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How S. 729 Would Set Back Transportation Reform and Block Fiscal Oversight

Introduction

Within the next few weeks, the U.S. Senate will have an opportunity to achieve genuine reform of transportation policy. But S. 729, a bill that would remove the transportation trust funds from the budget and from meaningful congressional oversight, is flawed and would not lead to needed reform. A preferable alternative would be legislative proposals now being prepared in the Senate that would return the highway programs to the states and allow them to collect the existing fuel tax and use it to finance transportation projects of their choosing.

Sponsored by Senators Trent Lott (R-MS) and Max Baucus (D-MT), the Trust Fund Restoration Act of 1995 (S. 729) would give federal highway spending budgetary exemptions and protections that even Social Security does not now have.[1] Thus enactment of S. 729 would be a missed opportunity for the Senate to redesign and localize government involvement in areas vital to the health of the economy. At a time when transportation problems increasingly are local in nature, today's centrally directed Eisenhower-era program offers no solutions. S. 729 would do nothing to alter that deficiency.

The House version of the bill (H.R. 842—surprisingly entitled the Truth in Budgeting Act) passed the House this April. But many of those who voted for it did so in the belief that the bill would die, or at least be purged of its worst excesses, in the Senate. Unfortunately, they and the taxpayers may be very disappointed, because the process in the Senate is beginning to look like a scramble by special interests to obtain additional budgetary privileges. Already legislation has been introduced in the

1 See, for example, Senator Pete Domenici's "Dear Colleague" letter, "Reject Taking Transportation Off-Budget," April 18, 1996.

Senate (S.1395), sponsored by Senator William Roth (R-DE), to turn Amtrak into an entitlement by creating for it the Intercity Passenger Rail Trust Fund. The Fund would be financed by diverting 0.5 cents of the 18.4 cents now collected by the federal fuel tax for the other transportation trust funds. That such a tax could be proposed to finance one of the government's more questionable activities reflects the growing aggressiveness of taxpayer-dependent industries as they try to place a lock on the public's money.

The enactment of S. 729 would be an enormous obstacle to transportation reform. Instead of hiding the program by moving it off budget, Congress should turn its attention to solutions that are local in emphasis, and should work cooperatively with the Budget Committee, the governors, and reformers in the House and Senate to develop a reform package that will better address the transportation needs of the country.

WHAT IS WRONG WITH S. 729

The Trust Fund Restoration Act (S. 729) would exempt all of the transportation trust funds from all of the key control provisions of the congressional budget process. These include budget caps that limit discretionary budget authority and outlays, pay-as-you-go rules, Gramm-Rudman-Hollings sequestration, and any other statutory budget limitations.

Sponsors contend that the special budgetary privileges S. 729 would grant are essential to protect federal highway and other transportation spending from congressional budget cutters who might want to divert the $20 billion-plus in revenues raised by the federal fuel tax to deficit reduction or to other programs. But insulating the trust fund from budget scrutiny would make it more difficult for Congress to set clear budget priorities. Moreover, experience demonstrates that the risk of a congressional diversion of trust fund money to other purposes is overstated. In fact, federal highway programs have benefited from federal spending well in excess of the dedicated fuel tax receipts allocated to the trust fund. Since 1957, total federal spending on highways has exceeded highway trust fund receipts by more than $37 billion, making the diversion of highway revenues to other programs unlikely. Table 1 presents a year-by-year analysis of highway receipts and spending.

Enactment of the bill would set back the prospects for transportation reform, regional equity, and honest budgeting. With the highway trust fund moved off budget, highway spending would be given preferential treatment and, unlike other programs, would be absolved from making any sacrifices in order to achieve fiscal restraint and a robust economy. Specifically:

❶ **The bill would make it more difficult to achieve sound public finance decisions because it would allow lawmakers to avoid hard budget choices.** Lawmakers should have to decide whether pork-barrel highway spending should be more important than spending for national security or programs targeted to the needy and disabled. The legislation would allow them to avoid making such choices in the case of highway spending.

Table 1

Federal Expenditures for Highways

Millions of Dollars	General Fund Appropriations	Highway Trust Fund Expenditures	Highway Trust Fund Receipts	Total Federal Expenditures: All Highways	Excess Spending
1957	$162	$1,455	$1,479	$1,617	$138
1958	168	2,454	2,026	2,622	596
1959	156	3,238	2,074	3,394	1,320
1960	197	2,753	2,539	2,950	411
1961	207	2,941	2,798	3,148	350
1962	227	3,173	2,949	3,400	451
1963	265	3,759	3,279	4,024	745
1964	276	4,278	3,519	4,554	1,035
1965	242	4,137	3,659	4,379	720
1966	409	4,610	3,917	5,019	1,102
1967	448	3,891	4,441	4,339	-102
1968	470	4,292	4,379	4,762	383
1969	480	3,981	4,637	4,461	-176
1970	586	4,493	5,354	5,079	-275
1971	638	5,531	5,542	6,169	627
1972	580	4,743	5,322	5,323	1
1973	604	4,439	5,665	5,043	-622
1974	1,181	4,925	6,260	6,106	-154
1975	1,298	5,879	6,188	7,177	989
1976	1,355	6,400	5,413	7,755	2,342
1977	1,485	5,938	6,709	7,423	714
1978	1,716	6,243	6,904	7,959	1,055
1979	2,304	7,766	7,189	10,070	2,881
1980	2,313	9,605	6,620	11,918	5,298
1981	2,205	8,283	6,305	10,488	4,183
1982	2,387	8,191	6,744	10,578	3,834
1983	1,996	8,811	8,297	10,807	2,510
1984	1,806	10,702	11,743	12,508	765
1985	1,982	12,953	13,015	14,935	1,920
1986	1,640	13,276	13,363	14,916	1,553
1987	1,131	13,080	13,032	14,211	1,179
1988	968	14,096	14,114	15,064	950
1989	985	13,436	15,628	14,421	-1,207
1990	918	13,951	13,867	14,869	1,002
1991	1,070	13,962	16,979	15,032	-1,947
1992	1,157	15,425	16,733	16,582	-151
1993	1,371	16,371	18,039	17,742	-297
1994	1,225	18,929	16,668	20,154	3,486

Note: Data are for fiscal years, see Technical Notes, p. 8.
Source: Federal Highway Administration.

Table 2

Highway Fund Return Ratios, 1994

	Percent of Total Payments	Percent of Apportionments	Return Ratio
Alabama	**2.127%**	**1.673%**	**0.787**
Alaska	0.32	1.095	3.422
Arizona	**1.766**	**1.313**	**0.743**
Arkansas	**1.39**	**1.292**	**0.929**
California	10.335	11.723	1.134
Colorado	1.294	1.353	1.046
Connecticut	1.052	1.664	1.582
Delaware	0.283	0.374	1.322
District of Columbia	0.133	0.456	3.429
Florida	**5.024**	**3.668**	**0.730**
Georgia	**3.794**	**2.753**	**0.726**
Hawaii	0.254	1.373	5.406
Idaho	0.554	0.657	1.186
Illinois	**3.903**	**3.645**	**0.934**
Indiana	**2.774**	**1.926**	**0.694**
Iowa	**1.188**	**1.158**	**0.975**
Kansas	**1.159**	**0.962**	**0.830**
Kentucky	**2.013**	**1.3**	**0.646**
Louisana	**1.713**	**1.363**	**0.796**
Maine	0.523	0.594	1.136
Maryland	1.727	1.729	1.001
Massachusetts	1.773	5.04	2.843
Michigan	**3.521**	**2.768**	**0.786**
Minnesota	**1.637**	**1.311**	**0.801**
Mississippi	**1.294**	**1.026**	**0.793**
Missouri	**2.583**	**1.866**	**0.722**
Montana	0.469	0.834	1.778
Nebraska	**0.769**	**0.758**	**0.986**
Nevada	**0.656**	**0.637**	**0.971**
New Hampshire	0.382	0.442	1.157
New Jersey	2.403	2.505	1.042
New Mexico	0.828	0.945	1.141
New York	4.495	4.879	1.085
North Carolina	**2.982**	**2.374**	**0.796**
North Dakota	0.352	0.579	1.645
Ohio	**3.971**	**3.27**	**0.823**
Oklahoma	**1.637**	**1.311**	**0.801**
Oregon	**1.296**	**1.176**	**0.907**
Pennsylvania	4.334	4.941	1.140
Rhode Island	0.273	0.582	2.132
South Carolina	**1.718**	**1.597**	**0.930**
South Dakota	0.363	0.622	1.713
Tennessee	**2.427**	**1.824**	**0.752**
Texas	**7.592**	**5.815**	**0.766**
Utah	**0.746**	**0.744**	**0.997**
Vermont	0.28	0.38	1.357
Virginia	**2.748**	**2.532**	**0.921**
Washington	1.846	3.109	1.684
West Virginia	0.799	1.053	1.318
Wisconsin	**2.014**	**1.713**	**0.851**
Wyoming	0.487	0.65	1.335

Note: See Technical Notes, p. 8.
Source: Federal Highway Administration.

❷ **What is left of the federal budget would understate federal spending and taxes.** By essentially removing highway funding from the normal presentation of the budget, the legislation would understate the size of the federal government. In FY 1996, some $302 billion, or 19.2 percent of spending, was already off-budget. S. 729 would add another $30 billion-$35 billion to that figure.

❸ **Highway programs would be removed from ongoing congressional oversight, and the outdated and inequitable allocation of pay-in and payout by the states would be preserved.** In the current allocation scheme, the 27 donor states that subsidize the 23 recipient states (and the District of Columbia) would remain unchanged. Table 2 presents the states by gain or loss, with several states such as Florida, Georgia, and Kentucky receiving from the trust fund less than three-quarters of the share paid in.

❹ **The highway program would be exempted from the budget's discretionary spending caps.** This would reduce the annual appropriations process for transportation programs to an empty exercise because any actions taken would not count for purposes of budget scorekeeping or deficit reduction. Furthermore, this diminished congressional oversight would take away the incentive to improve a program that has not changed fundamentally since its origins in the 1950s, and would make more difficult the development and enactment of any of the reform proposals to transfer, devolve, block grant, or give back some or all of the highway revenue and spending authority to the states. Once the program is moved off budget and no longer is subject to annual budget review or periodic authorization, Congress would have fewer scheduled opportunities to review and improve it, and, therefore, fewer opportunities to effect needed reforms.

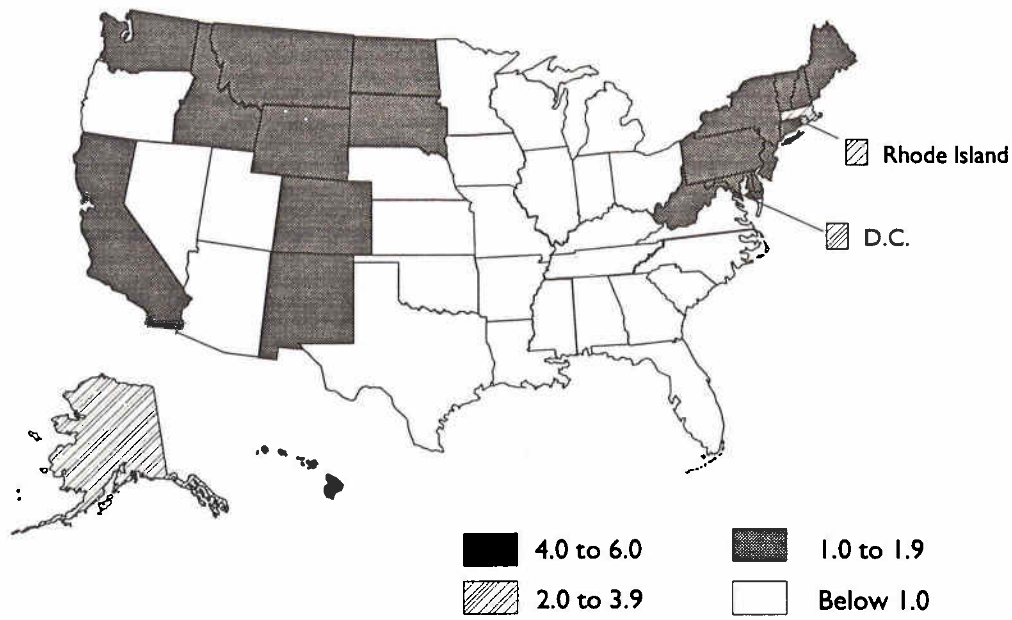
This final point is critical. Enactment of S. 729 would make it extremely difficult to reform outdated and ineffective transportation policies. Putting the program off budget and no longer subject to regular congressional review, authorization, and appropriation means that several prominent proposals to shift more of the resources and program management to the states would face greater obstacles to serious consideration and enactment. Such devolution is needed. With the interstate highway system completed, and with most transportation problems now largely local in nature, a centralized program operated by a Washington bureaucracy makes no sense.

AN ALTERNATIVE APPROACH

Rather than weaken the oversight of highway programs and insulate them from budget review, the Senate should be seeking ways to devolve those programs to the states, where local taxpayers and elected officials can better determine how to get full value for the money.

Map 1

Highway Fund Return Ratios in 1994: Northeastern, Western States Benefit Most



Note: A ratio above 1.0 indicates the state receives more money from the Highway Fund than it puts in.
Source: Federal Highway Administration, see Technical Notes, p. 8

Proposals include the modest reforms endorsed by the Step 21 Coalition (representing 22 states). The Coalition plan would streamline highway program procedures, make more equitable the allocation of funds among states, and preserve the integrity of trust fund receipts, among other goals. But more comprehensive and better targeted to the needs of the states is legislation soon to be introduced by Senator Connie Mack (R-FL). Under Mack's "give-back" plan, all states would be given the right to collect the fuel tax and spend the receipts on transportation projects of their choosing, without interference from the federal bureaucracy or politically influential-special interests.[2] The Mack plan would limit future federal highway involvement to the maintenance and improvement, as needed, of the existing interstate highway system and would limit the federal fuel tax to the revenues needed to meet this specific objective.

Devolution of highway funding to the states is long overdue. Washington's continued involvement in transportation substantially raises the costs of local highway projects. The federal mandates that accompany money from Washington mean that narrow yet influential constituent groups, such as organized labor and highway construc-

2 Senator Mack's intentions are described briefly in "Dear Colleague" letters dated February 14, 1996, and March 7, 1996. For a detailed description of how such a give-back program might work and benefit the states, see Ronald D. Utt *et al.*, "How to Close Down the Department of Transportation," Heritage Foundation *Backgrounder* No. 1048, August 17, 1995, pp. 6-14.

tion and material supply companies, benefit enormously at huge cost to taxpayers.[3] One such feature of federal policy that benefits organized labor is the Davis-Bacon Act, which is attached to the highway program. This Act requires that workers on all federally financed highway construction projects be paid wages that often are 20 percent to 40 percent higher than local norms. It is estimated that this provision alone adds $202 million per year in unnecessary costs just to California's highway program.[4]

Spending approximately $20 billion per year in both large and small construction projects, the highway trust fund is far and away the country's largest source of civilian pork-barrel spending. Various interest groups, companies, and industries that benefit from its current mode of operation understandably perceive any movement away from the status quo as a threat to their long-established lucrative relationships with government. This is why lobbyists for construction companies are mounting such an effort to gain passage of legislation to move the trust fund off budget. The Senate should not bow to this pressure. Instead, it should craft legislation that continues oversight and budget control, and begins the transfer to the states of responsibility for highways and the finances to pay for them.

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3 For a detailed analysis of how these mandates adversely affected California's program, see Tom McClintock, "Unfunded Federal Mandates in Transportation: The Case for Unilateral Devolution," Claremont Institute *Briefings* No. 1995-46, September 25, 1995.

4 *Ibid.*, p. 5.

TECHNICAL NOTES

Table 1

Source: Columns titled General Fund Appropriations, Highway Trust Fund Expenditures, and Total Federal Expenditures - All Highways are from *Highway Statistics,* as reprinted in a memorandum dated April 15, 1995, from John W. Fischer and William A. Lipford of the Congressional Research Service to the Honorable Nick Smith on the subject of "General fund spending for highways." Column titled Highway Trust Fund Receipts is derived from *Historical Tables, Budget of the United States Government, Fiscal Year 1997* (Washington, D.C.: U.S. Government Printing Office, 1996), Table 2-4, pp. 34-39. Column titled Excess Highway Spending is the difference between receipts (col. 3) and total expenditures (col. 4).

Table 2

This presentation and return ratio differs from that presented in Table FE221, which purports to show that all states, except Kentucky, received a greater share of funds than they contribute, an outcome that is mathematically impossible. This DOT misrepresentation of state status is accomplished by comparing actual current fuel tax payments into the fund with prospective spending from the fund, with the latter always larger than the former because it includes interest earnings and unexpended balances in the fund, an apples-and-oranges relationship. Table 1 presents the same information but in a way that compares apples to apples (or grapes to grapes) by measuring the share paid in with the share paid out. For example, in the case of Kansas, the table indicates that its payment into the fund accounted for 1.159 percent of fund revenues but that it received only 0.96 percent of spending, making it a donor state, while Pennsylvania accounted for 4.7 percent of revenues but received 4.9 percent of spending, making it a recipient state. All states in bold type are donor states.

Source: *Federal Highway Statistics, 1994*, U.S. Department of Transportation, Federal Highway Administration, Table FE-221, p. IV-18. Columns 1 and 2 are from columns 2 and 6 of Table FE-221, and column 3 is the ratio of columns 1 and 2.