Senate Transportation Bill: Driving in the Wrong Direction

Proposed funding would undermine user-pays, rob the Treasury of needed funds, and do nothing to fix the program's problems

February 8, 2012

Senate leadership is busy patting themselves on the back in the wake of Senate Finance Committee approval of a slate of "pay-fors" to help fund the proposed 2-year $109 billion MAP-21 transportation reauthorization bill. Before anyone gets swept up in their (irrational) exuberance, however, we'd like to point out that this transportation bill would not be funded entirely with gasoline tax revenues, nearly the sole source of transportation revenue for at least five decades. Instead, recent declines in gas tax collections and Congress' desire to spend more than what will be collected has led them to poach additional sources of revenue.

Part I: Problems with the Senate Approach

1. **Senate Finance Uses Revenue Streams Amounting to Little More than Budget Gimmicks.** As explained further below, this proposal uses long-term funding for a short-term transportation bill, transfers significant funding from the Treasury, and is paid for with questionable tax changes that may not live up to revenue projections.
2. **Ten Years of New Revenues to Fund Two Years of Transportation.** The Senate Finance Committee needs to come up with about $9.6 billion (this number has been a constantly moving target, however) in additional funding to cover what the Senate bill would spend above expected gas tax revenues. To fund just two years of the nation's transportation program, Senate Finance would use ten years of additional (non-gas tax) funding from a variety of policy changes.
3. **Contains Several Veiled General Fund Transfers.** Many of these policy changes would take money that would otherwise have gone to the general Treasury (see below). Though the Committee claims to have offset these transfers, those offsets could have been better spent reducing the deficit further. Simply put, every dime that stays in the Treasury reduces our annual deficit. Congress should be finding real solutions, not crafting tricky ways to rob the Treasury.
4. **Would Leave Transportation Program No Better Off in Two Years.** Most of the "pay fors" would not be available again in two years (because they would still be used to offset the old bill for the next eight years!), leaving the transportation program in even worse shape than it is now. Without solving the enormous systemic funding problems the program faces, the Senate is simply kicking the can down the road and into a ditch with this bill.

5. **Takes Highway Trust Fund to Dangerously Low Level.** The Senate Finance approach would drastically "spend-down" the balance in the Highway Trust Fund, and any change in gas tax collections could take it below the $4 billion threshold required to meet future obligations. The Department of Transportation has indicated that going below that amount would require that they "slow down" distribution of funds to states, which would have a dramatic impact on states' ability to plan for and execute projects.
6. **Raises Significant Questions about the Long Term Treasury Impact.** According to the Joint Committee on Taxation, the Senate bill is finally offset after ten years. For the first five years, the bill would have a negative impact on the Treasury, drawing funds to pay for the two-year transportation bill. Only start in 2017 would the supposed "pay-fors" begin resulting in positive revenues to the Treasury. Borrowing ahead to pay for today's obligations, and repaying that debt with questionable revenue sources, is exactly what got our nation into its current budgetary quagmire.
7. **Drives Nation Away From User-Pays Principle of Transportation Funding.** Most of the new sources of revenue have little or nothing to do with transportation, and take us away from the "user pays" principle, which dictates that transportation system users (primarily the drivers who pay federal gasoline taxes) are responsible for paying to construct and maintain the system. This has been the basis of our nation's transportation policy for decades. The Senate Finance proposal would undermine this policy by funding our nation's transportation program with funds collected from sources other than users.

Part II: How the Senate Bill Increases Funding in the Highway Trust Fund

To increase the amount available in the Highway Trust Fund, the Senate Finance bill draws from three sources:

Reallocation of Gas Tax Revenues (Leaking Underground Storage Tank (LUST) trust fund transfer: $3B; transfer of future LUST fuels taxes: $685M)	$3.685B
New Funding Sources (Closing black liquor tax credit loophole)	$1.588B
Transfer of General Funds (gas guzzler tax to HTF: $697M & import tariffs on certain foreign vehicles to HTF: $4.52B)	$5.217B
Total	$10.5B

Transfers unused funds from the Leaking Underground Storage Tank (LUST) Trust Fund (one-time transfer: $3.0B) and a change in the amount that goes to LUST ($685M increase in HTF over 10 years)

The LUST Trust Fund current holds more than $3 billion, but only spends out about $100 million each year. Of the 24.8 cents gasoline tax, the LUST Trust Fund receives 0.1 (one-tenth) cent from each gallon, so this is money collected from gas tax revenues. This is the only new source of funding in the Senate Finance proposal that is derived from gasoline tax and preserves the "user-pays" principle in transportation. The only concern is that this could shift the burden of cleaning up leaking underground storage tanks from the LUST trust fund to the Treasury, if the trust fund falls short as a result of this transfer.

Closes the "Black Liquor" Loophole and commits increased collections to HTF ($1.588B over 10 years)

Black liquor is a byproduct of making paper, and can be used to power certain vehicles. As a result, manufacturers of black liquor have taken a tax credit for producing an "alternative" fuel. The tax credit was never intended to be used this way, and became a boondoggle for paper manufacturers at the expense of the nation's taxpayers. This provision modifies the provision to reduce how much producers are allowed to claim from previous years. Thought this is marginally related to transportation, it is far from a user fee. And the "black liquor" loophole has already cost taxpayers billions; this modification should therefore go into the Treasury, not into the HTF. (A great story about the outrageous black liquor subsidies: LINK)

Dedicate the Gas Guzzler Tax to the Highway Trust Fund ($697M over 10 years)

The federal government currently taxes passenger automobiles that fail to meet a minimum of 22.5 miles per gallon. Those funds presently flow to the Treasury, but this provision will transfer collections to the HTF instead. This has some limited merit as a user fee, but those who drive already pay more into the HTF because they purchase more gallons of gasoline. This would be more sensible if heavier vehicles were taxed more, since they cause more wear and tear on the roads, but this provision only applies to vehicles that weigh less than 6,000 pounds.

Transfer to Highway Trust Fund Proceeds on Tariffs Imposed on Foreign Vehicle Imports ($4.52B over 10 years)

This provision commits to the HTF tariffs that are currently going into the Treasury. Though clearly transportation-related, this is not a user fee and will create a massive hole in the federal budget.

Total amount to be transferred to HTF over 10 years as a result of these provisions: $10.5B
Of this amount, increase NOT a result of gas tax collections: $6.8B

Part III: How the Senate Bill Spends Treasury Funds

The Senate Finance bill spends Treasury funds in two ways: first, it transfers funds that otherwise would have been collected in the Treasury to the Highway Trust Fund (gas guzzler tax and tariff provision). In addition, the Senate Finance bill includes three tax extenders (listed below) that won't be used to pay for the Senate transportation bill. In fact, these provisions drive up the overall cost of the bill.

Total Cost to Treasury

Dedicate Gas Guzzler Tax to HTF	($697M)
Additional Transfer to the HTF of Proceeds on Certain Imported Tariffs	($4.52B)
Expand ability of small issuers to sell bank-qualified bonds from $10M to $30M	($353M)
AMT Relief on Private Activity Bonds	($215M)
Mass Transit Benefit	($139M)
Total:	($5.9B)

At this point, the Senate Finance bill would leave a $5.9B hole in the Treasury to pay for the Senate Transportation bill and the tax extenders. This requires offsets of a similar amount, in order to fill the Treasury hole and not add to the nation's deficits and debt.

Part IV: How the Senate Bill Offsets Spending of Treasury Funds

Bill Offsets

Require Distributions of Inherited IRAs within 5 years	$4.648B
Increase Levy Authority on Payments to Medicare Providers with Delinquent Tax Debt	$841M
Revoke Passport of Individuals Owing $50K in Back Taxes	$743M
Reverse Morris Trust Transactions	$244M
Clarify IRS Levy Authority for Funds in a Thrift Savings Plan Acct.	$25M
Total	$6.5B

Not going to go into much detail here, except to say that these are smoke and mirror proposals. They make it look like the bill's spending is offset, but there is no assurance these provision will raise the amount Congress assumes they will. If revenues fall short of projections, then this bill will result in deficit spending. Rosy projections of future revenues are nothing new in Congress, and this list is likely no different.

Congress should instead enact a sustainable transportation program (either by increasing user fund revenues or cutting spending). Let user fees pay for the transportation system and enact these provisions to reduce our annual budget deficits.