The Heritage Foundation

BACKGROUNDER

No. 3273 | JANUARY 30, 2018

Unleashing Investment or Expanding Federal Control? How Proponents of Limited Government Should Evaluate the Trump Infrastructure Plan

Michael Sargent

Abstract

The Trump Administration is poised to release its infrastructure proposal in early 2018. While the details of the plan are unclear, it is expected that the Administration hopes to leverage $200 billion in federal spending to generate a total of $1 trillion in investment when coupled with state, local, and private spending. In crafting such a plan, the inevitable urge will be to funnel additional federal dollars into infrastructure ventures. Lawmakers should resist this urge in favor of structural reforms to the federal infrastructure paradigm. This Backgrounder *sets forth key criteria to gauge how well the Administration's plan adheres to principles of limited government and free markets to drive sound infrastructure investment.*

Since his 2016 presidential campaign, Donald Trump has promised to issue a plan to repair the nation's "crumbling infrastructure" and embark on a "new program of national rebuilding."[1] The Administration is now poised to release a detailed outline of its plan in early 2018, which will serve as the foundation for legislation in Congress.[2]

Yet for all the enthusiasm about spending on infrastructure, there is little compelling evidence that warrants a large federal investment bill. Federal data reveal that the nation's major road, bridge, and aviation assets are in satisfactory condition, and in most cases are improving.[3] The narrative that public investment in infrastructure is historically low is false. From 1956 to 2014, total inflation-adjusted[4] public investment in transportation and water infrastructure increased by roughly 200 percent—dramatically outpacing population growth—while remaining steady as a share of gross domestic product (GDP).[5]

Key Points

- The Trump Administration is poised to release an infrastructure plan in early 2018. While the details of the plan are forthcoming, the Administration is expected to spend $200 billion to induce an additional $800 billion in state, local, and private investment.
- There is little compelling evidence for a large federal spending initiative: Federal data indicate that the nation's major infrastructure is in satisfactory condition while the economy is experiencing low unemployment.
- There are many ways to improve an infrastructure system mired in bureaucracy, poor incentive structures, and counterproductive regulation. The Administration should embrace reforms that propel markets and local governments to drive sound infrastructure investment decisions.
- The Administration's plan should avoid expanding federal involvement in infrastructure, which can harm the government's fiscal health, misallocate resources, saddle projects with cost-increasing regulations, and present local governments with counterproductive incentives.

This paper, in its entirety, can be found at **http://report.heritage.org/bg3273**

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

Infrastructure that is in poor condition tends to be local in ownership and character, and is generally funded through local general revenues rather than user fees. These assets are poorly suited for expansive federal intervention through new spending programs.[6] Federalism wisely dictates that local infrastructure is properly managed by local authorities—those most responsive to the users of the infrastructure—while federal involvement, if any, is limited to infrastructure of nationwide significance. Aside from inundating local construction projects with a barrage of federal regulations, enlarging federal funding to cover local assets would only worsen accountability in funding decisions and provide perverse incentives to localities, further distorting the poor local decision making that has led to the current degraded state of certain infrastructure.

Furthermore, the justification that infrastructure spending will create new jobs in a humming economy is extremely weak. The unemployment rate in December 2017 was 4.1 percent (the lowest since December 2000) and 70 percent of contractors were already experiencing a shortage of skilled workers as of August 2017, with job demand on the rise.[7]

There are, however, many ways the Administration and Congress could improve an infrastructure system mired in bureaucracy, poor incentive structures, and counterproductive regulation. As a superior alternative to large spending legislation, Heritage Foundation analysts published two sets of recommendations for the Administration as to how it should pursue a fiscally responsible, free-market infrastructure plan. These recommendations include both broad-based principles to which the plan should adhere, as well as distinct policy proposals that such a plan should implement in order to drive sound infrastructure investment.[8]

Without unnecessarily reiterating the details of previous recommendations, this *Backgrounder* sets forth key criteria to gauge how well the Administration's plan adheres to principles of limited government and free markets to drive sound infrastructure investment.

1. The White House, "Remarks by President Donald Trump in Joint Address to Congress," February 28, 2017, https://www.whitehouse.gov/briefings-statements/remarks-president-trump-joint-address-congress/ (accessed January 23, 2018).
2. Heidi Przybyla, "At Camp David, Trump Will Push Republicans to Make Infrastructure Top 2018 Priority," *USA Today*, January 5, 2018, https://www.usatoday.com/story/news/politics/2018/01/05/camp-david-trump-push-republicans-make-infrastructure-top-2018-priority/1003283001/ (accessed January 23, 2018).
3. The number and share of the nation's bridges deemed "structurally deficient" (not necessarily unsafe, but requiring extensive maintenance) has declined by half since 1990 and accounts for less than 10 percent of bridges. Analyses of highway pavement quality conclude that the nation's major roads have been generally improving in quality and are likely in their best condition ever. America's airports and airways safely move more people and goods than those of any other nation. Overall, the U.S. ranks near the top of G-7 nations for infrastructure quality. See Michael Sargent "Building on Victory: An Infrastructure Agenda for the New Administration," Heritage Foundation *Issue Brief* No. 4629, November 21, 2016, http://www.heritage.org/transportation/report/building-victory-infrastructure-agenda-the-new-administration.
4. Adjusted for infrastructure-specific price indexes. When adjusted for GDP price index, the figure rises to 446 percent. Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014," March 2015, https://www.cbo.gov/publication/49910 (accessed January 23, 2018).
5. Public infrastructure investment measured 2.4 percent of GDP in 2014 compared to an average of 2.6 percent from 1956 to 2014. Congressional Budget Office, "Public Spending on Transportation and Water Infrastructure, 1956 to 2014."
6. Aaron M. Renn, "Beyond Repair: America's Infrastructure Crisis Is Local," Manhattan Institute *Issue Brief* No. 41, October 2015, https://www.manhattan-institute.org/html/beyond-repair-america%E2%80%99s-infrastructure-crisis-local-7943.html (accessed January 23, 2018).
7. Bureau of Labor Statistics, "Databases, Tables, and Calculators by Subject," Monthly Unemployment (seasonally adjusted), 2000–2017, https://data.bls.gov/timeseries/LNS14000000 (accessed January 5, 2018), and news release, "Seventy-Percent of Contractors Have a Hard Time Finding Qualified Craft Workers to Hire Amid Growing Construction Demand, National Survey Finds," Associated General Contractors of America, August 29, 2017, https://www.agc.org/news/2017/08/29/seventy-percent-contractors-have-hard-time-finding-qualified-craft-workers-hire-amid (accessed January 23, 2018).
8. Sargent, "Building on Victory: An Infrastructure Agenda for the New Administration," and Michael Sargent and Nick Loris, "Driving Investment, Fueling Growth: How Strategic Reforms Can Generate $1.1 Trillion in Infrastructure Investment," Heritage Foundation *Backgrounder* No. 3209, May 8, 2017, http://www.heritage.org/transportation/report/driving-investment-fueling-growth-how-strategic-reforms-can-generate-11. For further Heritage recommendations regarding federal infrastructure programs, see The Heritage Foundation, *Mandate for Leadership: A Comprehensive Policy Agenda for a New Administration*, August 26, 2016, http://www.heritage.org/budget-and-spending/report/mandate-leadership-comprehensive-policy-agenda-new-administration.

Brief Overview of the Potential Trump Infrastructure Plan

Over the past year, the Administration has trickled out details on how it will likely structure its infrastructure proposal.[9] The Administration has repeatedly stated that it intends to spend $200 billion on infrastructure over a 10-year period (and this appears to be the minimum amount of spending it will consider). The Administration has hinted that it will then divide the funding into four distinct parts, listed below in a roughly descending order of importance:

1. **Incentives program.** The heart of the proposal, this program (or series of programs) will provide federal assistance for infrastructure projects that meet certain criteria, with an emphasis on projects that will generate funding or financing at the sub-federal level.

2. **Rural assistance.** Federal grants for projects in rural areas.

3. **Transformative projects.** Competitive grants or financing for large projects that are deemed innovative or transformative in nature, such as Elon Musk's tunneling endeavors.[10]

4. **Expansion of credit-assistance programs.** Expanding the financial capacity and, potentially, scope of current federal credit programs, such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Water Infrastructure Finance and Innovation Act (WIFIA), and Railroad Rehabilitation and Improvement Financing (RRIF).[11]

The source of funding for the plan remains more uncertain. The Administration's fiscal year 2018 budget offsets $200 billion in new budget authority for a new infrastructure proposal predominantly by cutting existing transportation programs. The largest of these was a reduction of $95.3 billion in Highway Trust Fund spending relative to current levels over 10 years.[12] However, mixed reports from White House staff and congressional priorities cast the likelihood of such cuts into question.[13]

In addition, White House advisors and the President himself have iterated that an increase to the federal gas tax remains an option to raise revenue for the plan, a regressive and increasingly outdated policy plan that would hurt lower- and middle-income Americans.[14] Furthermore, there is always a chance that the Administration and Congress may simply choose not to properly offset the plan and effectively fund it through gimmicks or issuing federal debt. This uncertainty will likely be a key area of debate during the formulation of legislation.

Embracing Free Enterprise to Drive Infrastructure Investment

In crafting a far-reaching plan, the inevitable urge will be to funnel additional federal dollars into infrastructure ventures. Lawmakers should resist this urge in favor of structural reforms to the federal infrastructure paradigm. While politicians may view additional spending as a simple way to fund projects that will improve infrastructure conditions, the

9. "Trump to Outline Infrastructure Plan that Includes Rural Funding," *American Journal of Transportation*, June 6, 2017, https://www.ajot.com/news/trump-to-outline-infrastructure-plan-that-includes-rural-funding (accessed January 23, 2018).

10. David Shepardson, "Infrastructure Overhaul May Top $1 Trillion, Cut Red Tape: Trump," Reuters, April 4, 2017, https://in.reuters.com/article/us-usa-trump-business/infrastructure-overhaul-may-top-1-trillion-cut-red-tape-trump-idINKBN17627R (accessed January 23, 2018).

11. Transportation Infrastructure Finance and Innovation Act, 23 U.S. Code §§ 601–609; the Water Infrastructure Finance and Innovation Act, 33 U.S. Code §§ 3901–3914; and Railroad Rehabilitation and Improvement Financing, 45 U.S. Code §§ 821–836.

12. U.S. Office of Management and Budget, *Budget of the U.S. Government Fiscal Year 2018*, May 23, 2017, https://www.whitehouse.gov/wp-content/uploads/2017/11/budget.pdf (accessed January 23, 2018).

13. Brianna Gurciullo, "Trump Infrastructure Adviser: Budget Cuts Will Pay for Federal Spending," *Politico Pro*, December 6, 2017, https://www.politicopro.com/transportation/whiteboard/2017/12/trump-infrastructure-adviser-budget-cuts-will-pay-for-federal-spending-204196 (accessed January 23, 2018).

14. Ibid.; Ashley Halsey, "White House Says It's Considering Increasing the Federal Gas Tax for Infrastructure," *The Washington Post*, October 26, 2017, https://www.washingtonpost.com/local/trafficandcommuting/white-house-says-its-willing-to-increase-the-federal-gas-tax-for-infrastructure/2017/10/26/1b459346-ba6d-11e7-9e58-e6288544af98_story.html (accessed January 23, 2018); and Jennifer Jacobs and Margaret Talev, "Trump Weighs Breaking Up Wall Street Banks, Raising Gas Tax," Bloomberg, May 1, 2017, https://www.bloomberg.com/news/articles/2017-05-01/trump-says-he-s-considering-moves-to-break-up-wall-street-banks (accessed January 23, 2018).

reality is that additional federal outlays guarantee no such thing. Extending the federal government's reach is fraught with a host of downsides: worsening the federal fiscal position, increasing the likelihood of resource misallocation, saddling ever more projects with cost-increasing regulations, presenting local governments with counterproductive incentives, and pushing difficult but necessary choices farther into the future. The most effective way the Administration can prompt infrastructure investment is to eliminate federal barriers that inhibit subfederal governments and the private sector from pursuing it.

An effective infrastructure plan will:

Reform Federal Regulations that Drive Up the Cost of Infrastructure. The President and his Administration have made regulatory reform a centerpiece of its agenda. On August 15, 2017, the President signed Executive Order 13807, which sought to expedite decisions regarding the permitting and environmental review processes.[15] While this effort has been notable, a successful infrastructure plan should pursue more aggressive and expansive regulatory reform.

To build on the President's executive order, the plan should permanently reform the permitting and environmental review processes through legislation. Heritage Foundation analysts proposed an extensive list of reforms in a May 2017 report, "Driving Investment, Fueling Growth: How Strategic Reforms Can Generate $1.1 Trillion in Infrastructure Investment," and in its 2012 *Environmental Conservation: Eight Principles of the American Conservation Ethic*.[16] Furthermore, the proposal should roll back other regulations that needlessly drive up the cost of infrastructure projects. These include labor restrictions, such as the Davis–Bacon Act and the use of Project Labor Agreements, as well as protectionist laws, such as Buy America restrictions, the Jones Act, and the Foreign Dredge Act.[17] Additional reforms for the energy sector would likewise have the potential to produce large gains in infrastructure investment. Taken together, systemic reform to these regulations have the potential to effectively generate over $650 billion in investment over 10 years, and should be the centerpiece of a highly effective infrastructure proposal.[18]

In addition, the plan should address inflated costs by calling for a large-scale study, conducted by the Government Accountability Office (or a similar research organization), to determine the reasons for the U.S.'s high infrastructure costs relative to those in other developed nations. The study should examine all possible factors—from industry practices to government regulation—in order to provide a clear picture of the shortcomings of current practice.

Overhaul Existing Infrastructure Spending Programs. In addition to regulatory reform, the infrastructure plan should reevaluate and reform inefficient federal transportation and infrastructure spending programs. Nearly 30 percent of Highway Trust Fund spending is diverted to uses removed from construction and maintenance of the National Highway System, including a great deal of local and frivolous projects.[19] Restoring this funding exclusively for the maintenance of the Interstate system would be more effective in addressing national needs. Similarly, political interference has led to an inefficient and bureaucratic air traffic control system that would benefit greatly from transitioning to a non-governmental structure, as the Administration has proposed. Despite collecting considerable funds and establishing contracts for such purposes, Congress has long neglected the establishment of the Yucca Mountain repository and undertaking of nuclear waste cleanup. These funds should be put to use immediately.[20] Reforming these and other current programs to better meet federal priorities should be a key part to focus infrastructure invest-

15. Executive Order 13807, "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects," *Federal Register*, August 15, 2017, https://www.federalregister.gov/documents/2017/08/24/2017-18134/establishing-discipline-and-accountability-in-the-environmental-review-and-permitting-process-for (accessed January 23, 2018).

16. Sargent and Loris, "Driving Investment, Fueling Growth," and Jack Spencer, ed., *Environmental Conservation: Eight Principles of the American Conservation Ethic* (Washington, DC: The Heritage Foundation, 2012), http://thf_media.s3.amazonaws.com/2012/EnvironmentalConservation/Environmental-Conservation-Full-Book.pdf.

17. Ibid.

18. Ibid.

19. Ibid.

20. Ibid.

ment and should come before introducing a slate of new programs.

Allow Local User Fees to Replace Inefficient Federal Tax-and-Spend Schemes. Some of the largest and most significant federal infrastructure programs simply act as an intermediary: The federal government collects dedicated tax revenues on infrastructure users, exposes them to the whims of Congress, and redistributes them laden with mandates and regulations. This system has had far-reaching consequences. For example, though the nation's 60 largest airports serve 88 percent of taxpaying passengers, the federal government only returns 27 percent of federal airport funding to these critical hubs.[21] The involvement extends down to the seemingly trivial, such as prohibiting cities from utilizing crosswalk art to make city streets more vibrant.[22]

Shifting from these top-down schemes to a more direct user-fee system would be much more efficient and dramatically increase accountability. The plan should allow user fees to replace federal tax-and-spend programs for the following types of infrastructure:

- **Airports.** The federal government collects taxes on commercial passengers and dispenses them to airports through the Airport Improvement Program. Allowing airports to charge their customers directly through an expanded passenger facility charge or repeal of the Anti-Head Tax Act would be a superior replacement to the federal regime.[23]

- **Inland waterways.** Inland waterway infrastructure is currently funded by a fuel tax on shippers, which does not come close to covering the operating and capital costs of the now dilapidated infrastructure. A basic user fee would provide a superior revenue stream for inland waterways with less political interference than the current system.

- **Highways.** Federal law currently bans tolling on most Interstate highways. Allowing states the option to repair their Interstate systems using toll revenues would lessen their reliance on federal funding, which could be reduced accordingly.

Remove Barriers to Privatization and Public-Private Partnerships. While the U.S. has made significant inroads, it still lags behind other developed nations in implementing public-private partnerships and privatizing infrastructure assets. Although President Trump has recently thrown his support for public-private partnerships into question, harnessing private-sector financing and expertise should be a key aspect of a free-market infrastructure plan.[24] Because regulatory uncertainty and a lack of reliable revenue streams are key barriers to private infrastructure investment, undertaking the reforms mentioned above will draw private attention towards infrastructure investment. However, further regulatory changes are needed to enable public-private partnerships in areas such as airports, roadways, passenger rail, waterways, and other types of infrastructure.[25] The Administration's plan should focus on lifting these barriers, which will not only draw more investment from the private sector, but will create better incentives to operate and maintain the nation's infrastructure far into the future.

Potential Pitfalls of Government Expansion in Infrastructure

As the details of the plan are finalized, the Administration should take great care to ensure that the infrastructure plan does not fall victim to

21. Michael Sargent, "End of the Runway: Rethinking the Airport Improvement Program and the Federal Role in Airport Funding," Heritage Foundation *Backgrounder* No. 3170, http://www.heritage.org/transportation/report/end-the-runway-rethinking-the-airport-improvement-program-and-the-federal.

22. Danny Lewis, "The Federal Highway Administration Says Stop to Crosswalk Art," Smithsonian.com, February 15, 2016, https://www.smithsonianmag.com/smart-news/federal-highway-administration-says-no-crosswalk-art-180958149/#TWjvd3o6BLufLqAP.99 (accessed January 23, 2018).

23. Sargent, "End of the Runway."

24. Josh Dawsey, "Mixed Signals on Infrastructure Plan Emerge from Trump Retreat," *The Washington Post*, January 7, 2018, https://www.washingtonpost.com/politics/mixed-signals-on-infrastructure-plan-emerge-from-trump-retreat/2018/01/07/56aa5a8c-f3db-11e7-91af-31ac729add94_story.html (accessed January 23, 2018).

25. Sargent and Loris, "Driving Investment, Fueling Growth," and The Heritage Foundation, *Solutions 2018: The Policy Briefing Book* (Washington, DC: The Heritage Foundation, 2018).

mistakes made in past infrastructure-spending legislation.[26] In order to avert a plan that heads in the wrong direction toward greater government interference and fiscal malfeasance, the Administration's plan should:

Refuse to Increase Federal Outlays. The federal government currently spends roughly $100 billion per year on transportation and water infrastructure programs.[27] Many of these programs already extend far too broadly into projects that could be better and more accountably managed by states, local governments, or the private sector.[28] Furthermore, overall federal fiscal trends are unsustainable. Congress has failed to curtail rapidly growing entitlement programs and has repeatedly broken the budget caps it set for itself in 2011, leading the national debt to exceed $20 trillion by 2017.[29] Prospects for fiscal restraint are looking unlikely, as federal deficits reached $666 billion in 2017 and are expected to reach trillion-dollar levels in just five years.[30]

Creating additional spending—either discretionary or mandatory—would further exacerbate the federal government's budget problems. Similar outlays through effective subsidies for credit programs or tax expenditures for new preferential bonds would have the same effect. Given Congress's penchant for overspending on an annual basis, adding additional fuel to the fire simply to fulfill a campaign promise is unacceptable and irresponsible toward taxpayers.

Furthermore, the plan must not rely on budget gimmicks to offset increases in federal spending. Budget gimmicks are common and are widely used to mask spending increases without meaningfully limiting outlays.[31] For example, the 2015 Fixing America's Surface Transportation (FAST) Act relied on nearly $75 billion in gimmicks to increase Highway Trust Fund spending, many of which will never meaningfully reduce outlays or increase revenues.[32] The most appealing of these gimmicks may be to increase the gas tax, as revenues can be "double-counted" because of scoring conventions, even though common sense dictates that Congress cannot spend a single dollar twice.[33] A fiscally responsible plan must eschew budget gimmicks in favor of real fiscal restraint and reform.

Reject a Gas Tax Hike and Other Tax Increases. At least since the effective completion of the Interstate Highway System in the early 1990s, Congress has expanded use of gas-tax[34] revenues far beyond maintaining a limited federal system of Interstate highways, instead electing to dole them out to favored projects. Nearly 30 percent of gas-tax dollars are diverted to projects wholly unrelated to the National Highway System, while Members of Congress have continually expanded gas-tax funding to roads far outside the scope of the federal government.[35] While the National Highway System accounts for nearly 222,000 miles of highway (including 48,200 miles of Interstates), an addition-

26. Ronald D. Utt, "More Transportation Spending: False Promises of Prosperity and Job Creation," Heritage Foundation *Backgrounder* No. 2121, April 2, 2008, https://www.heritage.org/budget-and-spending/report/more-transportation-spending-false-promises-prosperity-and-jobcreation, and Ronald D. Utt, "Learning from Japan: Infrastructure Spending Won't Boost the Economy," Heritage Foundation *Backgrounder* No. 2222, December 16, 2008, https://www.heritage.org/report/learning-japan-infrastructure-spending-wont-boost-the-economy.

27. Paul Winfree et al., *Blueprint for Reform: A Comprehensive Policy Agenda for a New Administration*, July 14, 2016 (Washington, DC: The Heritage Foundation, 2016), http://www.heritage.org/budget-and-spending/report/blueprint-reform-comprehensive-policy-agenda-new-administration-2017.

28. Ibid.

29. The Heritage Foundation, *Federal Budget in Pictures*, February 1, 2017, http://www.federalbudgetinpictures.com.

30. Romina Boccia, "5 Ways Congress Fell Short in Spending Your Money in 2017," Heritage Foundation *Commentary*, December 28, 2017, http://www.heritage.org/budget-and-spending/commentary/5-ways-congress-fell-short-spending-your-money-2017.

31. Justin Bogie, "Budget Gimmicks Increase Federal Spending and Mask True Costs of Legislation," Heritage Foundation *Issue Brief* No. 3234, July 26, 2017, http://www.heritage.org/budget-and-spending/report/budget-gimmicks-increase-federal-spending-and-mask-true-costs.

32. Michael Sargent, "Going Nowhere FAST: Highway Bill Exacerbates Major Transportation Funding Problems," Heritage Foundation *Issue Brief* No. 4494, December 4, 2015, http://www.heritage.org/transportation/report/going-nowhere-fast-highway-bill-exacerbates-major-transportation-funding.

33. Michael Sargent, "Highway Trust Fund Basics: A Primer on Federal Surface Transportation Spending," Heritage Foundation *Issue Brief* No. 3014, May 11, 2015, http://www.heritage.org/transportation/report/highway-trust-fund-basics-primer-federal-surface-transportation-spending.

34. This *Backgrounder* uses "gas tax" as shorthand for the federal per gallon tax levied on gasoline and diesel fuels under 26 U.S. Code § 4081.

35. Sargent and Loris, "Driving Investment, Fueling Growth."

al 800,900 miles are eligible for federal aid supplied by the gas tax.[36]

Instead of increasing this regressive tax, which clearly no longer serves its stated purpose, it should be gradually eliminated, allowing states to adopt their own means of raising infrastructure revenues.

Another source of revenues potentially being considered to fund infrastructure projects includes allowing states to collect taxes on out-of-state sales conducted on the Internet, a currently prohibited practice. Treasury Secretary Steve Mnuchin expressed favor for such taxes as "a very important means for the states to fund infrastructure," while President Trump hinted at his support in an August 2017 Tweet (albeit for reasons unrelated to revenue generation).[37] However, allowing states to issue these taxes is a poor idea. As Heritage Foundation researchers James Gattuso and Adam Michel have written: "Expanding Internet taxes promises a counterproductive solution to a complex problem. While seeming to level the retail-tax playing field, it likely will create new, even more uneven burdens while bulldozing fundamental principles of federalism."[38]

The Administration and Congress must resist fueling spending increases with new taxes—including those on motor fuels or Internet sales—to protect taxpayers, maintain fairness, and to prevent further fiscal malpractice on the part of the federal government.

Refrain from Creating Perverse Incentives for State and Local Governments. Federal infrastructure funding programs can create various perverse incentives for states and local governments, which alter their own decisions to take advantage of federal largesse.

Perhaps the most destructive effect of these incentives is to lure states or localities to propose and construct new infrastructure simply to exploit "free" federal dollars, lest they risk losing the funds to a competing city or state. This new infrastructure may not make economic sense and saps resources that are badly needed to maintain or refurbish existing infrastructure. The federal Capital Investment Grants program is perhaps the worst embodiment of this phenomenon, as it entices localities to build brand new transit systems at the expense of maintaining their existing systems or other necessary infrastructure. Furthermore, the local government will then be liable for operating and maintaining the new system for the duration of its useful life, creating new liabilities for decades into the future and exacerbating existing backlogs.[39]

Another perverse incentive arises when federal funding is disbursed rapidly to states. Counterintuitively, the advent of a windfall for infrastructure projects may entice states to spend less on infrastructure, leading to few improvements in infrastructure conditions. A Federal Reserve study of the 2009 stimulus found that despite allocating billions in infrastructure funding, total state infrastructure spending did not meaningfully increase, and many states *decreased*, their infrastructure spending.[40] This is because state budgets are fungible, and states simply shifted infrastructure funds to other areas of their budgets, thus undermining the purpose of increasing infrastructure investment.

Depending on the structure of the incentives program, it may help safeguard against both of these phenomena by putting pressure on governments to have more of a financial stake in infrastructure projects. However, by providing federal funding that is not currently available, it may still spur some uneconomical projects. More worrisome in this regard are the grants provided in the rural assistance program. While dispensing funds via formula may help guard

36. Federal Highway Administration, *Highway Statistics 2016*, "Public Road Length–2016," Table HM-18, September 18, 2017, https://www.fhwa.dot.gov/policyinformation/statistics/2016/hm18.cfm (accessed January 23, 2018).

37. James Gattuso and Adam Michel, "Taxing Out-of-State Sales: Still a Bad Idea," Heritage Foundation *Issue Brief* No. 4798, December 18, 2017, http://www.heritage.org/sites/default/files/2017-12/IB4798.pdf.

38. Ibid., and Donald J. Trump (@realDonaldTrump), "Amazon is doing great damage to tax paying retailers. Towns, cities and states throughout the U.S. are being hurt - many jobs being lost!" August 16, 2017, Tweet, https://twitter.com/realDonaldTrump/status/897763049226084352 (accessed January 23, 2018).

39. Randal O'Toole, "Paint Is Cheaper than Rails: Why Congress Should Abolish New Starts," Cato Institute *Policy Analysis* No. 727, June 19, 2013, http://www.cato.org/publications/policy-analysis/paint-cheaper-rails-why-congress-should-abolish-new-starts (accessed January 23, 2018).

40. Bill Dupor, "So, Why Didn't the 2009 Recovery Act Improve the Nation's Highways and Bridges?" Federal Reserve Bank of St. Louis *Review*, April 12, 2017, https://files.stlouisfed.org/files/htdocs/publications/review/2017-04-12/so-why-didnt-the-2009-recovery-act-improve-the-nations-highways-and-bridges.pdf (accessed January 23, 2018).

against some negative incentives, the most prudent path would be to reduce federal spending and taxation and simply allow states to govern their infrastructure decisions autonomously.

Abstain from Adding New Programs that Simply Augment Current Transportation Programs, Permanently Increasing Bureaucracy and Federal Intervention in Infrastructure. Data on federal spending programs illustrate Ronald Reagan's famous quip that "a government bureau is the nearest thing to eternal life we'll ever see on this earth."[41] In 1960, the federal government funded 132 separate grant programs that were available to state and local governments. That number swelled to 557 by 1991, and has since ballooned to 1,216 federal grants to state and local governments in 2016, indicating that Congress has simply supplemented existing grant programs with new ones rather than replacing them.[42] To make matters worse, once a program is authorized, its spending tends to increase every year due to baseline budgeting, generally without regard to the program's effectiveness.[43] The Administration's infrastructure proposal must avoid adding additional programs to the already swollen ledger, as it is unlikely they will ever be curtailed, virtually locking in additional bureaucracy and spending for years to come.

Avoid Establishing New Competitive Grant Programs that Increase Unaccountable Executive Branch Authority Over Spending Decisions. Following the Congressional ban on earmarks in 2011, competitive grant programs that leave spending decisions to the discretion of bureaucrats in the executive branch have flourished. Examples in infrastructure include Capital Investment Grants, TIGER Grants, the newly revamped INFRA program, and—to a lesser extent—portions of the Airport Improvement Program. Most of these programs suffer from a lack of transparency and can be politically fraught, leading to large policy fluctuations during regime changes and secretive horse trading between agency officials and powerful Members of Congress.[44] More importantly, competitive grant programs lead to a transfer of power from the legislative branch to unaccountable bureaucrats. If the Administration decides to pursue new transportation funding programs, it must structure them carefully to ensure transparency and accountability, as opposed to leaving funding decisions to an opaque bureaucratic regime.

Reject Increased Federal Interference in Private Infrastructure. While governments own most transportation and water infrastructure, private entities are the predominant providers of other types of infrastructure, primarily energy and telecommunications structures. Private companies account for roughly 90 percent of national energy infrastructure investment, while private telecom companies (including broadband providers) are the largest source of private capital investment in the United States economy.[45] Private industry in these areas of infrastructure has flourished and must be maintained. Intervention by the federal government through misguided direct spending programs, subsidies, or credit assistance—such as that potentially included in the transformative projects program—would only distort the robust market and potentially misallocate or crowd out private investment in these critical areas.[46] To further investment in broadband and energy, regulatory reform that would expedite projects and lessen the cost of compliance is a far more robust tool than dangling more taxpayer money in front of these industries.

41. American Rhetoric, "Ronald Reagan: A Time for Choosing," address in *Rendezvous with Destiny*, Los Angeles, CA, October 27, 1964, http://www.americanrhetoric.com/speeches/ronaldreaganatimeforchoosing.htm (accessed January 23, 2018).
42. Robert Jay Dilger, "Federal Grants to State and Local Governments: A Historical Perspective on Contemporary Issues," Congressional Research Service *Report to Congress* R40638, June 22, 2017, https://fas.org/sgp/crs/misc/R40638.pdf (accessed January 23, 2018).
43. Citizens Against Government Waste, "Baseline Budgeting," https://www.cagw.org/content/baseline-budgeting (accessed January 23, 2018).
44. Ron Nixon, "Lawmakers Finance Pet Projects Without Earmarks," *The New York Times*, December 27, 2010, http://www.nytimes.com/2010/12/28/us/politics/28earmarks.html (accessed January 23, 2018).
45. Congressional Budget Office, "Issues and Options in Infrastructure Investment," May 2008, https://www.cbo.gov/sites/default/files/110th-congress-2007-2008/reports/05-16-infrastructure.pdf (accessed January 23, 2018), and Michelle Di Ionno and Michael Mandel, "Investment Heroes 2016: Fighting Short-Termism," Progressive Policy Institute, October 11, 2016, http://www.progressivepolicy.org/publications/investment-heroes-2016-fighting-short-termism/ (accessed January 23, 2018).
46. Jack Spencer, "Seven Reasons Loan Guarantees Are Bad Policy," Heritage Foundation *Issue Brief* No. 3882, March 20, 2013, http://www.heritage.org/report/seven-reasons-loan-guarantees-are-bad-policy.

Conclusion

The Trump Administration and Congress have the opportunity to change the path of the nation's infrastructure funding system. They could simply continue down the current road of ever-greater federal control through costly regulations, distortionary funding schemes, and unaccountable bureaucratic spending decisions. The responsible and effective way forward requires less-popular, but sounder, policy decisions to decentralize infrastructure-spending arrangements; better align incentives toward responsible infrastructure construction and maintenance; and empowering states, localities, and the private sector to invest in the infrastructure that is most needed with minimal federal interference. This latter path leads to a free-market infrastructure system that would benefit all Americans. The Administration and Congress should take it.

*—**Michael Sargent** is a Policy Analyst in Transportation and Infrastructure in the Thomas A. Roe Institute for Economic Policy Studies, of the Institute for Economic Freedom, at The Heritage Foundation.*