



Caltrans Wins Golden Fleece Award for Its \$10 Billion Highway Robbery

The California Department of Transportation (Caltrans) has won the Independent Institute's second [California Golden Fleece Award](#)SM, given out quarterly to state or local agencies or government projects that swindle taxpayers or break the public trust.

With primary responsibility for highway maintenance projects in California, the irresponsible Caltrans has wasted billions of taxpayer dollars and even lied to lawmakers to cover its tracks.

Caltrans's history of wasting taxpayer money, while at the same time demanding more funding, justifies drastically scaling back the agency and transferring *all* highway and bridge maintenance to private contractors who submit winning competitive bids. This change should accompany broader reforms to modernize California's highways, such as privatizing the public highways and bridges, which would stimulate new investment; adopting systems that adequately fund road repairs while also reducing traffic congestion and pollution; and preparing for the long-term switch to electric vehicles.

California has a unique opportunity to lead the nation in road transportation innovation, but unless bold steps are taken to scale back Caltrans, progress will be fleeting at best.

Background

Seventy-five years ago the [Arroyo Seco Parkway](#) was opened, becoming the first urban freeway in California and in the United States. In 1940, this parkway was the future, transporting motorists from Pasadena to Los Angeles without a stop sign in 12 minutes, rather than the previous norm of 27 minutes. But today, California's once futuristic highway network has become outdated, with countless operational and safety problems in need of urgent care.

California drivers [travel](#) about 330 billion vehicle miles each year on California roads, more than drivers in Florida and New York combined. More than 34 million motor vehicles are registered in

California, about 40 percent more than in second-place Texas. And nearly 26 million residents are licensed by the State of California, roughly 9 million more than the next highest state, Texas. This tremendous volume is taking a heavy toll on California's aging highways and bridges.

Most of California's 50,000 highway-lane miles and 13,000 bridges are more than 50 years old and desperately need maintenance or modifications. California has the [second-worst](#) urban highway pavement conditions in the nation. California has nearly [3,000](#) structurally deficient bridges needing repair, more than any state. The American Society of Civil Engineers [concluded](#) that 68 percent of California's roads are in "poor" or "mediocre" condition, with 54 of the state's 58 counties having an average pavement rating of "poor" or "at risk." Much of this deterioration occurred in the past six years.

Deficient roads cost California motorists [\\$44 billion](#) annually in additional vehicle operating costs, congestion-related delays, and traffic accidents. California has the [fifth-worst](#) urban highway traffic congestion in the country. Its freeways and bridges are due for extensive repairs, but the backbone of the transportation infrastructure budget, the gasoline tax, has lagged far behind the needs.

Against this backdrop of poor road quality, growing maintenance needs, and declining revenue to pay for repairs, came a scathing [report](#) in March 2016 by California State Auditor Elaine Howle, criticizing Caltrans's maintenance division for poor cost controls, lack of financial planning, inefficient resource allocation, and inability to track its responses to service requests.

Caltrans's Lies and Deceit

The state auditor found that Caltrans lied to California legislators for seven years about implementing the results of a 2009 efficiency study. According to the [audit](#), Caltrans's maintenance division "never implemented a budget model that it paid \$250,000 to develop," although it fraudulently "reported to the legislature that it is using the model to allocate funding to its districts."

The sophisticated budget model, which was created with help from a consultant, would have allocated maintenance funds based on which geographic areas were judged to most be in need of repairs, based on technical criteria and assessments of how existing resources could be used to help fix roads more efficiently.

Regarding Caltrans's lies, California State Senator John Moorlach (R-Costa Mesa) [said](#) in a press release: "This audit reinforces the fact that our bad roads are not a result of a lack of funding. They're a result of a lack of competence at Caltrans." He continued: "We don't need to raise gas taxes to fix our roads. We need to stop letting Caltrans waste the road money it already has and then lie about how that money is being used."

California Assemblymember Mike Gipson (D-Compton) also issued a [blistering rebuke](#). "Caltrans' response to the report was woefully inadequate," he said. "Caltrans is comfortable misrepresenting facts before the legislature, being incompetent in its strategic planning, and just downright neglectful of its overall responsibilities."

Caltrans's Poor Cost Controls, Golfing on the Job

The state auditor [found](#) that Caltrans's maintenance division "has weak cost controls over field maintenance work orders, which creates opportunities for fraud, waste, and abuse. Specifically, our review

of work orders found limited evidence to support whether the costs and resources used were reasonable and appropriate.” The audit found Caltrans often does not review the cost of projects before or after completion: “No supporting documentation is maintained for work order costs such as labor, equipment, and materials used to complete field maintenance work.”

Multiple sources also report that Caltrans is overstaffed by between [3,300](#) and [3,500](#) employees, at a cost of a half billion dollars a year. One Caltrans employee was [found](#) to have golfed 55 days on the job, bragging to co-workers that he golfed “as much as possible.” In earlier incidents, the state auditor [found](#):

A supervisor neglected his duty to supervise two technicians, which facilitated the technicians being paid for work they did not perform . . . One of the technicians . . . falsified concrete pile testing data for at least three transportation projects. A subsequent review by Caltrans identified eight additional incidents of data falsification. The supervisor also misappropriated Caltrans property with assistance from the technicians and other subordinate employees.

The falsified tests raise serious safety concerns. More generally, “an internal audit released in 2013 [found](#) that some maintenance staff entered erroneous time sheets into the system, including time sheets that exceeded available leave balances and time sheets showing total numbers of hours worked that did not match the employees’ work schedules.” These abuses and inefficiencies by Caltrans’s employees in planning, budgeting, and oversight have driven maintenance costs sky high.

California has the nation’s second-highest road-maintenance costs per mile at nearly [\\$103,000](#). California’s total disbursements of \$501,000 per mile are the fifth highest nationally. A 2011 state audit [found](#):

62 percent of the projects that completed construction in Fiscal Years 2007–08 through 2009–10 had support costs that exceeded their respective budgets. These overruns totaled more than \$305 million of the \$1.4 billion in total support cost expenditures for these projects that completed construction during these fiscal years. Budget overruns can deprive other projects of necessary funding, potentially causing projects to be delayed.

The 2016 audit [found](#) the maintenance division:

has based funding allocations to the 12 Caltrans districts on a simple average of historical spending rather than using level of maintenance performance (service scores) or other information about maintenance need, despite reporting to the legislature that it was using a more sophisticated method.

Margarita Fernandez, chief of public affairs with the California State Auditor, told [Capital Public Radio](#): “The legislature [should] require the maintenance division to implement a business model for field maintenance that takes into account these key indicators to identify the maintenance needs—like traffic volume and climate, for example.”

As noted above, Caltrans paid \$250,000 for such a business model, but never used it. As a result, some districts with a high proportion of the state’s traffic volume, receive a disproportionately low amount of funding. The 2016 audit, for example, [found](#) that Los Angeles and Oakland handle 43 percent of the

state's traffic, yet the two areas receive only 27 percent of the maintenance program's funding—allocations far out of alignment with standard indicators of need. Using historical averages to allocate money results in necessary projects being scrapped in some districts, while nice-to-have projects are completed elsewhere.

“The state auditor's report raises more disturbing questions about the use of existing transportation tax dollars,” [said](#) California State Senator Patricia Bates (R-Laguna Niguel). “With some in Sacramento talking about raising taxes to repair our roads and bridges, lawmakers should first address the use of existing resources. Simply giving Caltrans more money will not change the status quo. We owe it to taxpayers to reform Caltrans in a way that ensures needed maintenance work is actually performed.”

Despite Caltrans's mismanagement of funds, Director Malcolm Dougherty [argues](#) for more money for the department.

Asleep at the Wheel: Caltrans's Poor Response to Service Requests, Backlog of Projects

Caltrans is a gigantic government department. It has about 19,000 employees; roughly one-quarter of whom work at Caltrans's Sacramento headquarters. It has an annual budget exceeding \$10 billion. Despite its enormous size, Caltrans does not effectively manage the service requests they receive from the public, and it cannot demonstrate that it is performing promptly the requested maintenance work.

The March 2016 state [audit](#) reported that a review of three Caltrans's districts (of 12 districts) during the past five fiscal years found that Caltrans failed to respond to thousands of public service requests for months. Specifically, data indicate that more than 30,000 service requests received by the three districts remained unresolved for more than 90 days.

Also, Caltrans spends billions of dollars statewide on maintenance, yet it has a growing backlog of work. Since 2011, the number of highway lane miles in need of maintenance has increased from 11,053 miles to 15,272 miles, according to the audit.

“We estimate that the state has ongoing highway repair needs of about \$3.6 billion annually, as well as an existing backlog of needed repairs totaling roughly \$12 billion,” the nonpartisan Legislative Analyst's Office (LAO) [concluded](#) in May 2016. “This is significantly higher than can be addressed through the existing funding of about \$1.6 billion annually for these purposes.” Immediate needs are even greater. The LAO estimated the state would need to spend roughly \$5.5 billion for highway repair in Fiscal Year 2016-17. State government persistently underfunds highway maintenance, and changes do not appear imminent.

In the face of growing repair needs, California's transportation infrastructure revenue continues to decline. California drivers pay [63.79 cents per gallon](#) of gasoline for federal, state, and local taxes. These taxes are regressive, hurting low-income people most.

Caltrans estimates that California drivers pay, on average, about \$368 per year in gas taxes. But despite having the [fifth highest](#) state gasoline tax rates in the country and a growing state population, California's gas tax revenue declined from \$2.87 billion in 2003 to \$2.62 billion in 2013. The biggest driver of this fall in revenue is the [increasing popularity](#) of fuel-efficient and alternative-energy vehicles, a trend which has resulted in California drivers consuming less gasoline per mile driven

than previously, and thus paying less gas taxes per mile driven. Highways now suffer more wear and tear, but fewer maintenance dollars are available.

Although this problem applies nationally, the situation is especially critical in California, where Governor Jerry Brown has [called for](#) at least 1.5 million electric vehicles on the road by 2025. The impact of this transition on who shoulders the burden of the gas tax is worth noting. The typical electric-vehicle owner is wealthier than the typical traditional automobile owner. [For example](#), the average household income for a buyer of a gas-powered Ford Focus is \$77,000 a year, whereas the buyer of the electric model of the Ford Focus earns an average annual income of \$199,000. For the Fiat 500, average income is \$73,000 for the conventional vehicle, and \$145,000 for the electric version. As a result, the burden of California's archaic infrastructure funding model falls increasingly on low-to-middle income people driving gas-powered vehicles.

In conclusion, Senator Moorlach [said](#): "Caltrans is one of the worst managed, most inefficient government agencies in the nation. Just look at the metrics. Californians pay among the highest gas taxes and the fifth-highest per-mile road maintenance, yet we also have the nation's fifth worst roads. Those are clear signs that Caltrans is dysfunctional and wasting taxpayer money. If Caltrans was a private company, it would have been out of business long ago."

Similarly, Assemblymember Gipson [said](#): "I am thoroughly disappointed in Caltrans' historic and continuous failure to maintain our state's roads and highways, and even more disturbed to learn that the department has misrepresented information before the legislature." Caltrans has been asleep at the wheel.

The Pathologies of Government: A Lesson in Government "Ownership" and Under-Maintenance

Why do governments persistently underfund asset maintenance? When a government "owns" an asset, such as a road, bridge, or school, in effect nobody owns it. No person collects profits resulting from the efficient operation of the asset. And no person can sell their share in the asset. When everybody owns something, nobody owns something, and problems arise.

When assets are "owned" by a government, the absence of marketability and a profit motive results in mispricing of the asset or the asset's services, mispricing in the sense that prices do not reflect true scarcity. With roads, for example, the lack of monetary prices for road access results in severe traffic congestion, pollution, overuse, deterioration, and [fatalities](#).

Also, with government ownership, nobody is the "residual claimant" to any profits; thus, nobody has a direct incentive to make sure the asset is maintained properly to maximize appropriable profits. As a result, roads are riddled with potholes, bridges crumble, classrooms have mold and falling ceilings, and public housing is in disrepair. Also, without a profit motive, the repairs that are made are seldom performed at minimum cost.

A politician or bureaucrat does not have a claim to the profits arising from sound asset management, therefore, he or she does not have a direct incentive to make sure the asset is maintained properly. To government authorities, maintenance is viewed generally as a pure cost without a corresponding increase in future revenues they can personally capture. To see the impact of government ownership, one only needs to compare the poor quality of government-owned roads in Los Angeles or San Francisco to the high quality privately owned roads at Disneyland or Universal Studios in California.

To a politician, money spent on maintenance is money not available to start new government programs or expand existing government programs. A politician can get more votes and campaign contributions by starting a new program that concentrates benefits among a few people than by repairing a bridge that confers benefits to a dispersed group of people, many of whom might not live in the politician's state or district. For these reasons, chronic under-maintenance is the rule for the nation's government-owned assets, especially its roads, bridges, and highways.

The inability of the public to sell their "share" in government-owned assets also prevents the assets from being owned by people who best understand the industry and have the technical knowledge to operate and repair the asset. Today, elected politicians and unelected bureaucrats control California's transportation network, rather than skilled and knowledgeable engineers, entrepreneurs, and innovators.

The Recommendations

Serious problems with California's highway network—poor pavement, traffic congestion, high maintenance costs, a growing backlog of repairs, and a deceitful, mismanaged Department of Transportation—warrant switching to a modern, futuristic, approach to transportation. The process involves three steps: (1) auction off public highways and bridges to private companies and use the proceeds to pay down state debt, (2) use competitive bidding among private contractors for *all* highway repair and new construction, and (3) transition to mileage-based user fees to pay for maintenance and construction, efficiently pricing highway access to reduce traffic congestion and pollution. Ideally, all three should be adopted, but each could be implemented separately. These transformative suggestions, and more, are explored in the book *[Street Smart: Competition, Entrepreneurship, and the Future of Roads](#)*.

First, California's public highways and bridges should be auctioned off to private companies and the proceeds used to pay down state debt. Privatization has been used successfully in other countries to stimulate investment in roadways. Highway 407 in Ontario, Canada, was [sold](#) to a partnership of companies in Canada and Spain. Brazil [auctioned](#) off operating rights for five highways using long-term contracts (not an outright sale). Tolls are used to collect revenue. Ivepar, the company that won a 30-year lease for the fifth auctioned highway, planned to invest 8 billion reais to modernize the road and double the number of lanes in five years.

Sacyr has [won](#) three highway contracts in Colombia, planning to invest about \$2.5 billion. The third contract calls for Sacyr to build a 50-mile highway in four years, complete with intersections, tunnels, bridges, culverts, and viaducts. They agreed to operate the highway for 25 years, and provide traffic monitoring services, emergency response, law enforcement, tow trucks, a mobile workshop, and ambulances.

Sacyr also has a highway lease agreement in Peru and six in Chile, which has [auctioned](#) rights to operate roads to entrepreneurs, who use tolls to recoup their investments. The Pan-American Highway is an example.

Second, highway owners should use competitive bidding among private contractors to perform *all* highway repairs and new construction. Caltrans is not essential to efficient road repairs; in fact, it has become counterproductive. Where rapid privatization is not feasible, Caltrans's construction and maintenance duties should be replaced by competitive bids from private contractors, some of whom have built reputa-

tions for performing “miraculous” repairs. For example, C.C. Myers finished repairing the Interstate 580 [MacArthur Maze](#) in Oakland ahead of schedule and at cost, as well as the “Fix I-5” project in Sacramento.

Competition among private contractors will drive down the cost of highway maintenance, minimize bureaucratic bloat, and maximize accountability. In recognition of these advantages, Senator Moorlach introduced [Senate Bill \(SB\) 1141](#) in February 2016 to create a five-year pilot program that would allow two California counties to control highway maintenance funds now handled by Caltrans.

Third, California should transition to mileage-based user fees to pay for road repairs and new construction, efficiently pricing highway access to reduce traffic congestion and pollution. Road usage charges are the fair method to pay for roads: the most equitable pricing system for any good or service is for people to “pay for what they use.”

The California legislature, recognizing problems with the state’s current approach, has approved a pilot program to explore use of a vehicle-miles-traveled (VMT) fee. In September 2014, Governor Brown signed into law [SB 1077](#), which requires California to design and implement a statewide pilot program to study a road charge model. The [legislature instructed](#) Caltrans and other transportation agencies to set up a program, which is expected to last nine months. A report is due to the legislature by June 2017. Colorado, Oregon, and Washington are studying similar pilot programs. Internationally, Austria, Germany, Hungary, Poland, Slovakia, Switzerland, and the Czech Republic have [implemented](#) forms of VMT fees.

The [California Road Charge Pilot Program](#) will test the VMT fee with 5,000 volunteers. It began in July 2016. The drivers will allow the state to measure how many miles they have traveled to calculate payment. The automated road usage charge will collect mileage data from participating vehicles, and a mileage reporting device selected by the motorist will interface with the vehicle and be paired with software to send mileage totals to the chosen account manager.

Under the new system, users will pay a fee that is dependent solely on miles travelled. These charges can be either a flat fee (a fixed number of cents per mile, regardless of where or when the trip occurs) or a variable fee based on time of travel, congestion levels on a road, type of road, type and weight of vehicle, vehicle emission levels, or the owner’s ability to pay.

There are many benefits of switching to a mileage-based user fee. First, it could raise substantial revenue and allow for revenue growth over time, even with the switch to electric vehicles. According to a national [study](#) by the Center for American Progress (CAP), a mileage fee of 1.3 cents per mile would raise the same amount of revenue as the current gas tax. Second, the technology used to assess the mileage fee could also be used for congestion pricing in ways that help manage traffic flows thereby reducing pollution. Since electric-vehicle users would pay the same fee per mile travelled, they would likely reduce their travel consumption. And price competition in general among rival private roadway owners would benefit customers. Third, a VMT fee eliminates the need for states to impose additional taxes on advanced-technology vehicles at the time of purchase in lieu of gas taxes.

The VMT proposal, however, is not without concerns. Some motorists are worried that the VMT approach could be an [invasion of privacy](#) when location information is collected, viewing it as spying by “Big Brother” or the “Nanny State.” To mitigate these concerns, VMT pilot programs across the country have explored options to protect the privacy of participants.

Decades ago, the only method for measuring miles driven was odometer readings, and odometers remain a potential source of data to implement mileage-based user fees. Technology, however, has made the reality of VMT fees more advanced. For example, a pilot program in [Oregon](#) from November 2012 through March 2013 implemented a road usage charge while accommodating the privacy [concerns](#) of payers, and providing participants with options regarding reporting mechanisms. Oregon's pilot study offered plans with different technology options and payment methods depending on the drivers' privacy preferences. Drivers had the choice to report miles using a smartphone, a [global-positioning-system](#) (GPS) device, or a simple reporting device with no GPS technology; or, they could opt out of using technology altogether by paying a flat rate in lieu of a per-mile fee. But drivers who chose to report their miles using a smartphone or a GPS were not disclosing their exact locations and travel times.

In-vehicle devices that measure miles driven can be programmed to collect and report only limited geographic data regarding miles driven per region or zone, as opposed to exact locations. Furthermore, a common data-management standard calls for data to be destroyed 30 days after it is required for payment processing or dispute resolution. According to Caltrans's [website](#): "The pilot [program] will give participants several options for reporting mileage, including those which do not require technology in the vehicle or mileage reporting."

Concerns about government collection of data related to VMT fees is another important reason to privatize highways. After all, people already live with private companies collecting personal data: cell phone companies know who you call or text, what you text, when you called or texted, and roughly where you were during a call, based on pings from cell towers.

Technological advances can satisfy privacy concerns and provide a superior method of paying for highways, paying for associated highway law enforcement, and reducing pollution associated with traffic congestion. (This would remain a benefit even if all vehicles were electric, because the electricity must be generated somewhere with accompanying emissions.) Depending on the chosen option, CAP [noted](#) that a road usage charge could be implemented in each state without expensive retrofitting of current vehicles or upgrades to transportation infrastructure.

Seventy-five years after the nation's first urban highway opened in California, it is time for Californians to adopt a modern transportation network. Private ownership, competitive bids on repair contracts, and road usage fees would revolutionize the state's transportation network and fix its crumbling highways and bridges. Without intention, Caltrans's incompetence is helping to drive a badly needed conversation about the Golden State's highways of tomorrow.

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Each quarter, the Independent Institute highlights a California state or local spending program, tax, or regulation that fleeces taxpayers, consumers, or businesses. The California Golden Fleece AwardsSM shine a spotlight on waste, fraud, and abuse in California government to provide valuable information to the public, enabling them to provide needed oversight and demand meaningful change.

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