Backgrounder

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Proposal to Turn the Federal Highway Program Back to the States Would Relieve Traffic Congestion

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Representative Jeff Flake (R–AZ) has introduced legislation that would devolve, or "turn back," the federal highway and transit programs to the states by allowing them to take over collection of the federal fuel tax and spend those revenues on transportation priorities of their own choosing, not Washington's. The policies embodied in this bill—the Transportation Empowerment Act (H.R. 3113)—would significantly improve the efficiency and effectiveness of surface transportation programs without imposing a tax increase.

Problems With the Status Quo

With the completion of the interstate highway system more than 20 years ago and the increased urbanization of the population, America's transportation problems have become increasingly local and regional in nature. As a result, Washington officials have little to offer in the way of effective solutions to distant problems. Indeed, a case could be made that the existing top-down, one-size-fits-all approach embodied in the 1998 Transportation Equity Act for the 21st Century (TEA–21) has become a counterproductive waste of money that increasingly benefits influential constituencies at the expense of the ordinary motorists who fund the program through their taxes.

Over the six-year period from 1998–2003, TEA–21 authorized the federal government to spend $217 billion on roads and transit,[1] but very little of this money went for new road capacity. As a consequence of this misspending, traffic congestion has continued to worsen throughout the United States. According to

Talking Points

- With the completion of the interstate highway system more than 20 years ago and the increased urbanization of the population, America's transportation problems have become increasingly local and regional in nature.
- Representative Jeff Flake (R–AZ) has introduced legislation that would turn back the federal highway and transit programs to the states by allowing them to take over collection of the federal fuel tax and spend those revenues on transportation priorities of their choosing, not Washington's.
- Under the Transportation Empowerment Act, motorists and truckers who fund the system would get a more equitable return on the taxes they pay, and overall mobility would improve.
- The inequitable geographic allocations in the current system would be eliminated; state officials would set transportation priorities; and reform-minded state officials could introduce promising reforms that have succeeded elsewhere.

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annual calculations provided by the Texas Transportation Institute, the 75-city congestion index increased from 1.08 in 1996 to 1.17 in 2001, the percentage of freeway lane-miles that are congested during peak period rose from 43 percent in 1990 to 55 percent in 2001, and the percentage of daily travel in congestion rose from 30 percent in 1996 to 34 percent in 2001.[2]

Among the many problems with the existing centralized, command-and-control program are longstanding regional inequities between "donor" states—those whose motorists pay more in fuel taxes than they receive back from the program—and "recipient" states—those that get back more than they pay. Over the past several decades, many of the southern and western states have found themselves in the position of donors, while states in the northeast and central regions of the country are most often recipients.

In the year leading up to the 1998 reauthorization of the federal highway program, many of the donor states organized themselves into STEP 21, an advocacy group that sought to ameliorate the inequity with a federal guarantee that each state would receive at least a 90.5 percent return on its tax revenues. While such a provision was included in TEA–21, many argued that it was not likely to be effective, and this seems to have been the case as many traditional donor states still receive share returns below 90 percent.

Under allocation formulas embodied in the current law, Mississippi, the poorest state in the Union, pays more than it gets back, while Connecticut, the richest state, gets back more than it pays. Moreover, fast-growing states tend to do worse than slow-growing states under the current formula. Fast-growing states like California, Florida, Texas, Georgia, North Carolina, and South Carolina are long-standing donors—year after year shipping a portion of their fuel tax revenues to perennial recipient states like New York, Massachusetts, and Pennsylvania.[3]

For example, Texas does exceptionally poorly under the federal highway program. In 2001, its motorists accounted for 8.65 percent of the revenue paid into the Highway Trust Fund but received only 6.93 percent of the money paid out of the fund. If Texas had been entitled to a return share equal to its contribution to the trust fund, it would have received an additional $585 million in federal transportation money in 2001.[4]

Another major problem with the existing federal program is the mandated diversion of as much as 40 percent of federal fuel tax revenues to non–general purpose highway projects that benefit small but influential fractions of the population, including the billions of dollars wasted on the thousands of questionable pork-barrel projects that Members of Congress inserted into the legislation. The largest diversion of all is the federal transit program that shifts a disproportionate share of the federal transportation money (20 percent) from roads to transit systems that carry only a small portion (1.8 percent) of the traveling public.

Time for A Change

By shifting resources and responsibility to the states, the Transportation Empowerment Act offers the traveling public four key benefits:

- The motorists and truckers who fund the system would get a more equitable return on the taxes they pay, and overall mobility would improve.
- The inequitable geographic allocations in the current system would be eliminated.
- Transportation priorities would be set by state officials, not by Washington bureaucrats trying to satisfy politically influential constituencies.
- Reform-minded state officials, no longer hobbled by federal prohibitions and costly man-

1. See U.S. Department of Transportation, "Authorization Table," in *TEA-21—Transportation Equity Act for the 21st Century: Moving Americans into the 21st Century*, last modified on July 13, 1998, at *www.fhwa.dot.gov/tea21/sumauth.htm*.
2. *2003 Annual Urban Mobility Report* (College Station, Tex.: Texas Transportation Institute, 2003), Appendix A, Exhibits A–11, A–14, and A–19, at *mobility.tamu.edu/ums/appendix_a*.
3. Ronald D. Utt, "Reauthorization of TEA–21: A Primer on Reforming the Federal Highway and Transit Programs," Heritage Foundation *Backgrounder* No. 1643, April 7, 2003, p. 15, Table 5, at *www.heritage.org/Research/SmartGrowth/bg1643es.cfm*.
4. Calculations from data presented in *ibid.*, Table 5.

dates, could introduce promising reforms that have succeeded elsewhere.[5]

To accomplish an orderly transfer of resources and responsibilities from federal to state governments, the Transportation Empowerment Act establishes a gradual phase-out of much of the federal fuel tax while maintaining minimum spending levels on a series of mandated projects through 2009, the year in which the next federal highway program reauthorization would be scheduled to expire. The bill creates a new category for these mandates by redefining them as "essential highway programs."

Included in the new protected category are several existing programs. Chief among them is the Interstate Maintenance Program, proposed at $5.6 billion in fiscal year 2004, with mandatory spending rising incrementally each year until it reaches $6.1 billion in 2009. Section 3 of H.R. 3113 provides a state-by-state allocation formula for these maintenance funds based on a state's lane miles, urban and rural vehicle miles traveled, and diesel fuel use.

Other programs that are continued within the "essential" category are Indian reservation roads, public lands highways, parkways and park roads, and surface transportation research. Highway safety programs are also continued at $200 million per year, as are motor carrier safety grants at $110 million per year.

At the same time, the federal fuel tax would be reduced each year from its current level of 18.3 cents per gallon until it reaches 2 cents after 2009. In the interim, it would decline to 16.3 cents in 2004, 11.3 cents in 2005, 8.3 cents in 2006, and 7.3 cents in 2007. As the federal fuels tax declines, states would, if they so desired, raise their own fuel tax by the amount that the federal fuel tax declines.

In this way, total per gallon fuel taxes paid by the motorist would remain the same, and all that would change is the distribution of revenue between state and federal programs. During the intervening period, the U.S. Secretary of Transportation is required to return to each state any revenues—collected through the (declining) federal fuel tax—in excess of the required spending for the essential highway programs.

Force Efficiencies in Transit

Significantly, H.R. 3113 would eliminate transfers from the shrinking stream of federal gas tax revenues to the Mass Transit Account within the Highway Trust Fund and, in the process, end the federal mass transit program once the current balance in the account is exhausted. In its place would be an annual grant to transit of $2.5 billion for each of the next six years, substantially less than the more than $7 billion per year that transit currently draws from the Mass Transit Account and the $10 billion per year it hoped to receive from the new reauthorization.

While some transit proponents may view this as the end of substantial government subsidies to transit, in fact the bill merely shifts that option to the state, where the choice between money for roads versus money for transit should be made, given the wide differences in usage among the states.

Under current law, 2.86 cents of the 18.3 cent federal fuel tax goes into the Mass Transit Account, which means that motorists across the country provide the same subsidy for transit even though the availability and usage of transit services varies dramatically from place to place and is largely concentrated in just a few major metropolitan areas. Indeed, 74 percent of transit ridership occurs within seven metropolitan areas—New York, Chicago, Philadelphia, Boston, San Francisco, Los Angeles, and Washington, D.C. New York alone accounts for 42 percent of America's total transit ridership.[6]

Despite this concentration of transit ridership in a handful of places, all motorists share equally in the costs. Motorists in Oklahoma, for example, ship nearly 20 percent of their federal fuel taxes to the Mass Transit Account in Washington, D.C.; yet transit ridership in Oklahoma accounts for only 0.04 percent of the trips taken in the state, com-

5. See Peter Samuel, "Tolls and Surface Transportation Reauthorization," Heritage Foundation *Backgrounder* No. 1650, May 2, 2003, pp. 4–6.

6. Utt, "Reauthorization of TEA–21," p. 7.

pared to Maryland, where 6.9 percent of the journey-to-work trips are by some form of transit. In its largest urbanized area—Oklahoma City—only 0.60 percent of the commuters use transit, compared to almost 24.9 percent in New York.[7]

With a turnback proposal such as H.R. 3113, each state could adjust its spending patterns and subsidies to conform more closely to the prevailing ridership preferences of its taxpaying citizens. Oklahoma, for example, would likely devote most of its share of the devolved federal fuel taxes to roads, which the vast majority of its citizens prefer, while New York might want to devote relatively more of its devolved tax revenues to transit to reflect that state's high rate of transit ridership.

More Private-Sector Investment

Another significant change is that the Transportation Empowerment Act would allow a more flexible and accommodating privatization program that encourages states to privatize transportation infrastructure provided (1) that the change in ownership does not alter the general objectives "of the original Federal program that funded that asset" and (2) that the "private party purchasing or leasing the transportation infrastructure asset agrees to comply with all applicable conditions of the original federal program."[8] By encouraging private investors and developers to participate, the privatization provisions of this bill would allow substantially more financial resources to flow into road building and repair without raising taxes.

Although the Transportation Empowerment Act represents a significant departure from the central planning model embraced by the federal government since the mid-1950s, this is not the first time Members of Congress have attempted to improve the program by devolving the responsibilities to the states, as it was prior to the enactment in 1956 of the Federal Aid Highway Act and the Highway Revenue Act.

In 1996, during the debate leading up to the last reauthorization of the surface transportation programs, Senator Connie Mack (R–FL) and Representative John Kasich (R–OH) introduced legislative initiatives to accomplish comprehensive devolution. In 2002, Senator James Inhofe (R–OK), now chairman of the Senate Committee on Environment and Public Works, introduced a bill (S. 2861) to devolve the federal highway program to the states, partly in consideration of how poorly his own state does under the federal allocation formula. Representative Flake's H.R. 3113 incorporates a number of the principles, concepts, and provisions that first surfaced in these earlier turnback proposals.

Conclusion

Having completed the authorized task of constructing a 41,000-mile interstate highway system from coast to coast and border to border, the federal government has found it difficult to resolve surface transportation problems that are increasingly local in nature and beyond the skill of the Washington bureaucracy and congressional committees. Despite record levels of highway spending, congestion is worsening and roads are deteriorating, and many in Congress and the Administration appear to have little interest in doing much more than continuing the *status quo*, albeit at higher levels of taxpayer funding. Such an unfortunate outcome would do little more than perpetuate this defective system for another six years and lead to more congestion and infrastructure deterioration.

With the expiration of TEA–21 on September 30, 2003, Congress has a once-in-a-decade opportunity to reform the federal highway and transit program in a way that would give greater responsibility and decision-making to the states and metropolitan areas that are confronting costly congestion and growing repair backlogs. The Transportation Empowerment Act is a good place to start and—combined with other proposed legislation like the Freeing Alternatives for Speedy Transportation (FAST) Act (H.R. 1767 and S. 1384)—will lead to greater mobility without increasing taxes.

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7. "Table P30: Means of Transportation to Work for Workers 16 Years and Over (data set)," in *2000 U.S. Census*.
8. H.R. 3113, Transportation Empowerment Act, 108th Cong., 1st Sess., Section 6: Federal-Aid Facility Privatization, p. 27.