

LEGISLATIVE HISTORY OF FEDERAL TOLLING POLICIES

Over the years, Congress has made revisions to federal statutes related to tolling of the nation's highways, bridges and tunnels. The following is a summary of the key milestones in this process.

Federal Aid Road Act of 1916

The *Federal Aid Road Act of 1916* (P.L. 64-156, 39 Stat. 355) was the first piece of Congressional legislation authorizing substantial federal funds to be used for highway construction, and outlined the existing federal-aid highway program. The legislation established a general ban on tolling the federal-aid highways, though subsequent transportation laws have added significant exemptions to the ban.

Federal Aid Highway Act of 1956

The *Federal-Aid Highway Act of 1956* (P.L. 84-627, 70 Stat. 374) established guidelines for funding and construction of the nationwide network of Interstate highways that exist today. The federal government allocated \$25 billion to the construction of the Interstate highway system – paying for it by raising the federal motor tax from \$0.02 to \$0.03 per gallon. Tax revenue was dedicated to the Highway Trust Fund and covered 90% of the project's cost.

The 1956 legislation continued to ban tolling on federal-aid roads, including the newly created Interstate highways. To reduce the costs associated with constructing the nationwide system, many existing toll roads operating along the intended Interstate corridors were included and “grandfathered” – allowing fourteen states to continue to collect tolls on these newly designated Interstate highways. These states included CT, FL, IL, IN, KS, KY, MA, NH, NJ, NY, OH, OK, PA, and WV.

ISTEA (1991)

The *Intermodal Surface Transportation Efficiency Act of 1991* (P.L. 102-240; 105 Stat. 1914) relaxed several longstanding restrictions on a state's ability to implement toll facilities on federal-aid projects. Three specific exceptions were introduced allowing states to toll:

- newly constructed federal-aid roads and highways not part of the Interstate system;
- reconstructed or replaced federal-aid roads and highways not part of the Interstate system (converting them to tolled facilities);
- reconstructed or replaced federal-aid bridges and tunnels including those that are part of the Interstate system (converting them to tolled facilities).

ISTEA also established the Value Pricing Pilot Program (VPPP) allowing 3 select states, later expanded to 15, to establish variable congestion based pricing on existing Interstate highways to manage roadway congestion and regional air quality. Currently, 25 projects operate under the program including 10 active toll facilities¹.

TEA-21 (1998)

The *Transportation Equity Act for the 21st Century* (P.L. 105-178; 112 Stat. 107) established the Interstate System Reconstruction and Rehabilitation Pilot Program (ISRRPP). Under ISRRPP three states can toll existing Interstate highways to fund needed maintenance or improvement. States applying for the program must identify a segment of their Interstate that cannot be sufficiently maintained or improved through any other form of highway funding including the state's allotment of federal funds. Toll revenue must be used for maintenance or improvement of the tolled facility. North Carolina, Virginia, and Missouri most recently held the slots, however North Carolina and Virginia have removed themselves from the pilot program.

SAFETEA-LU (2005)

The *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (P.L. 109-59; 119 Stat. 1144) further increased state flexibility to toll federal-aid highways, including the Interstate system. The bill implemented two new pilot programs allowing states to toll:

- new lanes added to existing Interstate highways so long as the amount of non-tolled lanes did not decrease (limited to 15 projects);
- and newly constructed federal-aid highways added to the Interstate system (limited to 3 projects).

States seeking to enter the programs must apply for admittance and reach a tolling agreement with the Federal Highway Administration.

MAP-21 (2012)

The *Moving Ahead for Progress in the 21st Century Act* (P.L. 112-141; 126 Stat. 405) eased the restrictions on the programs introduced in SAFETEA-LU. Both pilot programs introduced in the previous bill were added to the general tolling program thus removing the limit on eligible projects. All states can now toll:

- newly added lanes on federal-aid highways so long as the number of non-tolled lanes is not reduced;
- and newly constructed federal-aid highways added to the Interstate system.

Furthermore, toll agreements are no longer required with the Federal Highway Administration before tolling highways under these conditions. The act mandates annual audits of toll facilities to ensure compliance with federal laws restricting the use of toll revenue.

FAST Act (2015)

The *Fixing America's Surface Infrastructure Act* (P.L. 114-94; 129 Stat. 1310) amended the Interstate System Reconstruction and Rehabilitation Pilot Program (ISRRPP) introduced in TEA-21. The original ISRRPP permitted three states to establish toll facilities on existing Interstate highways to fund maintenance or improvements that could not be performed given other revenue streams. The FAST Act placed a three-year limit on a state's preliminary approval into the program. The approval expires unless the state has finalized its application, meets all criteria, and entered a tolling agreement with the Federal Highway Administration. One-year extensions can be granted if the state demonstrates reasonable progress towards fulfilling the program's criteria. States already admitted to the program had one year to meet the requirements. Virginia and North Carolina have since vacated their slots in ISRRPP leaving Missouri as the only state currently enrolled. The Federal Highway Administration is now accepting applicants for the two open slots, and numerous states have expressed interest.

Obama and Trump Legislative Proposals

While Congress has been chipping away at the general ban on tolling federal-aid highways over the past several decades, significant restrictions remain limiting a state's flexibility to finance the reconstruction of its Interstate system. Both the Obama and Trump Administrations, through the [GROW AMERICA Act](#) and the [2018 Budget: Infrastructure Initiative](#), have proposed to remove or significantly reduce federal restrictions on Interstate tolling. With two successive Administrations advocating for expanded tolling on the Interstate system, progress is evident for tolling's expansion as a funding and financing option.

¹ U.S. Department of Transportation, Federal Highway Administration, "Value Pricing Pilot Program Quarterly Reports: October-December 2016", https://ops.fhwa.dot.gov/congestionpricing/value_pricing/projects/index.htm (accessed June 8, 2017)