

Transportation

FREE to PROSPER

*A Pro-Growth Agenda for
the 117th Congress*



Transportation

Mobility is one of our most important needs, one we often take for granted until it is threatened or lost. The COVID-19 pandemic presents such a threat. The potential of exposure to the coronavirus on public transit contributed to government and employer mandates to work from home, especially in big cities, where transit was the main mode of commuting. In March 2020, transit ridership crashed nationwide.

As lockdowns lifted, transit ridership was slow to rebound because scientific evidence indicated a need to avoid crowded spaces. Many employers have maintained work-from-home policies as a result. For instance, the Washington, D.C. Metro transit system carried 626,000 passengers per day before the pandemic. By the beginning of September 2020, it carried a mere 77,000 passengers.

If this situation continues, transit agencies will likely face a funding crisis. If municipal, state, and federal governments respond with bailouts, agencies may stave off disaster, but important questions remain as to whether the money will be spent wisely.

Even as life begins to return to “normal” thanks to the COVID vaccines and effective treatments, commuting patterns nevertheless have changed forever as a result of so many employers changing their working conditions to allow employees to work from home.

Intracity travel may change as well. Employees who are in the office may go to fewer meetings outside the workplace, and may still be wary of mass transit. In that respect,

cities may want to encourage innovative solutions, such as bike or scooter sharing. Federal law should not get in the way of such solutions.

Ridesharing is more difficult, given the presence of a stranger in the car, but is still preferable to transit. That means that regulations that make ridesharing more expensive, however well-intended, are a bad idea in such circumstances. For instance, California's ABS law, which classifies rideshare drivers—who work as independent contractors—as employees, has resulted in freelancers across a wide array of occupations being unable to work from home.

That statute suggests that the mass transit model adopted by many American cities may no longer be sustainable. Therefore, policies that encourage the adoption of mass transit by other cities, often for environmental reasons, are inappropriate for this changed environment.

The ramifications for highway transportation remain to be seen. If and when they resume commuting, Americans will feel safer commuting to work in their cars rather than using mass transit. Such a modal shift could lead to much greater congestion, and its attendant problems, if sufficient people were to return to the office that way. There are signs that may already be happening. Therefore, policies aimed at alleviating congestion by encouraging a shift to transit may prove ineffective.

For the preceding reasons, municipal, state, and federal authorities need to consider other options. A telework tax, for example, will likely prove disastrous, driving employers out of a city for good while creating a moral hazard by encouraging employers to avoid paying it by requiring in-office attendance.

That suggests that federal transportation policy—at least in so far as it relates to commuting and transit use—requires a thorough and comprehensive review.

Congress should:

- ◆ Hold hearings and appoint a commission tasked with reviewing and recommending changes to the body of federal transportation law that aims to promote mass transit use and discourage car use. Such a commission could be modeled after the proposal in Chapter 1 of this volume for a regulatory reduction commission, with the same incentives for depoliticization of the issue.

Such a review should pay special attention to the value of automobility. Automobility—the use of a personal vehicle—not only protects against the spread of viruses but comes with certain intrinsic benefits that have received little value in recent federal transportation policy. They include personal choice, a value of liberty that is often overlooked in these debates; and privacy, which is of great concern in many other issue areas but gets short shrift in the debate over transportation policy.

Even in more normal times, transportation networks vary greatly in quality, financing, and management. For instance, roads are generally paid for out of user-tax or property-tax revenues, whereas freight rail is privately financed and operated.

One important lesson is that the private sector is generally better than government in financing and operating high-quality transportation systems at lower costs. New technologies and management practices present serious challenges going forward, particularly for those networks that exist largely as government monopolies.

Even if privatization of existing networks were to prove politically unattainable, the starting point for sound transportation policy should be adherence to the users-pay-users-benefit principle. Transportation infrastructure and operations should be paid for by the users who directly benefit from them. Despite some spillover effects, the vast majority of benefits accrue to the network users. Compared with general revenue funding of government-owned infrastructure and services, users-pay offers the following advantages:

- ◆ **Transparency.** Unlike tax dollars that wind through convoluted bureaucracies, charges “follow” users.
- ◆ **Fairness.** Users pay and benefit directly from improvements generated from their payments; users who use the systems more pay more.
- ◆ **Signaling investment.** Operating revenues generally track use, and popular systems can be identified for targeted improvements.

Unfortunately, many federal transportation programs do not adhere to the users-pay principle. In those cases, the programs should be reformed to meet the users-pay principle through methods such as tolling. If that proves to not be possible, it suggests the program has high costs and low value, and should be eliminated.

The history of economic regulation of transportation systems in the United States shows that competitive markets benefit consumers more than top-down planning and control. In the late 1970s and early 1980s, airlines, motor carriers, and freight rail were partially deregulated, leading to lower prices and improved service.

Today, rules aimed at promoting safety dominate many discussions of transportation regulation. However, although safety regulation is well intended, many of the resulting measures provide few, if any, benefits at very high costs. For example, laws relating to auto headlamps mean that oncoming drivers are often blinded, decreasing road safety. Automakers have access to technology that is safely used in other countries to reduce that problem, but are forbidden from doing so in the United States. In a number of cases, safety regulation has become a way to impose backdoor economic regulation.

On aviation policy, Congress should continue to examine air traffic control and airport funding and financing reform proposals that were debated in previous sessions, especially (a) shifting to an air traffic control governance model based on Canada's successful corporatization and (b) lifting the federal cap on the local airport user fee, known as the passenger facility charge. The latter would have the added benefit of making airports more attractive privatization prospects, which would enable municipalities to use proceeds to fill funding gaps caused by the pandemic.

Expert: Iain Murray

For Further Reading

Marc Scribner, "House Transportation Chairman Proposes Examining Shift to User Fees for Highway Funding," *OpenMarket* (blog), Competitive Enterprise Institute, July 25 2018, <https://cei.org/blog/house-transportation-chairman-proposes-examining-shift-user-fees-highway-funding>.

Marc Scribner, "Modernizing Federal Motor Vehicle Safety Standards," *OnPoint* No. 240, Competitive Enterprise Institute, January 9 2018, <https://cei.org/content/report-auto-safety-lags-due-outdated-government-standards>.

Marc Scribner, "Toward Performance-Based Transportation Safety Regulation," *OnPoint* No.225, Competitive Enterprise Institute, March 29 2017, <https://cei.org/content/toward-performance-based-transportation-safety-regulation>.