



**Testimony of Marc Scribner
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**Before the Committee on Ways and Means
U.S. House of Representatives**

Hearing: Our Nation’s Crumbling Infrastructure and the Need for Immediate Action

March 6, 2019

Chairman Neal, Ranking Member Brady, and Members of the Committee, thank you for giving me the opportunity to testify before you today. My name is Marc Scribner. I am a senior fellow at the Competitive Enterprise Institute (CEI), where I focus on transportation, land use, and urban growth policy issues.¹ CEI is a nonprofit, nonpartisan public interest organization dedicated to the principles of free enterprise and limited constitutional government. CEI has supported pro-market approaches to infrastructure investment and management through analysis and advocacy during its 35-year history.

In recent years, there have been increasing calls to increase federal fuel excise tax rates in order to address what many have called an infrastructure crisis. To be sure, there are very real infrastructure needs in the United States, but they are not uniform across infrastructure asset classes and are not primarily the result of a lack of federal funding. A more nuanced, targeted approach is needed to best address these challenges.

In my testimony, I will focus on alternatives to the status quo that could more efficiently target infrastructure investments and increase the returns on those investments, which would benefit taxpayers, infrastructure users, and consumers. This would involve reassessing the federal role in the provision of transportation infrastructure, examining alternatives to existing user taxes, and removing government barriers to investment.

The Increasingly Untenable Status Quo in Transportation Infrastructure Policy

Contrary to a common narrative, infrastructure does not face a broad immediate crisis in the U.S. Private infrastructure owned and managed by freight rail and telecommunications firms is generally of high quality and is improving without taxpayer support. Public highway infrastructure is also of

1. My biography and writings are available at <https://cei.org/expert/marc-scribner>.

medium quality—although there is large variation across the states²—and modestly improving, with the number of structurally deficient bridges and pavement roughness of the National Highway System seeing steady declines over the last three decades according to the Bureau of Transportation Statistics.³

We do see public infrastructure problems concentrated in our cities. The U.S. Department of Transportation estimated transit networks faced a maintenance backlog of nearly \$90 billion in 2015 and is expected to continue growing.⁴ The failure of state and local governments to carry out routine maintenance following initial construction has also led to decay of airports, urban surface streets, and water and wastewater networks. Deferring routine maintenance not only leads to lower quality infrastructure, but increases the future costs of restoring infrastructure to a state of good repair.

Population growth has greatly outpaced expansion of U.S. highway lane-miles. This plus poor management practices have resulted in crippling peak-hour traffic congestion in urban areas throughout the U.S. In 2015, the Texas A&M Transportation Institute estimated that traffic congestion resulted in 3 billion gallons of wasted fuel and nearly 7 billion hours in wasted time per year.⁵ The nationwide cost was estimated to be \$160 billion, or \$960 per rush-hour commuter. This represented a 140 percent increase in commuting delay and wasted fuel congestion costs since 1982.⁶

But this congestion analysis looks only at commuting motorists' travel time delay and wasted fuel costs. When considering the costs associated with productivity losses, unreliability losses, truck cargo delays, and safety and environmental costs, the total annual economic cost of congestion was estimated by the chief economist of the U.S. Department of Transportation to be more than double the aforementioned figure produced by the Texas A&M Transportation Institute methodology.⁷

Further complicating matters is the heavy reliance on fuel excise taxes to fund the majority of federal-aid infrastructure projects. Inflation has steadily eroded the purchasing power of motor fuel tax revenue, where tax rates were last raised in 1993.⁸ Increasing fuel efficiency and electrification of the vehicle fleet has led to declining revenue per vehicle-mile traveled.⁹ In turn, this has increased the

2. See M. Gregory Fields, Baruch Feigenbaum, and Spence Purnell, *23rd Annual Highway Report on the Performance of State Highway Systems*, Reason Foundation Policy Study No. 457 (Feb. 2018), *available at* https://reason.org/wp-content/uploads/2018/01/23rd_annual_highway_report.pdf.
3. Bureau of Transportation Statistics, *National Transportation Statistics, 2018*, Tables 1-27 and 1-28, *available at* <https://www.bts.gov/sites/bts.dot.gov/files/docs/browse-statistical-products-and-data/national-transportation-statistics/223001/ntsntire2018q4.pdf>.
4. U.S. Department of Transportation, *2015 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance*, Report to Congress (Dec. 16, 2016), at 8-24, *available at* <https://www.fhwa.dot.gov/policy/2015cpr/pdfs/chap8.pdf>
5. David Schrank et al., *2015 Urban Mobility Scorecard*, Texas A&M Transportation Institute and INRIX (Aug. 2015), at 1, *available at* <https://static.tti.tamu.edu/tti.tamu.edu/documents/mobility-scorecard-2015-wappx.pdf>.
6. *Id.* at 2.
7. Jack Wells, "The Role of Transportation in the U.S. Economy," PowerPoint presentation to the National Surface Transportation Policy and Revenue Commission (Jun. 26, 2006), slide 21, *available at* https://web.archive.org/web/20090226032621/http://www.transportationfortomorrow.org/pdfs/commission_meetings/0606_meeting_washington/wells_presentation_0606_meeting.pdf.
8. Federal Highway Administration, *Highway Trust Fund and Taxes* (last updated Feb. 8, 2017), <https://www.fhwa.dot.gov/fastact/factsheets/htffs.cfm>.
9. See, e.g., Ron Hagquist, *Higher Gas Efficiency Equals Lower Fuel Revenues*, 72 PUBLIC ROADS 3 (2008), *available at* <https://www.fhwa.dot.gov/publications/publicroads/08nov/03.cfm>

regressive nature of motor fuel taxes, as lower-income Americans tend to drive older, less fuel efficient vehicles.¹⁰ With Interstate Highway System reconstruction needs alone estimated to be at least \$1 trillion over the coming decades,¹¹ something must be done to ensure U.S. transportation infrastructure can continue to be a productive force—rather than a drag—on the U.S. economy.

Reassessing the Federal Role in Transportation Infrastructure

According to the Congressional Budget Office, federal, state, and local governments spent \$299 billion on highway (\$177 billion), mass transit (\$70 billion), aviation (\$37 billion), water (\$10 billion), and intercity passenger rail (\$5 billion) infrastructure in 2017.¹² The federal government is responsible for approximately one-quarter of total public spending on highways and mass transit.¹³ State and local governments fund the rest. Aviation infrastructure spending is more evenly split between federal and state and local governments, with the federal share of aviation infrastructure spending being concentrated in the Federal Aviation Administration's air traffic control system.¹⁴ The federal role in transportation infrastructure spending is primarily in the form of capital grants to state and local governments, which are then responsible for the operation and maintenance of those infrastructure networks.¹⁵ As a share of gross domestic product, these public investments have remained stable over the last four decades across all transportation infrastructure classes.¹⁶

The federal role was historically focused on capital grants to state and local governments. As networks have matured, the continued lopsided federal role in capital spending—as opposed to operations and maintenance—has created perverse incentives for state and local governments to seek new-build projects rather than maintain what has already been built. In particular, this has led to significant over-expansion of mass transit systems that state and local government owners cannot afford to maintain.

To put this mass transit spending in perspective, just 5 percent of American workers aged 16 years and older commuting to work via mass transit in 2017 according to Census Bureau data.¹⁷ In contrast, 76 percent of workers drove alone and 9 percent carpoolled.¹⁸ Despite this, in 2017, mass

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10. *See, e.g.,* Isabel V. Sawhill, *How Higher Gas Prices Hurt Less Affluent Consumers and the Economy*, Brookings Institution (Mar. 6, 2012), <https://www.brookings.edu/opinions/how-higher-gas-prices-hurt-less-affluent-consumers-and-the-economy/>.
 11. Alan E. Pisarski and Kevin E. Heanue, *Future Options for the National System of Interstate and Defense Highways: Task 10 Final Report*, Transportation Research Board, NCHRP Project 20-24 (52) (Dec. 2007), at 13, 21, *available at* http://onlinepubs.trb.org/onlinepubs/trbnet/acl/NCHRP_20-24_52Task10_NCHRPFinal.pdf.
 12. Congressional Budget Office, “Public Spending on Transportation and Water Infrastructure, 1956 to 2017” (Oct. 2018), *available at* <https://www.cbo.gov/system/files?file=2018-10/54539-Infrastructure.pdf>.
 13. *Id.*
 14. *Id.* *See also* Federal Aviation Administration, *FY 2018 President's Budget Submission*, Exhibit II-5, at 4, *available at* <https://www.transportation.gov/sites/dot.gov/files/docs/mission/budget/281191/faa-fy-2018-cj-final.pdf>.
 15. Congressional Budget Office, *supra* note 12.
 16. *Id.*
 17. U.S. Census Bureau, *2017 American Community Survey 1-Year Estimates*, Table S0802 (Sep. 2018), *available at* https://factfinder.census.gov/bkmk/table/1.0/en/ACS/17_1YR/S0802.
 18. *Id.*

transit received 28 percent of total federal, state, and local surface transportation funding¹⁹—more than five times its commuting mode share and 11 times mass transit’s share of total commuting and non-commuting trips.²⁰ While the largely user-supported highway system moves more than \$10 trillion worth of freight every year in the U.S., mass transit moves zero freight while enjoying substantial diversions of revenue collected from road users.²¹ The 25 percent of federal highway user tax revenue diverted to non-highway projects has eroded the American people’s trust in the Highway Trust Fund.

A rationalized federal role in transportation infrastructure would focus on projects with true national significance that facilitate interstate commerce and international trade: freight. The Constitution explicitly recognizes these roles as federal functions.²² A mass transit system that exists primarily to move local commuters, and that does not move any freight, cannot be appropriately labeled a nationally significant project. This is not to say that New York City’s subway system is not vitally important to New Yorkers, only that it is something more appropriately addressed by individual metropolitan areas who best know their particular transportation and land-use needs.

Short of eliminating federal funding for non-nationally significant projects, Congress could deemphasize the federal role in capital spending and allow for more of those funds to be spent on maintenance activities under a “fix it first” strategy.²³

Examining Alternatives to Existing Transportation Infrastructure User Taxes

A top priority in federal transportation infrastructure policy should be to preserve and strengthen the longstanding users-pay/users-benefit fiscal principle. This approach offers several advantages over general revenue funding:

1. Fairness: Highway users benefit from the improvements their user taxes generate.
2. Proportionality: Users who drive more pay more.
3. Funding Predictability: Highway use and therefore highway user revenues do not fluctuate wildly in the short-run.
4. Signaling Investment: Because revenue roughly tracks use, the mechanism provides policy makers with an important signal as to how much infrastructure investment is needed to maintain a desired level of efficiency.

The approach was famously adopted under the Federal-Aid Highway Act of 1956 and accompanying Highway Revenue Act that established the Highway Trust Fund. Excise taxes on

19. Congressional Budget Office, *Public Spending on Transportation and Water Infrastructure, 1956 to 2017* (Oct. 2018), *available at* <https://www.cbo.gov/system/files?file=2018-10/54539-Infrastructure.pdf>.

20. Federal Highway Administration, *Person Trips by Transportation Mode*, 2017 NATIONAL HOUSEHOLD TRAVEL SURVEY (Mar. 2018), *available at* <https://nhts.ornl.gov/person-trips>.

21. Bureau of Transportation Statistics and U.S. Census Bureau, *Commodity Flow Survey*, 2017 CFS Preliminary Data Graphs, *available at* <https://www.bts.gov/cfs> (last accessed Mar. 1, 2019).

22. U.S. Const. art. I, § 8, cl. 3.

23. See, e.g., Matthew E. Kahn and David M. Levinson, *Fix It First, Expand It Second, Reward It Third: A New Strategy for America’s Highways*, Brookings Institution Hamilton Project Discussion Paper 2011-03 (Feb. 2011), *available at* https://www.brookings.edu/wp-content/uploads/2016/07/02_highway_infrastructure_kahn_levinson_paper.pdf

gasoline and diesel account for nearly 90 percent of total Highway Trust Fund revenue.²⁴ These are collected from producers and importers of fuel, who then pass most of the tax burden onto consumers. The current rates of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel were last raised in 1993.²⁵

At a time when toll collection necessitated stopping at toll booths and resulted in high administrative costs (often approaching one-third of collected revenue) and traffic congestion, per-gallon taxation of fuel served as an appropriate user tax when road users with similarly weighted vehicles consumed roughly the same amount of fuel per mile driven. Unfortunately, fuel consumption is becoming an increasingly poor proxy for highway use. As the vehicle fleet continues to achieve improved fuel economy and gradually electrifies or otherwise moves away from fossil fuels, an alternative to motor fuel taxes as the primary highway revenue source is needed.

In recent decades, electronic tolling has been developed that does away with costly tollbooth collections and associated congestion. Current technology in the field allows drivers with inexpensive in-vehicle transponders to pay their tolls while moving at highway speeds under overhead gantries. The administrative and evasion (leakage) costs of motor fuel tax collection and all-electronic toll collection have been estimated to be in the same vicinity of 5 percent of revenue collected.²⁶ If all-electronic, open-road tolling networks were to be expanded throughout the U.S., the administrative and leakage cost shares would likely fall as scale economies are realized.

Looking toward the long-run where motor fuel tax increases would be both ineffective in raising revenue and highly regressive, a number of states in recent years have been piloting new mileage-based revenue collection technologies and practices, which are variously known as mileage-based user fees, road usage charges, and vehicle-miles traveled taxes. All refer to the same approach where users are directly charged based on the distances (and perhaps weight of the vehicle) they drive, which is as close to optimal road charging that current technology permits.

Oregon has the most advanced pilot in operation. Established by 2013 legislation, the program's volunteers can opt for two versions of mileage-recording technology: non-location-based supplementary odometers and a location-based option that can offer users more precision and add-on features such as geofenced alerts for parents of teen drivers. Participants are refunded their estimated fuel tax payments upon transmission of their mileage data.

Privacy is obviously a major issue facing per-mile charging systems. To address these concerns, Oregon law requires that law enforcement obtain a court order demonstrating probable cause involving an authorized criminal investigation of the vehicle owner to access any location data.²⁷ With respect to data retention, Oregon law requires location data to be destroyed 30 days following

24. Testimony of Chad Shirley, Deputy Assistant Director for Microeconomic Studies, before the Committee on Ways and Means of the U.S. House of Representatives (Jun. 17, 2015), at 3, available at https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/50298-TransportationTestimony_1.pdf.

25. Federal Highway Administration, *supra* note 8.

26. Daryl S. Fleming et al., *Dispelling the Myths: Toll and Fuel Tax Collection Costs in the 21st Century*, Reason Foundation Policy Study No. 409 (Nov. 2012), at 22, 48, available at https://reason.org/wp-content/uploads/2012/11/dispelling_toll_and_gas_tax_collection_myths.pdf.

27. ORS 319.915(3)(a)(G).

a payment period, dispute, or noncompliance audit.²⁸ Private trusted third parties, not government agencies, handle billing transactions and device and service provision.

While not included in the Oregon pilot, it has been proposed that drivers who prefer to not transmit even basic odometer readings for charging purposes could be allowed to prepay a monthly or annual fee based on average vehicle-miles traveled trends. Another untested promising application of mileage-based user fee systems is the ability to vary charges by location, time of day, and real-time traffic conditions to enable efficient congestion pricing.

There is growing support in Congress for mileage-based user fees as the long-term solution for Highway Trust Fund revenue, and a legislative discussion draft was released in July 2018 contemplating this transition away from motor fuel taxes. Congress should closely examine both all-electronic tolling in the short-run and mileage-based user fees in the long-run as viable alternatives to status quo motor fuel taxation. We recently led a coalition of 18 organizations and experts in a joint letter to Congress supporting the creation of a nationwide, voluntary mileage-based user fee pilot program to prepare for the long-run transition away from motor fuel tax revenue (see attached Coalition Letter).

Removing Government Barriers to Transportation Infrastructure Investment

Unfortunately, the aforementioned alternatives to motor fuel taxation are greatly constrained by outdated federal law. Under current law, tolling is generally prohibited on the federal-aid highway system.²⁹ In recent decades, Congress has enacted several exceptions to this rule:

- **Section 129 general toll program exemptions.** Initially codified to exempt pre-Interstate toll facilities from the federal prohibition, Congress has gradually expanded Section 129 to include exemptions for initial construction of highways, bridges or tunnels; initial construction of new lanes on highways bridges and tunnels as long as the number of toll-free lanes is not reduced; reconstruction or replacement of a bridge or tunnel; reconstruction of a non-Interstate highway; reconstruction, restoration, or rehabilitation of an Interstate highway as long as the number of toll-free lanes is not reduced.³⁰
- **Section 166 HOV/HOT lane conversion exemptions.** Congress permits the conversion of high-occupancy vehicle lanes to high-occupancy toll lanes. High-occupancy toll lanes are defined as high-occupancy vehicle lanes that allow vehicles traveling below the minimum occupancy requirement to use the lanes in exchange for paying a toll.³¹
- **Interstate System Reconstruction and Rehabilitation Pilot Program.** Congress established a three-slot pilot program that allows three participating projects to impose tolls on existing Interstate lanes. Each of the three projects must be in different states. Section 1411(c) of the FAST Act added additional requirements on state legislative authority and a “use it or lose it” three-year timeframe for participants to complete the program’s requirements.³²
- **Value Pricing Pilot Program.** Congress established a 15-slot congestion pricing program. Since 2012, Congress has authorized no additional funding and the Federal Highway

28. ORS 319.915(4)(a).

29. 23 U.S.C. § 301.

30. 23 U.S.C. § 129(a).

31. 23 U.S.C. § 166(c).

32. Fixing America’s Surface Transportation Act, Pub. L. 114-94, 129 Stat. 1313 (2015).

Administration strongly encourages states seeking to impose tolls on federal-aid highway segments to seek exemptions under Sections 129 and 166 rather than VPPP.³³

These limited exemptions have led to less than 5 percent of U.S. highway miles being tolled. Many highway users, especially the trucking industry, have long opposed toll roads. Road users do have some legitimate concerns that should be addressed if Congress were to eliminate the Section 301 general prohibition on tolls. Transportation policy scholar Robert W. Poole, Jr., has developed a concept he calls “value-added tolling.”³⁴ He argues that Congress should permit tolling if the projects adhere to these five principles:

- Begin tolling only after major improvements are completed.
- Prohibit toll revenue diversion to projects outside the facility or system where they are collected.
- Toll rates should only be high enough to cover initial construction or rehabilitation, maintenance and operations, and needed improvements.
- Motor fuel taxpayers should be reimbursed for the taxes they paid while using toll roads.
- Provide a better level of service on the facility after tolling is imposed.

Protections from toll road operator predation should accompany any liberalization of federal tolling restrictions and value-added tolling provides a workable framework. If these statutory restrictions were to be lifted, Congress could unleash another alternative to government spending on transportation infrastructure: private investment.

In countries as varied as Australia, France, China, and Chile, public-private partnerships (P3s) have played major roles in the provision and management of transportation infrastructure.³⁵ Design-build-finance-operate-maintain long-term concession agreements have successfully reduced project costs, shifted costs and risks away from taxpayers and onto private investors and users, and delivered projects in a more timely fashion.³⁶ In the U.S., several states have enacted robust P3 legislation and have entered into long-term leases with private concessionaires to build, modernize, and/or manage public-purpose tolled highways.³⁷ This has resulted in road users getting better infrastructure and taxpayers saving billions of dollars.

These P3 toll roads rely on a mix of equity and debt financing. Private activity bonds (PABs) play a key role, where toll revenue is used to service this debt. PABs are tax exempt like traditional municipal bonds, leveling the playing field between the public and private sectors in financing infrastructure. Unfortunately, Congress created a national aggregate volume cap on PABs of \$15 billion for surface transportation projects.³⁸ According to the latest data from the U.S. Department of

33. Federal Highway Administration, “Value Pricing Pilot Program,” FHWA Office of Operations website, https://www.fhwa.dot.gov/ipd/tolling_and_pricing/tolling_pricing/vppp.aspx (last accessed Mar. 1, 2019).

34. Robert W. Poole, Jr., *Value-Added Tolling: A Better Deal for America’s Highway Users*, Reason Foundation Policy Brief 116 (Mar. 2014), available at https://reason.org/wp-content/uploads/files/value_added_tolling.pdf

35. Robert W. Poole, Jr., *Rethinking America’s Highways: A 21st Century Vision for Better Infrastructure* 52-66 (2018).

36. *Id.* at 96-135.

37. *Id.* at 104.

38. 26 U.S.C. § 124(m)(2)(A).

Transportation, more than two-thirds of that \$15 billion has already been issued or allocated.³⁹ If Congress wishes to free the states and private sector in delivering better infrastructure value to the traveling public, this cap should be greatly increased or eliminated.

In aviation, Congress has similarly restricted local self-help by capping the passenger facility charge (PFC) at \$4.50 per enplanement.⁴⁰ In the previous Congress, Reps. DeFazio and Massie introduced legislation to eliminate the \$4.50 cap.⁴¹ In exchange for charging more than \$4.50 per passenger enplanement, the bill would have required airports to return 100 percent of their Airport Improvement Program taxpayer-funded grants. This legislation would also have proportionately reduced Airport Improvement Program spending by \$400 million per year.

In addition, federal, state, and local procurement policies,⁴² labor requirements,⁴³ environmental permitting rules,⁴⁴ and a lack of adequate life-cycle cost accounting all serve to substantially increase the cost of building and maintaining public-purpose infrastructure. Recent efforts from Congress and the administration on permitting reform—especially the ongoing “one federal decision” implementation⁴⁵—are promising, but much more reform is necessary.

These reforms should focus on maximizing returns on infrastructure investment, not maximizing the number of temporary jobs created in the initial construction of new infrastructure. As Harvard University urban economist Edward L. Glaeser recently noted, “Treating transportation infrastructure as yet another public-works program ensures the mediocrity that we see all around us.”⁴⁶

From highways to airports, current federal law perversely reduces transportation infrastructure investment while increasing government spending and pressure on taxpayers. Given this environment, it is unsurprising that many Americans are skeptical of calls for higher taxes to increase infrastructure investment. The evidence suggests they should be.

Thank you for the opportunity to testify before the Committee, and I welcome your questions.

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- 39. Build America Bureau, “Private Activity Bonds,” U.S. Department of Transportation website (last updated Feb. 26, 2019), <https://www.transportation.gov/buildamerica/programs-services/pab>.
 - 40. 49 U.S.C. § 40117(b)(4).
 - 41. Investing in America: Rebuilding America’s Airport Infrastructure Act, H.R. 1265, 115th Cong. § 1 (2017).
 - 42. See, e.g., Bonner R. Cohen, *Fixing America’s Crumbling Underground Water Infrastructure: Competitive Bidding Offers a Way Out*, Competitive Enterprise Institute Issue Analysis 2012-4 (Apr. 2012), available at <http://cei.org/sites/default/files/Bonner%20Cohen%20-%20Fixing%20America%27s%20Water%20Infrastructure.pdf>. See also Michaela D. Platzer and William J. Mallett, *Effects of Buy America on Transportation Infrastructure and U.S. Manufacturing: Policy Options*, Congressional Research Service (Jun. 14, 2017), at 12-15, available at <https://fas.org/sgp/crs/misc/R44266.pdf>.
 - 43. See, e.g., Daniel P. Kessler and Lawrence F. Katz, *Prevailing Wage Laws and Construction Labor Markets*, 45(2) INDUSTRIAL AND LABOR RELATIONS REVIEW 259 (2001).
 - 44. See, e.g., Federal Highway Administration, “Estimated Time Required to Complete the NEPA Process,” FHWA Environmental Review Toolkit, available at https://www.environment.fhwa.dot.gov/nepa/timeliness_of_nepa.aspx (last accessed Mar. 1, 2019).
 - 45. E.O. 13807 (2017).
 - 46. Edward L. Glaeser, *If You Build It...: Myths and realities about America’s infrastructure spending*, CITY JOURNAL (Summer 2016), available at <https://www.city-journal.org/html/if-you-build-it-14606.html>.

January 24, 2019

Dear Member of Congress,

As Congress begins considering the future of the Highway Trust Fund, its top priority should be restoring the longstanding users-pay/users-benefit principle. Further increasing the reliance of the Highway Trust Fund on revenue streams untethered from use, as well as general fund bailouts, would not only fail to address the core fiscal challenges of the present, it would threaten the future health of America's highways.

As such, we are encouraged by the leadership of House Transportation and Infrastructure Committee Chairman DeFazio and Ranking Member Graves, who have both supported examining a road usage charge system as the eventual replacement for a fuel tax regime that is projected to become increasingly inefficient and regressive as vehicle fleet fuel economy improves and eventually electrifies. We strongly support their near-term efforts to create a nationwide mileage-based user fee pilot program.

At the same time, Congress should closely examine lessons learned in the numerous ongoing state road usage charge pilot programs and tailor any future federal program to those findings, including ensuring that all forms of surface transportation are covered, including heavy trucks and passenger vehicles. Further, any successful federal program must be nationwide in scope, but should be done in cooperation with the states, as opposed to imposing an untested, top-down, nationwide charging regime while ignoring best practices developed across the states.

When Congress passed the Federal-Aid Highway Act of 1956, which created the modern Interstate Highway System, this was coupled with the Highway Revenue Act. The Revenue Act established the Highway Trust Fund, which authorized the Treasury to collect taxes on producers and importers of fuel, who then pass most of that tax burden on to road users.

Set at a per-gallon rate, the rationale for the taxes was to link highway use with highway infrastructure investment. Prior to the creation of the Highway Trust Fund, federal-aid highways were funded out of general revenues and users did not bear the costs of the infrastructure they used. In addition, all federal taxpayers—even those who did not drive—were thereby forced to pay for highways.

Adhering to the users-pay/users-benefit principle is superior to general revenue funding for a number of reasons:

1. Fairness: Highway users benefit from the improvements their user taxes generate.
2. Proportionality: Users who drive more pay more.
3. Funding Predictability: Highway use and therefore highway user revenues do not fluctuate wildly in the short-run.

4. Signaling Investment: Because revenue roughly tracks use, the mechanism provides policy makers with an important signal as to how much infrastructure investment is needed to maintain a desired level of efficiency.

For these reasons, we urge you to prioritize protecting and strengthening the users-pay principle in the 2020 surface transportation reauthorization and support the development of a nationwide, interoperable road usage charge pilot.

Sincerely,

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