Transportation (In)Equity Act: A Legacy for Losers (Taxpayers)

By Matt Bandyk and Josh Johnson

Congress, after four years of debate, has recently passed the Transportation Equity Act: A Legacy for Users (TEA-LU), commonly referred to as the highway bill. The House version of TEA-LU, in particular, contained egregious examples of excessive spending of taxpayer money on unnecessary highway projects. The House highway bill matched the president's spending limit of $284 billion, but includes 3,700 special interest projects costing $12 billion; the Senate's version went over the president's limit by $11 billion, totaling $295 billion. The final bill spends at a level of $286.4 billion.

History of the Gas Tax and the Federal Role in Transportation

Congress's first major involvement in national transportation policy came with the Federal-Aid Road Act of 1916, in which the federal government offered states matching funds for projects to improve rural roads. The matching funds were not designated for specific roads, and came from the general fund, as did the funding for all federal transportation bills until 1956. In 1932, Congress created the first tax on gasoline at one cent per gallon to reduce Depression-era deficits. With the Hayden-Cartwright Act of 1934, the federal government also began granting aid to states to build highways for metropolitan areas.

In 1940, budgetary pressures led to a half-cent gas tax increase to fund the military effort in World War II. The tax was intended to temporarily fill in holes in the budget, but Congress extended it well after World War II had ended, and actually increased it to two cents a gallon in order to help finance the Korean War.

World War II was also used as a justification for more federal involvement in the nation's roads. The Defense Highway Act of 1941 planned and offered grants to states for a strategic network in and around large U.S. cities to allow for the movement of military forces in the face of a national security threat. Three years later, Congress passed the Federal-Aid Highway Act of 1944, which doled out federal grants to municipalities for the construction of urban highways.

The gas tax and federal support for transportation were more firmly ensconced with the landmark Federal-Aid Highway Act of 1956, which began the federal government's massive mission to build the interstate highway system spanning the entire country. Congress planned to fund the project through fees tied to goods used by drivers, so that the level of finance of the system would be tied to the frequency with which the roads were used. These fees included a three cents per gallon gas tax, as well as taxes on diesel and special motor fuel, tires, trucks, and buses. Revenues from these taxes were deposited into the newly-created Highway Trust Fund, which was established to ensure that the revenue generated by the user fees would be spent for the sole purpose of funding the highway system.

Congress estimated that the highway system would be completed in 1969, and as a result, the gas tax would expire that year. But this judgment proved to be premature, as the construction and maintenance of interstate highways continued into the 1970s and 80s, and the gas tax was continually extended and increased.

Flexible Highway Grants Lead to Abuse

The notion of federal involvement in the highway system was a sensible idea at the time. A national interstate system required federal intervention to coordinate the necessary cooperation between the states. As the historical record shows, once this very specific mission was complete, the gas tax increase was intended to expire so that the federal government would only fund the maintenance of the completed system. Yet even though the interstate highway system was completed in the 1980s, the federal government maintains an activist role in the nation's transportation policy and often duplicates services that could be provided by state and local governments. The effect of this duplication is the dispersion of federal funds for state projects in an inequitable manner that geographically favors certain segments of the population above others.

The most significant change in the nature of the Highway Trust Fund came with the 1982 Surface Transportation Assistance Act. This act increased the gas tax from four to nine cents per gallon. Out of this five-cent increase, one cent was deposited in a new account within the trust fund that was dedicated to mass transit systems. For the first time since the creation of the Highway Trust Fund, the gas tax was no longer functioning merely as a user fee. Drivers, especially those in rural areas, would now have to pay at the pump for transportation systems that they would likely never use.

Indeed, mass transit only serves dense urban areas, and an especially large percentage of mass transit resources are consumed by the New York, Los Angeles, Chicago, Philadelphia, and Miami metropolitan areas. These five areas make up 16 percent of the U.S. population, but consume 49 percent of the total operating expenses of the nation's mass transit systems, and 57 percent of the total passenger miles.[1] Therefore, all federal aid to mass transit disproportionately favors a relatively small group of people, but all taxpayers foot the bill.

The 1982 transportation bill's formula for highway finance created a new problem, in which taxpayers in growing states are sending their dollars to work in already populated states. This produced what is commonly referred to as donor and recipient states. Georgia serves as an example of a donor state. From 1998 to 2003, Georgia's residents generated $6.7 billion in revenues for the Federal Highway Trust Fund, but the state only received $6.1 billion back from the federal government for its roads.[2] Pennsylvania serves as an example of a recipient state. According to The Road

[1] National Transit Database 2003, (accessed on July 25, 2005), <http://www.ntdprogram.com/NTD/NTST.nsf/Web/NTST2003?OpenDocument>.

[2] The Road Information Program "Key Facts about Georgia's Road and Bridge Conditions and Federal Funding", March 2004, (accessed on July 25, 2005), <http://www.tripnet.org/GeorgiaStudyMar2004.PDF>.

Information Program (TRIP), Pennsylvania paid $1.2 billion in national gas taxes, yet received $1.4 billion back in federal highway funds in 2003.

These discrepancies in funding have also caused the formation of two new special interest groups; the first group is the States' Highway Alliance for Real Equity (SHARE). Composed of 15 donor states mainly from the South and Midwest, SHARE is working for legislation that would allow all the states to get back 92 to 95 percent of what they pay in national gas taxes, instead of the current 84 percent as allotted by the current formula. According to the Tax Foundation, 20 states paid $1.8 billion more in gas taxes than they received in 2003.[3]

Supporters of the current system align with the Fair Alliance for Intermodal Reinvestment (FAIR) coalition. This group is composed of 10 larger states, such as Pennsylvania and New York, and the District of Columbia. FAIR argues that the current system is the most equitable way to distribute the money from the national highway fund. These two groups continue to argue over the best way to spend the taxpayers' money on our nation's highways.

ISTEA Sweetens the Pie With Transportation Pork

Nine years after the 1982 transportation bill, Congress passed the $151 billion Intermodal Surface Transportation Equity Act of 1991 (ISTEA), which extended the 14 cents-per-gallon gas tax and all federal spending for transportation projects, including grants to states for their projects. ISTEA further separated the gas tax from its original purpose, because it allowed gas tax revenue to be used for non-highway projects that have little impact on drivers. It lifted restrictions on the designation of federal grants to states for highways or transit systems. States were given greater flexibility in choosing the types of projects for which it could use this money. Gas tax revenue could be used for almost any kind of "transportation" project, including bikeways and scenic landscape designs.

This move toward flexibility of federal grants was justified on the basis that states vary across the board in the nature of their transportation needs and can best decide how to meet those needs. But in the decade and a half following ISTEA, the federal government has passed increasingly larger, costlier and more intrusive highway bills. The 1998 Transportation Equity Act for the 21st Century (TEA-21) cost $216 billion, or 43 percent more than ISTEA. In turn, the current highway bill, TEA-LU, costs 33 percent more than TEA-21. Furthermore, the flexibility promised by ISTEA has been hijacked by members of Congress grabbing billions of taxpayer dollars to fund specific transportation projects in their districts and states. These pork-barrel projects are often unrelated to the federal government's proper role in transportation policy: to build transportation infrastructure that cannot be supplied by the states.

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[3] Andrew Chamberlain, "Do Driving States Subsidize Walking States?" Tax Foundation, May 18, 2005, (accessed on July 25, 2005), <www.taxfoundation.org/news/printer/438.html>.

Currently, Congress is wrestling over the final details of TEA-LU. TEA-21 expired in September 2003, and Congress has ten times extended the previous year's transportation funding as they debate TEA-LU. Originally, President Bush stated that he would not sign a transportation bill that cost more than $256 billion, since the gas tax only covers that amount. He later upped his ceiling to $284 billion as the maximum limit he would approve, but TEA-LU exceeded that limit by $2.4 billion.

When it was enacted in 1991, ISTEA contained 538 earmarked projects at a cost of $6.32 billion. In comparison, TEA-21 contained 1,850 projects, adding up to $9 billion. The House version of TEA-LU contained 3,700 projects at a cost of $12 billion.[4] Most of these projects, such as parking garages and pedestrian walkways, are totally unrelated to national transportation goals.[5] These projects also ended up in the final version of TEA-LU, which contains $20 billion worth of earmarks for special interest projects. Nevertheless, taxpayers all over the U.S. are funding these egregious projects, thanks to self-serving representatives who raid the federal transportation fund to bring home parochial pork. Just like donor states, taxpayers are giving more money for projects in the states of select elected officials.

For example, the Briggs-Delaine-Pearson Connector, referred to as the "Bridge to Nowhere," received $25 million in the House version of TEA-LU, thanks to Rep. Jim Clyburn (D-S.C.). This project will build a bridge over the Santee River connecting two rural counties in South Carolina, despite the fact that another bridge already exists 10 miles down the river and the states' roads are in much need of repair. The project received $34 million in federal funds before TEA-LU, and transportation officials estimate that it will require $110 million in total for completion.[6] A second "Bridge to Nowhere" will connect Gravina Island (population: 50) with the Alaskan mainland. House Transportation and Infrastructure Committee Chairman Don Young (R-Alaska) secured $220 million for this boondoggle. The cost of building the 5.9 mile bridge would be enough to buy every island resident a Lear jet.

Representatives from Texas, a donor state, grabbed 204 pork projects totaling $767 million. House Transportation and Infrastructure Committee members Kenny Marchant (R), Ted Poe (R), and Eddie Bernice Johnson (D) piled on the pork in the 2005 House bill. They inserted $9.6 million for a bicycle and pedestrian trail network in East Austin, $3.3 million for a bike trail at Chacon Creek in Laredo, and $400,000 for a ferryboat at Port Aransas. Yet, according to The Road Information Program, 30 percent of the state's major roads are in poor condition and 21 percent of the bridges are functionally obsolete. Texas is in need of highway improvements such as adding or improving medians, wider lanes or shoulders, and removing obstacles in order to lower the number of auto accidents and ease congestion. Texans pay an extra $3.6 billion a year in vehicle repairs and operating costs due to the poor roadway conditions.

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[4] Veronique du Rugy, "Federal Highway Pork," *Washington Times*, May 30, 2005.
[5] Citizens Against Government Waste, "Eliminate Pork Barrel Spending," (accessed on July 15, 2005), <http://www.cagw.org/site/PageServer?pagename=policy_Pork_Barrel_Spending>.
[6] Angela French, "Bridge to Nowhere", Citizens Against Government Waste, *Wastewatcher*, May 2005.

California is also a donor state, and since 1956 the state has paid $2.1 billion more in federal gas taxes than it has received.[7] To try and make up for this loss in gas taxes, the five California representatives on the House Committee on Transportation and Infrastructure (Gary Miller [R], Bob Filner [D], Michael Honda [D], Juanita Millender-McDonald [D], and Ellen Tauscher [D] grabbed 479 highway pork projects in the House version of TEA-LU, totaling $1.4 billion. Some of these unnecessary projects include $2.5 million for landscaping enhancements along the Ronald Reagan Freeway Route 118, and $2.45 million for a pedestrian bridge from Hiller Street to the Bay Trail in Belmont.

Recipient states also rake in the transportation pork, despite already receiving more than their share of funds from the national gas tax. New York, a recipient state, received $1.4 million in highway spending money, but paid only $1.2 million in national gas taxes.[8] The state has experienced only a 7 percent increase in population over the past decade, a much lower rate than any of the other donor states. In 2004, New York Senators Hillary Clinton (D) and Charles Schumer (D) increased the state's federal highway funding by $16.72 billion. This increase also came with $6.8 billion for New York's state transit systems.

On top of this, the six New York representatives on the House Committee on Transportation and Infrastructure (Sherwood Boehlert [R], Sue Kelly [R], John "Randy" Kuhl, Jr. [R], Timothy Bishop [D], Brian Higgins [D], Jerrold Nadler [D], and Anthony Weiner [D]) added 425 transportation pork projects totaling $765 million to the House bill. Some of the more egregious projects include $15 million to purchase three ferries and establish a ferry service system from Rockaway Peninsula to Manhattan; $2.65 million to "reestablish" Water Street in Utica; and $500,000 for a walking and biking trail in Warwick.

Residents of Duluth, Minnesota are fortunate enough to have the ranking Democrat of the House Committee on Transportation and Infrastructure as their representative. Rep. James Oberstar (D-Minn.) included five projects totaling $14.56 million for Duluth in the House highway bill, including $3.2 million for the Munger Trail extension. The 69-mile Willard Munger State Trail, named after former Rep. Willard Munger (D-Minn.), stretches from Duluth to Hinckley. According to the Minnesota Department of Natural Resources, it is the longest paved recreational trail in the nation. In-line skaters, bicyclists, hikers and snowmobilers enjoy the Munger Trail, which is now being subsidized by non-participating taxpayers.

Despite these and other special interest projects, the House bill managed to meet the limit of $284 billion set by the President, who threatened to veto any bill that exceeded this amount. But the Senate used $11 billion in "offsetting" charges to push its bill to $295 billion. Most of this spending is in the form of tax breaks that seem to

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[7] California Performance Review, "Federal Funding for California Highways Falls Short," (accessed on July 6, 2005), <http://www.cpr.ca.gov/report/cprrpt/issrec/inf/inf16.htm>.

[8] The Road Information Program, "Key Facts about New York's Road and Bridge Conditions and Federal Funding,", April 2005, (accessed on June 30, 2005), <www.tripnet.org>.

reward narrow interests, including exemptions for crop dusters, certain sightseeing flights, and custom gunsmiths.[9]

While the specific groups who benefit from these tax breaks are happy, the country as a whole is harmed, because the cost will drive up the deficit. Senate Finance Committee Chairman Charles Grassley (R-Iowa), however, claims that provisions within the bill will offset the cost of the extra $11 billion because they close various loopholes and improve tax collection.

But Senate Budget Committee Chairman Judd Gregg (R-N.H.), a strong opponent of the Senate bill, argued that the offsetting provisions "do not pass what we might refer to as the straight face test." Sen. Gregg's reasoning is that historically, these provisions have failed to actually increase revenues. For example, he pointed out that one offset "has been used fourteen times in the last two and a half years. Fourteen times." A Senate GOP aide has echoed Gregg's fears and admitted that many of the offsets have already been used up in other bills, such as an international corporate tax bill passed last year.[10] Therefore, the claim that the Senate can dole out favors that have little relation to national transportation priorities without worrying about the deficit is questionable at best.

TEA-LU steers the nation further down the road toward extravagant spending for transportation. This highway bill should not travel to the president's desk until it limits itself to maintaining the federal highway system.

Conclusion and recommendations

Half a century ago, the federal government had an important role in creating a national transportation system. The federal gasoline tax financed this effort by acting as a user fee that ensured that drivers paid the costs of the system they would use. But with the completed construction of the federal highways, the federal gas tax has long outlived its usefulness for the nation's transportation needs. It now funds too many special interest projects that Congress disguises as "national priority" endeavors, and that largesse is getting worse with each new highway bill.

A few states receive more than they pay in gas taxes, but many more receive less and as a result cannot meet their transportation needs. The problem is that the federal government is handling duties that could be performed by the states.

The best way to drive away from this mess is to drastically reduce the federal gas tax. With a depleted Highway Trust Fund, Congress would be limited in its ability to insert pork into the transportation budget. Such a change would remove Congress from involvement in transportation matters except those of true national priority. There would still be gas tax revenue to pay for the maintenance of the national system, for example.

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[9] Joint Committee on Taxation, "Description of the 'Highway Reauthorization and Excise Tax Simplification Act of 2005," April 15, 2005, (accessed on July 6, 2005), <http://www.house.gov/jct/x-22-05.pdf>.

[10] Emily Pierce, "Inhofe hopes to add funds to highway bill," *Roll Call*, March 14, 2005.

The whole nation would win, as state governments would have more room to adjust their own gas taxes and transportation spending to fit their unique circumstances, which they can identify much better than Washington.

The federal gas tax has been a windfall for the well-connected, and a raw deal for taxpayers. But simple reforms can correct this inequity.