Insight

How to Reform America’s Transportation System

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Executive Summary

The Trump Administration’s infrastructure proposals are essentially a set of incentives and financing measures that do not adequately address the core questions in transportation policy. To address the key issues, any final legislation should include the following:

- A definition of the federal or national interest in transportation;
- Reform of the institutions and processes that govern transportation planning, capital programming, and project selection;
- A sustainable source of revenue to support the federal government’s commitments, primarily by restoring financial solvency and stability to the Highway Trust Fund;
- Permitting and process reforms, including to the environmental review process, as well as incentives to states and localities to reform their own processes; and requirements for ensuring the resilience of infrastructure projects.

Through an appropriate mix of federal funding, financing, and incentives, wise investment decision-making, better governance, sustainable and dedicated revenue streams, and resilient reconstruction of the nation’s transportation infrastructure it is possible for the Trump Administration and Congress to develop a program that offers a realistic opportunity to “rebuild America.”

Introduction

As a candidate for president, Donald Trump spoke often about the deplorable condition of the nation’s infrastructure—its highways, bridges, tunnels, airports, ports, and water systems—and as president he has pledged to “rebuild America.” The president’s infrastructure proposal now provides the specific measures and tools that his administration would use to renew and modernize the nation’s transportation infrastructure.

The president’s proposal is nowhere near a complete legislative package. We are only at the beginning of a long and complicated legislative process, and typically it has been Congress, based on the initial proposals of an administration and almost always with broad bi-partisan support, that has developed the details of the transportation authorization legislation eventually enacted.

As we begin this process, it is important to note that the Trump Administration’s infrastructure proposal is not really a call for greater federal *funding*, at all, but rather a set of *incentives* and *financing* measures, intended to leverage investments by states, localities, and the private sector. This framework reflects a shift in how the nation approaches transportation infrastructure investment, and it calls for significant reforms and decisions by both the executive and legislative branches.

The President's Proposal

In President Trump's plan, the federal government will leverage investments by states, localities, and the private sector totaling $1 trillion to $1.5 trillion with a relatively low level of federal grants. In fact, only $200 billion of new federal funding is recommended, of which $100 billion would be in the form of incentive grants to cover 20 percent of *new* resources committed to projects by non-federal entities. In awarding these incentive grants, those states or localities that commit the greatest amount of their own resources will be favored: States and localities that do the most will get the most.

At this point, it is unknown how much of the proposed federal spending would be devoted to transportation. Approximately $20 billion would be allocated to cover the budgetary costs of federal loan and credit enhancement programs, such as the U.S. Department of Transportation's Transportation Infrastructure Finance and Innovation Act (TIFIA) program, and to cover the costs to the Treasury of an expanded tax-free Private Activity Bonds (PABs). This funding is even more directly related to the primary financing purposes of the Trump Administration's proposals, as it targets basic transportation infrastructure.

Devolving Federal Power

If the Trump Administration's proposals are adopted in their current forms, they would continue and, arguably, accelerate a trend away from federal leadership in funding transportation. Over the past decade, the burden to maintain and modernize highways, bridges, tunnels, and public transit systems has grown on state and local transportation agencies. While the recently adopted FY 2018 omnibus appropriation bill greatly increased spending across the board (including for transportation), federal surface transportation spending has generally been stagnant for over a decade. Two exceptions to this trend are the general funds devoted to transportation under the 2009 economic stimulus bill and a slight bump-up in the first year of the Fixing America's Surface Transportation Act. And states and localities have been left to pick up the slack.

The president's proposals, with their emphasis on public and private loans and on private investments, represent a form of incremental devolution. State and local taxpayers and local users of transportation facilities would bear an increasing portion of the funding burden through greater state and local shares of project costs and the establishment of dedicated revenue streams, such as tolls, to service and repay loans or to provide returns to private investors.

The pattern of federal leadership in surface-transportation investment was largely established with the enactment of the Interstate Highway Program in 1956. While federal funds have never represented the largest single portion of capital spending for surface transportation facilities, federal highway grants have often dictated the scope and character of the nation's highway system (and, to some degree, its major transit facilities).

"Pay-as-you-go," supported largely by federal motor fuels taxes, was the guiding principle of the system of investment in the nation's surface transportation infrastructure for a half century. While states and localities have consistently carried the major portions of transportation capital spending, the federal government's leadership was critical to assuring an adequate level of investment.

The Proposal's Limitations

Welcome as is the expansion of federal financing and incentives, there are limits to the effectiveness of such tools, in terms of the size and character of the nation's transportation investment challenges.

Financing, alone, will not "rebuild America." Not all states or metropolitan regions have authorized the use of public-private partnerships (PPPs) or have established the dedicated revenue streams that could support lending or provide adequate returns to private investors.

Moreover, the greatest need for transportation investment is that related to bringing existing transportation facilities and assets to a state of good repair. Typically, such rehabilitation and capital maintenance programs do not generate the revenues that could service loans or could provide returns to investors. Instead, such "state-of-good-repair" programs generally require significant public funding.

But whether the federal role is principally a funding one, as it has largely been for decades, or financing and leveraging greater investments in transportation projects by states, localities, and the private sector, as recommended by the Trump Administration, the issues that need to be addressed in the task to rebuild, renew, and modernize America's transportation infrastructure go beyond funding and financing. The $1.5 trillion (or even $1.7 trillion) that President Trump uses to describe the size and scope of his program, let alone the $200 billion of funding actually proposed, is nowhere near enough to bring the nation's transportation infrastructure to a state of good repair. Estimates of what is needed could be as high as $3 trillion.

It is unlikely that such sums will be available to the task of restoring the nation's transportation infrastructure, and there is no assurance that the expanded federal loan and credit enhancements, proposed by the Trump Administration, will actually stimulate or attract anything like the level of state, local, and private investments that have been predicted by its advocates. It is prudent, then, to assume that the resources available for investment in the nation's transportation infrastructure, whether public or private, will be constrained.

The Need for Prioritization

Under these circumstances, there should be a premium on prioritizing projects and targeting the investment of scarce resources in those projects that will bring the greatest benefits. The primary task, in the words of the National Surface Transportation Infrastructure Financing Commission in its 2009 report, is to make "wise investments." Hopefully, this concept will be embraced in any legislation passed by Congress.

Applying this wisdom requires understanding what needs funding and, more important, what doesn't. As a 2017 RAND Corporation study concluded, while there are many problems, "not everything is broken." Location-specific information should undergird any infrastructure program, and decisions should be informed by analysis of potential benefits, rather than by engineering or political factors alone. "Lasting changes will require thoughtful consideration of targeted spending priorities, policy constraints, and regional differences," the RAND report states.

As the discussion and debate go forward this year, one hopes that the Trump Administration and Congress will consider good governance and wise investments, as part of any transportation financing and funding program that is enacted. So far, the Trump Administration has been silent on these values, but they should be addressed, as part of any transportation bill.

Contours of an Infrastructure Package

All of these factors suggest several items that should be in a new infrastructure package.

First, we are long overdue to redefine the national interest in transportation infrastructure. Congress has struggled with this challenge since the completion of the Interstate Highway System in the 1980s. This issue was addressed first with the enactment of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1991. Soon after, however, more conservative members of Congress called for an end to the federal role in surface transportation and for responsibility for capital investment to devolve to the states. This debate still rages, and the issue of the scope and character of national responsibility for transportation remains unresolved.

Funding levels and financing programs should be shaped around the answers to this question. At the very least, there remains a strong federal interest in assuring safety, connectivity, and accessibility to markets and jobs, and there should be adequate federal funds to advance such interests. Further, it is important to recognize the strong national interest in certain major, often multi-jurisdictional, projects. For example, many have discussed the "Gateway Project" that would, among other things, include the construction of two new trans-Hudson River rail tunnels into New York City. At first glance, this project appears to be local or, at most, regional in nature, but there are clear national interests connected to the construction of these facilities and the maintenance of interstate commerce and commuter rail traffic between New Jersey and New York City. The mix of funding for this project should reflect the nature of the interconnected interests involved in its construction.

Second, Congress should reform the laws and procedures that govern transportation planning, capital programming, and project selection. As noted above, constraints on funding requires that the wisest choices be made in investing scarce capital. The private sector can help select certain projects, but not all essential projects will be able to meet this market test. There still must be a way to identify essential transportation projects and insure that public investments are made in them, even if they are not projected to be profitable.

No single system or set of institutions will fit every state or metropolitan region, but the federal government can play a critical role, in defining what procedures should be followed and what resources are required. At the state and metropolitan levels, the agencies involved in capital programming must have adequate technical and human resources to evaluate and prioritize among competing projects. Performance standards and cost-benefit analyses should become essential elements of project evaluation and ranking, and the projects selected should be parts of comprehensive strategic investment programs. These values and standards should be common to all planning agencies and should be required by federal law.

Third, any new transportation infrastructure legislation should include proposals for sustainable sources of revenue to support federal funding. Instead of asking those who benefit from the transportation system to bear its costs, the Trump Administration's proposals rely on financing mechanisms. Still, even without new grant programs, the federal government needs sustainable, user-based revenue streams to meet its commitments under existing law.

At the federal level, the Highway Trust Fund (HTF), the principal source of funding for highway and transit projects, has struggled with insolvency for almost 10 years. It has been saved only by a steady and growing transfer of general funds. Today, almost one-third of HTF revenues come not from dedicated user fees, but from general revenues. And the problem will only get worse. Congress has repeatedly established program levels that cannot be met from the revenues currently dedicated to HTF. Providing for adequate and sustainable revenue streams dedicated to meeting the obligations of the federal government should be a principal objective of any package.

Fourth, speeding up environmental permitting and regulatory procedures is an important emphasis of the Trump Administration's transportation and infrastructure proposals, as it has been for the past two administrations and Congress for the last twenty years.

Improved coordination between federal resource and permitting agencies and the identification of the single agency, responsible for obtaining all the environmental clearances for transportation projects, are appropriate and important policy goals that will enhance project delivery and reduce costs. However, in many circumstances environmental regulation is not the only obstacle, nor even the primary one, to the enhanced delivery of transportation projects. More salient barriers include: a variety of state and local procurement rules, limitations on technological innovations in the construction process, flawed or inadequate project designs that trigger extensive change orders, poor project management, and burdensome construction work rules often present greater hurdles to the delivery of transportation projects on time and at reasonable cost.

Often the most serious impediment to the timely and efficient delivery of a transportation project is the absence of community consensus about the need, scope, and siting of the project. Often this opposition takes form under the National Environmental Policy Act (NEPA) and the environmental impact statement process, and the litigation that arises from it. This is not a failure of the environmental regulatory process, but the result of a failure to engage the public successfully and early enough to avoid project delivery delays.

One hopes that the consideration of the Trump Administration's transportation and infrastructure proposals by Congress will lead to a program of incentives to states and localities to reform their procurement and other rules that inhibit project delivery. It is instructive that many states still do not even allow design-build project delivery, and many lack authorizing legislation for public-private partnerships. There is much to be accomplished on project delivery mechanisms, in addition to environmental streamlining, that would promote the achievement of the Trump Administration's infrastructure goals.

Fifth and finally, an infrastructure package should account for the effects of climate change. Sea levels are rising, weather events are increasingly destructive, flooding is more frequent, and storm surges are more powerful. States and localities that use federal funding or financing to renew their transportation infrastructure and to undertake new capital projects should be required to construct such facilities and systems in the manner most resilient to these events.

Conclusion

The United States needs more infrastructure investment, but it also needs to see a greater overhaul of the federal approach to funding infrastructure. Through the reforms outlined above, it is possible for the Trump Administration and Congress to develop a program that offers a realistic opportunity to "rebuild America."

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