NATIONAL REVIEW

Lower the Federal Gas Tax to Improve Infrastructure

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As lawmakers seek ways to pay for hundreds of billions of dollars in new "infrastructure" spending, advocates have seized on the federal gas tax. They remind us that Washington's gas tax has been frozen since 1993 at 18.4 cents per gallon and has since lost more than 40 percent of its purchasing power. Increasing the rate and adjusting it annually for inflation, they tell us, would ensure a more expansive federal highway program.

But why do we even need Washington to be collecting large gas taxes and micromanaging highways and roads? States already assess their own gas taxes averaging 36 cents a gallon, which they use to control two-thirds of all surface-transportation spending without any federal involvement. Nonetheless, states also collect and send to Washington the aforementioned 18.4 cents-per-gallon federal gas tax — which in turn sends most of that money back to the states with numerous strings attached.

Far-fetched? Radical? Not at all. This "highway turnback" policy is supported by former Transportation Department secretaries, prominent transportation experts, and (as recently as 2014) the majority of Republican senators.

To explain, let's back up first. In 1956, Washington passed the Federal Aid Highway Act — a.k.a. the National Interstate and Defense Highways Act — which authorized the creation of a 41,000-mile network of highways that would stretch from coast to coast and be funded by a 3-cents-per-gallon federal gas tax. (The network was later expanded to nearly 47,000 miles.) Originally, the system was to be completed by the early 1970s, at which point the federal program and its taxes would end, and states would take over.

Instead, Congress expanded the program to state highways and roads, maintenance of all types of roads, mass transit, nature trails, bike lanes, sidewalks, parking lots, museums, landscaping, flower plantings, safety grants, metropolitan planning, university research, historic preservation, and environmental initiatives. Today, more than one-third of federal taxes paid by motorists are diverted from general-purpose roads into other uses. This has allowed Washington politicians to take credit for a wide array of projects well outside the creation of the interstate system — and to

abandon the original plans to dramatically scale back the federal role after the (delayed) 1980s completion of the federal highway system.

Washington's micromanagement of local transportation decisions peaked in the 1990s and 2000s. Congress began overruling U.S. Department of Transportation (DOT) decisions, as well as those of state and local governments, using legislative earmarks to direct funds for specific projects. By 2006, Congress was earmarking 8,000 projects, thus dictating which intersections would have a streetlight and which town sidewalks to pave — leaving many to ponder the remaining purpose of mayors and city councils. While Congress banned earmarks in 2011, they may be staging a comeback.

Washington's transportation meddling surely contributed to the results of a survey showing that two-thirds of Americans believe the government does not spend transportation dollars efficiently. This lack of faith in Washington has driven the opposition to raise the federal gas tax over the past 27 years — though voters during these years nonetheless frequently raised their state gas taxes.

The federal highway and transit system suffers from many shortcomings. Among them are:

Large Deficits. Today, Washington imposes an 18.4-cents-per-gallon gas tax (plus a 6-cent surtax for diesel) — of which 2.86 cents are earmarked for transit such as buses, subways, and commuter rail. Altogether, the federal highway and transit trust funds collect approximately $43 billion annually and spend $57 billion. The gap is made up by general-fund bailouts of the highway program that have topped $140 billion since 2008. Over the next decade, the Congressional Budget Office projects that the highway and transit trust funds will face a $190 billion shortfall — and even that spending level would be insufficient to maintain highway conditions and performance.

Mission Creep. While the interstate system was completed in the 1980s, the federal highway program has expanded its jurisdiction to cover 1,077,777 route-miles — meaning that 95 percent of the federal highway program's jurisdiction is over state highways and roads that are outside of the interstate-highway system. Washington owns less than 1 percent of all public roads yet enjoys spending jurisdiction over 85 percent of all vehicle miles of travel. There is no proper federal role to micromanage in-state roads and highways, and even improvements on existing interstate highways can be financed by the states themselves.

Political Meddling. After states collect and send the federal gas-tax revenues to Washington, getting these tax dollars back requires crafting state transportation plans that must be approved by federal bureaucrats in Washington — at which point the typical project will receive an 80 percent reimbursement. It is unclear why state departments of transportation — which also manage their own large state highway and road programs with state gas-tax revenues — should need the permission of a federal agency to get back their state's federal gas-tax revenues to spend on projects of their choosing.

State Inequities. After Washington collects the federal gas-tax revenue from each state, it redistributes those funds based on a complicated formula that does not adequately reflect state

gas-tax contributions. For example, over the first 54 years of the federal highway program, Texas received 80 cents back for each dollar of federal gas taxes sent to Washington and Florida received 87 cents — despite each state's growing populations and rising transportation needs. More broadly, the Highway Trust Fund has historically redistributed money from low-income to high-income states. Even the current requirement that states receive at least 95 cents on the dollar nevertheless deprives several states of hundreds of millions of dollars. Transit dollars are distributed even more inequitably, as the 2.86 cents-per-gallon transit gas tax largely redistributes money from middle America to the coasts, especially the Northeast.

Red Tape. One reason that American infrastructure is much more expensive and slowly built than the rest of the world's is because of federal regulations. The Davis-Bacon Act, which requires contractors to pay the local prevailing (i.e., union) wage on public works, raises wage costs by as much as 22 percent. "Buy America" regulations raise costs, too. Boston's infamous "Big Dig"— for which the cost exceeded the initial estimate by 500 percent — was mostly federally funded. Federal environmental-impact statements — which were typically 22 pages long in the 1970s — now commonly exceed 1,000 pages and require seven years to complete (compared with one to two years in Canada and three and half years in the European Union). Congress also has threatened to block states from receiving back their own federal gas-tax contributions unless they obey Washington diktats on drinking ages, drunken-driving laws, and other matters. If states want to join the rest of the developed world by raising transportation funds with creative approaches such as tolls or public-private partnerships, they run into federal restrictions.

Misaligned Incentives. The current formula, whereby Washington funds 80 percent and states funds 20 percent of the typical federal highway project, produces poor incentives. Because the federal reimbursement feels like "free money" (even as it is funded by state motorists), states may determine an expensive transportation project to be worth its cost as long as its citizens value the project at more than 20 percentage points above the contribution from Washington. This encourages states to be more cavalier in spending federal transportation dollars than they are with their own funds. Each state feels as if it is free-riding off its neighbors. The result is projects such as Alaska's infamous "Bridge to Nowhere."

Another example of misaligned incentives is that, according to the Cato Institute's Chris Edwards, "Federal aid for urban transit covers about 40 percent of capital costs, on average, but just 6 percent of operating costs. That bias has induced local governments to buy expensive rail systems rather than more-flexible and efficient bus systems."

States are obviously capable of managing transportation. They collect gas taxes that average 36 cents per gallon and spend $131 billion annually on surface transportation. State and local governments currently finance a slight majority of capital spending and nearly all operations and maintenance of national highway spending within their borders. They are well-equipped to take over much of the federal share of running the highway program.

Washington can devolve its role in surface transportation over several years by gradually reducing the federal gas tax from 18.4 cents per gallon to approximately 3 cents; states can of course raise their gas taxes accordingly. The remaining 3-cent federal gas tax would finance

federal lands and Indian reservations, federal safety programs, and highway or transit projects that truly require national leadership. The federal DOT could establish an office of interstate coordination to help states plan projects that cross borders.

In return, states would be required to maintain the interstate highways that pass through their jurisdictions. Also, states should receive an $80 billion payment from Washington to cover the existing multiyear transportation commitments that the federal DOT has already made.

States would also benefit financially from a reduction in federal red tape and expensive mandates (although the Clean Air Act, Clean Water Act, and Endangered Species Act mandates would still apply). Washington should remove restrictions and encourage states to implement creative financing mechanisms for building and maintaining roads — such as the public-private partnerships, tax-credit bonds, expanded tolls, and infrastructure banks that have become widespread throughout Canada, Europe, and Australia.

Some proposals would automatically devolve the highway program, while others would provide states the choice to opt out of the system and retain the gas tax.

Modest challenges remain. States such as Alaska that receive very large amounts of transportation funding would require a much higher state gas tax to replace this funding. States would need to provide some level of assurance that their interstate highways would be maintained.

The proposal to "turn back" federal gas taxes, however, is not far-fetched. The original interstate-highway system enacted in 1956 was intended to sunset by the early 1970s. When the interstate-highway system was finally completed in the 1980s, President Reagan's Advisory Commission on Intergovernmental Relations endorsed turnback. Since 1996, Congress has seen regular proposals to devolve the highway program, including a 2002 proposal from Senator James Inhofe (R., Okla.), who later became chairman of the Senate Environment and Public Works Committee, which oversees the federal highway program. (He later abandoned the proposal.) As recently as 2014, a majority of Senate Republicans voted for turnback.

Transportation experts agree. The Reason Foundation's Robert Poole summarizes that "a key rationale for devolution is that the funding approach developed to build the Interstate system is now obsolete. That approach transfers large sums from larger and faster-growing states to smaller and slower-growing states. . . . That is exactly backwards of what a real user-fee system would do — which is to generate and spend large sums in the places with huge problems of congestion and insufficient highway capacity." Former transportation secretary Mary Peters has argued forcefully for dramatically reducing Washington's role in surface transportation to boot.

Washington is too often paralyzed on highways and transit: The gas tax has been frozen for decades, highway-reauthorization bills are regularly delayed, and federal micromanagement and red tape have stalled America's infrastructure growth and created highway trust-fund shortfalls. While the rest of the world innovates, Washington blocks new approaches. It is time to finally eliminate the federal middleman and empower governors and mayors to creatively make their

own local transportation decisions. And Washington’s current infrastructure negotiations make the perfect time for creative reform.