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Costly Federal Failures: Overspending, Overpromising, and Overregulating

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My name is David Ditch. I am a policy analyst at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Each year, Americans pay trillions of dollars in taxes to fund government services. Despite this, federal elected officials have increased spending so far beyond these annual tax hauls that the gross national debt has grown by over $25 trillion since the year 2000.[1]

Since the start of the pandemic in the U.S. in March 2020, the federal government has added $7.5 trillion in gross debt.[2] For perspective, that is the amount of debt the nation accumulated from 1789 through late 2004.

The scale of these numbers is nearly incomprehensible, yet it is vitally important for members of Congress and the American public to recognize that federal "investments" come with very real costs.

Over the past 30 months, Congress has engaged in a seemingly endless spending spree.[3] The purported rationales behind the individual laws tend to be uncontroversial: addressing public health, preventing a deep recession, enhancing the nation's infrastructure.

However, a combination of policy flaws and political opportunism has meant that the components of the spending spree have had much higher costs than were necessary, resulting in a variety of harmful consequences and trends. This is the case for both the spending spree as a whole and for infrastructure provisions in particular.

Overspending

First, the spending spree is a substantial cause of the current inflation surge.

An analysis published in March 2022 by the Federal Reserve of San Francisco found that

[1] U.S. Department of the Treasury, "Debt to the Penny," https://fiscaldata.treasury.gov/datasets/debt-to-the-penny/debt-to-the-penny (accessed September 22, 2022).

[2] Ibid.

[3] David Ditch, "Congress' Wasteful Spending Spree Must End With Infrastructure Bill," Heritage Foundation *Commentary*, November 12, 2021, https://www.heritage.org/budget-and-spending/commentary/congress-wasteful-spending-spree-must-end-infrastructure-bill, and David Ditch, "Despite Raging Inflation, Congress Bent on Continuing Spending Spree," Heritage Foundation *Commentary*, April 21, 2022, https://www.heritage.org/budget-and-spending/commentary/despite-raging-inflation-congress-bent-continuing-spending-spree.

excessive stimulus spending in the U.S. accounted for inflation that would not be explained by other factors.[4]

While the Coronavirus Aid, Relief, and Economic Security (CARES) Act was passed in March 2020 at a time of surging unemployment and tremendous uncertainty, stimulus packages passed in December 2020 and March 2021 came when unemployment levels were already well below their peak.[5] Worse, the bills were larded with handouts to narrow political constituencies.[6]

Trillions of dollars in wasteful and unnecessary deficit spending served as kindling fuel for today's inflationary fire by increasing demand without increasing supply, while also adding to the nation's mounting long-term fiscal liabilities.[7]

Inflation has also had dramatic effects on infrastructure development.

According to the American Road and Transportation Builders Association, costs for highway and street construction inputs increased by 43 percent from May 2020 through August 2022—and this despite declines since a peak in June 2022. For comparison, there was less than 3 percent inflation for the same inputs from May 2017 through May 2020.[8]

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4 Òscar Jordà et al., "Why Is U.S. Inflation Higher than in Other Countries?" Federal Reserve of San Franisco *Economic Letter*, March 28, 2022, https://www.frbsf.org/economic-research/publications/economic-letter/2022/march/why-is-us-inflation-higher-than-in-other-countries/ (accessed September 22, 2022).

5 Bureau of Labor Statistics, "Labor Force Statistics from the Current Population Survey," https://data.bls.gov/timeseries/LNS14000000 (accessed September 22, 2022).

6 Matt D. Dickerson and David Ditch, "9 Things You Need to Know About the $1.4 Trillion Fiscal Year 2021 Omnibus and $900 Billion COVID-19 Package," Heritage Foundation *Commentary*, December 22, 2020, https://www.heritage.org/budget-and-spending/commentary/9-things-you-need-know-about-the-14-trillion-fiscal-year-2021, and David Ditch et al., "COVID-19 Proposals Should Focus on Disease, Not Wasteful Spending Increases," Heritage Foundation *Backgrounder* No. 3588, February 25, 2021, https://www.heritage.org/budget-and-spending/report/covid-19-proposals-should-focus-disease-not-wasteful-spending-increases.

7 David Ditch, "These 7 Charts Show Why Congress Must Get Spending Under Control Immediately," Heritage Foundation *Commentary*, July 7, 2022, https://www.heritage.org/budget-and-spending/commentary/these-7-charts-show-why-congress-must-get-spending-under-control.

8 American Road and Transportation Builders Association, "National Materials Dashboard,"

The November 2021 infrastructure package stands to significantly increase federal spending on infrastructure.[9] Accordingly, it will lead to an increase in demand for related construction inputs as the authorizations become outlays. This will put sustained upward pressure on prices , which would reduce the public value of the spending increase [10] while also causing harmful spillover effects for private construction projects.

This is not the only way that federal infrastructure policy interacts with inflation. Congress has repeatedly bailed out the Highway Trust Fund rather than bring spending and revenue into alignment. [11] To fund the Infrastructure Investment and Jobs Act's (IIJA's) spending increases, Congress used a combination of budget gimmicks and inflationary deficit spending.[12]

Rather than worsening both general and infrastructure-specific inflation trends with yet another surge of deficit spending, legislators should have focused on reforms to improve the value (rather than the quantity) of infrastructure spending. Examples include removing mandates that increase costs for labor and supplies, eliminating wasteful slush funds, and reforming permitting rules that add both costs and delays to projects.[13]

https://www.artba.org/economics/materials-dashboard/ (accessed September 22, 2022).

[9] David Ditch et al., "9 Things to Know About Senate's $1.1 Trillion Infrastructure Bill," Heritage Foundation *Commentary*, August 5, 2021, https://www.heritage.org/budget-and-spending/commentary/9-things-know-about-senates-11-trillion-infrastructure-bill.

[10] Jeff Davis, "How Much Could Inflation Erode IIJA Buying Power?" Eno Center for Transportation, April 27, 2022, https://www.enotrans.org/article/how-much-could-inflation-erode-iija-buying-power/ (accessed September 23, 2022).

[11] Tax Policy Center, "What Is the Highway Trust Fund, and How Is it Financed?" *Briefing Book*, May 2020, https://www.taxpolicycenter.org/briefing-book/what-highway-trust-fund-and-how-it-financed (accessed September 23, 2022), and Jeff Davis, "Treasury Deposits $118 Billion Bailout in Highway Trust Fund," Eno Center for Transportation, January 14, 2022, https://www.enotrans.org/article/treasury-deposits-118-billion-bailout-in-highway-trust-fund/ (accessed September 23, 2022).

[12] Ibid.

[13] David Ditch and Nicolas Loris, "Improving Surface Transportation Through Federalism," Heritage Foundation *Backgrounder* No. 3450, November 12, 2019, https://www.heritage.org/budget-and-spending/report/improving-surface-transportation-through-federalism.

Overpromising

The second harmful trend that has affected both federal spending measures in general and infrastructure policy in particular is the use of false advertising and political spin to obscure the contents of legislative packages.

The March 2021 stimulus package was sold as a response to the ongoing pandemic and the associated economic downturn. While the bill did contain a token amount of public health funding, it gave more legislative attention to superfluous funding of state and local governments, handouts for heavily unionized sectors, such as public transit and public K–12 schools, and a bailout of private-sector union pensions.[14]

The handout to transit agencies was especially egregious, accounting for a considerable share of the bill's transportation-related spending despite transit's relatively tiny share of travel.[15] Between March 2020 and March 2021, legislators handed transit agencies a total of $67 billion, which amounts to over three years' worth of self-generated revenue for all transit systems in the country. This will allow agencies to temporarily avoid politically sensitive decisions relating to bloated labor costs.[16]

Following passage of the so-called rescue plan, the Biden Administration released a so-called infrastructure plan. The initial proposal sought to leverage high public approval of infrastructure as camouflage for an expansive tax-and-spend agenda. In fact, only about 4 percent of the plan's proposed spending would

[14] Ditch et al., "COVID-19 Proposals Should Focus on Disease, Not Wasteful Spending Increases."
[15] David Ditch, "Call Transportation Bailouts What They Are: More Welfare for Labor Unions," Heritage Foundation *Commentary*, February 11, 2021, https://www.heritage.org/budget-and-spending/commentary/call-transportation-bailouts-what-they-are-more-welfare-labor-unions.

[16] David Ditch, "Public Transit: Bloated Compensation Highlights Excessive Subsidization," Heritage Foundation *Backgrounder* No. 3639, July 22, 2021, https://www.heritage.org/transportation/report/public-transit-bloated-compensation-highlights-excessive-subsidization.

have gone toward roads and bridges.[17] Fortunately, the attempt to expand the concept of infrastructure to include social benefits and components of the Green New Deal eventually foundered.[18]

The IIJA was promoted as a generational investment that would bolster economic growth. However, the package heavily increased subsidies for low-demand transportation modes, such as transit and Amtrak, and other provisions involve the federal government funding infrastructure that is primarily the domain of local governments and the private sector.[19] Maintenance costs for marginal infrastructure and dubious new programs will add to long-term liabilities, serving to slow rather than accelerate growth.

The reconciliation package marketed as the "Inflation Reduction Act"[20] is perhaps the most egregious example of false advertising.

The Congressional Budget Office estimates that the bill would increase deficit spending for fiscal years 2023 through 2026,[21] even though deficit reduction is most needed in the short term. The independent Penn-Wharton Budget Model estimates that, "The impact on inflation is statistically indistinguishable from zero."[22] Thus, the "Inflation Reduction Act" fails to

[17] David Ditch, "9 Things You Need to Know About Biden's 'Infrastructure' Spending Plan," Heritage Foundation *Commentary*, April 8, 2021, https://www.heritage.org/budget-and-spending/commentary/9-things-you-need-know-about-bidens-infrastructure-spending-plan.

[18] David Ditch, "Even Some Democrats Sound Alarm on Radical $3.5 Trillion Spending Bill," Heritage Foundation *Commentary*, September 16, 2021, https://www.heritage.org/budget-and-spending/commentary/even-some-democrats-sound-alarm-radical-35-trillion-spending-bill.

[19] Ditch et al., "9 Things to Know About Senate's $1.1 Trillion Infrastructure Bill."

[20] The title of the legislation, as passed, is "To provide for reconciliation pursuant to title II of S. Con. Res. 14."

[21] Congressional Budget Office," Estimated Budgetary Effects of Public Law 117-169, to Provide for Reconciliation Pursuant to Title II of S. Con. Res. 14," *Cost Estimate*, September 7, 2022, https://www.cbo.gov/publication/58455 (accessed September 23, 2022).

[22] Penn-Wharton Budget Model, "Senate-passed Inflation Reduction Act: Estimates of Budgetary and Macroeconomic Effects," August 12, 2022, https://budgetmodel.wharton.upenn.edu/issues/2022/8/12/senate-passed-inflation-reduction-act (accessed September 23, 2022).

actually reduce inflation, in addition to a myriad of other policy flaws.[23]

Overregulating

A third concerning policy trend is the increasing concentration of power in the federal executive branch. The Biden Administration's approach to infrastructure provides many examples of why this is a problem.

In December, shortly after passage of the IIJA, the Federal Highway Administration issued a "guidance" memo to state governments that sought to prioritize certain types of infrastructure projects above others. Notably, the memo de-prioritized adding highway capacity.

This guidance did not flow from IIJA statute. Instead, it was strongly similar to text from a bill produced by Representative Peter DeFazio (D–OR), even though DeFazio's bill did not become law.[24]

While there is a legitimate ongoing debate about the wisdom of using federal funding to add highway capacity,[25] Congress has chosen not to directly or indirectly oppose new capacity. As such, the Administration should not use "guidance" documents to pressure states to avoid highway capacity projects.

Although the Administration eventually walked the memo back a bit, this was only done after sharp criticism from elected Republicans.[26]

23 Daren Bakst et al., "'Inflation Reduction Act' Is Euphemism for Big Government Socialism, Higher Prices," Heritage Foundation *Commentary*, August 2, 2022, https://www.heritage.org/budget-and-spending/commentary/7-ways-inflation-reduction-act-would-wallop-your-wallet.

24 David Ditch, "Road to Nowhere: How Biden and Congress Detour Highway Funds," Heritage Foundation *Backgrounder* No. 3697, April 5, 2022, https://www.heritage.org/transportation/report/road-nowhere-how-biden-and-congress-detour-highway-funds.

25 Ditch and Loris, "Improving Surface Transportation Through Federalism."

26 Ditch, "Road to Nowhere: How Biden and Congress Detour Highway Funds."

The Biden Administration has also sought to overextend its authority using Equity Action Plans (EAPs) throughout the federal government.[27]

For the Department of Transportation, this means potentially steering valuable infrastructure contracts based on innate characteristics of the contractors rather than selecting them based purely on merit, raising the specter of de facto identity-group quotas.

The department's EAP also calls for micromanaging regional transportation plans based on "equity" concerns, which would mean putting the whims of diversity bureaucrats ahead of practical considerations, while also expanding opportunities for environmental activists to delay projects.[28]

In areas where the Biden Administration has clearer legal discretion, it has consistently chosen to make infrastructure projects more expensive and less economically valuable.

When it comes to labor policy, the Administration's mandates stand to increase costs by billions of dollars per year.

An executive order on project-labor agreements imposes union-style work rules on projects that receive federal funding, undermining the ability of non-unionized contractors to compete.[29]

A proposed regulatory change to federal construction wages under the Davis–Bacon Act could increase costs further by lowering the threshold at which union-based compensation levels are considered "prevailing" and thus required. This would further inflate construction costs, especially in right-to-work

[27] David Ditch, Mike Gonzalez, Hans von Spakovsky and Erin Dwinell, "President Biden's 'Equity Action Plans' Reveal Radical, Divisive Agenda," Heritage Foundation *Backgrounder* No. 3710, May 25, 2022, https://www.heritage.org/progressivism/report/president-bidens-equity-action-plans-reveal-radical-divisive-agenda.

[28] Ibid.

[29] Ditch, "Road to Nowhere: How Biden and Congress Detour Highway Funds."

states, on top of already high inflation in the sector.[30]

Proponents of these labor policy changes claim that they equate to "investing" in workers. In reality, arbitrarily increasing compensation for a politically favored group at the expense of the public good is an exercise in cronyism.

This is an example of the economic problem of concentrated benefits and dispersed costs. Few members of the public are aware of the distortions caused by the rules, whereas labor groups are highly motivated to lobby in support of them.[31]

Finally, where the Biden Administration has full discretion over project selection, it has prioritized infrastructure projects favored by left-wing activists over the types of projects that would provide the most economic benefit.

The Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program was known as Better Utilizing Investments to Leverage Development (BUILD) during the Trump Administration and as Transportation Investment Generating Economic Recovery (TIGER) under the Obama Administration. Under the Biden Administration, the RAISE program largely avoids highway projects in favor of low-yield local projects, such as transit extensions, bike lanes, and "road diets" that actively reduce capacity.[32]

30 David Ditch, "Updating the Davis–Bacon and Related Acts Regulations [RIN 1235-AA40]," comment on proposed rule to Jessica Looman, U.S. Department of Labor, May 17, 2022, http://thf_media.s3.amazonaws.com/2022/Regulatory_Comments/DavidDitch_Comment_5172022.pdf.

31 Ditch, "Public Transit: Bloated Compensation Highlights Excessive Subsidization."

32 Laura Bliss, "Car-Free Transportation Gets Boost from U.S. Grant Program," Bloomberg CityLab, November 29, 2021, https://www.bloomberg.com/news/articles/2021-11-29/bike-pedestrian-infrastructure-favored-in-raise-grants (accessed September 26, 2022); Mischa Wanek-Libman, "Transit Specific Projects Land More than $476 Million in RAISE Grants," *Mass Transit*, August 12, 2022, https://www.masstransitmag.com/management/article/21277191/transit-specific-projects-land-more-than-476-million-in-raise-grants (accessed September 26, 2022); Department of Transportation, "RAISE Grants Capital Awards FY 2021," November 2021,

Not only will these "investments" yield minimal economic effect, they also mark an increasing federal involvement in purely local-level projects. The worsening dependence of state and local governments on Washington, DC, is corrosive to governance in a nation as large and diverse as the U.S.[33]

Recommendations

Congress has many avenues for addressing the policy problems referenced in this testimony.

With regards to infrastructure spending, Congress should recognize that the year is 2022, not 1956. States, localities, and the private sector have more than sufficient resources and capacity with which to manage and plan the nation's infrastructure needs.

If cities want to build bike lanes, they should pay for the bike lanes directly. If a state wants to add highway segments in an attempt to boost economic development in a particular region, or to expand an airport, that state should bear the costs—and have more leeway on financing.[34]

Reducing federal infrastructure spending and taxes would benefit the federal government's finances, improving both the long-term budget picture and the short-term need to combat inflation.[35] This would also reduce bureaucratic and regulatory inefficiencies that

https://www.transportation.gov/sites/dot.gov/files/2021-11/RaiseGrants_Capital%20Fact%20Sheets.pdf (accessed September 26, 2021); and Ditch, "Road to Nowhere: How Biden and Congress Detour Highway Funds."

33 Diane Katz, "Federalism in Crisis: Urgent Action Required to Preserve Self-Government," Heritage Foundation *Special Report* No. 248, November 30, 2021, https://www.heritage.org/conservatism/report/federalism-crisis-urgent-action-required-preserve-self-government.

34 David Ditch, Nicolas Loris, Adam Michel, and Kevin Dayaratna, "Paying for Surface Transportation Infrastructure: Four Wrong Routes, Four Good Paths," Heritage Foundation *Backgrounder* No. 3422, July 17, 2019, https://www.heritage.org/budget-and-spending/report/paying-surface-transportation-infrastructure-four-wrong-routes-four-good.

35 Since federal taxes that fund infrastructure do not fully cover federal infrastructure spending, spending reductions would need to exceed the size of tax cuts.

add costs and delays to projects. Federal spending on local or regional projects, such as hiking paths and mass transit, should be eliminated entirely.[36]

For both infrastructure legislation and other spending bills, shifting away from omnibus-style packages would improve transparency, accountability, and deliberation.

Regarding regulations, Congress should reform or eliminate the thicket of flawed and often archaic laws, such as the Davis–Bacon Act and the Urban Mass Transportation Act of 1964, that needlessly increase the cost of building and maintaining infrastructure.[37] The National Environmental Policy Act, which has become an anti-development nightmare, should either be substantially reformed or repealed entirely.[38]

Congress can fight back against the growth of executive power by narrowing executive agency discretion, using oversight and legal remedies to combat instances of overreach, and reforming or repealing statutes that are being used to justify power grabs outside their original intent.[39]

Reining in the relentless growth of federal spending and control would reduce the intensity of political fights, move the government off the road to bankruptcy, and enhance our economic prosperity.

Thank you.

[36] Ditch and Loris, "Improving Surface Transportation Through Federalism."
[37] Ditch, "Road to Nowhere: How Biden and Congress Detour Highway Funds."
[38] Diane Katz, "Time to Repeal the Obsolete National Environmental Policy Act (NEPA)," Heritage Foundation *Backgrounder* No. 3293, March 14, 2018, https://www.heritage.org/government-regulation/report/time-repeal-the-obsolete-national-environmental-policy-act-nepa.
[39] For example, the Biden Administration's citation of the 2003 Health and Economic Recovery Omnibus Emergency Solutions (HEROES Act) when issuing its recent student loan write-off. See Lindsey M. Burke and Jack Fitzhenry, "Biden's Student Loan Bailout Boondoggle Is on Shaky Legal Footing," Heritage Foundation *Commentary*, September 1, 2022, https://www.heritage.org/education/commentary/bidens-student-loan-bailout-boondoggle-shaky-legal-footing.

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