WebMemo
Published by The Heritage Foundation
No. 2917
May 27, 2010

Can the Federal Government Still Afford to Run the Federal Highway Program?

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As a consequence of the flawed highway reauthorization bill (known as SAFETEA-LU) enacted in 2005, the highway trust fund ran out of money in fiscal year (FY) 2009 and has since been subsidized with general revenues from the Treasury. Funded by a per-gallon fuel tax paid by truckers and motorists, the highway trust fund had a surplus as high as $23 billion in FY 2000 but—absent a bailout—would have turned negative in 2009, because SAFETEA-LU authorized a level of annual spending in excess of tax revenues received.

Once a moneymaker for the federal government, the trust fund has become a money loser at a time when exploding government budget deficits are a threat to the health of the economy. With future trust fund projections showing that the fund's financial problems will worsen in future years, the time is ripe to reform the system by returning surface transportation responsibility to the states along with the right to levy the 18.3 cents per gallon federal fuel tax.

How Bad Is It? A recent analysis by the Congressional Budget Office (CBO) reveals that legislation already enacted will shift $67.3 billion of general revenues into the trust fund and to other transportation spending between FY 2008 and FY 2012.[1] Unless transportation spending is cut from current levels or federal fuel taxes are increased substantially, an additional $56.1 billion will be added to the deficit over the five following fiscal years (2013 to 2017). Between 2013 and 2020, the CBO estimates that trust fund losses will accumulate to $93.9 billion.

Importantly, the CBO's loss estimate can be viewed as fairly conservative in that it assumes federal transportation spending will increase each year at a rather modest rate—less than 2 percent. Congress, however, has other plans, and House Transportation Committee Chairman James Oberstar's (D–MN) draft reauthorization legislation, the Surface Transportation Authorization Act (STAA)—and his new high-speed rail subsidy program—propose to spend a total of $500 billion over the next six fiscal years, compared to the $285 billion spent over the preceding period through SAFETEA-LU.

Obviously, if Oberstar succeeds in his plans, the trust fund deficit—and thus the federal budget deficit—will be very larger than the estimates provided by the CBO.

In this Chaos Lies Opportunity. The policy risk is that this fiscal dilemma will yield conventional solutions that might better be ranked by which one is worse than the other. However, fiscal conservatives, advocates of limited government, and supporters of improved surface transportation and enhanced mobility might want to take a page from the Rahm Emmanuel playbook and embrace his dictum that "you never want a serious crisis to go to

This paper, in its entirety, can be found at:
http://report.heritage.org/wm2917

Produced by the Thomas A. Roe Institute for Economic Policy Studies

Published by The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002–4999
(202) 546-4400 • heritage.org

The Heritage Foundation
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waste. What I mean by that is an opportunity to do things that you think you could not do before."[2]

At the moment, that opportunity exists for transportation policy, thanks in large part to a combination of the serious fiscal deficiencies created by the ill conceived SAFETEA-LU, the Obama Administration's whimsical obsession with bicycles, and the introduction of Oberstar's bloated and bureaucratic reauthorization proposal: the STAA.

What to Do. Now is the time to consider the proposal put forth in 1995 by former Senator Connie Mack (R–FL) and former Representative John Kasich (R–OH) to return to the states the responsibility for operating the federal surface transportation program and to fund it by giving states the authority to collect the 18.3 cents per gallon fuel tax now collected by Washington. This proposal is called "turnback," to reflect its goal of restoring surface transportation policy to the states, where it was once held.

By shifting resources and responsibility to the states, turnback offers the traveling public five key benefits:

1. The motorists and truckers who fund the system would get a more equitable return on the taxes they pay, and overall mobility would improve;
2. The inequitable geographic allocations in the current system would be eliminated;
3. It would end the corrupt congressional earmarking process in transportation;
4. Transportation priorities would be set by state officials, not by Washington bureaucrats; and
5. Reform-minded state officials, no longer hobbled by federal prohibitions and costly mandates, could introduce promising reforms.

Most turnback plans establish a gradual phase-out of the federal fuel tax while maintaining minimum spending levels on a series of mandated projects to smooth the transition from federal to state control.

At the same time, the federal fuel tax would be reduced each year from its current level of 18.3 cents per gallon to, say, 16.3 cents in the next, 11.3 cents in the third, etc., until it is eliminated over a five-year transition period. As the federal fuel tax rate declines, states could, if they so desired, raise their own fuel tax by the amount that the federal fuel tax declines, thereby maintaining total transportation spending in their state by replacing lost federal resources with new state resources, with no change in the total tax burden on truckers or motorists.

Other Costs and Benefits. Some worry that a turnback program might lead to the neglect of the interstate highway system, which, while owned by the states, is viewed as a federal responsibility. To the extent that that is a legitimate concern—and some question this because the current poor condition of the interstate under federal stewardship leaves much to be desired—turnback legislation could link the privilege of leaving the federal system with the responsibility of maintaining the interstate up to a certain standard.

Others note that, absent the current federal general fund bailout, the quality of surface transportation could fall if spending was limited just to gas tax revenues. While nominally true, motorists could still gain because a turnback plan would also end the non-road diversions now mandated by federal law, which today siphon away about 30 percent of federal transportation spending.

Once in a Decade. With current proposals from Congress and the Administration promising to make things worse for American motorists, reformers have 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. To this end, governors and state departments of transportation should take the lead in this effort to turn the program back to the states.

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1. Congressional Budget Office, "Highway Trust Fund Projections: Updated Spring FY 2010, Baseline 2009–2020," March 19, 2010. Total also includes highway and transit spending authorized by the American Recovery and Investment Act.
2. Mara Liasson, "On Obama's Team, Ex-Clinton Staffers Get Do-Over," NPR.org, December 23, 2008, at *http://www.npr.org/templates/story/story.php?storyId=98593976* (May 26, 2010).