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Highway Trust Fund Inequities Will Get Worse in Future Years

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Among the many contentious issues in the federal highway program is the inherently unequal distribution of trust fund revenues to the states.

Under current law, the federal fuel taxes paid into the trust fund by motorists and truckers are returned to the states by a mathematical formula that attempts to match the scope and usage of each state's surface transportation system with payments received from the federal government.[1] But as a consequence of flaws in the formula, many states (donors) consistently receive less than they pay in while others (donees) consistently receive more. This deficiency, in turn, exacerbates regional transportation problems because the shortchanged states are typically those with above average population growth whose transportation needs exceed that of the slower growing states. While half-hearted efforts have been made in the past to mitigate this problem, little real progress has occurred, and the expected depletion of the trust fund in FY 2009 will reverse what little progress has been made to date.

Highway Robbery. Over the past several decades, the states shortchanged by the program have been concentrated in the Southeast and the Great Lakes region plus California and Arizona. The states receiving more than their fair share have been concentrated in the Northeast and Middle Atlantic states and the sparsely populated Mountain states. In 2006, there were 30 donor states and 20 donees, although many states were close to being even in their return ratios.[2] In 2006, Texas, for example, received only an 84.7 percent payback, costing it $509 million in lost federal payments that year, while Florida received just 82.5 percent, California 86.9 percent, and South Carolina 88.6 percent.

As reported in an earlier Heritage paper,[3] these same states, and many others, have been consistent losers since the program's creation in 1956. Over the past 50 years, Texas received just 80.3 percent, Oklahoma 83.8 percent, and Georgia 84.0 percent.

As unacceptable as these losses were, they would have been much worse had not SAFETEA-LU (the highway reauthorization bill, enacted in August 2005) created the Equity Bonus program to partially offset donor states' losses. Under this program the U.S. Department of Transportation (USDOT) was authorized to spend up to $41 billion of trust fund money between FY 2005 and FY 2009 to ensure that states received a minimum share of 90.5 percent in 2006, rising to 92 percent by 2009. Despite these goals, the benefits of the program have been greatly exaggerated. Achieving even the modest goal of a 90.5 percent share relied entirely on the proposition that the highway trust fund would each year spend more than it received in federal fuel tax revenues—with the excess funds used to partly even things out for donor states—and that an inaccurate methodology would be used to calculate the shares.

For example, under the methodology of share or return ratio calculations used in this paper, Texas in 2006 experienced a 84.7 percent return ratio,

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reflecting the fact that its tax revenues accounted for 8.76 percent of the money flowing into the fund compared to the 7.42 percent of trust fund spending it received (7.42 is 84.7 percent of 8.76). In contrast to this more accurate measure of equity, Congress and the USDOT base their share calculations on the total dollars paid into the fund compared to dollars paid out, which are distorted by the excess spending of recent years. By this method the USDOT reports that Texas received a 96 percent share, reflecting $2.9 billion it paid in and the $2.8 billion it received.

As noted earlier, the ability to achieve the modest equity goals using the USDOT method requires the trust fund to spend more money than it takes in, which can occur only if the trust fund possesses a significant surplus. When SAFETEA-LU was enacted, the trust fund surplus was above $10 billion, but years of overspending and sluggish growth in fuel tax revenues, among other factors, have depleted the surplus. In FY 2006, for example, trust fund spending totaled $38 billion, compared to the $33.7 billion it received in fuel tax revenues. As a consequence, the surplus was expected to hit zero in early FY 2009, but Congress and the President agreed to an unprecedented bailout of the fund (H.R. 6532) with $8 billion in general taxpayer revenues (enough to carry through to the expiration of SAFETEA-LU in September 2009).

No Remedy in Sight. Spending inequities could potentially get worse as a result of the fund's deficiency. Unless federal fuel taxes are soon increased substantially, or Congress and the President agree to ongoing bailouts of the highway trust fund, the already inadequate equity bonus program will effectively lapse.

Under the circumstances, the prospects of either of these remedies occurring in the near future are dim. With gasoline prices likely to still be in the $3–$4 per gallon range, Congress might not be inclined to make that burden any worse by adding more taxes to fuel costs. But even if they wanted to, a fuel tax increase would not become law until a new highway reauthorization is enacted, which is scheduled to take place next October. But few of the recent highway reauthorization bills have been enacted at the expiration of the previous one, and SAFETEA-LU was 20 months late.

Without a timely renewal of the federal highway program at substantially higher taxes, the only other relief option within the confines of a top-down, command and control, Washington-centric program would be an ongoing (and very costly) general fund bailout to maintain the meager equity improvements expected to be achieved in the final years of SAFETEA-LU.

A Simple Solution. Alternatively, if one is willing to abandon the requirement that the current system continue as a Washington-knows-best program, the solution to achieving interstate equity without another taxpayer bailout or tax increase is a simple one: Allow each state to keep the 18.3 cents per gallon federal fuel tax revenues collected within its borders to spend on the surface transportation priorities of its own choosing. Legislation to enact such a plan has already been introduced in the Senate: Titled the Transportation Empowerment Act (S. 2833), the bill would transfer taxing and spending responsibilities to each state in a five-year, incremental phase out of the federal highway program.

Despite the simplicity of the solution, many in Congress will oppose it, because it would require them to surrender earmarks, and the ability to divert trust fund money to non-transportation purposes. Nonetheless, the deprived donor states are of sufficient number to force a meaningful resolution of the issue, and a good place to start would be the creation of donor state caucuses in the House and the Senate in advance of the next highway bill debate.

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1. Different formulas apply to different federal highway programs. The Surface Transportation Program, for example, uses total lane miles of federal aid highways, total vehicle miles traveled (VMT) on federal-aid highways, and a state's share of trust fund tax payments to determine each state's apportionment.
2. See Ronald D. Utt, "Ending Pervasive Inequities in the Gas Tax Burdens," Heritage Foundation *Backgrounder* No. 2143, June 16, 2008, at *http://www.heritage.org/Research/SmartGrowth/bg2143.cfm.*
3. *Ibid.*