TOLLS AND SURFACE TRANSPORTATION REAUTHORIZATION

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Ending obsolete restrictions on tolls is a sensible compromise between congressional road-building "hawks" and the Bush Administration. Led by House Transportation Committee Chairman Don Young (R-AK), the hawks have been impressed by testimony on the extent to which road building has lagged across the nation. Seeing an impending "congestion crisis," they want to hike the gas tax by over 50 percent to fund a 60 percent expansion of road and transit funding over the next six years. The Administration, on the other hand, flatly rejects any gas tax increase, but its status quo stance offers little prospect of relief from worsening congestion.

Both sides are overlooking an alternative—easing half-century-old federal restrictions on tolling—that could enable the road builders to get much of what they want via toll roads while also accommodating the Administration's firm stand against higher taxes.

This alternative would require repeal of the federal restrictions on tolling, which date from the 1950s when tolls meant delays from queuing at toll plazas. At the time, the gas tax seemed to offer almost unlimited, easily collected funds for roads. Since the 1990s, technology has made it possible to identify motor vehicles by using advanced radio and video systems, ending the need for on-site toll collection.

As a user-pays system, tolls also offer a way to measure demand for new highway investment. If tolls are set flexibly, they indicate motorists' willingness to pay for the cost of the service, and variable tolls can be used to optimize traffic flow and prevent breakdown into inefficient stop-and-go driving.

BUDGET WAR

A major political battle looms over the reauthorization of federal funding for surface transportation for the next six years. The Bush Administration has proposed no increase in the gasoline tax of 18.4 cents per gallon or the diesel fuel tax of 22.4 cents per gallon, both of which fund the program via the highway trust fund. The Administration has proposed a $41.2 billion per year program, a 13 percent increase over the previ-
ties. It directs that the Secretary of Transportation "shall permit" federal participation in "reconstruction or replacement or conversion of the (untolled) bridge or tunnel to a toll facility" but then imposes a long list of conditions for the Secretary's permission.10 It also says that the Secretary "shall permit" reconstruction of a toll-free federally aided highway to a toll facility but perplexingly excludes any "highway on the Interstate System" from consideration.11 If tunnels, bridges, and non-interstate federally aided highways can tap into toll revenues for reconstruction, why can states not convert interstate highways from free to toll?11

No rationale remains for this legal and regulatory straitjacket. The interstate highway system began as a mixture of toll and non-tolled roads in fairly equal proportions. Key segments of the interstate system remain toll roads, and over half of America's toll revenues are collected on interstate facilities. New toll facilities (for example, I-185 in Greenville, South Carolina) have gained interstate designation.

The unwarranted presumption against tolling is reflected in some provisions of Title 23. The Territorial Highway Program under Section 215, which provides U.S. support for roads in the Virgin Islands, Guam, American Samoa, and the Marianas, also requires that, as a condition of federal funding for roads in these territories, the governor of such territories "not impose any toll, or permit any toll to be charged for use by vehicles or persons of any portion of the facilities constructed or operated under the provisions of this section."12 Identical anti-toll boilerplate is in Section 218 (Alaska Highway financing) and Section 212 (Inter-American Highway).

In other words, the U.S. government quite sensibly requires a local commitment to maintain the road facilities it funds or helps fund in these places, but then blindly blocks the most logical way for the local government to fund that maintenance—tolls.

Other complex provisions in current highway law do not explicitly prohibit tolls, but they do tie them up in convoluted legalisms and bureaucratic departmental permitting processes seemingly designed to discourage tolls. Section 119 (Interstate Maintenance Program) contains a series of legal hurdles:

The Secretary may approve a project pursuant to this subsection on a toll road only if such road is subject to a Secretarial agreement provided for in section 129 or continued in effect by section 1012(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1939) and not voided by the Secretary under section 120(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 159).13

U.S. law leaves it entirely up to state and local governments to decide what kinds of fuel taxes, license fees, sales taxes, weight-distance truck charges, special district taxes, developer contributions, vehicular property taxes, and other levies to impose for funding roads and how to impose them. U.S. law asserts no interest in these non-toll road user charges. Yet, as shown, U.S. law asserts extensive controls over whether or not and under what conditions tolls may be levied.

Logically, if tolls, locally imposed, are at least as legitimate a funding mechanism as local taxes, U.S. law should leave decisions as to when, whether, and what kinds of tolls to levy for supporting roads to the discretion of state and local governments. Tolls should be an option to be exercised at local initiative, just as local governments are answerable to local voters for the results of other levies.

Strangely, these remaining old anti-toll provisions in Title 23 are matched by a number of protoll provisions in recent sections (for example Section 183, Secured Loans) designed to encourage

11. A very limited number of interstate tolls are allowed under two pilot programs (value pricing and interstate tolls), but only after a complex selection process.
ida; on three highways in Denver, Colorado; on eight freeways in Seattle, Washington; on the Wash-
ington, D.C., Beltway (I–495); and elsewhere.
These projects are assisted by the Value Pricing Pro-
gram in the Transportation Equity Act for the 21st
Century, the current federal surface transportation
law.

The Reason Institute has proposed that ineffect-
ual HOV lanes in eight of the busiest metro areas
be used as the basis for a comprehensive and inter-
connected premium-lane network in each area. The
proposal involves adding 2,730 lane-miles to the
existing 1,700 lane-miles of HOV and building 300
new direct connector ramps at interchanges at a
cost of $44 billion. About a quarter of the new lanes
would have to be built centrally elevated. Buses and
large transit vans travel for free, but cars would pay
a toll for the privilege of driving in a managed lane
where free-flow conditions are guaranteed.

It is estimated that tolls could cover $29 billion,
or two-thirds of the total capital cost, of the Reason
Institute's proposal. If transit were made to pay its
way, whole networks could be completely self-sup-
porting with tolls. 14

**Truck Tollways.** Other special toll lanes have
been proposed for trucks. Two investor groups are
vying for the right to rebuild 325 miles of I–81 in
Virginia in return for the right to toll. One of the
plans would provide special truck toll lanes.

Another proposal is to build separate truck lanes
or "toll truckways" on major trucking routes. The
special lanes would be separated from regular traf-
cic, allowing heavier, longer combinations, operat-
ing at higher speeds than in mixed traffic.
According to modeling, these truckways would
produce such major increases in trucking produc-
tivity that trucking companies would be prepared
to pay substantial tolls. 15 Such toll truckways, with
their own staging areas for makeup and breakdown
of long combinations and direct connector ramps
to avoid mixing with cars, address safety concerns
that have produced an impasse in rationalizing the
nation's patchwork of truck size and weight regula-

**Tolls on Reconstructed Highways.** Tolls may
also be acceptable on major reconstruction and
widening of existing interstates, especially if
financed by a mix of toll revenue and grant fund-
ing. This has been proposed for I–70 between St.
Louis and Kansas City.

Bridges have been tolled when reconstructed or
enlarged. Examples include the Coleman Bridge in
Yorktown, Virginia, and the Tacoma Narrows
Bridge in Washington State. The Wilson Bridge on
the Washington Beltway, currently under recon-
struction, should be tolled since it will provide a
greatly improved level of service to area commut-
ers. Other toll-financeable bridges in design include
a new bridge over the Mississippi River between St.
Louis and southern Illinois and two new bridges
over the Ohio River in the Louisville, Kentucky,
area.

**RECOMMENDATIONS**

Reauthorization of federal funding for surface
transportation presents Congress and the Admin-
istration with a perfect opportunity to effect long-
needed and eminently practical changes in U.S.
transportation policy. Specifically, surface transpor-
tation reauthorization should explicitly:

- Allow states to authorize or impose tolls on
  newly constructed HOT or toll express lanes on
  interstates or other federal aid roads;
- Allow states to convert HOV lanes to HOT
  lanes;
- Allow states to build segregated toll truckways
  within the rights of way of interstate highways;
- Authorize bond financing of for-profit highway
  projects on the same basis as for government
  authorities and not-for-profits, with the same
  rules on tax exemption;
- Continue the Value Pricing Program, which has
  been the basis for many positive developments
  in highway funding and management, produc-
  ing greater returns than programs costing a
  hundred times as much;

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14. See Robert W. Poole, Jr., and C. Kenneth Orski, "HOT Networks: A New Plan for Congestion Relief and Better Transit," Rea-
15. See Peter Samuel, Robert W. Poole, Jr., and José Holguín-Veras, "Toll Truckways: A New Path Toward Safer and More Efficient