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Congress Undermines America's Infrastructure by Looting the Highway Trust Fund

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Recent projections by the Office of Management and Budget and the Congressional Budget Office reveal that the highway trust fund will run out of money during FY 2009. Unless the fund is replenished soon, federal spending on highways could decline significantly as the fund reverts to a spend-as-you-earn basis until a permanent remedy is enacted. Until then, one solution is to re-concentrate the fund's focus on highway investment and safety by abandoning the many low priority and non-transportation diversions that now encumber the federal program.[1]

A Funding "Crisis"? The soon-to-be-empty trust fund is a direct consequence of recent congressional overspending in excess of the fuel tax revenues that replenish the fund as well as decades of congressional mandates allowing non-highway interests access to the highway trust fund. In FY 2008, these mandates are estimated to have diverted approximately 38 percent of trust fund spending to projects and programs of little value to the motorist's mobility needs.

Despite the fund's depletion, some in Congress are advocating that the next highway reauthorization bill (scheduled for October 2009) should include a very substantial increase in federal transportation spending. Leaders of the House Committee on Transportation and Infrastructure want total spending raised from the current $286 billion to nearly a half a trillion dollars. Achieving this rate of spending would likely require a doubling of the federal fuel tax from its current level of 18.3 cents per gallon.

Those seeking more transportation spending justify the tax increase as the necessary cost of resolving the nation's infrastructure "crisis." But as this author noted in a recent piece in the *Wilson Quarterly*, the so-called crisis seems limited exclusively to the infrastructure managed by Congress, and legislative mismanagement—not the level of funding—is a large part of the problem.[2]

Raid on the Funds. Among the many reasons these congressional tax-and-spend schemes will fail to relieve worsening traffic congestion and road deterioration is that less than two-thirds of current federal surface transportation spending is devoted to the general purpose roads that the typical motorist or truck driver (who finances the fund) use in the ordinary course of travel. The other third goes to a growing collection of costly diversions that have little to do with the mobility needs of the average motorist or to the economically essential movement of freight.

In the last highway reauthorization bill (P.L. 109-59), the largest diversion from the authorized $52 billion in total spending from the highway trust fund (including $1.8 billion in general revenues) for FY 2008 is the $9.7 billion in direct spending for

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transit programs (trolleys, buses, commuter rail, etc.). Transit riders are also the greatest beneficiary of the Congestion Mitigation and Air Quality program, which absorbs $1.7 billion from the trust fund. Although transit riders account for only 1.6 percent of surface travel passengers, they receive a subsidy from the motorists amounting to approximately 20 percent of trust fund spending.

Other fund diversions include the Enhancement program ($647 million), the Appalachian Regional Commission (ARC) ($470 million), Recreational Trails ($80 million), and a transfer of $925 million to the Department of Interior for roads in national parks and forests. Altogether these leakages will absorb more than 26 percent of fund spending in 2008.

The next largest series of diversions are the four major earmarked programs: High Priority Projects, Projects of Regional and National Significance, Transportation Projects (Section 1934 of P.L. 109-59), and the National Corridor Infrastructure Improvement Program. All are authorized to spend $4.5 billion, bringing the diversion share to 35 percent.

About $155 million will be spent on scenic byways, ferry boats, magnetic levitation and tax evasion deterrence, while $408 million will be spent on administrative overhead. More than $570 million will be spent on another twelve mandated programs, including bicycles, racial profiling, historic covered bridges, community preservation, innovative finance, and Safe Routes to Schools (which also supports bicycles). Bringing up the rear are the federally mandated Metropolitan Planning Organizations—whose focus is increasingly directed to land use planning, transit and economic development—which receive $302 million.

Motorists Ripped Off. Altogether, these diversions absorb an estimated $19.6 billion in trust fund spending, or about 38 percent of the total spent from the trust fund. As a consequence, motorists will receive only about 62 percent of what they have paid into the fund for general purpose roads and safety programs. Redeploying these diverted funds back to roads used by the motorists and truckers who fund the system would yield the equivalent of a 50 percent increase in new spending for road improvements and capacity increases.

Conversely, to achieve the same goal by increasing taxes would require a tax increase of $1.67 for each dollar to be spent on roads, since the extra $0.67 would be required by the existing diversions, which traditionally share equally in any funding increase. Thus, in order to return the lost $19.6 billion to roads, fuel taxes would have to be increased by $32.7 billion. These wasted funds are a key reason why the nation's roads are in such bad shape and why congestion is getting worse.

Even More Diversions. Although the sensible policy response would be to pare back the number and cost of the existing diversions, some in Congress have already introduced legislation that would add even more diversions to the depleted trust fund. In 2008, Senator Dick Durbin (D–IL) introduced S. 3360 to give Amtrak access to the highway trust fund to purchase new railcars. Bill co-sponsor Senator Tom Carper (D–DE) claims that the legislation would divert $400 million each year in motorist-paid gas taxes to Amtrak, which serves only one half of 1 percent of intercity passenger travel.

Another potential major diversion could come from Representative Jim Oberstar's (D–MN) H.R. 3246 (the Regional Economic and Infrastructure Development Act of 2007), which would authorize federal funding for five new regional commissions that would be similar to the ARC, which has access to the highway trust fund. Although the bill in its current form does not give these new commissions such access, it is likely that its final version would include that privilege in order to create regional parity and because the Delta Regional Authority, which will be reconstituted as a "commission" under H.R. 3246, already has access to the trust fund (Section 1308).

1. Ronald D. Utt, "No Taxpayer Bailout for the Earmarked Highway Bill," Heritage Foundation *WebMemo* No. 2001, at *http://www.heritage.org/Research/SmartGrowth/wm2001.cfm.*
2. Ronald D. Utt, "Building Up," *Wilson Quarterly*, Summer 2008, p.6.

States Know Best. Under the circumstances, the combination of existing diversions and the new ones likely to be enacted over the coming year suggest that the federal transportation program will become more costly and less effective. As a consequence, proposals to shift transportation responsibility and revenue sources back to the states are now even more compelling. One such proposal—Senator Jim DeMint's (R–SC) Transportation Empowerment Act (S. 2823)—would do just that by "turning back" the highway program and its source of revenues to the states.

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