA period, there was a surplus of $23.0 billion in the Highway Account. This surplus coupled with projected income for fiscal years 2000 through 2005 of $179.5 billion would support highway program authorizations averaging $33.5 billion per year.

How are individual highway program levels affected by budgetary controls?

Authorizations for individual highway program categories (e.g., National Highway System, Interstate Maintenance, etc.) result from the political process. While the authorization for these individual programs reflect their relative priority or Federal interest, the budgetary controls for the highway program are applied at a broader level. To control the outlays resulting from the authorizations, Congress sets an obligation limitation. The limitation controls how much of the authorized funds can be obligated (committed to projects) during the year.[11] The obligation limitation applies to most of the Federal-aid Highway Program, excluding only the Emergency Relief funds and a small portion of the funding for Minimum Guarantee. States can “mix and match” their obligation limitation to the various amounts of highway program apportionments they have.

What do all the terms mean?

Allocation.—An administrative distribution of funds among the States. Prior to obligation this is like a line of credit.

Apportionment.—This is like issuing a line of credit. With regard to the HTF, apportionments are a statutory distribution of funds providing certain funding levels to the States based on formulas prescribed in law.

Appropriation.—Legislation to allow the Federal Highway Administration and HTF to make actual cash reimbursements to the States.

Authorization.—An Act which allows a program to be undertaken and establishes a level of funds which may be used for the program.

Obligation.—The Federal government’s legal commitment (promise) to pay or reimburse the States for the Federal share of a project’s eligible costs. This is like using a credit card where no cash is involved.

Obligation Limitation.—A restriction, or "ceiling" on the amount of Federal assistance that may be promised (obligated) during a specified time period. This does not affect the apportionment or allocation of funds, rather it controls the rate at which these funds may be used.

Outlays.—Expenditures. This is the final actual cash transaction, where money is provided to the States as reimbursement for the Federal share for approved highway program activities.

Trust Funds.—Accounts established by law to hold receipts (such as specific taxes or revenues) collected by the Federal Government and earmarked for financing special purposes and programs. To assure the financial soundness of a trust fund, it must be tracked separately to determine that outlays/expenditures do not exceed available revenues.

[11] The Federal-aid Highway Program obligation limitation generally applies to a wide range of programs and limits the obligation of funds in a specific fiscal year. In the case of a portion of the Minimum Guarantee ($2 billion annually), the High Priority Projects Program and the Appalachian Development Highway System, the obligation limitation is set individually for each of those programs and may be carried over from one fiscal year to the next.