36. Federal Highway Programs

Congress should

- eliminate the federal fuel tax,
- eliminate the Federal Highway Trust Fund,
- eliminate subsidies to mass transit programs, and
- devolve to the states full responsibility for highway construction and financing.

The federal system of financing major state roads was enacted in June 1956. The most recent reauthorization expired in September 2003. Looking at the history of the current system and the adverse incentives it breeds, it becomes obvious that Congress should extract the federal government from the highway business to the fullest extent possible. Ways to devolve highway programs to the states should be the focus of any congressional action on highway funding.

A Brief History of the Federal Highway System

The Highway Revenue Act of 1956 created the Federal Highway Trust Fund (FHTF) as a source of funding for highway construction, without the federal government having to borrow the money required. President Eisenhower signed the Federal Aid Highway Act of 1956 into law on June 29 of that year. It stated that, among other things,

- the program would fund the construction of a national 41,250-mile Interstate and Defense Highways System;
- $25 billion would be authorized to finance the 90 percent federal share of the cost;
- the system would be completed by fiscal year 1969;
- the powers of the federal government in the highway realm would expire in 1972; and

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- disbursement to the states would be based on a formula taking into account factors such as the geographical area, the length of the road network, and the number of motor vehicles.

Instead of expiring, the powers of the 1956 act were renewed and changed several times after 1972. The length of the designated Interstate Highway System (IHS) was increased to 46,726 miles. Its construction was phased out in 1996, but federal financing of state roads was retained for a newly defined 155,000-mile National Highway System.

Since the inception of the FHTF, the composition of the taxes dedicated to it has changed, but the main sources of funds, accounting for about 85 percent of receipts, are the taxes on motor fuels. The federal gasoline tax was 3 cents a gallon in 1956 and 4 cents in 1959. It has since been raised to 18.4 cents a gallon—24.4 cents for diesel fuel.

The 1991 Intermodal Surface Transportation Efficiency Act (ISTEA), spearheaded by Sen. Daniel Patrick Moynihan and supported by environmental and transit advocacy groups, expanded the reach of the federal government in transportation affairs. It substituted ''flexibility'' and ''intermodalism'' for the exclusive ''dedication'' of revenues raised from road users to highways. That opened the door for all sorts of pork-barrel projects. The change of focus from highways exclusively to transportation generally indicated that, from then on, any political group could lay claim to federal highway money for any purpose related, loosely or otherwise, to transportation.

Unfortunately, the ability of Congress to play games with the so-called trust fund had been long-standing. The FHTF is not, and never was, a trust fund in any meaningful sense, and its custodians are under no obligation to spend its revenues for the benefit of road users. Legally, the FHTF is a separate account (with the name Highway Trust Fund) maintained in the U.S. Treasury, from which the Federal Highway Administration (FHA) can draw amounts determined annually by Congress. The FHA disburses those revenues to state governments for the federal share of expenditures previously made by the states. Congress is free to attach any conditions it wishes to the appropriation of FHTF revenues (such as, until recently, 55-mile-per-hour speed limits) and is also free to decline to appropriate them, so that they can accumulate to reduce the overall budget deficit.

Advantages of the Federal Highway Financing System

The main accomplishment of the 1956 financing arrangements was the completion, at a comparatively small cost to road users, of the 46,726-

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mile Interstate Highway System, probably the greatest public works achievement since the fall of the Roman Empire. Those familiar with the difficulty of getting any government project achieved will be particularly appreciative of the success of the men and women involved in getting this magnificent road network completed.

It is not easy to discern other advantages to the federal financing of state roads now that this goal has been met, however. Some federal highway activities—research on safety issues, for example—could well be beneficial, but they do not involve the financing of infrastructure. In other words, the days when a federally financed construction project was the most cost-effective way of achieving the desired results are over.

Problems with the Federal Highway Financing System

There are several disadvantages to the current financing system, and keeping it in place will only perpetuate the adverse incentives inherent in the system.

Federal Financing Encourages Low-Priority and Unnecessary Projects

The states retain formal responsibility for their highways but do not have to meet more than a small percentage of the bills—for which federal contributions range from 75 to 90 percent. That allows states to break ground on less-vital projects and boondoggles at the expense of road users in other states. The federal funding of state roads tends to result in excessive demands for expensive facilities, because to the states—which are only nominally responsible for the funding—federal funds are virtually costless. States will naturally line up to receive this relatively ''free'' money. Thus, the system allows the construction of expensive projects, such as Boston's Central Artery/Tunnel project (popularly known as the ''Big Dig'') for which local funding would probably never have been considered. Initially estimated at $3.3 billion, the cost has ballooned to more than $14.6 billion. Speaker of the House ''Tip'' O'Neill, who represented a Boston district, led the push for the use of federal funds.

Fuel Taxes Can't Act as User Fees since They Are Used to Fund All Sorts of Nonhighway Spending

The large-scale diversion of money from the Federal Highway Trust Fund started in 1982 with the opening in the FHTF of the Mass Transit Account and was accelerated by the 1991 Intermodal Surface Transporta-

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tion Efficiency Act. The expenditures authorized for the latest enacted highway bill—the 1998 Transportation Equity Act for the 21st Century (TEA-21)—offer an example of this diversion. Some of the items, such as ''Interstate Maintenance Program,'' are for expenditures on roads; others, such as ''Miscellaneous Studies,'' might or might not be for roads; while others, such as ''Recreational Trails Program,'' are clearly not for roads.

Some of the items authorized for nonroad purposes are listed in Table 36.1, which shows, for each nonroad item, the total for six fiscal years—1998 through 2003—and the percentage that each item takes of the total $218 billion TEA-21 program for the six years. The main diversions are as follows:

- *Transit (18.83 percent).* This diversion results from 2.86 cents per gallon of motor fuel being taken for the Mass Transit account of the FHTF. The funds are used to subsidize transit services that have so little appeal to passengers that users are not willing to pay even the operating costs. Passenger-mile costs for light rail average $1.20 and

Table 36.1
Nonroad Programs Authorized in TEA-21

Program	Total Authorized for Program ($ millions)	Total Authorized for Program as a Percentage of the Total for TEA-21 (%)
One-tenth of Surface Transportation Program	3,333	1.53
Congestion Mitigation/Air Quality Improvement	8,123	3.73
Recreational Trails Program	270	0.12
National Scenic Byways Program	148	0.07
Puerto Rico Highway Program	660	0.30
MAGLEV Transportation Technology Deployment Program	60	0.03
MAGLEV Transportation Technology Deployment Program (subject to appropriation)	950	0.44
Federal Transit Administration Programs	41,000	18.83
Total	54,544	25.05

SOURCE: TEA-21 Authorization Table, http://www.fhwa.dot.gov/tea21/sumauth.htm.

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for bus transit $0.75—both well in excess of the cost of travel by car, which averages $0.34 per vehicle-mile. Transit use is concentrated in a few places—74 percent of the ridership in 2000 took place in seven metropolitan areas: Boston, Chicago, Los Angeles, New York, Philadelphia, San Francisco, and Washington, D.C. It is by no means clear why farmers in Kansas should subsidize local travel in Los Angeles.

- *Congestion Mitigation and Air Quality (CMAQ) provisions (3.73 percent).* The CMAQ program is intended to assist states in improving the quality of their air. These funds are not used to finance road improvement, despite the fact that studies have shown that an increase in road capacity can actually reduce congestion and improve air quality.
- *Surface Transportation Program (1.53 percent).* Since 1991 one-tenth of the Surface Transportation Program has had to be spent on nonroad ''enhancements,'' such as bicycle and pedestrian facilities, historic preservation, and scenic easements.

The other items marked as ''nonroad'' need no explanation, except perhaps the $660 million for the Puerto Rico Highway Program. These funds are definitely for roads, but not for roads traveled by those who pay into the FHTF, as Puerto Rico road users do not pay into the fund.

The total of all the ''nonroad'' items comes to at least 25 percent—in other words, at least a quarter of every fuel tax dollar goes to something other than highways.

Federal Financing Inflates Road Costs

Federal financing inflates road costs in three ways:

- States are required to adopt labor regulations, such as the Davis-Bacon rules and ''Buy America'' provisions, both of which can raise highway costs substantially. Davis-Bacon rules, by themselves, can increase project costs by 30 percent or more.
- Federal specifications for road construction can be higher, and therefore more expensive, than state standards.
- There are significant administrative costs in sending monies from the states to the federal government and back again. Published data indicate that, in FY02, administrative costs attributable to federal involvement, at both federal and state levels, were of the order of 5 percent of road costs.

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Ralph Stanley, the entrepreneur who conceived and launched the Dulles Greenway—a 14-mile privately financed toll road from Dulles airport to Leesburg in Northern Virginia—estimated that federal involvement increased project costs by 20 percent. Robert Farris, who was commissioner of the Tennessee Department of Transportation (1981–85) and federal highway administrator (1987–89), has suggested similar estimates.

Federal Financing Misallocates Funds between States

A major inequity is that some states persistently get more from the FHTF than they pay into it. The distribution of benefits in these transportation programs probably has more to do with political clout of particular senators and representatives than it does with transportation needs.

Table 36.2 lists the share of money taken from the FHTF as a ratio of what money the state paid into the fund. Notice that there is a tendency for southern states to subsidize those in the northeast. Since 1982 this has been exacerbated by the diversion of payments by road users to mass-transit systems, many of which are in the northeast.

The numbers in Table 36.2 do not take into account the diversions from the FHTF, namely the 25 percent paid out to nonroad uses, the administrative costs, and the increased costs in each state due to federal standards and regulations. If these were taken into account, road users in almost all states would be paying more than they gain from the current system of federal highway financing.

Federal Financing Allows Politicians to Buy Votes with Pork and ''Earmarks''

In 1982 the usual practice of not appropriating taxpayer money for specific roads was broken by the funding of 10 ''demonstration projects'' costing $362 million. ''Demonstration projects'' subsequently grew to 1,850 in the 1998 reauthorization bill, costing taxpayers a total of $9.3 billion. These pork projects are also known as ''Congressionally mandated special projects,'' ''High Priority Projects,'' and, more recently, simply ''earmarks.'' Their growth can be seen in Table 36.3.

Traditionally, earmarks were used to help members of Congress get reelected, but during the 2003–04 deliberations on reauthorization, they were also used to get the bill passed. Members were offered $14 million worth of earmarks if they supported the bill. Members of the Transportation and Infrastructure Committee got, on average, $40 million each. The ranking minority member got $90 million, and the chairman more than

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Table 36.2
Highway Trust Fund Return Ratio (per dollar contributed)

State	2003 Ratio	State	2003 Ratio
Alaska	5.17	Nebraska	1.00
D.C.	3.31	Washington	1.00
Rhode Island	2.38	Nevada	0.98
South Dakota	2.14	Massachusetts	0.96
Montana	2.11	Kentucky	0.95
North Dakota	2.11	Missouri	0.95
West Virginia	1.90	Maine	0.94
Vermont	1.81	Mississippi	0.94
Hawaii	1.74	Illinois	0.93
Delaware	1.57	Louisiana	0.93
Wyoming	1.47	New Jersey	0.92
Connecticut	1.39	Oklahoma	0.89
Idaho	1.38	Utah	0.89
New York	1.32	Colorado	0.88
Wisconsin	1.21	South Carolina	0.88
Virginia	1.20	Michigan	0.87
Maryland	1.16	North Carolina	0.87
Kansas	1.15	Ohio	0.87
Pennsylvania	1.15	Tennessee	0.87
Arkansas	1.11	California	0.86
New Mexico	1.10	Texas	0.86
Iowa	1.05	Florida	0.84
New Hampshire	1.05	Georgia	0.84
Alabama	1.03	Arizona	0.81
Minnesota	1.02	Indiana	0.81
Oregon	1.02		

SOURCE: Federal Highway Administration.

$440 million for his home state of Alaska. The house speaker ($160 million) and minority leader ($120 million) were not forgotten. Only South Dakota got nothing—possibly because its representative was in jail and not available to claim its share.

The list of House earmarks includes

- $125 million for a bridge to link Ketchikan, Alaska, to a sparsely inhabited island;
- $1.5 million for the Henry Ford Museum in Dearborn, Michigan;

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Table 36.3
Growth of "Earmarks" Since Fiscal Year 1982

Year	Number of Earmarks	Total Appropriated ($ millions)
1982	10	362
1987	152	1,400
1991	538	6,230
1998	1,850	9,360
2004	3,248*	10,600*

Source: Authors' calculations.
*Preliminary estimates

- $593,175 for a sidewalk revitalization project in Eastman, Georgia;
- $5 million for a parking garage in Bozeman, Montana;
- $500,000 to provide transportation infrastructure for visitors to Jamestown Island;
- $3.2 million for a pedestrian walkway at Coney Island;
- $4 million for transit improvements at Eastlake Stadium, a stadium for a minor-league baseball team;
- $10 million to construct a new interchange on I-85 between the Greenville Spartanburg Airport and the SC Highway 101 interchanges; and
- $5 million for Home Furnishing Market for terminals and parking in High Point, North Carolina.

Getting the Feds Out of Highway Finance

Congress needs to devolve to the states the responsibility for construction and maintenance of highways. There is no sense in making states send fuel tax money all the way to Washington just to have a few cents on each dollar shaved off in administrative expenses before it is sent back to the states. Devolution would also remedy the inequity of the current system under which politically influential representatives and senators are able to extract a larger amount for their constituents.

There have been various plans to end the federal role in the highway system. The idea—called a ''turnback'' proposal—was floated during the days of the Reagan administration and ended up being promoted in the 1990s by Rep. John Kasich of Ohio and Sen. Connie Mack of Florida.

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The current version of this idea is in a bill sponsored by Rep. Jeff Flake of Arizona. A turnback proposal could include the following elements:

- elimination of the federal fuel tax,
- elimination of the Highway Trust Fund, and
- devolution to the states responsibility for funding the maintenance and construction of their highway systems.

If enacted, those proposals would enable each state to finance its roads in accordance with the wishes of its voters. Some might follow the example of Oregon and develop road-financing methods that do not rely on the taxation of fuel. Some might wish to retain political control of their roads, and others might prefer to commercialize them. New approaches to highway funding could be tested.

States fully responsible for their own roads would have stronger incentives to ensure that funds paid by road users were spent efficiently. For example, in the absence of federal grants for new construction, some states might prefer to better manage and maintain their existing roads, rather than build new ones. Others might find ways to encourage the private sector to assume more of the burden of road provision (e.g., by contracting with private firms to maintain their roads to designated standards or to provide new roads). Some states might stop discriminating against privately provided roads, most of which are currently ineligible to receive funding from the Federal Highway Trust Fund, although their users pay the required federal taxes. New arrangements would be noticed by other states, and those that brought improvements could be copied, while failed reforms would be avoided. In time, road users would get better value for their money, and some would even get the road services for which they were prepared to pay.

Congress should reassert its commitment to federalist principles by getting out of the highway business once and for all.

Suggested Readings

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