REPUBLICAN CAUCUS

THE COMMITTEE ON THE BUDGET

B-71 Cannon House Office Building | Phone: (202)-226-7270
Washington, DC 20515 | Fax: (202)-226-7174
Representative Paul D. Ryan, *Ranking Republican* | Augustine T. Smythe, *Republican Staff Director*

THE BROKEN HIGHWAY TRUST FUND

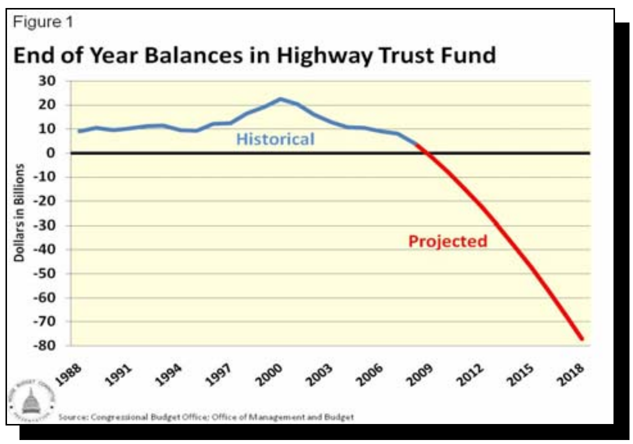
23 July 2008

SUMMARY

With the Federal Highway Program at a critical juncture, the House will consider legislation today ostensibly aimed at shoring up the faltering Highway Trust Fund. But in doing so, the measure fundamentally alters the character of highway financing, weakens Congress's priority-setting role in allocating discretionary spending, and adds $8 billion to Federal budget deficits. Such significant steps should be fully debated, and not jammed through the House on the suspension calendar with all rules waived and no opportunity for amendments. This paper summarizes the background of the current situation and the legislation at hand.

BACKGROUND

As is well known, when the highway program was established in 1956, Congress created a special funding mechanism based on Federal gasoline taxes. For bookkeeping purposes, gasoline tax revenue was dedicated to a trust fund to assure it would be used for highways, and not diverted to other programs.



For various reasons, the Highway Trust Fund today is headed for bankruptcy (see Figure 1), and the Department of Transportation has told States the shortfall will lead to a slowdown in transportation funding. The proposed legislation, H.R. 6532, transfers $8 billion from the general fund of the Treasury – that is, from general tax revenue – to the highway account of the Highway Trust Fund. The transfer presumably restores near-term solvency to the trust fund at no additional cost. In fact, it simply shifts the shortfall to the general fund, and U.S. taxpayers.

Over the years, the Highway Trust Fund ran surpluses because spending was held below gasoline tax collections, and trust fund balances began to accumulate. Due to concerns that gasoline tax collections were not being spent, the Transportation Equity Act for the 21st Century [TEA-21], enacted in 1998, made two fundamental changes to the budgeting of the highway program. First,

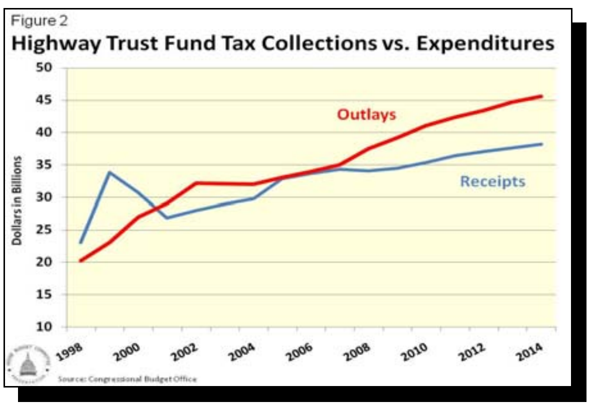
---

it provided special status for highway funding, creating "firewalls" and minimum funding requirements. Second, it required that highway funding be adjusted to match gasoline tax collections: when the tax revenue rose, spending would rise as well; and when revenue declined, so would expenditures.

As Transportation and Infrastructure Committee Chairman E.G. "Bud" Shuster (R-PA) stated when the conference report on TEA-21 was being considered: "This is an historic piece of legislation, Mr. Speaker, because now the American people will know that trust is being put back in the transportation trust fund." He went on to explain the new funding structure for highways as follows: "[W]hen the average American drives up to the gas pump and pays his 18.3-cent Federal tax, that money is free to be spent. It is a guarantee, it is an ironclad guarantee. . . . Should there be more revenue going into the trust fund, that money will be available to be spent. Should there be less revenue going into the trust fund, then we will have to reduce the expenditures. It is fair, it is equitable, and it is keeping faith with the American people."[1]

THE CURRENT SITUATION

Nevertheless, after enactment of TEA-21, and again in the 2005 surface transportation authorization bill, highway spending was increased *above* the gasoline tax collections coming into the highway account (see Figure 2). This spending, combined with weakening gasoline tax collections, led to a projected shortfall starting in fiscal year 2009. As the Congressional Budget Office [CBO] explained in its testimony before the Budget Committee in May 2008: "[S]pending from the [highway] trust fund started to increase rapidly in 1999 because of changes enacted in the Transportation Equity Act for the 21st Century [TEA-21]." CBO further noted: "[S]pending generally has exceeded revenues since 2001 . . . ."[2]



If H.R. 6532 were enacted, it would have two significant effects on highway funding, and on congressional budgeting in general.

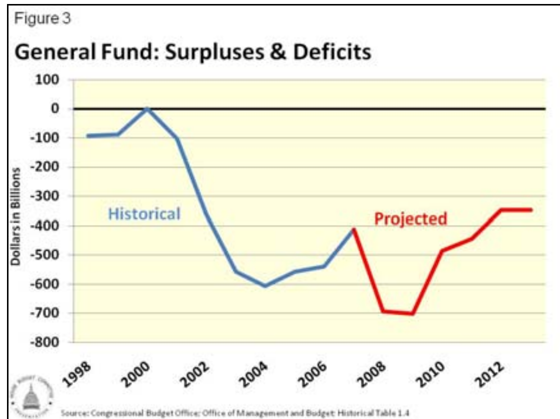
- First, it would give the Highway Trust Fund access to the general fund, increasing the deficit relative to current-law requirements, under which spending would be held to the level of gasoline tax collections.
- Second, it would weaken Congress's priority-setting role by maintaining the special treatment of highway funding implemented by the firewalls adopted in TEA-21. This would mean highways would step first in line, above all other appropriated priorities, for funding from the Treasury's general fund. Highways are a critical component of the U.S.

[1] E.G. "Bud" Shuster, *Congressional Record*, 22 May 1998, page H3946.

[2] Testimony of Peter R. Orszag, Director, Congressional Budget Office, to the Committee on the Budget, 8 May 2008.

infrastructure, and a key national priority; but if they are to be funded from the general fund (that is, from other tax collections and borrowed funds), highways should compete with other priorities in the general fund budget, just as national defense, education, veterans, and other priorities do. That is the issue before Congress.

From a broader perspective, the problems in the highway fund, while significant, are small compared with those the general fund faces. While the highway program has been generally financially stable, the general fund of the Treasury runs large deficits each year (see Figure 3). The transfer from the general fund to highways would increase this deficit. More troubling is what this means going forward.



The outlays flowing from the highway program are discretionary. If the Highway Trust Fund is to have access to the general fund, any resources it draws should be repaid. Alternatively, the highway program should compete for resources from the general fund, like all other discretionary programs, or Congress should revisit the special budgetary treatment of highways, and consider reforming it.

Box 1: The Basis of the $8-Billion Transfer

H.R. 6532 would transfer $8 billion from the general fund to the Highway Trust Fund to temporarily shore up the trust fund's projected fiscal year 2009 shortfall of between $1.4 billion and $3.3 billion – which grows larger each year after 2009.

In 1998, as part of TEA-21, Congress decided to transfer $8 billion in balances, from interest earnings, from the Highway Trust Fund to the general fund. Some therefore argue that the general fund "owes" this money to the Highway Trust Fund. But regardless of the history, the $8 billion is going to increase the real-world budget deficit, relative to current-law requirements.

From 1956 through 1997, the general fund provided approximately $39 billion for highway spending, including the activities of the Federal-Aid Highway System. This occurred, however, before TEA-21, under which spending was to be held to the level of gasoline tax revenue.

Since enactment of TEA-21, the integrity of the Highway Trust Fund has come into question. Congress has provided $4.3 billion in supplemental appropriations since 2005 for emergency highway needs. In addition, because the 2004 American Job Creation Act [AJCA] changed the treatment of ethanol blended fuels, the general fund annually credits the Highway Trust Fund for receipts the Federal Government does not actually retain. As CBO said in its 2006 *Budget and Economic Outlook*: "AJCA also affected trust fund revenues in ways that do not affect overall excise tax receipts. As a result of the law, revenues dedicated to the Highway Trust Fund will be higher by an estimated $31.5 billion over the 2005-2014 period, and general fund revenues will be correspondingly lower. That change stems mostly from provisions in AJCA that require trust fund accounting to apply all tax credits on ethanol-blended fuels (which reduce revenue) to the general fund rather than to the Highway Trust Fund."

Prepared by .... Stephen Sepp, Budget Review Analyst