S. HRG. 112–918

ISSUES FOR SURFACE TRANSPORTATION AUTHORIZATION

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

APRIL 14, 2011

Printed for the use of the Committee on Environment and Public Works

Available via the World Wide Web: http://www.fdsys.gpo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

88–765PDF WASHINGTON : 2015

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
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ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

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ISSUES FOR SURFACE TRANSPORTATION AUTHORIZATION

THURSDAY, APRIL 14, 2011

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:05 a.m. in room 406, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the Subcommittee on Transportation and Infrastructure) presiding.

Present: Senators Baucus, Inhofe, Sessions, Carper, Sanders, Whitehouse, Barrasso, Merkley and Boozman.

STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. The hearing will come to order. Good morning everybody, welcome to the hearing entitled Issues for Surface Transportation Authorization.

We have an excellent panel representing a cross-section of industrial, State and local interests. I will be chairing this morning's hearing on behalf of the Chairman, Senator Barbara Boxer. In the interest of time, I ask, frankly, that we waive Senators' opening statements. Let's be a little bit more efficient around here and move straight to the witnesses' testimony. Senators will obviously be permitted to include their statements for the record.

I also think it would be appropriate for Members of this panel to themselves introduce witnesses from their States or maybe tied to that particular Senator in any other special way. So I will turn to you, Senator Inhofe.

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator INHOFE. I will just go ahead and waive an opening statement and get to our witnesses. I want the honor of introducing Gary Ridley from Oklahoma, and I am sure that Senator Barrasso and Senator Sessions and maybe others might want to take care of their witnesses.

[The prepared statement of Senator Inhofe follows:]

STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR FROM THE STATE OF OKLAHOMA

I have often said that I truly believe Gary is one of the best—if not the best—DOT heads in the Nation. Gary came to the Oklahoma Department of Transportation in 1965 when he started as an equipment operator and worked his way up to Division Engineer.

When Brad Henry, a Democrat, was elected Governor of Oklahoma in 2002, I called him and asked for only one thing: for him to keep Gary on as Director of ODOT. Fortunately for Oklahomans, he did. In 2009 Gary was appointed Transportation Secretary, a position he still holds, as well as serving concurrently as the director of the Oklahoma Turnpike Authority.

I first realized just how great Gary was back in 2002 when a barge took out a 580 foot section of the I–40 bridge at Webber Falls. Sadly, 14 people lost their lives in that tragedy. The bridge fell on May 26th and, due to the excellent work of Gary, the bridge was reopened to traffic on July 29th. Think about that for a second: two spans of a bridge were replaced in just 2 months. Normally, a project of this magnitude takes an average of 13 years to complete—most of the delays are due to Federal red tape and billions of dollars are wasted in taxpayer money.

We can deliver projects dramatically faster than we currently do while still protecting the environment. Reducing the time it takes to deliver transportation projects I know is a priority for all of us, which hopefully means we can get something meaningful done in the next highway bill.

I would also like to draw attention to Gary's concerns about EPA's proposal to revise the Nation's air quality standards for ozone. I share his concerns. After much effort and cost, Oklahoma currently has no "nonattainment" areas. But because of EPA's ever-changing definition of "clean air," economic development—indeed, many of the very transportation system improvements and capacity expansions we contemplate today—is being threatened.

The Nation's ozone standards are a prime example. EPA, in 2008, significantly tightened the standards as part of its statutory 5 year review. Yet the Obama administration has made a political decision to revise that standard outside of the 5-year review cycle. This creates tremendous confusion for State and local communities and businesses that have to meet the requirements.

The standards EPA is now considering could put as many as 15 of Oklahoma's counties into nonattainment status. Indeed, over 650 counties across the country could be in violation, even though many of them have what EPA considered "clean air" just 2 years ago.

I look forward to hearing from our witnesses on ideas that will make it easier, not harder, to improve our deteriorating infrastructure, create jobs, and strengthen our global competitiveness.

Senator BAUCUS. All right. Our first witness is Mr. Fred Smith, chairman and CEO of FedEx. Next is Sharon Thomas, councilwoman, City of Las Cruces, NM, then Brian Searles, secretary, Vermont Agency of Transportation; Michael Lewis, director, Rhode Island Department of Transportation; and next, Gary Ridley, secretary of the Oklahoma Department of Transportation.

Do you wish to introduce Mr. Ridley?

Senator INHOFE. As they come up.

Senator BAUCUS. OK. Fine. Then Mr. John Cox, director of the Wyoming Department of Transportation; and finally, last but not least, Mr. John Cooper, director of the Alabama Department of Transportation.

OK. Let's get down to business here. Let's begin right down the line here, beginning with you, Mr. Smith, and let's hear what you have to say.

Senator SESSIONS. Mr. Chairman, could I introduce my Alabama witness?

Senator BAUCUS. You want to do that now or do you want to do it later?

Senator SESSIONS. Now would be great, if you would allow me.

Senator BAUCUS. Let's do it now.

Senator SESSIONS. Mr. Cooper was recently appointed by Governor Bentley. Dr. Bentley chose him to head the Highway Transportation Department. He was recently CEO of Avocent Corporation, a manufacturer of technology products headquartered in Huntsville, with operations around the world. Prior to that, he was chief financial officer and senior vice president for Finance and Ad-

ministration at ADTRAN of Huntsville, a global telecommunications provider, one of Alabama's largest home-grown companies and most successful.

He was also managing partner with a large accounting firm, served as partner and leader of Arthur Young and Company's audit practice in Birmingham, received his B.A. degree in accounting from, and master's, from the University of Alabama. When the Governor announced his appointment of Mr. Cooper, he stated, "A first-class transportation system is a critical part of my plan for economic growth and bringing good-paying jobs to the citizens. John Cooper has the managerial experience and leadership qualities to ensure that Alabama has the right transportation infrastructure."

I agree. Mr. Cooper, we are glad to have you here and thank you for coming.

Thank you, Mr. Chairman, for giving me that moment.

Senator BAUCUS. You bet. Thank you, Senator.

Again, Mr. Smith, why don't you start out.

STATEMENT OF FRED SMITH, CHAIRMAN, PRESIDENT AND CEO, FEDEX CORPORATION

Mr. SMITH. Thank you very much, Senator. I have submitted a written statement for the record and will just summarize it here, if that is acceptable to you.

Senator BAUCUS. Absolutely. Obviously, all statements will be in the record.

Mr. SMITH. I appreciate your having me up here. I am wearing two hats today. Obviously, I make my living at FedEx. FedEx is about a $40 billion transportation company that operates 700 airplanes, moving 8.5 million shipments to 220 companies around the world. We fly about 500,000 miles in those aircraft every day. We have about 80,000 vehicles that drive millions of miles every day. So as you might imagine, we are quite focused on the issue of petroleum and oil supplies.

I also serve as the co-chairman of the Energy Security Leadership Council, which is a group of retired four-star admirals and generals, and several major corporate CEOs who, like FedEx, use a great deal of energy, like Southwest Airlines and Royal Caribbean and so forth. I am a member of the Electrification Coalition.

We believe that the Nation's dependence on petroleum, after terrorism and weapons of mass destruction, is the Nation's largest single national security and economic risk. In 2008 when the price of oil went up to $147 a barrel, U.S. families and businesses spent $900 billion or 6.4 percent of GDP buying petroleum products. It would be great if there were a free market solution to our problem in this regard, but there is no free market for oil. It is managed by a cartel which if it were doing what it does in the United States, it would be illegal.

To solve this problem, you have to focus on three areas: vehicles, fuels and infrastructure. While we have made enormous strides on vehicles, fuel efficiency in particular, we need to focus a great deal of attention on fuels, which is the focus of the Electrification Coalition. It is our belief that electrification of the light-duty fleet in the

United States offers the largest potential for reducing our oil importation requirements.

Then finally there is infrastructure, which is where this committee comes in. We believe at the Energy Security Leadership Council that the transportation policies of the United States should be linked specifically to petroleum consumption goals. In fact, we issued a report in February of this year called Transportation Policies for America's Future, which are recommendations for reforms designed to transform the Nation's transportation policy, introducing a more market-oriented model and instituting oil consumption as a key metric by which decisions are made and evaluated.

Specifically, we recommend the establishment of a national oil savings performance metric in choosing and evaluating transportation projects; second, the replacement of select programs with both formula and discretionary programs specifically designed to reduce congestion in metropolitan areas; third, a program to maintain and improve highway capacity outside of metropolitan areas and along major freight corridors; Federal efforts to improve the productivity of our freight transportation systems; a streamlined environmental process for transport projects; and ultimately alternatives to the current fuel tax regime to address funding challenges.

We believe that smarter, more efficient and more market-oriented infrastructure projects represent an important element of any comprehensive policy to end our Nation's dangerous dependence on imported petroleum from areas of the world which are hostile to U.S. interests.

With that, I will be happy to take questions, Senator.

[The prepared statement of Mr. Smith follows:]

Testimony of Frederick W. Smith
Chairman, President and CEO, FedEx Corporation
Co-Chairman, Energy Security Leadership Council
Member, Electrification Coalition
Before the U.S. Senate
Committee on Environment and Public Works
April 14, 2011

Good morning, Chairman Boxer, Ranking Member Inhofe, and members of the Committee. I would like to thank you for giving me this opportunity to speak to you regarding U.S. transportation infrastructure policy. I think this is a tremendously important, and often overlooked, component of our nation's efforts to end the very real and pressing dangers posed by our dependence on petroleum.

I am proud to serve both as co-Chairman of the Energy Security Leadership Council and as a member of the Electrification Coalition, two organizations dedicated to facing these threats head on.

The Energy Security Leadership Council, formed in 2006, is a coalition of business executives and retired national security leaders who believe that our dependence on oil, much of it imported from unstable and hostile regimes, poses an unacceptable economic and national security threat.

The Electrification Coalition was formed in 2009, and is made up of a group of business leaders who represent the entire value chain of an electrified transportation sector and who are committed to promoting policies and actions that facilitate the deployment of electric vehicles on a mass scale.

I became involved in these organizations for a single reason: it is my belief that after terrorism and the proliferation of weapons of mass destruction, our dependence on petroleum represents the biggest single threat to our nation's economy and national security.

I can speak to this issue personally. FedEx delivers more than 8.5 million packages and shipments per day to more than 220 countries and territories. In a 24-hour period, our fleet of aircraft flies the equivalent of 500,000 miles, and our couriers travel 2.5 million miles. We accomplish this with more than 290,000 dedicated team members, 697 aircraft, and some 80,000 motorized vehicles worldwide.

FedEx's reliance on oil reflects the reliance of the wider transportation sector, and indeed the entire U.S. economy. Oil is the lifeblood of a mobile, global economy. We are all dependent upon it, and that dependence brings with it inherent and serious risks.

The Threat of Oil Dependence

Those risks are coming into sharp focus once more today, as oil prices are again on the march. That unrest in the Middle East and North Africa is leading to a price spike should no longer be shocking. What is shocking, to me at least, is that after this has happened so many times before,

we still have not committed as a nation to ending our vulnerability. How many more price spikes do we have to endure before we act?

In 2008, the last time prices spiked, Americans consumed nearly 20 million barrels of oil a day—over one-fifth of the world's total. We imported 58 percent of the oil we consumed, leading to a U.S. trade deficit in crude oil and petroleum products that reached $388 billion—56 percent of the total trade deficit.

A year later, with oil prices averaging just $62 per barrel and oil consumption down, the United States still ran a $200 billion trade deficit in crude oil and petroleum products. In 2010, the trade deficit in crude oil and refined products returned to pre-crisis levels near $300 billion. This year, with prices rising, that number is sure to be even higher.

At the beginning of 2001, oil prices were steady at $30 per barrel. Over the subsequent five years, prices steadily rose, reaching $75 per barrel in June 2006. After retreating slightly, benchmark crude prices jumped 50 percent in 2007, from $60 per barrel in January to more than $90 in December. In 2008, oil prices soared rapidly, eventually reaching their all-time high of more than $147 per barrel on July 3.

When prices did fall, it was not because of any action or plan. It was because demand plunged in the wake of the recession. And needless to say, once the global economy slowly began to recover, so did demand ... and oil prices.

Since plummeting to below $40 per barrel at the end of 2008, prices have been on a steady climb. Events in the Middle East pushed that climb into a spike. The price of oil has now risen by almost 20 percent in the time since January 1, and is once again well above $100 per barrel.

The volatility of oil prices affects every American. At the crux of America's oil dependence is the energy demand of the transportation sector. Transportation accounts for approximately 70 percent of American oil consumption. Cars and trucks are 94 percent reliant on oil-based fuel for their energy, with no substitutes immediately available in anything approaching sufficient quantities. In short, when prices go up, we have only two choices: drive less or pay more. This is unacceptable.

We are all aware of the sharp financial burden on U.S. households that faced—and still face—resets in their adjustable rate mortgages in the wake of the 2007-2008 financial crisis and the resulting recession. But it is important to understand that increases in energy costs have been on an equivalent, or even greater, order of magnitude for the entire American economy. A typical subprime borrower with a poor credit history who bought a $200,000 house in 2006 with a 2 year/28 year adjustable-rate mortgage with a 4 percent teaser interest rate for the first two years would have seen monthly mortgage payments increase from about $950 a month before the reset to about $1,330 after the reset—an increase of about $4,500 a year. In the meantime, between 2001 and 2008, the average retail price of gasoline increased from $1.46 to $3.27, costing typical households $1,990 a year in increased fuel expenses. And that increase in energy costs affected all U.S. households—not just the one household in 20 that held a subprime mortgage.

This burden, multiplied across millions of households, was a major contributor to the ensuing economic slowdown. We saw an explosion in home ownership, with many purchases being made by people who had heretofore not qualified for mortgages. When the price of oil and the price of gasoline began to rise, and inflation on commodities began to take hold, and interest rates began to increase, you had a tremendous diminution in purchasing power and cash flow, which contributed to people having to walk away from their mortgages. The rise in oil prices was the match that lit the fuse of the mortgage mess and the subsequent recession. The U.S. economy lost more than 700,000 jobs between December 2007 and the beginning of September 2008, and the unemployment rate increased from 4.5 percent to 6.1 percent—all before the financial crisis truly hit later in September.

And the steps we usually would take to help strengthen the economy and create jobs in times of weakness are just as easily overcome by oil price volatility. For example, changes in the tax code from 2001 to 2008 code resulted in tax cuts of approximately $1,900 for the median household. But remember, a typical household's energy costs rose more than that during the same time period. So in essence, every penny that most Americans saved due to federal income and estate tax cuts over those eight years was spent on higher gasoline bills.

All told, U.S. families and businesses spent more than $900 billion on refined oil products in 2008, representing 6.4 percent of GDP. Now, with prices at the pump once again on the rise, we must ask ourselves how many times we must repeat this damaging cycle? Many of the underlying fundamentals that pushed oil prices to record levels are pushing them up once again today. Oil demand continues to recover, both in the United States and abroad. Unrest in the Middle East is only driving prices up faster. Historically, crude oil costs of more than 4 percent of gross domestic product have occurred concurrently with recessions. At between 4 and 5 percent of GDP, oil spending is reaching dangerous levels once again. Our nascent economic recovery is at risk.

The threat to American national security is equally as urgent. The vulnerability of global oil supply lines and infrastructure has driven the United States to accept the burden of securing the world's oil supply. Much of the infrastructure that delivers oil to the world market each day is exposed and vulnerable to attack in unstable regions of the world. Each day, more than 50 percent of the world's oil supply transits fixed maritime routes, often through narrow, vulnerable chokepoints like the Strait of Hormuz between Iran and Oman. Even a failed attempt to close one of these strategic passages could cause global oil prices to skyrocket. A successful closure of even one of these chokepoints could bring economic catastrophe.

To mitigate this risk, U.S. armed forces expend enormous resources patrolling oil transit routes and protecting chronically vulnerable infrastructure in hostile corners of the globe. This engagement benefits all nations, but comes primarily at the expense of the American military and ultimately the American taxpayer. A 2009 study by the RAND Corporation placed the cost of this defense burden at between $67.5 billion and $83 billion annually.

Oil dependence also constrains U.S. foreign policy. Libya is only one example. Whether dealing with uranium enrichment in Iran or a hostile regime in Venezuela, American diplomacy across the globe is distorted by the need to minimize disruptions to the flow of oil. Too often, oil

dependence requires us to accommodate hostile governments that share neither our values nor our goals, putting both the United States and its allies at risk.

It would be ideal if there was a free market solution to these threats. But there is no free market for oil. Far from it: today, more than 90 percent of proved conventional global oil reserves are held by national oil companies that are either fully or partially controlled by foreign governments whose interests are often at odds with our own. As long as we remain dependent on those nations, we remain vulnerable.

We cannot continue down this path. We cannot continue to send untold billions of dollars and jobs overseas to pay for our addiction. We cannot continue to send men and women into harm's way to protect an increasingly vulnerable supply line. We cannot continue to put our future in the hands of hostile nations or fanatical terrorists who can turn off our crucial oil lifeline at the drop of a hat.

The Three Pillars

There are solutions. The ESLC and the EC have proposed detailed sets of policies designed to end the threats posed by our oil dependence—and ultimately, to end that dependence altogether.

Fundamentally, policies to combat oil dependence come in three categories: vehicles, fuels, and infrastructure.

We have made enormous strides in the area of vehicles—fuel efficiency, specifically—in recent years. In December 2006, the ESLC released its *Recommendations to the Nation on Reducing U.S. Oil Dependence*, a highly-detailed set of policy proposals that included calls for the first improvements in vehicle fuel economy standards in a generation. Over the next year, we worked with Republicans and Democrats alike to turn our recommendations into law. In 2007, President Bush signed into law the Energy Independence and Security Act (EISA), legislation that echoed our fuel economy recommendations. In April 2010, President Obama instituted rules to increase the national fleet-wide average standard for cars and light trucks to 35.5 miles per gallon by 2016.

We continue to work to maximize long-term oil savings through fuel efficiency. The United States will need to continue to set ambitious improvement targets for light-duty vehicles for the period after 2016. Significant annual fuel-economy improvements can and should be targeted after the attainment of the 35.5 mpg standard. Doing so could save billions of barrels of oil.

We are also making suggestions in the regulatory process as we move toward the announcement this summer of the nation's first-ever fuel-economy standards for the medium- and heavy-duty vehicle fleet.

The second pillar is fuels—both alternative fuels and domestic production. To truly end our dependence, we must sever our transportation system from oil once and for all. The lithium ion batteries that power our cell phones and laptop computers can one day form the nucleus of an electrified transportation sector that is powered by a wide variety of domestic sources: natural gas, nuclear, coal, hydroelectric, wind, solar, and geothermal. No one fuel source—or

producer—would be able to hold our transportation system and our economy hostage the way a single nation can disrupt the flow of petroleum today.

Electricity represents a diverse, domestic, stable, fundamentally scalable energy supply whose fuel inputs are almost completely free of oil. In short, high penetration rates of grid-enabled vehicles—vehicles propelled in whole or in part by electricity drawn from the grid and stored onboard in a battery—could radically minimize the importance of oil to the United States, strengthening our economy, improving national security, and providing much-needed flexibility to our foreign policy while clearing a path toward dramatically reduced economy-wide emissions of greenhouse gases.

Simply put, there is no more important step than electrifying transportation.

While we work toward electrification, however, we will continue to use liquid fuels, particularly petroleum-based ones. It is critical to protect ourselves during that period. The ESLC continues to strongly support the increased domestic production of petroleum, along with sharply increased safety standards. We cannot drill our way out of this problem, but even as we work to use less oil, producing more of what we do use at home will help safeguard our economy and our national security. Of course, no one wants to see a repeat of what happened last summer in the Gulf. We believe that with the proper policies in place, we can produce more and we can produce more safely—and we must do both.

We also see much potential in advanced biofuels, particularly those that are chemically identical to petroleum products and thus do not need their own dedicated infrastructure. For example, flex-fuel vehicles that can operate using either gasoline or E85 are available for purchase by U.S. drivers and the U.S. Department of Energy forecasts strong growth in their adoption.

The Third Pillar: Transportation Infrastructure

These two pillars—vehicles and fuels—are critical components of an overall strategy. But there is a third: our surface transportation infrastructure itself.

Transportation and energy policy have historically been debated in two entirely separate spheres in American politics, and a coherent, unified strategy for the federal surface transportation system has largely been absent since the construction of the interstate highway system.

Characterized by indirect fees, misaligned incentives, overburdening regulations, and inefficient capital investments, today the system faces major funding, decision-making, and performance challenges. Road congestion in particular severely threatens the potential gains associated with more efficient vehicles and alternative fuels.

The nation's current federal surface transportation legislation—which funds more than $50 billion a year in highway and transit programs—expired in September 2009, and is currently operating under its seventh short-term extension, which expires on September 30, 2011. A growing confluence of factors makes the next surface transportation reauthorization bill a unique opportunity to improve our country's transportation strategy and to bring it into alignment with our national strategic energy interests. Those factors include: a growing bipartisan policy

consensus that status quo solutions are incapable of producing positive results; the fiscal collapse of the federal Highway Trust Fund (HTF), which has focused policy attention on alternative funding mechanisms; growing public discontent with deteriorating transportation performance; and advances in information technology.

In February of this year, the Energy Security Leadership Council released a new report. Entitled *Transportation Policies for America's Future*, this paper proposes reforms designed to transform the nation's transportation policy, introducing a more market-oriented model and instituting oil consumption as a key metric by which decisions are made and evaluated. The recommendations in the report are specifically intended to reduce sectoral oil consumption.

Performance Challenges

Transportation sector supply and demand imbalances have created widespread congestion across America's major metropolitan areas, adversely affecting business activity, negatively impacting quality of life, and substantially distorting development patterns.

The Texas Transportation Institute (TTI), the nation's largest university-affiliated transportation research agency, reports that drivers in metropolitan areas experienced 4.8 billion hours of delay in 2009, wasting 3.9 billion gallons of fuel. These figures are likely conservative as they do not account for fuel losses attributable to acceleration, deceleration, and idling—all common features of congested traffic. Even using these estimates, TTI calculates a total annual congestion cost of $115 billion nationwide in 2009, with 58 percent of the total cost occurring in the nation's largest 15 metropolitan areas.

Congestion affects freight as well as passenger automobiles. The surface transportation freight sector—commercial light trucks, freight trucks, and rail freight—consumes approximately 20 percent of total transportation sector oil consumption. Road freight accounts for approximately 90 percent of this amount and is the second largest consuming segment in the transportation sector after light-duty vehicles. The freight sector is forecast to grow in importance in the coming decades. In fact, according to the Federal Highway Administration (FHWA), the value of goods moved is expected to increase by more than 190 percent between 2002 and 2035. This is twice the expected growth rate of tonnage. This makes efficient and uncongested movement of goods through the U.S. transportation system even more critical. The current patchwork of regulatory requirements—for example those associated with truck size and weight—exacerbates the challenges faced by the freight sector and can also negatively impact overall oil use.

Prior to the recession, congestion levels had been rising steadily higher for more than a decade. Congestion once again rose in 2009 and conditions are expected to worsen as the economy strengthens. Unlike many other industrialized countries, the United States is expected to experience population growth between 2010 and 2030, with total population increasing by 20 percent, from 310 million people to a projected 374 million. Highway vehicle miles traveled (VMT) is expected to increase more than twice as fast as population over this period. U.S. urbanization increased at an annual rate of 1.3 percent between 2005 and 2010, and is expected to continue on a gradual upward trend through 2035. Total VMT is also forecast to increase by 56 percent between 2010 and 2035. There is currently not a single major metropolitan area in the United States that is projecting a reduction in congestion in its long-range transportation plans.

Modeling commissioned for our report estimates that, in the absence of action, between 2010 and 2020, the nation is projected to waste a total of more than 1.6 billion barrels of oil in the top 90 urban areas as a result of congestion—more than 300 times the quantity of oil that spilled into the Gulf of Mexico as a result of the Deepwater Horizon disaster and almost eight times the daily rate.

Funding Challenges

The current transportation funding regime relies on continually rising oil consumption to support increased spending. Federal fuel taxes are levied on a per-gallon basis and have not been increased since 1993. Since this time, their real value has decreased by approximately one-third. As the government mandates more stringent fuel economy standards and consumers continue to shift to more efficient and alternatively-fueled vehicles, the outlook for U.S. transportation system funding—90 percent of which comes from fuel taxes—is becoming increasingly unsustainable.

Yet as recently as 1998, the HTF was running such a large surplus that Congress transferred $8 billion from it to the general fund. In 2001, the HTF reached a cash balance historical high of around $20 billion. Since then, however, the balance has steadily declined simply because annual outlays are exceeding receipts collected. In 2009, the Highway Account ran a deficit of $7.3 billion after outlays of almost $38 billion. The Transit Account is smaller, but is also running deficits, with revenues of about $4.8 billion and outlays of $7.3 billion in 2009.

Recent actions taken by Congress have only provided a temporary solution. Over the last three years, Congress has enacted emergency legislation to support the HTF using general fund transfers of $34.5 billion. In 2008, $8 billion was transferred, followed by another $7 billion in 2009, and then another $19.5 billion in March 2010, which extended the funding for formula programs through to December 31, 2010. The Congressional Budget Office expects this transfer to support the existing contractual obligations of the highway and transit programs through 2013. More bailouts are likely to be necessary if the system is not restructured.

Road travel is severely underpriced. While drivers pay approximately 2 cents per mile in fuel taxes, the fully-burdened cost of driving in many urban areas significantly exceeds that amount. In essence, we have created a system that is not a free market—where supply and demand are allowed to meet at the true cost—but instead, at least to the consumer, often is treated as a free good. The result: perverse incentives, costs hidden in other taxes and the time and fuel wasted through congestion, and—ultimately—an inefficient and underfunded system. The market is not allowed to work, and the results are unsurprising.

For those of us concerned with energy security, there is another aspect of this funding system that is concerning. Federal programs allocate money to state DOTs using formulas that are functions of VMT and highway lane-miles. By linking VMT and highway mileage to funding (rather than, say, a measure of congestion or need), the current system is actually designed so that increased fuel consumption generates more highway funding. Alternatives to the current fuel tax funding system must be evaluated to address these significant problems and ensure a sustainable funding mechanism for the future.

Decision-Making Challenges

Surface transportation policy in the United States consists of a complicated array of federal, state, and local programs. Some flexibility exists to shift funding across modes and between institutions, but the complexity and limited overall transparency results in agencies often being judged by the amount of money they spend, the number of capital investments they make, or how much control they can manage to exert over a process. This institutional structure drives an excessive focus on specific projects at the expense of overall system performance.

The programs that different administrations oversee are funded either by formula ("apportioned") or through discretionary processes ("allocated"). In recent years, virtually all allocated programs have been earmarked by Congress, effectively eliminating any USDOT discretion. In SAFETEA-LU (2005), more than 6,000 earmarks accounted for around $24 billion of authorized spending. This represented approximately 12 percent of the $199.5 billion highway construction title of the bill—a substantially higher proportion than in earlier reauthorizations.

The result is a policy process focused on two fronts: states trying to re-work formulas to benefit themselves in apportionment calculations, and specific project sponsors lobbying aggressively for earmarks. Consideration for overall system outcomes has been virtually non-existent.

Apportioned funds typically permit recipients to exercise substantial flexibility to utilize federal funds on a broad range of transportation projects. Indeed, current law concentrates the majority of decision-making authority for projects at the state level. Unfortunately, many of the same forces that undermine an emphasis on performance at the federal level do the same at the state and local level.

Within states, enormous institutional battles rage between state DOTs, transit agencies, governors, mayors, MPOs, USDOT, and city DOTs, among others. Each of these entities claims important responsibilities, but no single entity is fully accountable for the success or failure of the entire transportation system in their region. Many of the most significant transportation challenges are located in metropolitan areas, and local officials may differ from their state counterparts on how best to address them. States and metropolitan areas are each required to develop transportation plans that identify specific projects and their relative priority. While these plans must be consistent, metropolitan areas that are not direct recipients of federal capital funding have limited leverage to alter priorities.

Once federal dollars are outlaid, there is no analysis as to whether a project actually improved the system in any measurable way. Instead, as long as a project appears on a plan, regardless of its rationale, it is considered an acceptable use of federal funds, assuming the project is eligible under Title 23 (Highways) or Title 49 (Transportation) of the United States Code.

Select Policy Recommendations

The policy recommendations we released in February provide a vision for the future of the U.S. transportation system that recognizes and emphasizes the importance of oil consumption as a guiding principle for reforming project selection and federal regulation. Our proposals aim to

promote smarter, more cost-effective capital investments in highways, advanced technologies, and transportation projects that encourage higher operating efficiencies and lower energy use.

Oil Metric

Current performance measures, including total cost of construction, lifecycle cost and transit fare box recovery, look only at financial costs and do not factor in externalities such as delay and oil use. A national oil savings performance metric would establish an important policy link between energy use and the transportation system. Large projects, and new capacity in particular, should be required to assess oil consumption impacts. By including the costs of oil consumption—and by extension, oil dependence and its negative consequences—into cost-benefit analyses, evaluations of potential projects will more accurately embody the overall impact of oil use.

A critical step towards this kind of performance-driven metric is data collection that is much broader, timelier, and more detailed than the current system employs. Implementing an oil metric—or other performance metrics—by which to choose and evaluate projects will require considerably upgrading USDOT's data and analytical capacity. It is vitally important that the federal government begin to research and collect much more detailed and textured data on traffic, energy, freight movement, household travel, and infrastructure conditions. The expanded use of advanced technologies in the transportation system, as well as available analysis software, could greatly aid in the collection of useful data.

Common approaches should be developed to address the range of costs at a programmatic level as well as at a project level. At a programmatic level, this analysis would assist policymakers in determining how transportation funds are allocated by program and by region. At the project level, they could assist planners in making better project selection decisions.

Metropolitan Programs

Despite covering just 20 percent of U.S. land, metropolitan areas contain more than 80 percent of the nation's population, and account for the majority of both vehicle miles traveled and gross domestic product.

Direct road pricing is a highly underutilized though proven near-term tool to reduce congestion. Compared to fuel taxes, road prices are much more visible signals regarding the costs drivers are imposing on roads and other users, and are therefore more powerful in influencing driver behavior. Critically, dynamic road prices can capture the different costs imposed at different times of day. Prices can be varied to incorporate the costs of providing, maintaining, and operating the infrastructure as well as roadway damage associated with vehicle weight, congestion impacts, and vehicle emissions. This, in turn, can better inform individuals about the true costs of their travel choices. Travelers will then be able to make more efficient decisions about how and when they use existing transportation infrastructure.

Pricing travel directly, as opposed to indirectly, has been demonstrated to positively influence driver decisions in a number of ways. Effective pricing will make off-peak travel cheaper and will encourage drivers to reschedule some discretionary trips or even change their commute times. Drivers have also shown a willingness to combine trips (running several errands per trip rather than taking several trips) or plan their trips more carefully (considering closer

destinations). Even pricing part of the network through a traditional turnpike or a high occupancy toll (HOT) lane network can create a congestion-free route or network that allows buses, freight and emergency vehicles to avoid traffic and provide higher-quality service, and generally reduces journey times for remaining drivers.

Some travel, such as commutes for people with rigid work schedules, is inelastic. However, as USDOT's National Household Travel Survey confirms, a large and growing percentage of drivers during rush hour are non-commuters. In fact, the majority of rush hour trips in the morning (56 percent) and evening (69 percent) are now made by non-commuters. And because traffic functions nonlinearly, reductions in peak period highway traffic levels of as little as 10 percent could all but eliminate recurring system congestion.

It is important to emphasize here that our goal is *not* to stop people driving. Our mobility is an enormous asset to the economy and an integral part of American life and freedom. What we want to do is create a more efficient system where ultimately people travel smarter (whether by personal vehicle or other means), consume less energy, and save money.

To make these kinds of systems work effectively, Electronic Toll Collection (ETC) technologies will have to replace manual toll booths, enabling electronic payment as vehicles pass tolling stations at near-highway cruising speeds. ETC uses recently-developed vehicle-to-roadside communication technologies, and requires onboard units. Vehicle detection and classification, and enforcement technologies are also used. ETC offers advantages in terms of lowered toll collection costs, fuel savings, faster services, reduced mobile emissions, and expanded data and revenue collection capacity without requiring more infrastructure.

Driver use of these systems is already widespread. On the four toll routes operated by the Illinois State Toll Highway Authority, 82 percent of tolls are paid electronically every day (using the I-Pass system), and almost 4 million transponders are currently being used by drivers. I-Pass, along with other electronic toll collection systems like Fast Lane in Massachusetts, M-Tag in Maryland, Smart Tag in Virginia, and i-Zoom in Indiana, have been integrated into the E-ZPass system, allowing interoperability across 24 agencies and 14 states. This technology quickly identifies vehicle classes and assigns them differentiated tolls according to several criteria, which also gives policymakers flexibility to minimize any specific impacts on low-income drivers or any other target population. It is also important to note that a transparent commitment to privacy protection would be critical as more vehicles become part of any such network.

In addition, travel demand management (TDM) practices, which promote alternatives such as carpooling and telecommuting, represent potential low-cost measures to achieve fuel savings. Carpooling, for example, is utilized by around 15 million drivers in the United States each year.

This initial focus on metropolitan-area congestion is addressed in the paper's recommendations through two specific programs.

The first, a new federal formula program, would be funded by consolidating and eliminating existing duplicative programs. The program would focus on improving transportation system performance in metropolitan areas specifically (including urban and suburban locations). It

would deploy leading technologies, implement pricing strategies, and target new capacity investments towards acute bottlenecks and other areas of greatest need. It would also encourage economically justifiable alternatives to traditional single-occupancy travel, like the electrification of transportation, and dedicate any surplus revenues generated beyond those needed to fully cover allocated system costs for reinvestment in projects tied directly to the achievement of overall performance objectives.

The second, a competitive discretionary program, would make funds available to congested metropolitan areas for comprehensive proposals that seek to design and deploy bold project solutions. These might include dynamic tolling projects and other travel demand management (TDM) initiatives. Performance-based technology investments that target a range of including advanced traffic signals, quick clearance of accidents, and improved driver information should also be considered.

Freight

In 2007, there were more than 4.6 trillion ton-miles of freight carried by air, truck, railroad, ship and pipeline in the United States—up almost 30 percent in the past 20 years. After decades of investment in the transportation system, freight transport has become a complex, multimodal network that moves more than 50 million tons of freight valued at $36 billion each day. Pervasive just-in-time logistics and the economy's continued shift from heavy industries towards services have changed the necessities of freight movement. The freight sector as a whole accounts for approximately 20 percent of total U.S. transportation sector energy consumption—a number forecast to rise through 2035.

While truck VMT increased more than 90 percent between 1980 and 2002, road lane-miles only increased 5 percent. The three metrics of capacity utilization—traffic density, average freight speed, and freight rates—all imply a growing long-term freight congestion problem regardless of the short-term congestion reprieve created by the recent recession.

Congestion in the nation's privately owned freight railroad networks presents different policy issues than those on the publicly owned and operated highway system, but there is little question that the railroad sector will struggle to keep up with demand. Between 1990 and 2009, freight rail transport increased from approximately 260 billion to over 400 billion revenue ton-miles.

Freight congestion is likely to spread over the coming years from metropolitan areas and major interstate corridors to a large portion of mid-sized cities and non-interstate routes between major cities. Between 2002 and 2035, the constant dollar value of goods moved is expected to increase by more than 190 percent, twice the expected growth of tonnage, increasing the cost of congestion to shippers (and by extension, consumers). Unlike traditional freight transport for heavy industry and bulk agricultural products, these high-value goods and just-in-time systems depend on fast and reliable transportation.

Beyond congestion, freight transport often suffers from conflicting stakeholder interests at the local and regional levels. Many freight corridors pass through residential communities and areas of high-density commuter traffic. The noise, pollution, and congestion from freight have engendered some public support for "getting trucks off the road."

USDOT has noted that as freight becomes an increasingly large share of total transport and relies on multimodal facilities, initiatives to improve passenger travel are less likely to have substantial freight co-benefits. While most passenger travel occurs locally, freight transport often occurs over long distances. In fact, two-thirds of the value of all freight crosses a state or international border.

Additionally, there is a significant regulatory mismatch between carrier networks and state DOT and EPA areas of jurisdiction. A train or truck may travel through a number of jurisdictions, each of which has different requirements and investment priorities. Yet states are often unwilling to invest in freight corridors that principally serve other states. This necessitates funding nationally-significant, freight-related initiatives that cut across state boundaries, something for which individual states rarely have a strong enough incentive to carry out under current operating constraints.

In our report, we suggest, among other things, the creation of a program to maintain and improve highway capacity outside of metropolitan areas and along major freight corridors. This program would focus on improving the efficiency of freight and goods movement, allocating funds to investments that have a substantial impact on interstate commerce and energy savings, and are consistent with overall performance objectives established in statewide transportation plans.

The current federal legislative freeze on states expanding carrier flexibility under their commercial truck size and weight laws is another instance where reform provides great potential for energy savings. This topic has been the subject of much controversy over the years, with safety, energy, industry, and other stakeholders being unable to reach any consensus on a different approach. USDOT and studies by others have shown that while the use of larger and heavier trucks reduces unit fuel economy, fewer trucks are required to transport the same total quantity of freight. This results in total VMT savings that more than offset the diminished fuel efficiency.

There are many potential reforms of federal truck size and weight regulations that could offer significant benefits without compromising safety. I would like to highlight one such measure: federal length regulation changes that would allow for 33 foot twin trailers. The use of 33 foot twin trailers as compared to 28 foot twin trailers would allow a carrier, on any given lane, to grow shipments up to 18 percent before adding incremental miles. According to a FedEx analysis, this could reduce annual fuel consumption by as much as 214 million gallons, all without the need for updated infrastructure or even changing the current federal gross vehicle weight limit of 80,000 pounds.

Review Process

Related is the regulatory review process by which projects are deemed to have met the requirements of the National Environmental Policy Act of 1969, or NEPA. In order for the set of proposals we have outlined to be truly effective in reducing oil consumption—and for performance metrics to be meaningful—project approval must be focused and streamlined. The NEPA process should not be a multi-year conduit for general assessment of project worth, but rather an efficient and timely evaluation of its environmental impact.

Typically, this review process—from the date that the Notice of Intent is signed to the signing of the Record of Decision—takes longer than five years to complete for major projects. Given the current resource constraints at the state level, many projects must either finance themselves from project-related revenues or not proceed. Analyzing an array of financially unviable alternatives to a self-financing project makes little sense and wastes resources.

Other approaches could be piloted. These might include, for example, a negotiation-based process in which key stakeholders would reach a negotiated agreement after taking into account the environmental impacts and analysis of alternative options. If stakeholders are given actual negotiating rights—as opposed to only the power to delay the process that they have today—they can negotiate better up-front mitigation packages by reducing the enormous costs associated with these delays.

Conclusion

The U.S. transportation sector and U.S. energy use are, to a very significant extent, irrevocably linked. The current approach to policymaking is unsustainable for the U.S. transportation system, national energy security, and the growth of the American economy.

Our efforts must therefore be focused on developing transportation policies that transform the way projects are funded and chosen, using oil consumption as a principal metric. Reforms are also required to promote smarter, more cost-effective capital investments in highways, advanced technologies, and other transportation projects that encourage higher operating efficiency and lower energy use. Policies to promote more stable road speed conditions in particular are crucial to lowering sectoral oil consumption. Urban congestion pricing programs, an expansion of tolling projects, and alternatives to the current fuel tax regime will help address efficiency and funding challenges, in addition to ongoing performance-related concerns.

I understand that this remains a challenging time for suggesting reform and even limited government expenditures for any projects, no matter how worthwhile. And I would emphasize that the infrastructure policies we recommend today are not designed, at least in the short term, to increase the total pot of money available for transportation projects, but instead to improve how those projects are designed, chosen and evaluated. We are not arguing for more, but instead for better.

That said, when widening beyond infrastructure to a full and comprehensive solution set, I would add this: we cannot sit idle while oil dependence continues to threaten our economy and security. Inaction is, simply put, inexcusable. Each of the three pillars I have identified today—fuel efficiency, fuels (both alternatives like using electricity for transportation and domestic production), and infrastructure—represent part of a comprehensive strategy that we must—must—undertake if we are to safeguard our nation and our future.

What happens if we do nothing? In the midst of a well-supplied oil market and weak oil demand growth in developed economies, the United States spent more than $265 billion on net petroleum imports in 2010. For the third straight year, and despite the economic difficulties this nation has faced and is still facing, that accounted for over 50 percent of the total U.S. trade deficit. At the

same time, most analysts expect the medium and long term to be characterized by rapid oil demand growth in emerging markets coupled with weak increases in global oil production capacity. The result will be a return to tight oil markets and volatile oil prices in the future. The IEA expects this scenario to play out by 2014. Other analysts expect the crunch to come this year. With supplies offline in Libya, we are receiving an early warning signal, and things could get much worse. Libya only represents about 2 percent of global oil production, and yet violence there has pushed oil up past $100 per barrel. More unrest in an even more important oil producing nation would be catastrophic.

Here is what I know, as the leader of a company that both depends on and helps to strengthen the mobility upon which our global economy is built: we must look at this problem from every angle. We must produce more oil at home. We must use oil more efficiently. We must, eventually, transition to cars and trucks that use no oil at all. And we must have a transportation system in which assets are allocated based on needs and costs aligned with use, helping to restore the mobility upon which our dynamic economy depends. Each step is possible. Each step is realistic. And each step is critical.

Thank you for your attention.

Senator BAUCUS. Thank you, Mr. Smith.
Next, Hon. Sharon Thomas.

STATEMENT OF HON. SHARON THOMAS, COUNCILWOMAN, CITY OF LAS CRUCES, NM

Ms. THOMAS. Good morning, Senator Baucus and Members of the committee. Thank you for the opportunity to appear before you today.

I am a retired English professor who moved to Las Cruces, NM in 2003. In 2007, I ran for city council and was elected. Las Cruces is a town of 97,618 (we just got our 2010 census) located in the Mesilla Valley between the Organ Mountains and the Rio Grande, 45 miles north of El Paso, TX. Las Cruces has received several awards, including ranking from *Money* Magazine as one of the best college towns to retire in, and from AARP as one of the dream towns for retirement.

Since election to the City Council, I have served on the Metropolitan Planning Organization, the South Central Regional Council of Governments, and on our newly formed South Central Regional Transit District.

When I first moved to Las Cruces, my interest was focused more on planning neighborhoods where residents could live, work and play. Since that time, I have come to realize that it is all connected. How a community is laid out, roads, transit, pedestrian and bicycling facilities, open space, public areas, commercial areas, housing choices, economic development, health issues are all related.

So, of course, when the Environmental Protection Agency, Housing and Urban Development, and the Department of Transportation formed the Partnership for Sustainable Communities, I knew I had found the model for combining land-use and transportation planning.

In 2009, our project, Picturing El Paso, was one of four chosen to participate in EPA's technical assistance program to help us develop a vision for the street that connects our downtown and New Mexico State University. When EPA joined the Sustainable Communities Partnership, our project, Picturing El Paso, became part of that program as well.

During 2010, we worked with our Federal partners and community participants to develop our vision. In that vision, El Paseo Road would be transformed from a vehicle-clogged, dying, strip mall-lined street into a mixed-use pedestrian and bicycle-friendly, tree-lined boulevard with multiple transportation options, a range of housing choices, and plenty of public gathering places. This is what the community told us they wanted.

At our Transportation Summit in September 2010, we heard similar messages from the over 100 in attendance. We passed on those suggestions to Secretary Ray LaHood when he visited our city in October 2010.

In New Mexico, too often, transportation planners have torn out our Main Streets in order to get better traffic "flow" blow and destroyed our small towns. We want to see transportation planning that takes into a account all users of the roadway, as well as the surrounding context of that roadway.

As part of the Surface Transportation Authorization, we would like to see financial support for livable community projects such as the recent TIGER grants that can help us build communities that are safer, more livable, and welcoming to everyone.

As the Coalition for Sustainable Communities has grown across the country, we have noticed the addition of one more adjective, healthy. In Las Cruces, we are particularly interested in healthy, sustainable communities because of our high rates of childhood obesity and diabetes.

When schools are not accessible by biking and walking, students lose an important daily opportunity to exercise. Unfortunately, the schools in our city have typically been located on busy streets, fenced off from surrounding neighborhoods, and primarily designed for students to be dropped off by vehicle.

Our Safe Routes to School Program is changing all that. We now have walk and bike to school programs, bicycle safety classes, more bike lanes and bike racks, and better sidewalk markings.

As Congress moves toward Surface Transportation Authorization, we would like to see greater recognition of the impact transportation planning has on the health of communities and more support for programs like the Safe Routes to School Program.

Certainly, our local projects cannot continue without a new Surface Transportation Authorization. As you move forward with that legislation, I hope you will recognize the impact that transportation facilities have on all aspects of our communities, and work toward a new vision for transportation legislation and policies that do away with the silos that currently exist between land use and transportation planning so that we can promote communities that are healthy, livable, and sustainable.

Thank you for the opportunity to appear before you today. I am looking forward to a new Surface Transportation Authorization that will coordinate transportation planning with housing, land-use planning, and economic development so that all Americans can live in healthy, sustainable communities.

[The prepared statement of Ms. Thomas follows:]

Statement of
The Honorable Sharon Thomas
Councilwoman; Mayor Pro Tem
City of Las Cruces, NM

Before the
Committee on Environment and Public Works hearing on
"Issues for Surface Transportation Authorization"

April 14, 2011

Chairwoman Boxer and Members of the Committee:

Thank you for the opportunity to appear before you today. I am a retired English professor who moved to Las Cruces, New Mexico, in 2003. In 2007, I ran for city council and was elected.

Las Cruces is a town of 97,618 (2010 census), located in the Mesilla Valley, between the Organ Mountains and the Rio Grande, 45 miles north of El Paso, Texas. Las Cruces has received several awards including rankings from *Money* magazine as one of the "best college towns to retire in" and from AARP as one of their "dream towns" for retirement.

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When I first moved to Las Cruces, my interest was focused more on planning neighborhoods where residents can live, work, and play. Since that time, I have come to realize that it's all connected.

How a community is laid out—roads, transit, pedestrian and bicycling facilities, open space, public areas, commercial areas, housing choices, economic development, health issues—are all related. So, of course, when the Environmental Protection Agency (EPA), Housing and Urban Development (HUD), and the Department of Transportation (DOT) formed the Partnership for Sustainable Communities, I knew I had found the model for combining land-use and transportation planning.

In 2009, our project, Picturing El Paseo, was one of four chosen to participate in EPA's technical assistance program to help us develop a vision for the street that connects our downtown and New Mexico State University. When EPA joined the Sustainable Communities Partnership, Picturing El Paseo became part of that program as well.

During 2010, we worked with our federal partners and community participants to develop our vision. In that vision, El Paseo Road would be transformed from a vehicle clogged, dying, strip-mall-lined street into a mixed use, pedestrian and bicycle friendly, tree-lined boulevard, with multiple transportation options, a range of housing choices, and plenty of public gathering places. That is what the community told us they wanted.

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In New Mexico, too often, transportation planners have torn out our Main Streets (for better traffic "flow") and destroyed our small towns. We want to see transportation planning that takes into account *all* users of the roadway, as well as the surrounding context for that roadway.

As part of the Surface Transportation Authorization, we would like to see financial support for livable communities projects, such as the recent TIGER grants, that can help us build communities that are safer, more livable, and welcoming to everyone.

As the coalition for sustainable communities has grown across the county, we have noticed the addition of one more adjective—"healthy." In Las Cruces, we are particularly interested in *healthy*, sustainable communities because of our high rates of childhood obesity and diabetes.

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Our Safe Routes to Schools program is changing all that. We now have walk and bike to school programs, bicycle safety classes, more bike lanes and bike racks, and better sidewalk markings.

As Congress moves forward on Surface Transportation Authorization, we would like to see greater recognition of the impact transportation planning has on the health of communities, and more support for programs like the SRTS program.

Certainly, our local projects cannot continue without new Surface Transportation Authorization. As you move forward with that legislation, I hope you will recognize the impact transportation facilities have on all aspects of our communities, and work toward a new vision for transportation legislation and policies that do away with the silos that currently exist between land use and transportation planning so that we can promote communities that are healthy, livable, and sustainable.

Thank you the opportunity to appear before you today. I am looking forward to a new Surface Transportation Authorization that will coordinate transportation planning with housing, land use planning, and economic development so that all Americans can live in healthy, sustainable communities.

Senator BAUCUS. Thank you very much, Ms. Thomas. I appreciate your testimony.

Senator, do you want to introduce your witness?

Senator SANDERS. Thank you very much.

I want to welcome Brian Searles, Vermont's new secretary of transportation. He has only been on the job for a few months, but he is certainly familiar with transportation issues. In fact, this is his second stint as transportation secretary during more than 40 years of public service. He is really one of the more knowledgeable public servants that we have in the State, working in a variety of areas.

Recently, he was the director of the Burlington International Airport. He has been a police chief. He has been a city manager. He has been director of the Vermont Criminal Justice Training Council, the State commissioner of Personnel, and the deputy secretary of administration.

So we thank him very much for joining us today.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator.

Mr. Searles, why don't you proceed?

STATEMENT OF BRIAN SEARLES, SECRETARY, VERMONT AGENCY OF TRANSPORTATION

Mr. SEARLES. Thank you, Chairman Baucus, Ranking Member Inhofe and other Members of the committee. I am pleased to have the opportunity to talk about a few transportation challenges facing small States and rural areas. I believe the challenges we face are critical considerations as we move toward the next Transportation Reauthorization bill.

Both the quality and quantity of the transportation systems that serve small States and rural areas have steadily eroded over several decades. Economic and demographic shifts, coupled with long-term under-investment have all had detrimental impacts on mobility, economic opportunities and the quality of life for rural residents.

One challenge I want to emphasize today is that of maintaining infrastructure in northern-tier States. Maintaining transportation infrastructure has always been a challenge, and according to the Federal Highway Administration, 80 percent of the national road network is rural roads, accounting for 3.1 million miles of the U.S. transportation system.

City and county governments, which rely heavily on State DOT funding, are responsible for 95 percent of unpaved and 55 percent of paved roads. While most States have a backlog of deferred paving projects, these backlogs are particularly pronounced in small States and rural areas that receive a disproportionately smaller share of Federal transportation transfers, even with the minimum set-aside supplement.

As you know, Mr. Chairman, States with severe winters and temperature variations are even more prone to higher roadway maintenance costs, the corroding effects of salt, liquefied snow removal agents, coupled with continued freeze-and-thaw cycles and the wear and tear of snow removal for highway safety adds significantly to the cost of roadway maintenance budgets.

Another rural challenge is inadequate bridge structures. Approximately 30 percent of Vermont's nearly 2,700 long bridge structures are considered structurally deficient or functionally obsolete.

Per capita, rural States maintain significantly more bridge miles than the national average. For example, Vermont maintains 429 square feet of Interstate bridges per capita, 33.2 percent above the national average, ranking 11th among the States.

Of course, this leads to a discussion of money, and compounding the money challenges for small and rural States is the very limited ability to raise additional revenues to close funding gaps through, for example, public-private partnerships or tolls.

Transportation has an inordinately high impact on household budgets in rural areas due to sprawling land-use patterns that date back to farm economies in existence for over 200 years. Residents of rural States travel longer distances to worksites and needed services such as health care and employment training. Rural residents also tend to have lower incomes than the national average. This affects family budgets and transportation costs account for the second-highest spending category after housing costs. These family budgets are increasingly under strain due to high energy costs.

The demographic trends of rural areas are also different from urban areas and exacerbate transportation challenges. Most rural States are aging and the share of residents over 65 account for a significantly rates than their urban counterparts. As older residents require more transportation services, providing those services to sparsely populated areas will cost even more in the future.

Rural States, especially border States, play an increasingly important role in the movement of goods and the enhancement of national and global trade. This leads to concerns about roadway maintenance costs along the national highway system. Over 40 percent of Vermont's freight are through-flow trips that neither originate or are destined for Vermont.

Environmental challenges require transportation policies to support strategies to modernize vehicle fleet efficiencies and reduce vehicle miles traveled. The steady increase in VMTs from the 1970's to the 1990's has begun to stabilize. Moreover, consumers have begun to purchase more fuel-efficient vehicles and the Nation's fleet will continue to meet the higher efficiency standards. Since our funding is related mostly to a per-gallon gas tax, the problem here is that our environmental goals run counter to our transportation funding and will cause problems in the future.

Very quickly, what to do about this? Some suggestions I would make is that through the Reauthorization Bill, we concentrate on those systems that can connect small or mid-size communities to the national surface transportation network because without a healthy transportation system, the Nation's metropolitan areas will also suffer.

I order to ensure the viability of small State and rural transportation systems, we need to reinvent funding mechanisms and not be too dependent on that per-gallon gas tax.

There is also a need to streamline Federal funding and the regulatory process and allow flexibility in shifting funds between modes. Small and rural States provide operating funds to transit

and rail systems that pay a high portion of their State transportation funds toward these critical modes.

Finally, I would encourage you to support major regional and national initiatives that have transportation advantages of connecting small States and rural areas to larger cities. As an example, the national rail corridor, Northeast Rail Corridor has the potential to redefine future modal splits and reduce our dependence on the automobile. Raising transit and rail ridership will benefit our Nation's highway network as well.

I know you have a huge task in front of you and I want to wish you the best in your efforts to maintain and improve our Nation's transportation system, and thank you for listening.

[The prepared statement of Mr. Searles follows:]

United States Senate Committee on Environment and Public Works
Senate Testimony: Brian Searles, Secretary, Vermont Agency of Transportation.
Transportation Challenges in Small States and Rural Areas
April 14, 2011

Chairwoman Boxer, Ranking Member Inhofe, and Members of the Committee, thank you for the invitation to appear before you today to hear key transportation challenges facing small states and rural areas. I believe the challenges we face are critical considerations as we move towards the next transportation reauthorization bill.

Although I represent the State of Vermont, the issues facing small states and rural areas apply throughout the nation. From Arkansas to Wyoming, and Alabama to Oregon, the challenges of an aging infrastructure, increasingly dispersed and aging population will only be exacerbated in the future.

Both the quality and quantity of the transportation systems that serve small states and rural areas have steadily eroded for many decades. Economic and demographic shifts, coupled with long term underinvestment, have all had detrimental impacts on mobility, economic opportunities and the quality of life of rural residents.

1) **Challenge in maintaining transportation infrastructure in northern tier winter states – rural challenges**

Maintaining transportation infrastructure has always been a challenge. According to the Federal Highway Administration 80% of the national road network are rural roads, accounting for 3.1 million miles of the U.S. transportation system. Rural roads carry about 40% of vehicle miles traveled. City and county governments – which rely heavily on State DOT funding - are responsible for 95% of unpaved and 55% of paved roads[1]. While most states have a backlog of deferred paving projects, these backlogs are particularly pronounced in small states and rural areas that receive a disproportionately smaller share of federal transportation transfers, even with the minimum set-aside supplements.

States with severe winters and temperature variations are even more prone to exacerbated roadway maintenance costs. The corroding effects of salt and liquefied snow removal agents, coupled with continued freeze and thaw cycles and the wear and tear of snow removal for highway safety, add significant cost to roadway maintenance budgets.

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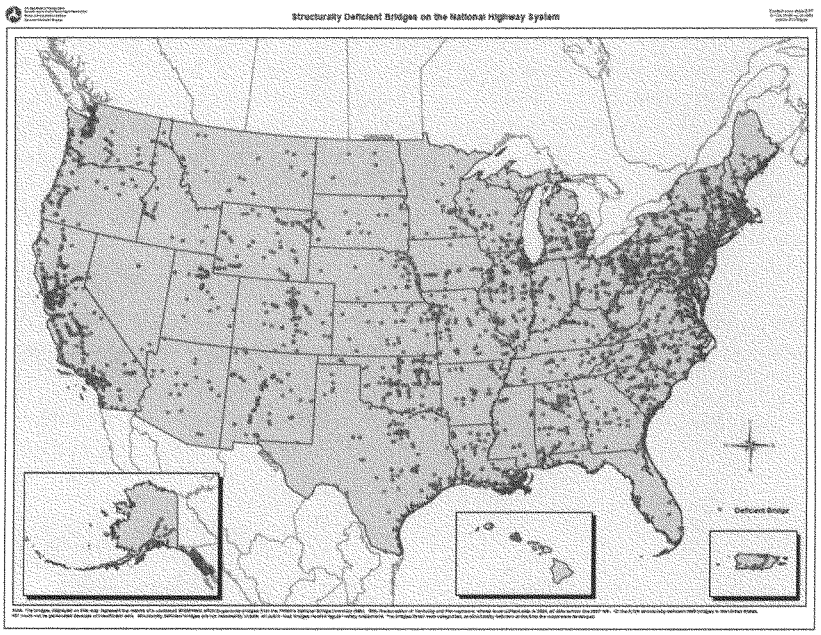
[1] Rural Policy Research Institute (2011): *Rethinking Federal Investments in Rural Transportation: Rural Considerations Regarding Reauthorization of the Surface Transportation Act*, p.9
http://www.rupri.org/Forms/RUPRI_Transportation_April2011.pdf

Much attention has recently been focused on inadequate bridge structures. According to the FHWA, there are 55 structurally deficient bridges along Vermont's National Highway System alone[2]. Approximately 30% of Vermont's 2,694 long structure bridges are considered structurally deficient or functionally obsolete[3]. Vermont ranks 42nd among the 50 states for the percentage of structurally deficient bridges. This is due, in large part, to the age of Vermont's bridge network. Many bridges were replaced bridges flooded in 1927 and are now in need of replacement or major rehabilitation. Interstate bridges are approaching 50 years of age and are now in need of significant rehabilitation.

As I look at a map of the nation's deficient bridges, I see similar high numbers in Nebraska, New York, Oklahoma, and other states with large rural populations.

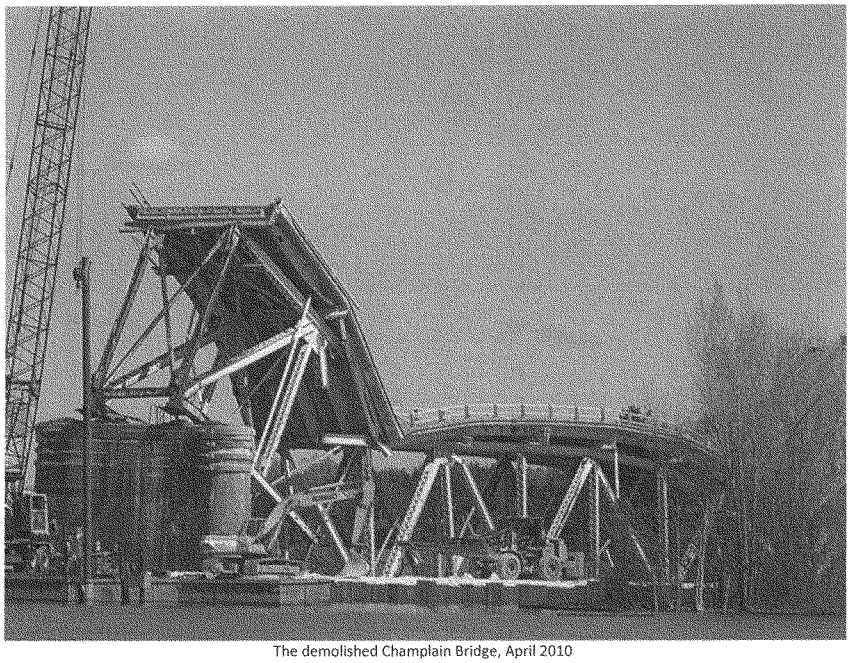


http://www-nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/stsi/50_VT/2009/50_VT_2009.htm

[2] Research and Innovative Technology Administration (2011): *Structurally Deficient Bridges*. http://www.bts.gov/programs/geographic_information_services/maps/structurally_deficient_bridges_on_the_national_highway_system/vt/html/vt.html

[3] Vermont Agency of Transportation (2011): *2011 Structures Section Annual Report*. http://www.leg.state.vt.us/reports/2011ExternalReports/263513.pdf

A recent example of how failing to replace structurally deficient bridges can impact communities is seen in Vermont. In 2009, an inspection performed on the Champlain Bridge (also referred to as the Crown Point Bridge) revealed that two of the bridge's support piers were not structurally sound. As a result, the bridge was immediately closed to all traffic on October 16, 2009. The emergency bridge closure has impeded vital transportation links between New York and Vermont communities, and has impaired trade flows from surrounding states and Canada.



The demolished Champlain Bridge, April 2010

In rural states, such as the case in Vermont, there can be few detour options, creating significant dislocation for commuters and businesses. In the case of the Champlain Bridge, the closure resulted in residents from New York and Vermont having to add over 100 miles per day to their drive to work, schools and hospitals.

Another illustration of this challenge is the sheer scale of maintaining interstate bridges. Per capita, rural states maintain significantly more bridge miles than the national average. For example, Vermont maintains

429 square feet of Interstate bridges per capita, 33.2% above the national average, and ranks 11th among all states[4]. The top 10 are all rural states or states with significant rural populations:

1) Louisiana
2) Wyoming
3) Hawaii
4) Montana
5) Alabama
6) West Virginia
7) Arkansas
8) Mississippi
9) Kansas
10) Connecticut

In addition to the list of the current structurally deficient bridges, the next decade will present us with unprecedented maintenance requirements for other bridges. These maintenance requirements will come during a time of severely constrained resources. Without adequate funding necessary to perform this maintenance, the list of structurally deficient bridges will grow longer.

Maintaining rail infrastructure is also a challenge for small and rural states. Deregulation in the railroad industry in the 1970s resulted in the abandonment of many short lines in rural states. A number of states had to acquire abandoned rail lines to ensure continued freight service and intercity passenger rail, and today deal with the same deferred maintenance requirements seen with highways and bridges.

Compounding the funding challenge is that small and rural states have very limited ability to raise additional revenues to close funding gaps, through, for example, public-private partnerships or tolls. We know that a minimum of 30,000 Annual Average Daily Traffic is required for tolls just to recover start-up and operation costs. Vermont only has one highway that carries that level of traffic volume, and it is surrounded by state roads that travelers can use to bypass tolls.

2) Impact of transportation problems to households.

Due to sprawling land use patterns that date back to farm economies in existence for over 200 years, residents of rural states travel longer distances to worksites and needed services, such as healthcare and employment training. Rural residents also tend to have lower incomes than the national average. This affects family budgets as transportation costs account for the second highest spending category, after housing costs. (Among the lowest 20 percentile income bracket, transportation costs account for 42% of family budgets)[5]. And these family budgets are increasingly under strain due to high energy costs. As we talk here today, the average price of gasoline is approaching $4/gallon. Dependence on driving and

[4] Analysis conducted by the Vermont Agency of Transportation based on the U.S. Bureau of the Census 2009 State population counts and the FHWA National Bridge Inventory (December 2010)
[5] Rural Policy Research Institute (2011), p.7

longer commutes is the major reason why over 44% of all Green House Gas emissions in Vermont are generated by the transportation sector, a rate you will find in other rural states.

The demographic trends of rural areas are also different from urban areas, and exacerbate transportation challenges. Most rural states are aging, with the share of residents 65 and over accounting for a significantly higher rate than their urban counterparts. As older residents require more transportation services (i.e. transit services to medical appointments), providing those services to sparsely populated areas will cost even more in the future.

Lack of density has been one of the biggest challenges in developing public transit networks in small and rural states as it is difficult to build the critical mass to provide cost-efficient transit services. People with low-incomes, the elderly, and those living with disabilities in rural communities need transportation options that allow them to access job and educational opportunities, medical facilities, and normal day-to-day interaction with friends and family. Yet federal statistics show that more than 1.6 million rural households do not have access to a car and 38% live in areas with no public transport[6].

3) Impacts to economic prosperity (interstate and international trade)

Rural states, especially Border States, play an increasingly important role in the movement of goods and the enhancement of national and global trade. Federal laws, such as the North American Free Trade Agreement, and general growth in global trade, have led to major increases in freight, particularly heavy truck traffic. , This leads to concerns about roadway maintenance costs along the National Highway System. Over 40% of Vermont's freight flows are through flows – trips that neither originate nor are destined for Vermont[7]. This rate is even higher for international trade – 67% of all flows originate or are destined for other states. Vermont, like many rural and border states, is therefore critical for the movement of goods between states and to international markets.

Despite this critical role in economic trade, the net result of these increased traffic flows is higher maintenance costs for our highways and bridges, exacerbating our other transportation challenges.

Vermont is currently involved in a federal pilot study that I believe is critical to ensure the efficient flow of freight to other states. Our federally allowed interstate weight limits is currently 80,000lbs, substantially lower than neighboring jurisdictions. Through a combination of grandfathered regulations (New York), federal exemptions (New Hampshire), and raised weight limits (Quebec), Vermont now finds itself an island among its neighbors. The lower interstate weight limit has resulted in heavy trucks using the state highway network. Many state roadways were not designed to handle heavy trucks, particularly through village centers and historic downtowns. This is impeding interstate and international trade, as well negatively affecting the quality of life of many rural communities.

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[6] Rural Policy Research Institute (2011), p.7
[7] Vermont State Freight Plan (draft)

4) Highway Safety

With high levels of vehicle miles travelled in rural states, highway safety is also a high priority. Dependence on automobile travel has historically been correlated with higher accident rates. According to National Highway Traffic Safety Administration data (2009), Vermont's fatality rate per 100,000 in population was 8% above the national average[8]. NHTSA data shows similar above-average rates for other rural states with high VMT.

Signage is a particular concern as the ability to provide and maintain signage is escalating in costs. Signage is critical for both the mobility and safety of the traveling public.

5) Transportation Funding Dilemma

Environmental challenges require transportation policy to support strategies to modernize vehicle fleet efficiencies and reduce Vehicle Miles Travelled (VMT). The steady increase in VMTs of the 1970-1990's has begun to stabilize. Moreover consumers have begun to purchase more fuel-efficient vehicles and the nation's fleet will continue to meet higher efficiency standards. Fuel-efficient vehicles and VMT reductions have an immense positive impact in reducing energy use and Co2 emissions. However, current transportation funding is largely based on gasoline taxes that pay for road and bridge improvements. Under the current funding formula, increases in more energy-efficient vehicles will result in less funding to maintain critical transportation infrastructure. Both federal and state revenues will continue to decline, even as the safety of our roads and bridges are further compromised by underinvestment. Transportation funding strategies at the state and national level must address this dilemma.

Recommended Actions

The upcoming reauthorization provides an opportunity to modernize, strengthen, and integrate transportation systems that connect rural residents and places to each other and to the wider world, and to improve transportation, economic development and quality of life for rural residents.

A) Increase overall funding

It has become clear that formula funds are insufficient to meet the current and future transportation system needs of small states and rural areas. Public-private partnerships and tolls, particularly those that rely on heavy use, are not viable in rural areas.

The rural federal-aid highway system connects small and mid size communities to the national surface transportation network and international trade. It is an integrated system that ties the nation together. Without a healthy transportation system, the nation's metropolitan areas will also suffer.

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[8] National Highway Traffic Safety Administration (2011): State Traffic Safety Information (FY 2009) http://www-nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/STSI/USA%20WEB%20REPORT.HTM

In order to ensure the viability of small state and rural area transportation systems, we need to reinvent funding mechanisms and not be too dependent on per-gallon gas tax. If this means user charges (i.e. per-mile) it must also be sensitive to the needs of low-income rural residents who drive long distances for work and other services, and cannot afford the latest fuel-efficient vehicles.

We also need to take into account the added funding needs of Border States, which bear a disproportionally higher burden of transportation system maintenance, for benefits that accrue to the nation as a whole.

B) Streamline funding to allow for flexible uses (allow operating)

The complexity and diversity of small states and rural areas, and the associated variety of needs and expectations for transportation, also call for flexible and integrated responses to federal funding.

There is a need to streamline federal funding and the regulatory process to allow flexibility in shifting funds between modes, including the ability to use more federal funding towards the operations of rural public transit systems and passenger rail. Small and rural states that provide operating funds to transit and rail systems pay a high portion of their state transportation funds towards these critical modes. Flexibility is needed in federal programs such as CMAQ to allow operating funds to be shifted towards these modes on a permanent basis.

We must also be proactive and plan for future technologies that will decrease our carbon footprint. For example, the energy-efficient vehicles that will be produced by the nation's auto manufacturers will require electric vehicle charging stations and support infrastructure. State DOT's should be allowed to develop their own programs, with federal assistance, including incentives for energy efficient drive-trains and infrastructure.

I would also suggest continuing and expanding the scope of federal programs that have had a big impact on the nation's energy use and CO2s. The cash for clunkers program, for example, resulted in significantly reducing the number of older, less efficient vehicles on our highways. The modernization of automobile fleets also had the direct benefit of sustaining and creating jobs in the nation's auto manufacturing heartlands, such Michigan, Ohio and Tennessee.

C) Support major initiatives that are regional and national in scope

I would also encourage you to support major regional and national initiatives that have transportation advantages of connecting small states and rural areas to larger cities. For example, the Northeast Rail Corridor has the potential to redefine future modal splits, and reduce our dependence on the automobile. Raising transit and rail ridership will benefit our nation's transportation network.

Finally, we hope for your support in making permanent Vermont's Interstate Pilot project. Streamlining interstate weight limits is critical for the nation's continued economic prosperity.

I hope the challenges I discussed today and their proposed solutions are taken into account during the next reauthorization.

Thank you for your time today.

Brian Searles, Secretary
Vermont Agency of Transportation

Senator BAUCUS. You bet, Mr. Searles. Thank you very much.

I notice that the Senator from Rhode Island is here with a big smile on his face. I think he would like to introduce our next witness.

Senator WHITEHOUSE. I would be delighted to, Mr. Chairman. I thank you and the Ranking Member for this opportunity.

Michael Lewis is our director of Transportation in Rhode Island and I am very pleased that he is here joining the panel. He is a very talented individual. Many of my colleagues will know, Rhode Island has been hit with particularly tough economic times.

Into a 12 percent unemployment rate, Michael was able to lead the Rhode Island Department of Transportation to be the most efficient and fastest at getting out the Recovery Act funding into Rhode Island, supporting literally thousands of jobs, some cases very creatively, by investing in projects that kicked off much more significant private sector development that would not have been possible had the access not been provided with the stimulus work. There is a project in Johnston in particular that I remember opening with him where there were literally tens of millions of dollars freed up and put to work in the private sector because of the stimulus funds that he deployed there to open up the area that needed the rehabilitation.

We also had the worst floods in living memory in Rhode Island and the response of the Department of Transportation in Rhode Island was so good that the U.S. Department of Transportation has chosen the Rhode Island response as its sort of best practice model going forward.

So he brings a great deal of talent and I am delighted to have the chance to introduce him.

Thank you for being here, Michael.

Senator BAUCUS. Your State has set a very high standard for you to follow.

Mr. LEWIS. That is a lot to live up to.

STATEMENT OF MICHAEL LEWIS, DIRECTOR, RHODE ISLAND DEPARTMENT OF TRANSPORTATION

Mr. LEWIS. Thank you, Mr. Chairman, Members of the committee, Senator Whitehouse.

Senator SANDERS. I want to point out that I was a civil engineering student at UVM when you were Mayor of Burlington, so it is nice to see you again. A lot of time has passed.

My name is Michael Lewis. I am the director of the Rhode Island Department of Transportation. I am also on the Board of Directors of the Rhode Island Public Transit Authority, the Rhode Island Turnpike and Bridge Authority, and the Rhode Island Public Rail Corporation.

Today, I will focus my testimony on three main points. First of all, Rhode Island has made great strides in effectively managing our transportation system using all the tools and resource currently available. Second, despite sound and hopefully creative management efforts, Rhode Island is still facing a critical crisis in preserving and rehabilitating our existing infrastructure. Third, Rhode Island will need an increase in funding at Federal and local levels, and more flexibility in the use of Federal resources in order to

make progress in bringing our highway infrastructure into a state of good repair.

Rhode Island, I hope, has effectively and efficiently managed its transportation resources using innovative approaches, including the use of TIFIA loans, GARVEE financing, and performance measures. Using the tools and resources we have had available, we have relocated a major portion of Interstate 95 and Interstate 195 in the heart of Providence with very little disruption to traffic during that undertaking.

We have undertaken a freight rail improvement project that has led to the expansion of commuter rail service from Boston to Providence and points further south in Rhode Island, including a direct connection to T.F. Green Airport, the closest rail-air connection in the country. We are currently replacing vital bridge links to Aquidneck Island that leads to Newport, the biggest tourist destination in the State.

Rhode Island's transportation infrastructure suffers from underinvestment, a national issue not just a Rhode Island issue. A December 2008 Governor's Blue Ribbon Panel Report entitled Rhode Island's Transportation Future: Reinvesting in our Transportation System stated that in order to maintain our highway system in a state of good repair, without adding additional capacity, just a state of good repair, the State would need to invest $3 billion over 10 years, a doubling of our current investment just to get into a state of good repair.

The gap continues to widen as the cost of construction materials increases, revenue derived from gas tax decreases, and the infrastructure continues to age and deteriorate. Decades of underinvestment in maintenance has resulted in a downward spiral of condition of the highway infrastructure. At the time of the report, over 20 percent of Rhode Island's bridges were structurally deficient, nearly 30 percent were functionally obsolete, 8 percent were posted, and nearly 2 percent were closed.

One of our embarrassments for the State, quite frankly, is an Interstate 95 bridge in the city of Pawtucket that has been posted with a weight limit of 18 tons for the last 3 years. We are currently undertaking a replacement of that bridge, but that is a major economic impact on not just Rhode Island, but the New England region because it is right on the I–95 corridor.

Just south of that bridge that is being replaced right now, in the city of Providence we have a structure called the Providence Viaduct, also on I–95 suffering similar conditions, currently not posted, but in the very near future it will be likely be posted unless we are able to find the funds to replace it. The cost of replacing that structure would equal our total Federal apportionment for a year in the State of Rhode Island, one bridge structure in the city of Providence.

The Providence Viaduct has undergone some repairs, but replacement is now the sole option and we need to find flexible funding sources to undertake that project.

Rhode Island is not building new roads. We have had a fix it first philosophy for a number of years. RIDOT cannot build its way out of congestion. Investing in bus and rail transit are the only way to increase travel capacity in our State, an indication of some of the

differences in some of the regions of the country and the States on what are the emphasis areas for improving transportation options.

Exacerbating the problem in Rhode Island is the State's historical practice of borrowing the required match to Federal transportation funds. Debt service is using more and more of the State's gas tax revenue, reducing available funding to perform preventive maintenance. We are now at a point where our debt service now exceeds what we need to match Federal funds.

We have to break that cycle, and Governor Chafee has recently introduced a bill to do just that. Within 5 years, we would become a pay-as-you-go State to wean ourselves off of the debt and the borrowing that the State has undertaken.

We are right out looking over the edge of the cliff in terms of financing. We have run out of roads and changing direction is our only option. What happens in the Ocean State to our transportation infrastructure has local, State and national implications. Should the Pawtucket River Bridge or the Providence Viaduct have to be taken out of service, hundreds of thousands of motorists, goods and services will face unimaginable delays.

Increasing flexibility to the State for tolling, public-private partnerships to allow commercial use of transportation rights-of-way, and innovative financing is essential to allow States like Rhode Island to leverage the assistance we get from Federal programs. We must recognize the unique challenges facing each State, while working toward our common goals. One size does not fit all when it comes to national transportation.

We look forward to working with you to address this daunting task ahead. However, with increased flexibility, funding and a strong partnership, I believe we can succeed.

Thank you for providing me the opportunity.

[The prepared statement of Mr. Lewis follows:]

State of Rhode Island and Providence Plantations
Department of Transportation

TESTIMONY OF MICHAEL P. LEWIS
DIRECTOR
RHODE ISLAND DEPARTMENT OF TRANSPORTATION

REGARDING
THE SURFACE TRANSPORTATION
REAUTHORIZATION BILL

BEFORE
THE UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON
APRIL 14, 2011
10 A.M.

Rhode Island Department of Transportation
Two Capitol Hill Providence, Rhode Island 02903
401-222-2481 www.dot.ri.gov

Michael P. Lewis, RIDOT Director Testimony, Page 1

Madame Chair and members of the committee, thank you for the opportunity to testify on the importance of the issues that are addressed in the Surface Transportation Reauthorization Bill. My name is Michael Lewis and I am the Director of the Rhode Island Department of Transportation. I am also on the Board of Directors of the Rhode Island Public Transit Authority, the Rhode Island Turnpike and Bridge Authority, and the Rhode Island Public Rail Corporation.

Today I will focus my testimony on three main points:

1. Rhode Island has made great strides in effectively managing our transportation system using all the tools and resources currently available to us;

2. Despite sound and creative management efforts, Rhode Island is facing a critical crisis in preserving and rehabilitating our existing infrastructure; and

3. Rhode Island will need an increase in federal funding and more flexibility in the use of these federal resources in order to make progress in bringing our highway infrastructure into a state of good repair.

Rhode Island has 1,102 miles of roadway, approximately 750 bridges, and a staff of 770 hard-working men and women.

Rhode Island has effectively and efficiently managed its transportation resources using innovative approaches, including TIFIA loans, GARVEE bonds, and performance measures. Using the tools and resources we have had available, we have relocated a portion of Interstate 95 in the heart of Providence; undertaken a freight rail improvement project that has led to the expansion of commuter rail service from Boston to Providence and points further south in Rhode Island; and we are currently replacing a vital bridge link to Aquidneck Island that leads to Newport, the biggest tourist destination in the State.

Rhode Island's transportation infrastructure suffers from underinvestment. A December 2008 Governor's Blue Ribbon Panel Report entitled, "Rhode Island's Transportation Future: Reinvesting in our Transportation System" stated that in order to maintain our highway system in a state of good repair, the state would need to spend approximately $640 million per year.

Current state and federal highway funding provides about $354 million. We would have to spend nearly double this amount for 10 years just to get to that state of good repair.

The funding gap is $285 million per year. The gap continues to widen as the cost of construction materials increases, revenue derived from the gas tax decreases, and the infrastructure continues to age and deteriorate.

Decades of under-investment in maintenance has resulted in a downward spiral of the condition of the highway infrastructure. At the time of the report, over 20 percent of Rhode Island's bridges were structurally deficient, nearly 30 percent were functionally obsolete, eight percent were posted, and nearly two percent were closed.

The Pawtucket River Bridge, with an average daily traffic volume of 103,300 vehicles, sits in the fourth-largest city in the state. It is a vital part of Interstate 95, connecting New York to Boston and is critical too mobility and commerce in the Northeast Corridor. Despite this essential goods and services connection, the bridge was posted at 18 tons in May 2008. All trucks over 18 tons must use alternate routes.

Detours cause delays. Time is money. This cannot be sustained in the current economic climate. We have funded this $81 million project at the expense of delaying other needed projects and the replacement of the Pawtucket River Bridge isn't expected to be completed until 2013.

The Providence Viaduct, with an average daily traffic volume of 230,000 vehicles, is just a few miles south of the Pawtucket River Bridge and also sits right on the I-95 corridor. This time, however, the structure is in the heart of the Capital City. It is one of the top three most traveled segments along the entire Maine to Miami I-95 corridor.

The Providence Viaduct has undergone some repairs, but replacement is now the sole option available. The repairs only work as a Band-Aid approach to prevent another posting like the one in Pawtucket.

The cost of bringing this bridge into a state of good repair is nearly every available dollar we receive in just one year -- $150 million out of $170 million total, after the GARVEE debt service. Funding this major project means other important projects will have to wait.

Rhode Island is not building new roads. Fix it First has been our philosophy for many years. RIDOT cannot build its way out of congestion, and investing in bus and rail transit are the only way to increase travel capacity in our state.

Exacerbating the problem in Rhode Island is the state's practice of borrowing to provide the required match to federal transportation funds. Debt service is using more and more of the state's gas tax revenue, reducing the available funding to perform preventative maintenance.

Governor Lincoln Chafee does recognize the position we are in. He has a plan to get the Department out of its long-term debt. Adoption of this plan will help in the future, but in the meantime we still have to be able to maintain our infrastructure, handle congestion, and pay for traffic control, snow removal, pothole repairs and other bridge and roadway needs.

Additional federal funding is needed to bring our infrastructure into a state of good repair and to help in the state's economic recovery. Even without additional funding, the new authorization bill can help by providing flexibility. Now is not the time to tie our hands and limit the use of transportation dollars and assets.

It is imperative that the Federal government, first, continues to invest in highways, as well as transit, second, address the needs of metropolitan, suburban, and rural areas, and, finally, to meet preservation and capacity needs. Increasing funding for transportation is a sound investment in rebuilding the nation's economy.

As you are so aware, this transportation funding crisis comes at a time of economic downturn for our state and our country. Rhode Island entered this economic downturn first and is moving toward growth slowly. We currently have the fourth-highest unemployment rate in the nation. The state not only needs an infrastructure system in good repair, it needs highway and bridge improvement projects that can employ its citizens.

We might be the smallest state in the union, but our fiscal problems are mighty. The time to act is now.

RIDOT is looking over the edge of that cliff. We've run out of road and changing direction is our only option. What happens in the Ocean State to our transportation infrastructure has local, state, and national implications. Should the Pawtucket River Bridge or Providence Viaduct have to be taken out of service, hundred of thousands of motorists, goods and services will face unimaginable delays.

Increasing flexibility to the states for tolling, public-private partnerships to allow commercial use of the transportation rights-of-way, and innovative financing is essential to allow states to leverage the assistance we get from federal funding. Maintaining a strong federal partnership with the states is also essential to our success. We must recognize the unique challenges facing each state, while working towards our common goal. Perhaps this is most apparent if we try to compare the needs of Rhode Island to those of your state of California, Madame Chair. One size does not fit all.

I look forward to working with you to address the daunting task ahead. However, with increased flexibility, funding and a strong partnership, I believe we can succeed.

Thank you again for this opportunity and I would be glad to answer any questions you might have.

ADDITIONAL INFORMATION:
The December 23, 2008 Governor's Blue Ribbon Panel Report entitled, "Rhode Island's Transportation Future: Reinvesting in our Transportation System" can be found online at: http://www.dot.ri.gov/blueribbon/reports/BPRReporttoGovernor.pdf

Senator BAUCUS. Thank you, Mr. Lewis.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

I was listening with interest as Senator Sanders introduced his Secretary of Transportation as being one of the newest Secretaries of Transportation in America. Well, I am honored to introduce the most experienced and tenured Secretary of Transportation in the United States of America, and I want my colleagues to listen to him.

I was first elected to the State Legislature in 1965. That was the same year that Gary Ridley came to the Department of Transportation in the State of Oklahoma. So we have a lot of experience there. Over the years, to this same day today, I don't know whether Gary Ridley is a Democrat or Republican. He has been the very best. He has been director for a long time, then later made Secretary of Transportation.

But I remember when a good friend of mine, Brad Henry, a Democrat, was elected Governor. I called him and I said I only have one request, and that is that you keep Gary Ridley running the Transportation Division. He said, I was going to do it anyway.

But Gary has just done a great job. I remember in 2002, a lot of the Members on this committee may not know that we in Oklahoma are navigable. We have a navigation way that comes all the way to the city of Tulsa or Catoosa, right outside of Tulsa. In 2002, May 26, I think it was, a barge coming up there ran into the Webber Falls Bridge going across the Interstate. It took out 580 feet. Our estimates were that it was going to take 2 years to get that fixed and get things going again. We sat down with Gary Ridley. He ended up doing it in exactly 2 months.

So I would just say that he does things other people talk about doing and it gets them done. He has a lot of concerns. He and I talk on probably a weekly basis about the disaster that we have throughout the Nation, that we need to have a transportation reauthorization bill. There are a lot of things that we can all talk about. Some we will agree with and some we won't agree with.

But I am just very delighted to introduce a guy that I think is the most experienced Secretary of Transportation in the United States of America, Gary Ridley.

STATEMENT OF GARY RIDLEY, SECRETARY, OKLAHOMA DEPARTMENT OF TRANSPORTATION

Mr. RIDLEY. Thank you, Senator Inhofe.

Mr. Chairman, I want to thank you, along with Senator Inhofe and the other Members of your committee, for your leadership and efforts to increase consistency in delivering transportation projects in the new reauthorization.

As we consider the deficiencies of our national transportation system in the next highway bill, we recognize it will be extremely difficult for Congress to increase the Federal transportation funding or even sustain the current funding level. Therefore, more transportation dollars must be directed to our core infrastructures without set-asides or diversions.

In addition, we must work together to deliver projects more efficiently and free from unnecessary bureaucracy and regulations.

Programs that mandate the commitment of dedicated transportation funding to recreational and fringe activities such as trails, landscaping, lighting, building renovations, should be vigorously reviewed. The logic is questionable when the core transportation infrastructure of the country is in such deplorable conditions due to lack of investment.

The Americans With Disabilities Act is an unfunded mandate for States and local governments. Everyone should recognize that we must do more to accommodate individuals with a physical challenge. The ADA requires thoughtful and reasonable compliance. It does not mandate the wholesale abandonment of common sense. There must be room to focus on the greatest need and the highest accessibility returns, while allowing for sound engineering judgment in the regular maintenance of our highways.

Surely, it is reasonable to expect that DOTs can execute state of good repair highway projects within existing rights-of-way, without the added expense and delay of Federal involvement or regulation. Therefore, when transportation system improvements are being implemented within existing rights-of-way, a full NEPA and Federal oversight exemption should be granted or other non-transportation-related Federal regulations should be minimized or eliminated.

The benefits of this action cannot be ignored. Transportation agencies are encouraged to work within existing transportation facility footprints and minimize impacts to private property and the environment. Also, the State and Federal regulatory resources and lead agencies can focus more of their attention on quickly delivering critical larger scale projects.

The air quality of the United States has improved to the point that meaningful air quality targets that once seemed unachievable are now commonplace. Our concern is that EPA continues to advance an agenda that ratchets down the targets outside their own guidelines, and seemingly with the intent of widespread nonattainment.

The EPA should consider the improvements made and acknowledge the benefits that will undoubtedly be realized from the clean energy initiative of business, government and the public. Air quality targets and guidelines must be established that reflect the input of State governments and the private sector that do not restrict the economic growth and the competitiveness of our country. Now is the time to acknowledge the achievements of the past 20 years, rather than implement a new set of unachievable targets.

The EPA is also obligated to establish and enforce water quality measures and guidelines. However, we are concerned with the far-reaching impact of the indiscriminate stormwater regulations will have on transportation systems. Rules and regulations are being advanced that require States to manage, monitor and potentially treat rainwater that falls in or on and run through our transportation rights-of-way. However, the quality of the receiving water is impacted to a far greater extent by the runoff from other nontransportation-related lands that sometimes even discharge into the highway rights-of-way.

The footprint of the linear transportation system represents a microscopic portion of the total land area that can be affected by

water quality. Yet the cost of regulatory compliance is disproportionate to the true benefit of the water quality that is in question.

States have made great strides improving air and water quality as they preserve our environmental resources. We know that we can perform at a very high level in a less bureaucratic and heavily regulated setting. In the case of Federal environmental and regulatory issues, we certainly understand that not all or will can be eliminated. However, we must strike a new balance that quickly delivers transportation improvements to enhance the function of our system, the safety of the public, and the economic vitality and the longevity of our country.

Mr. Chairman, thank you for your kind invitation and the opportunity to offer our perspective on several reauthorization issues. We will be more than happy to answer any questions the committee may have.

[The prepared statement of Mr. Ridley follows:]

TESTIMONY OF

THE HONORABLE GARY RIDLEY

SECRETARY OF TRANSPORTATION
STATE OF OKLAHOMA

REGARDING

"ISSUES FOR SURFACE TRANSPORTATION AUTHORIZATION"

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

APRIL 14, 2011

Madam Chair, Senator Inhofe and Members of the Committee, my name is Gary Ridley. I am Secretary of Transportation in Oklahoma. I am here today to testify on behalf of the Oklahoma Department of Transportation.

First, we want to thank you, Madam Chair, for your leadership and your interest in identifying ways to increase the efficiency of investing transportation funding and to accelerate project and program delivery. We appreciate that you, Senator Inhofe and the Members of your Committee recognize the important contribution of the transportation system in improving the Nation's economic viability and sustaining our quality of life.

Today, I want to emphasize three points –

The conditional deficiencies of a long underfunded national transportation system cannot be resolved by the States alone.

Unfunded federal mandates, federal regulation and federal bureaucracy stifles efficiencies, redirects transportation dollars to other fringe or completely unrelated initiatives and unnecessarily delays critically needed transportation improvements.

The costs of implementing transportation system improvements can be significantly reduced through the thoughtful consideration of measures that focus the project delivery process, thereby allowing for more transportation generated dollars to find their way to the Nation's core infrastructures.

TESTIMONY

The Oklahoma Perspective

Governor Mary Fallin along with our Legislature and the general public are working hand in hand to make the improvement of the transportation system a priority of the state. However, much work remains to be done to a state and national system in disrepair.

Long term, consistent funding is critically important to the development and delivery of transportation improvement projects. States must understand and be able to project the availability of resources in order to properly plan, design and construct projects. We constantly inspect our facilities and collect and analyze a wide variety of data in order to assess the operational and conditional status of our highways. Decisions related to the care, preventative maintenance, reconstruction and expansion of the transportation system are predicated on the critical needs of the system and our understanding of the long term resource availability.

Doing More with Less – Empowering States to Efficiently Deliver the National Transportation Program

For practical purposes, there are only two external influences that have significantly impacted the delivery of federally funded transportation improvements in recent history. One is the consistency and availability of federal funding and the other influencing factor can be attributed to federal bureaucracy and regulatory actions. Optimistically, we will assume that the Congress will make every effort to at least fund transportation at the historic levels. Therefore, if any transportation

investment increases are to be realized in the near term, the increase must be achieved through reducing or eliminating transportation funding diversions and increasing the efficiency of project delivery.

It is imperative that the reauthorization minimizes unnecessary federal mandates and untimely regulatory actions that serve to redirect transportation dollars and strangle the efficient investment in the nation's core infrastructures. States must be afforded the opportunity to quickly implement improvements and direct federal funding in a manner that is consistent with a national transportation strategy and that is supported by our resident stakeholders in state policy and law. **The new national transportation strategy and the associated federal agencies, laws, regulations and policies should provide a simple framework that empowers states to efficiently select and deliver transportation solutions to address their unique needs.**

In addition, the opportunities for federal agencies to interject narrowly focused interpretations of the federal law should be restricted to the extent possible. Agencies may supersede the congressional intent of the law by promulgating regulations or rules or by issuing guidelines or directives that serve only their purposes or perceived needs. Many times these agency based actions and interpretations represent pure bureaucracy, blur the critical line between regulatory oversight and agency idealism and are the most time consuming and difficult for the states to manage.

A focal point of the reauthorization discussion has been the consolidation of the maze of SAFETEA-LU Highway Trust Fund (HTF) authorizations. The consolidation of the authorizations is a good and noble concept and represents an opportunity to significantly reduce the administrative burden of the federal program. However, the consolidation of the HTF authorizations only represents half of the action needed. The effort to craft a proposed bill should also consider the actions that will be necessary to minimize or eliminate the SAFETEA-LU bureaucracy associated with each consolidated authorization. **The current section of law that facilitates any HTF authorization which is targeted for consolidation must include a further review to insure that the action does more than just re-categorize the mandate.**

Using the Congestion Mitigation and Air Quality (CMAQ) authorization as an example, the current authorization cannot be simply rolled under a core program as a set-aside and deemed consolidated. The CMAQ authorization should be eliminated completely with the funding directed to the redefined core programs. The states then will retain the maximum flexibility to plan for and expend funds from each core program for CMAQ styled activities, projects or conforming improvements in non-attainment areas or other such activities in attainment areas.

A bold, new vision will be necessary to meet the increasing transportation challenges ahead and states should not be left to bear the financial burden of a national transportation system in decline alone. The resolution of our national transportation funding crisis and the crafting of new, more effective project and program delivery protocols must be jointly developed in a renewed State and Federal partnership.

Increasing Private Sector Investments and Enhancing Financing Options

Nothing in proposed federal transportation law should inhibit or restrict the way a state is allowed to fund the transportation improvement projects and transportation facilities of today. All

available options should be on the table when drafting a new transportation bill and every option should be given full, careful and complete consideration.

Certainly, when properly vetted and administered, a variety of financing methodologies can be utilized to successfully deliver significant transportation improvements that might not be financially viable otherwise. The utilization of GARVEE, TIFIA, P3s, Build American Bonds, infrastructure banks and other such methodologies have proven effective in financing certain, well defined transportation system needs. In addition, simple tolling can also be very effective and is the purest representation of a public / private partnership. Bond holders finance the initial transportation improvements and the public's use of the facilities provides for a reasonable return on their investment.

The federal law should facilitate the commitment of future federal funds to service debt or allow for the generation a user specific revenue stream in order to innovatively finance the construction and secure the future operation and maintenance of the facility.

However, caution should be exercised to insure that Public / Private partnerships and proclaimed innovative financing options are not held as the federal government's best or only solution to stemming the further deterioration of our national transportation system. The nation requires new and effective transportation revenue streams, but does not need new ideas about how to go into debt.

Also, the proposition that an additional federal bureaucracy is necessary to support and provide states with insight into innovative financing options is ill conceived. The states only require clear federal guidance in the law. The expertise necessary to facilitate innovative transportation financing methodologies currently lies with the financial institutions, the investors and the states. If Oklahoma determines that innovative financing advice and counsel is necessary, we will consult with other states that have demonstrated success along with the private financial sector. It has been our experience that they will gladly share their information and knowledge with us.

Federal Transportation Funding Reallocations

The core transportation infrastructure of this nation has an enormous backlog of unaddressed deficiencies that are commonly and consistently recognized. With each new infrastructure study, exposé or report, the state DOTs are saddled with trying to defend what we already know. This country's CORE infrastructure is in a deplorable condition and we have no fiscal solution for making wholesale improvements at the current funding levels. **Therefore, all sections of law that mandate or authorize transportation funding for peripheral projects and programs should be carefully scrutinized.**

Programs that mandate the commitment of dedicated transportation funding to recreational and fringe activities such as bicycle and pedestrian trails, complete streets, landscaping and historic preservation should be vigorously reviewed. If community livability projects and other similar programs are determined to be critically important, other funding mechanisms should be identified and the programs should be funded separately from core transportation infrastructure. If such activities are to remain eligible to receive transportation funding, each state should have the latitude to decide if the eligible activities warrant the commitment of scarce resources above all

other transportation needs. **The future funding of such programs should be left to the discretion of the states alone and any currently mandated set asides should be eliminated.**

Unfunded Mandates

The Americans with Disabilities Act represents a significant unfunded mandate for states and local governments. Everyone should recognize that we must do more to accommodate individuals that are physically challenged. However, when considering accessibility in public rights of way, it is difficult to accept that the Act was intended to be so broadly interpreted as to prohibit the surface maintenance of highways and streets unless the adjacent pedestrian facilities are brought into ADA compliance.

Rarely do small or even medium sized communities possess the resources to bring their community sidewalks into ADA compliance. The unintended consequence is often marked by a noticeable reduction in the local highway pavement surface quality beginning at the corporate city limits. Like the communities, the Department does not possess the resources to bring all of the local sidewalks adjacent to the highway into compliance. Often the costs of the mandated sidewalk improvements can be many times the cost of the badly needed simple asphalt overlay and may also require the complete reconstruction of the highway. Therefore, in most cases we are effectively prohibited from performing routine pavement maintenance activities inside the city limits. However, if the highway is in need of complete reconstruction, ADA compliant adjacent sidewalks are incorporated into the reconstruction project.

In addition, the Act represents another opportunity for other erroneous interpretations. Often, a federal interpretation to construct accessible curb ramps at intersections and other locations is invoked in the name of ADA where no connecting sidewalk exists. Such a wholesale directive can result in curb ramps that terminate in an adjacent vacant lot or worse yet, a ditch bottom, embankment or signal or light pole base. The serious nature of the ADA and everyone's desire to do the right thing and make sure we are in compliance sometimes leaves no room for exercising common sense.

ADA compliance within the public rights of way is important. However, the Act should not force a state department of transportation to assume an enforcement role on behalf of the Federal Highway Administration or the Department of Justice. Nor should it dictate a state's ability to maintain the highway system within a community or delegate all related decision making authority to a particular federal agency. Again, a dedicated, non-transportation related funding source should be identified for community based ADA compliance efforts and initiatives and highway system compliance activities should be limited to projects that clearly constitute reconstruction.

The difference between transportation maintenance activities and reconstruction should be clearly defined in the law and compliance activities within the public right of way should be limited to projects that clearly meet the definition of reconstruction.

Manual of Uniform Traffic Control Devices (MUTCD)

A recent issue with the Federal Highway Administration's latest release of the MUTCD certainly exemplifies a case where maintaining consistent federal standards are critically necessary, but the responsible federal agency is running amok. Of particular concern to the states, the released 2009

MUTCD deletes the following text from the Section IA.09: "The decision to use a particular device at a particular location should be made on the basis of either an engineering study or the application of engineering judgment. Thus, while this Manual provides Standards, Guidance, and Options for design and application of traffic control devices, this Manual should not be considered a substitute for engineering judgment. Engineering judgment should be exercised in the selection and application of traffic control devices ... "

The following statement, "Standard statements shall not be modified or compromised based on engineering judgment or engineering study" was added in the Section I A.I3 to the definition of Standards. The purpose of this statement is seemingly to eliminate the opportunity to exercise sound engineering judgment when addressing the variable conditions previously recognized in the deleted text of Section IA.09.

The general belief that the FHWA's standard statements in the MUTCD have the ability to address all real world decisions as related to traffic control devices without modification is not realistic. The FHWA has ignored the concerns and desires of the states and appears to be out of touch with the requirements of the location, construction and maintenance of the system for which the states are responsible. The idea that their standards can satisfy the traffic control conditions that are encountered on the entire transportation system without exercising engineering judgment to make beneficial adjustments is unacceptable. Not only is the idea unacceptable, a state's adoption of the 2009 MUTCD will potentially invite litigation.

A copy of a letter to the Federal Highway Administration further articulating Oklahoma's concern is included as Attachment 'A' for reference purposes.

The Environment and System Users

The Nation has made great strides in the last 20 years in improving air and water quality as well as preserving resources. In the case of environmental regulatory issues, we certainly recognize the need to exercise care in protecting the environment. However, we must consider the need to deliver transportation improvements in a manner that enhances the function of the system and the safety of the traveling public as quickly and cost effectively as possible. Regulatory restrictions, bureaucratic actions and mandates that drive up costs, increase delivery times and divert transportation system dedicated resources should be carefully scrutinized and limited or eliminated. In addition, regulatory policy that invokes other unrelated regulatory policies and introduces bureaucratic redundancies should also be minimized to the extent possible.

National Environmental Policy Act (NEPA)

The Federal Highway Administration's policies for implementing the National Environmental Policy Act are important as related to the major transportation improvement projects. NEPA was adopted in 1969 primarily as a result of the construction of the thousands of miles of interstate highway system on virgin alignments. Today, with the focus on state of good repair improvements, many transportation improvements occur within already existing transportation rights of way.

When such projects encompass or require the acquisition of new right of way to support the implementation of the proposed improvements, a reasonable consideration of potential social,

environmental and cultural impacts is warranted. Therefore, if it is determined that private property is to be acquired for a permanent, public transportation use, it is always prudent to fully vet and carefully document the investigation, analysis and decision making process.

However, if a transportation improvement project is being developed entirely within an existing or previously reserved transportation corridor, it should be reasonable to expect that the improvements will be of a nature that does not require federal regulation or oversight. Any responsibly executed activity required to construct, reconstruct or maintain that facility as determined necessary by the state Department of Transportation should not be subject to the added expense, delay and potential double jeopardy of further federal oversight, review or regulation.

As a regularly encountered example, the time to complete the federal Access Justification Request (AJR) review of proposed operational improvements to improve the function of an existing interstate interchange is extreme. The federal review and approval often takes longer than the design and construction of the improvements and typically adds no value. Such state of good repair and operational improvement projects should be allowed to progress from conception to construction unimpeded in order to effect the necessary improvements to the facility.

Therefore, it is recommended that legislative provisions be crafted that provide a full NEPA exemption and minimize or eliminate the impact of other non-transportation related federal regulations when transportation improvements are being implemented within existing transportation rights of way. A few examples of such cross cutting federal mandates include the Clean Water Act, the National Historic Preservation Act, the Endangered Species Act, the Migratory Bird Treaty Act, and so forth. A long list of environmental reviews that are commonly mandated for work within existing right of way is included for reference as Attachment 'B'.

The benefits of such action are broad and far reaching. First, departments of transportation will be inherently encouraged to work within existing transportation facility footprints which will minimize additional impacts to private property or the environment. Second, the preparation efforts and time saved to deliver projects that meet defined criteria will translate as a cost savings to the agency and a direct "user benefit" to commerce and the traveling public through an expedited improvement delivery. Also, the state and federal regulatory, resource and lead agencies will have the opportunity to focus more of their internal resources on progressing other larger scale proposed transportation improvements in a more timely and effective manner.

Section 4(f) of the DOT Act

The Department of Transportation Act (DOT Act) of 1966 introduced Section 4(f), which stipulated that the Federal Highway Administration (FHWA) and other DOT agencies cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless there is no feasible and prudent alternative to the use of land and the action includes all possible planning to minimize harm to the property resulting from the use.

Section 4(f) is a redundant, duplicative and time consuming regulation in the broad context of the preparation of environmental documents under NEPA. The issues related to public lands and historical sites referenced in 4(f) are consistently addressed under NEPA as applicable to federal-aid transportation improvement projects. As such, in August 2005, Section 6009(a) of SAFETEA-

LU made the first substantive and positive revision that simplified the process and approval of projects that have only de minimis impacts on lands impacted by Section 4(f).

It can be reasonably determined that the regulation adds no value other than the reinforcement of redundancies already commonly addressed under NEPA. Therefore, the Section 4(f) requirements should be eliminated.

Air Quality

Undoubtedly, the government, the business community and the general public have all been a force in improving air quality in the United States under the Clean Air Act. As further exemplified for the Oklahoma City area in Attachment 'C' of this document, air quality has progressively improved to the point that the attainment of former air quality targets that once seemed unachievable is now common place. The results for the Tulsa metropolitan area would be similar. **Of concern is that the Environmental Protection Agency (EPA) has continually ratcheted down air quality targets and associated measuring requirements to the point that today a common dust storm at an inopportune time can result in non-attainment.**

Currently Oklahoma has no areas that are classified as non-attainment. Even so, Oklahoma has invested significant Congestion, Mitigation and Air Quality (CMAQ) funds in proactive program development to stay in attainment and protect the health of our citizens. However, several areas of the state including both the Tulsa and Oklahoma City metropolitan areas teeter on the verge of non-attainment under the lower targets and more restrictive interpretations and measuring requirements.

The impacts and costs of non-attainment are significant to both private industry and the transportation system. Non-attainment seriously restricts a state's ability to manage transportation improvements within the designated areas, requires a substantial investment in planning and conformity studies and analysis before implementing most transportation system improvements or capacity expansions and embattles the private sector against the government. These adverse operating conditions imposed on non-attainment areas must be addressed in the reauthorization.

In addition, air quality targets and guidelines must be established that are determined to be reasonable by state governments and by the private sector and that do not restrict the economic growth, competitiveness and development of our Nation. Oklahoma companies are developing clean energy sources to include wind power, biodiesel fuels and compressed natural gas to assist with air quality improvements. **Air quality targets should also fully anticipate the future improvements that will be realized through the enhanced utilization of clean energy sources and the stewardship being exercised by both the government and the private sectors.**

Clean Water Act (CWA) - Proposed Effluent Limitations Guidelines (ELG) and New Source Performance Standards to Control the Discharge of Pollutants from Construction Sites

It is widely acknowledged that the EPA desires to reduce the impact of construction activities on the Nation's receiving waters and little disagreement exists with the concept in principle. However, there are substantial concerns with the general approach taken by EPA. In particular, there is a general dissatisfaction with the far reaching impact their indiscriminate regulation has on linear transportation improvement projects.

Specific to the ELG, the rule itself is ill-conceived when considering linear transportation system improvement and utility construction sites in the subcategory of Heavy Construction. The Proposed ELG includes many provisions that are technologically and/or economically unachievable. It will not be possible to meet the suggested water quality numeric limits in some cases because it is not always feasible to capture, detain and treat all runoff from all transportation improvement projects.

It can be anticipated that the conventional passive sediment and erosion controls commonly used today will not achieve the turbidity levels mandated in the proposed rule and more intensive, invasive and extremely expensive measures will surely be necessary. Some projects would likely require DOTs to acquire additional right of way and displace residences and businesses in the attempt control runoff and comply with the proposed ELG. Many required provisions are likely to increase ground disturbances and construction impacts in the vicinity of discharge points (e.g. water bodies), which would invariably increase impacts to environmental resources that are associated with water bodies.

The EPA is obligated to establish effluent limitation guidelines. Nevertheless, it appears that the EPA has drastically underestimated or ignored the number of transportation projects that would be subject to the proposed ELG. Also, the ELG fails to recognize the complexity of the treatment systems that would be required on linear transportation projects that often span many miles, the implementation costs to state departments of transportation, and the impact the actions will have on the Nation's ability to maintain its infrastructure.

These and other rules and regulations are already in place or being advanced that require states to manage, monitor and potentially treat rain water that falls in or runs into transportation right of way in the name of improving the quality of the receiving waters. However, the quality of the receiving waters is impacted to a far greater extent by the run-off from other non-transportation related lands that sometimes even discharge into highway right of way.

An additional CWA issue is the Municipal Separate Storm Sewer Systems (MS4) permits. This CWA required permit makes the state Departments of Transportation (DOTs) responsible for everything that drains onto and then from the right-of-way and does not recognize that DOTs have no regulatory or enforcement authority over the owners of adjacent property or vehicles that might leave pollutants behind. Also, the CWA and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) consider the DOTs as "conveyors of pollution" and therefore responsible for any pollutants carried by stormwater runoff from transportation facilities.

The CWA would have DOTs bear the cost of treating contaminated stormwater before it leaves the right-of-way and CERCLA would have the DOTs finance any clean-up of any hazardous waste that might run off from storm drains or other drainage conduits. Regardless of the point of origination of the contaminated run off. The CWA and CERCLA court opinions basically hold that because the technology to monitor the run off supposedly exists, it should be implemented without consideration for fiscal or physical feasibility. With multiple drainage outlets per mile, it is completely infeasible to treat all runoff from a highway. The CWA makes no allowance for such factors or for the public purpose the highway is serving.

In summary and as a desirable end result, if these regulations are to continue state DOTs should garner specific consideration for the transportation system and transportation right of way. In the context of the on-going ELG rulemaking, these considerations should limit DOT exposure under the ELG to the "Best Management Practices" erosion and run off control as currently required. It is also recommended that a DOT specific review and a modification of MS4 permitting process and requirements recognizing the challenges presented by linear transportation facilities be performed along with a DOT specific interpretation of the applicability of the CERCLA requirements for run-off originating from off the highway right of way.

The footprint of the linear transportation system represents a microscopic portion of the total land area that can affect water quality. Yet the cost of Clean Water Act regulatory compliance is disproportionate and the true benefit to water quality is questionable.

Performance Measurement and Accountability

The return on transportation system investments must be a primary consideration of performance measurement and the results should be honestly and accurately communicated to the Congress, our state officials and our citizens. However, national performance measures presented in the context of a reduced or static federal transportation funding stream may prove to represent a bit of a challenge for the states. Measuring the performance of a system in recognized decline during a time of stagnant investment is a bit of a dichotomy. Will the federal government be measuring which state is the best at slowing the deterioration of the transportation system? If it is determined that the time to implement performance measures has come, there are several considerations that should be carefully vetted.

All proposed national performance measures should be provisioned to factor and report both the state and federal resources that are available and being invested to sustain and improve the system, element or condition. The measures should also outline the anticipated performance improvements that can be expected with an increased transportation investment. This type of Return on Investment (ROI) format should be developed for each proposed performance measure and should be the standard for reporting.

Each state should understand that the single largest condition influencing factor is the level of state resources available to leverage and enhance the federal-aid program. No state has enough federal or state resources to manage the transportation system in the manner that they desire. However, some states enjoy state funded programs that far exceed their federal-aid allocations and others have very few state budgeted transportation dollars available. Therefore, measures must include provisions to account for and clearly explain such budget disparities when performance is intended to or may be compared on a state-to-state basis.

It is extremely important that states monitor and document the performance of the highway system as related to safety. Safety performance is always a major factor when transportation investments are considered. Accident data and information is meticulously collected and readily available today and thereby should be considered as a primary source for the establishment of related performance measures.

Composite performance measures should be utilized when possible that can accurately reflect and report the overall condition of the transportation system, component or element

by considering multiple condition factors. The bridge sufficiency rating and the pavement quality index are examples of such composite measures that can tell a complete and truthful story of condition and of the general improvement or decline of our system.

It is imperative that a performance measure be established to benchmark and measure project delivery as a project progresses from concept to construction contract and on to completion. The time necessary to deliver transportation improvements heavily influences the cost of the improvements. As such, project delivery cannot be separated from the relative measure of the performance of the system we are trying to improve. The project delivery measure can also reflect the effectiveness and focus of the partner and regulatory agencies that a state DOT must coordinate with.

Oklahoma welcomes the establishment and utilization of thoughtful performance measures that can benchmark our transportation system and provide useful information. The high level performance measures adopted for the transportation system should be broad, simple and, above all else, the measures should be meaningful and understandable. However, we must insure that we are attentive to the valuable input that states have to offer and that meaningful and easily understood performance measures are crafted. Performance measurement related to the transportation system must be more than another exercise in bureaucracy.

Conclusion

As we consider the full magnitude of the current inadequacies of our national transportation system, we must recognize that it will be extremely difficult for the Congress to increase transportation funding and quite challenging to even sustain the current SAFETEA-LU federal transportation funding levels. **Therefore, more of the available resources must be directed to our core infrastructures without set asides or diversions.** In addition, we must work together to style the project delivery process to be more efficient and free from unnecessary bureaucracy, laws, rules, directives or redundant regulations.

The quest to reduce the administrative burden of delivering the federal transportation program should not be restricted by the perpetuation of long standing administrative models nor should it be exclusively based on the status quo. **Some federal agencies have had success with the wholesale delegation of complete federal programs and functions to the states in order to eliminate the duplication of effort. Others have successfully privatized selected functions and greatly enhanced the effectiveness of the programs and the responsiveness of their agents. It is appropriate to thoughtfully consider such options in the context of reauthorization either as limited pilot programs or as full legislative mandates.** Delegation or privatization could reasonably be facilitated at the national USDOT level, at the state assigned federal divisional office level such as the FHWA or even at the functional level.

Time is money when you are addressing a less than adequate transportation system. The impact of diverted transportation funding and the cost of regulatory compliance are significant and can be quantified in dollars to some extent. The costs of layered federal bureaucracy and delays in transportation improvement project delivery are less tangible but have a far greater impact on the economy, commerce and the safety of the traveling public.

ATTACHMENT 'A'

Oklahoma DOT Letter to FHWA Regarding the Manual of Uniform Traffic Control Devices

GARY M. RIDLEY
Secretary of Transportation

STATE OF OKLAHOMA

BRAD HENRY
Governor

TRAFFIC FILE

July 21, 2010

Victor M. Mendez, Administrator
U.S. Department of Transportation
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Dear Administrator Mendez:

Subject: 2009 Manual on Uniform Traffic Control Devices

This letter is to express the serious concerns of the Oklahoma Department of Transportation regarding a significant change within the 2009 Manual of Uniform Traffic Control Devices (MUTCD). This change mandates the implementation of all standards within the MUTCD by removing the consideration and application of any engineering studies or engineering judgment. This change is very inappropriate and will require alterations to existing conditions that will waste public funds and could adversely affect traffic operations and safety.

The need for uniformity of traffic control devices has been recognized since the mid-1920's. Advances in the design of roads and vehicles, along with the tremendous increase in the size of the system and vehicle miles traveled, have driven the evolution of the MUTCD along with the disciplines of transportation and traffic engineering. For well over 50 years, the MUTCD has allowed and encouraged, if not required, the use of engineering studies and engineering judgment in the application of traffic control devices. Generations of traffic engineers have long known that conditions on the ground look and drive differently than on a page in a manual. Operational problems have been addressed, safety improved and situations stabilized through the use of engineering studies and the application of engineering judgment.

Now (2009) for the U.S. Department of Transportation and the Federal Highway Administration to decide (clarify) that engineering studies and engineering judgment are not to be considered is absolutely illogical. It is respectfully requested this change be alleviated.

Sincerely,

Gary M. Ridley
Secretary of Transportation

ATTACHMENT 'B'

Environmental Reviews Required for Work Within Existing Right of Way

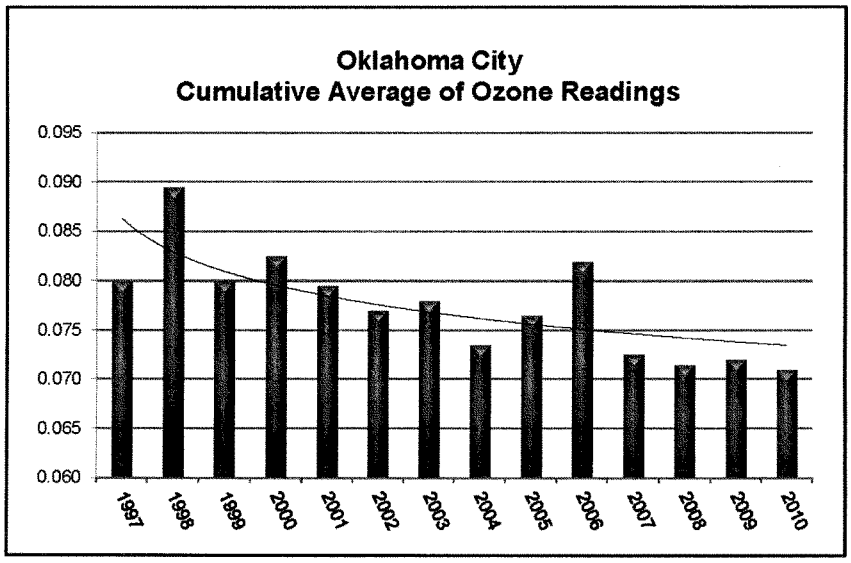
Environmental Reviews Required for work within existing Right-of-Way:

- **Endangered Species Act (ESA)**- Check listed species, evaluate if activity has the potential to affect, if so, USFWS concurrence is required. ESA requires avoidance, minimization, and mitigation, in that order.
- **Bald and Golden Eagle Protection Act (BGEPA)** – Survey for nests, restricts activity within a radius of an active nest (generally, 660 feet while nests are active).
- **Migratory Bird Treaty Act (MBTA)** – Prohibits destroying active nests with eggs or fledglings. Check for nests, avoid nesting season if they are there, or restrict access to the bridge. (For ODOT this is typically Cliff Swallows, though the list of protected birds is very long. To fully comply, ODOT would be restricted from cutting down any tree with an active nest in it, anywhere.)
- **National Historic Preservation Act (NHPA)** – Check or evaluate if bridge or road segments are eligible for the National Register. **(Interstates are Exempt)**. If activity will have an adverse effect, consultation with interest groups, and negotiated mitigation is required, subject to the Advisory Council for Historic Preservation (ACHP in Washington DC) and the State Historic Preservation Office (SHPO).
- **4f**– Adverse effects under NHPA trigger 4f (FHWA responsibility). 4f dictates that there must be no feasible and prudent alternative to the adverse effect. Requires avoidance alternative if it exists. Causes in depth alternative analysis.
- **404 Permit** – Required to place concrete or fill below the ordinary high water mark, or in a jurisdictional wetland. In order to get this permit from the Corps of Engineers, ESA and NHPA must be satisfied. General conditions include not impounding water, (maintaining water flow during construction), implementing erosion control measures. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows and must be removed in their entirety returned to pre-construction elevations and revegetated, as appropriate. If an Individual Permit is required (greater than a half acre of fill below the OHWM), Public Review is undertaken by the Corps, and DEQ can require additional measures through the 401 Certification Process.
- **Construction Stormwater Permit** - Required from DEQ if One Acre or more of ground will be disturbed. It also required ESA and NHPA compliance.
- **FAA Permit** - If near a general aviation airport with new lighting or a bridge, this permit may be required. Ensures new structures won't be a hazard to air traffic.
- **Coast Guard Section 9 Permit** – Required for Bridge work over Navigable Waters for interstate commerce. Also requires 401 Cert, ESA, and Coast Guard NEPA.
- **Corps of Engineers (COE) Section 10 Permit** – Required for work that affect the course, condition, or capacity of navigable waters of the United States. This term includes those waters defined as navigable, and "historically navigable" or that with modification may be available for future use to transport interstate commerce as determined by the COE. (Parts of Arkansas, Canadian, North Canadian, Grand, Illinois, Poteau, Red, Verdigris and Washita Rivers, and Bird and San Bois Creeks.
- **Scenic Rivers** – Work over one of the States Scenic Rivers requires coordination with the Commission.
- **FEMA Map Revisions** – Work affecting hydraulics of stream may require Conditional Letter of Map Revision (CLOMAR)/LOMAR.

ATTACHMENT 'C'

Cumulative Regional Average Ozone Readings for the Oklahoma City Area

FIGURE 1


Oklahoma City
Cumulative Average of Ozone Readings
0.095
0.090
0.085
0.080
0.075
0.070
0.065
0.060
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
2009
2010

Senator BAUCUS. Thank you very much, Mr. Ridley.

Next, Senator Barrasso, would you like to introduce Mr. Cox?

Senator BARRASSO. Yes, thank you very much, Mr. Chairman, I would. Thank you, Senator Inhofe, for holding this hearing on the next highway authorization bill.

Today, I am honored to have join us the director of the Wyoming Department of Transportation. His name is John Cox. John is not your traditional Department of Transportation director. He has a 28-year background in law enforcement and since 2005, he has continued to serve Wyoming in his role as the Wyoming Department of Transportation director.

John is so respected in Wyoming that he was first appointed to this position by a Democrat Governor, Dave Freudenthal, and then recently reappointed by our new Republican Governor, Matt Mead.

John and I worked closely together in the Wyoming Legislature when I was Chairman of our Senate Transportation and Military Affairs Committee. In fact, we worked together to increase the State's highway construction biannual budget from $40 million to $200 million.

John understands rural transportation. As a young Patrolman, John drove many miles on the rural roads of Wyoming and he knows that we need a national system. We don't need a regional system that only serves largely populated urban areas.

So I know that the committee today will benefit from the testimony and wisdom of John Cox.

Thanks for being with us.

STATEMENT OF JOHN F. COX, DIRECTOR, WYOMING DEPARTMENT OF TRANSPORTATION

Mr. COX. Mr. Chairman, good morning. It is a privilege for me to be here today and, if Senator Baucus were still in here, as his immediate neighbor to the south, I would thank him for his many years of work, not only on transportation, but on other interests with regard to rural States.

My thanks to Ranking Member Inhofe, to Senator Barrasso and to Members of this committee for the opportunity to be here today. In my remarks today, I will focus on Wyoming's perspective as a rural State, but I want to make it clear that we also have much in common with many other States, such as a desire to see the highway program simplified with more flexibility for the States.

My main point today is that Federal investment in surface transportation in rural States like mine benefits the Nation. Oftentimes, discussions of transportation policy omit the importance of investing in routes in rural States. My written statement today is actually a joint statement together with Idaho, Montana, South Dakota and North Dakota. In answering any questions later, I will speak for Wyoming, but we are certainly pleased to be like-minded and part of a joint written statement with these other States.

Federal investment in surface transportation in a rural State is important to the Nation. Let me explain. First of all, safety is WYDOT's highest mission priority. It perhaps goes without saying that Federal transportation funding enables rural States to improve safety on rural routes.

Wyoming highways are a bridge for truck and personal traffic between heavily populated areas. For instance, to move between the West Coast and Chicago, freight and people must cross rural States. A huge percentage of truck traffic in rural States neither begins nor ends in those States. In Wyoming, it is an amazing 77 percent, far above the national median. Clearly, investments in rural State highways serve the Nation's commerce and connectivity.

Wyoming highways ensure that agricultural and natural resource products move from source to markets, including the export markets. Rural highways serve agriculture and energy needs, including wind energy infrastructure and natural gas and oil development. We need surface infrastructure supporting our efforts to export agricultural products and reduce dependence on foreign oil.

The truck movements supporting these activities occur far from large cities, but support the Nation's economic competitiveness and welfare. In my area of the country, many of the rural States, including mine, are major exporters of energy to our Nation.

Highways provide access to scenic wonders distant from the Interstate highway system. Yellowstone and Grand Teton National Parks and Devil's Tower National Monument are locations in Wyoming that millions of Americans and international guests visit. These destinations are, however, some distance from the Interstate highways and in some cases even from the National Highway System (NHS), and maintaining Federal aid eligibility for the Highways serving this kind of resource helps deliver access and helps benefit the American economy.

The map at the back of my prepared statement illustrates the vast gaps between NHS routes in rural western States and underscores the importance of maintaining Federal aid eligibility for highways in addition to the National Highway System.

Our States face significant transportation funding challenges. We are large geographically. We have extensive highway networks and we have very low population densities. So, we have very few people to support each lane mile of Federal-aid highway, yet our citizens' per capita contribution to the Highway Trust Fund from rural States exceeds the national average.

Past Congresses have recognized that it is in the national interest that significant Federal funding be provided to support highways and transportation in and across rural States. For many reasons, including those I have described, the upcoming authorization bill should continue that approach.

Before I close, Mr. Chairman, let me make just a couple of other points. A higher percentage of highway funds, at least 90 percent, should be distributed to the States by formula. Formula programs are generally faster in putting program dollars to work, facilitating job generation, as well as transportation improvements.

We also realize the importance of doing more with each dollar. States can achieve this if given greater flexibility to direct funds to their highest priorities. Set-asides and narrow categorical programs should be eliminated in favor of flexibility and fewer regulatory and program restrictions.

Finally, Mr. Chairman, two ways that Congress could simplify and streamline the Federal Surface Transportation Program would

be to, first, harden NEPA review guidelines, and then provide for additional categorical exclusions from the NEPA review process.

Mr. Chairman, thank you again for the opportunity to be here and I look forward to fielding any questions when the time comes.

[The prepared statement of Mr. Cox follows:]

Statement of the Transportation Departments of
Idaho, Montana, North Dakota, South Dakota, and Wyoming
before the
Committee on Environment and Public Works
United States Senate
presented by
John Cox
Director, Wyoming Department of Transportation
on
Authorization of Surface Transportation Programs
April 14, 2011

Chair Boxer, Ranking Member Inhofe, and Members of the Committee:

Good Morning. I am John Cox. I am the Director and Chief Executive Officer of the Wyoming Department of Transportation. I appear today to present a joint statement on behalf of my own department and four additional transportation departments – those of Idaho, Montana, North Dakota, and South Dakota.

As transportation departments serving predominantly rural states, we are concerned that the rural perspective is not presented in many discussions concerning authorization of surface transportation programs. We (the five departments) appreciate the opportunity to present that perspective here. At the outset I want to express our appreciation to Senator Barrasso for helping provide this opportunity and for his strong interest in our views. I also want to thank Senator Baucus and Senator Crapo for their interest and work through the years to help ensure consideration of the rural perspective in surface transportation.

Overview

Significant Federal Transportation Investment in Rural States Benefits the Nation. Our principal point is that the entire nation, including residents of major metropolitan areas, is well served by significant Federal investment to improve surface transportation infrastructure in and across rural states like ours. We ask that this be reflected in the funding provisions of the authorization legislation the Committee is developing.

We also address additional issues, including the following:

- **Increase Flexibility**. Many have spoken of the importance of doing more with each dollar. One way to do this is to provide each state with increased flexibility to direct scarce funds to their highest priorities. Set asides, narrow categorical programs, and other restrictions should be eliminated or reduced and replaced with broader eligibilities, funding flexibility and fewer regulatory and program restrictions.
- **Expedite Program and Project Delivery**. Many also have spoken in support of

expediting the program and project delivery process. We agree. New legislation should simplify and streamline the Federal surface transportation program. Similarly, proposals that would add to already extensive statewide planning requirements and other suggestions that would complicate program and project delivery should not be included in new legislation.

- The current ratio between highway and transit program funding should be maintained.
- Formula programs, compared to discretionary or allocation programs, should be given increased funding emphasis.

These and other points are discussed in the balance of our statement.

Key Points

Significant Federal Transportation Investment in Rural States Benefits the Nation

The national interest requires significant Federal surface transportation investment in rural states. Consider truck movements from ports in California or the Pacific Northwest to Chicago or other heartland or eastern destinations. These and other movements traverse states like ours and benefit people and commerce in the metropolitan areas at both ends of the journey. The Federal-aid highways in our rural states provide many national benefits. These routes --

- serve as a bridge for truck and personal traffic between other states and between major metropolitan areas, advancing interstate commerce and mobility;
- enable agricultural exports and serve the nation's ethanol production, energy extraction, and wind power industries, which are located largely in rural areas;
- provide access to scenic wonders like Yellowstone National Park and Mount Rushmore;
- have become increasingly important to rural America, with the abandonment of many rail branch lines;
- are a lifeline for remotely located and economically challenged citizens, such as those living on tribal reservations;
- enable people and business to access and traverse vast tracts of Federally owned land; and
- facilitate military readiness.

In addition, the Federal-aid program enables enhanced investment to address safety needs on many rural Federal-aid routes. The investments supported by Federal highway and surface transportation programs also create both direct and indirect jobs and support economic efficiency and growth.

Yet, our states face significant transportation infrastructure funding challenges. We can't provide all these benefits to the nation without Federal funding leadership. We --

- are geographically large, often including large tracts of Federal lands;
- have extensive highway networks; and
- have low population densities.

This means that we have very few people to support each lane mile of Federal-aid highway -- and preserving and maintaining this aging, nationally connected system is expensive. Yet, citizens from our states contribute to this effort significantly -- the per capita contribution to the Highway Trust Fund from rural states exceeds the national average. Further, with our low population and traffic densities, tolls are not a realistic option for funding transportation needs in rural areas.

In short, past Congresses have recognized that it is in the national interest that significant Federal funding be provided to support highways and transportation in and across rural states. For reasons such as outlined above, the funding provisions of the upcoming authorization bill (sometimes called a reauthorization bill) should continue that approach.

Maintain the Current Ratio between Highway Program Funding and Transit Program Funding

We support maintaining the current ratio between highway program and transit program funding, which is approximately 4-1. Unmet highway program needs are more than sufficient to warrant this approach. USDOT's most recent Conditions and Performance Report includes data indicating that the cost to maintain/sustain Federal-aid highway conditions and performance is 6-7 times the cost to maintain/sustain transit conditions and performance. Moreover, the revenues paid into the Highway Trust Fund are paid by highway users. In addition, the highway program is the more flexible of the two programs; for years many states have transferred significant highway funds to transit projects. There are needs for additional investment in both highways and transit. If funds should be available to allow for program growth, we would grow the highway and transit programs proportionately, maintaining that 4-1 ratio.

Increase the Percentage of Highway Program Funds Distributed to the States through Formula Funding to at least Ninety Percent

In a reauthorization bill Congress should increase the percentage of funds, especially highway funds, distributed to the states by formula, with emphasis on funding for core programs to address needs on Federal-aid highways, including but not limited to the National Highway System. At least 90 percent of highway program funding should be for formula programs.

In recommending this approach, we note that discretionary and allocation programs are generally slower to put funding to work than formula programs. At a time when it is important to generate jobs promptly, the approach that puts the funds to work faster has much to commend it.

In addition, we would have particular concern if any new discretionary programs were structured in a way that made it unrealistic for rural states to participate financially. New programs limited to projects in large metropolitan areas or to extremely expensive projects would not be accessible by our states and would represent an approach to discretionary funding that lacks urban-rural balance.

We have similar concerns that infrastructure bank/fund proposals would end up being relatively inaccessible for projects in rural states and that funds could not be put to work as promptly under such a program as they would be under formula programs.

As there has been much discussion of increasing TIFIA funding, we also note that the benefits of TIFIA type leveraging might be achievable through means other than a discretionary program. For example, legislation could provide for a state to seek a loan guarantee decision from USDOT and, if the request is approved, the state could be allowed to transfer some of its apportionments to USDOT in support of the credit risk cost. Such an approach would provide the leveraging power of a Federal loan guarantee while utilizing apportionments rather than discretionary programs.

We are not suggesting that the legislation not include a TIFIA program, but we think it is important for the legislation to emphasize formula funding and state decision making and we wanted to emphasize that many issues can be addressed through formula funds. Non-formula programs -- TIFIA, Federal Lands, research, FHWA administrative costs, and other -- should not exceed 10 percent of the highway program.

Avoid Program Complications and Increases in Regulatory Requirements; Instead, Expedite and Simplify Program and Project Delivery

The reauthorization bill should exclude proposals that make the Federal highway program more complicated. The bill also should include provisions that simplify and expedite the program and project delivery process. The current highway and transportation program is complex. We would like to see processes streamlined and simplified so we can deliver projects more efficiently.

All things being equal, we would be delighted to see a reduced number of highway program categories or elements (particularly the very small program categories or program set asides). However, when programs are revised or reorganized, sometimes the remaining or new program categories include new complications. New complications should be avoided.

To illustrate, today the Interstate Maintenance (IM) program includes certain restrictions on use of funds for new capacity. We are concerned that a reconstituted highway program could expand those restrictions to additional roads, such as non-Interstate NHS routes, or expand those restrictions to a larger pool of highway funds. Additional restrictions would not be in the public interest and could be particularly harsh in a rural context.

For example, adding turn lanes, passing lanes or shoulders are improvements that might be thought of as capacity enhancing – but they are also important to safety. Proposals to restrict use of certain funds for capacity on NHS routes don't seem to have been developed for our states' circumstances, where many NHS routes are 2 lane highways. Capacity restrictions on key arterial routes in rural areas might inhibit safety improvements, such as passing lanes or turn lanes. All other things being equal, we would prefer continuing the current Interstate Maintenance, NHS, and bridge programs to a new approach that combines them into a single program with significant new restrictions and requirements.

In any event, we urge consideration of continuing the NHS and increasing its share of highway program funding. That would properly emphasize ensuring national connectivity and would also support freight movement. We also support increasing the base Federal share of non-Interstate NHS projects to 85 percent, to reinforce the importance of the NHS.

Similarly, today's CMAQ program provides considerable flexibility to states receiving minimum apportionment funds for CMAQ. If a CMAQ program is retained, so should its minimum apportionment. We are concerned that a shift to a "livability" program, discussed by some, could result in less flexibility, more program restrictions, and possibly less funding for our states.

The reauthorization bill also should continue the ability of states to transfer funds between program elements to a degree at least as extensive as under today's program. Transferability better enables states to use funds to meet their own particular needs.

We are pleased that there seems to be momentum for the next reauthorization bill to include provisions to facilitate and expedite project development, such as harder deadlines for NEPA processing and other agency reviews, and additional categorical exclusions from NEPA. In addition, we note our concern that some may propose complicating the already comprehensive and challenging statewide planning process. Particularly in times when available funding will not fully meet needs, we urge the Committee to resist provisions that would complicate the process -- whether they are to add consultation requirements, change consultation requirements to "coordination" requirements, require more items to be considered, or make other changes.

Similarly, the new legislation should not include provisions imposing new funding sanctions or increasing current sanctions.

Freight. We support a well-functioning freight system and we certainly think we advance this goal in implementing the highway programs in our states. We will review any proposal to establish a "freight program" to consider whether it is fair to rural states, such as by not being focused on congestion relief projects. There are many types of projects that can assist effective freight movement, including improvements to routes in rural areas that help people and goods traverse long distances. For example, to better serve agriculture and the nation, projects that facilitate truck to rail transfers at grain terminals and other locations should be eligible for funding through formula programs.

Performance Measurement and Regulation. One area where new requirements are being actively discussed concerns performance goals, measures, and targets. Everyone believes in improving performance. But we think great care must be taken to ensure that any legislative provisions concerning performance measurement do not result in new and excessive Federal regulation that may restrict state project choice, complicate and delay program implementation, require expensive and time consuming process and data collection, or even reduce funding available to a state or states for infrastructure investment.

We emphasize that states are already using performance measures. Efforts to utilize performance measures will continue at the state level even if there is no Federal legislation on this subject. Congress should recognize that state DOTs are already closely scrutinized by their legislatures, Governors, and stakeholders and are already doing all they can with available resources.

However, we recognize that the discussion of performance measurement is extensive and that Congress could choose to address it. Accordingly, we offer several suggestions regarding legislation in this area.

First, any Federal role should be carefully circumscribed and limited. Legislation should not broadly authorize USDOT to develop measures and targets and use state results as measured as a factor (positive or negative) in the distribution of formula or discretionary funding. If there are to be measures and targets, they should be limited to a few areas and combined with language providing that USDOT does not have authority in this area except as specified. Further, any authority for USDOT in this area must not extend to issues that are ambiguous or not well defined. If, for example, legislation were to allow USDOT authority to promulgate "livability" measures and impose funding penalties (or rewards) based on a state's "livability" performance, it would be hard to know what would result.

Very importantly, USDOT should not be allowed to set performance targets for the states, and failure to hit state targets should not result in financial penalties or other sanctions upon states. Nor should performance results be tied to funding in any way. Nor should legislation call for or authorize Federal approval of any state performance or investment plans.

Any national (Federal) performance approach should be limited to a few broad national purposes and be very general in nature. The approach should be to allow states to tailor their own specific performance measures consistent with the general national purposes and report back to USDOT on results under the state measures. This strong state role properly avoids a "one size fits all" approach. If Congress were to allow USDOT to set performance measures, procedural protections would be appropriate, including providing the public notice and the opportunity to comment on all such proposals by USDOT. Simply, it is important that the legislation not restrict State authority or flexibility or divert scarce funding from infrastructure investment to costly processes imposed on hard pressed state governments.

In short, Congress should be very careful in structuring any legislation in this area. If Congress chooses to act, it should proverbially "stick its toe in the water" before jumping in and should carefully limit Federal agency authority.

Flexibility, Not Requirements, Should be the Approach to Addressing Various Issues. We have seen in recent years various proposals to address, in reauthorization legislation, climate change issues, the elusive concept of "livability," and "complete streets." Such proposals are often thought of as supporting transit, biking, or walking. New requirements in these areas, however, should not be imposed on states through specific legislation or through grants of authority that would allow such new requirements to be imposed through regulations. Flexibility should be the approach. To the extent Federal law does not already provide a state with flexibility to make investments in these areas, flexibility can be provided.

Climate Change. Our states are very rural in nature and have extreme winters and varying topography. There is only so much we can do of a practical nature to promote new options or promote walking, bicycling, transit, and other efforts to stabilize, much less reduce transportation-related greenhouse gas (GHG) emissions. While large metropolitan areas may be able to invest in such projects and attract many users, our low population densities and cold weather limit the reasonable options for such projects available to us. So, among our concerns are that legislation should not force (or authorize a Federal agency to force) rural states like ours to undertake unrealistic efforts to reduce transportation-related GHG emissions -- especially at a time when funding is likely to fall short of meeting needs.

Livability. "Livability" is often discussed in terms of providing options for transit, bicycling, and walking. This is being done today, under current law, even in rural states, when states or, in some cases, metropolitan planning organizations (MPOs), find it meritorious. So, when it makes sense from their perspective, rural states will pursue investments in transit, bike paths, and sidewalks. But good roads also make a community more livable. We are concerned that legislation could end up including livability mandates geared towards circumstances in very large metropolitan areas. If new legislation is to advance "livability," it should be limited to requiring state (and MPO) consideration of the concept, while leaving the states (and MPOs) freedom to determine what livability means in their states. To go any further would seem to insert the Federal Government into project selection, something that should be vested with states (or, where applicable, MPOs or transit agencies).

Complete Streets. Similarly, we do not support increased regulation through "complete streets" provisions, sometimes called "comprehensive street design" and "practical design" provisions.

Today, states have considerable authority, through various features of title 23, United States Code, to choose to invest in transit, bike paths or lanes, sidewalks and other street features. Rural states like ours are among those that pursue such projects when funding them is the outcome of the planning process.

Some "complete streets" proposals go beyond providing flexibility to make such investments and would require certain types of investments. Such legislation could significantly restrict state flexibility, project design, and project selection by authorizing new Federal regulation regarding issues such as whether states have "balanced" costs with the "necessary" scope of a project and adequately preserved "aesthetic resources" and "adequately" accommodated all users. Defining and interpreting such terms may broaden project scopes substantially, increase project costs while delaying project delivery, and result in less of a state's scarce funding being directed to improved infrastructure.

We saw discussion of "complete streets" in the USDOT Draft Strategic Plan as a safety issue. The safety of all users – drivers, pedestrians, and bicyclists – is important. How to best advance safety is considered by states, using extensive local professional knowledge and experience, in developing their respective Highway Safety Improvement Plans. That flexibility should be preserved. Legislation should not provide USDOT with authority to ask for project redesigns to achieve consistency with some type of national, one size fits all "complete streets" criteria in lieu of making other investments that a state finds more important.

Some Funding Considerations

Consider Changing the Financing of USDOT Administrative Costs. To help make each Highway Trust Fund dollar deliver more transportation benefits, we suggest that the reauthorization bill phase out payment of USDOT administrative costs (FHWA, FTA, and other) from the Highway Trust Fund. Those costs, of course, should be funded – but preferably through General Fund appropriations. Phasing in this approach is one reasonable response to the shortage of resources in the Highway Trust Fund for transportation investment. Once phased in, it could free up some funds annually for transportation investments. We also believe that this approach better reflects the general government nature of much of USDOT's program

administration.

Tax Credit Bonds. We remain supportive of the Federal tax credit bond proposal introduced by Senator Wyden with Senator Thune and others in 2007. It represents a new way to increase Federal surface transportation investment. Importantly, compared to other ideas to advance surface transportation infrastructure investment outside of the Highway Trust Fund, under this tax credit bond concept, all states would receive at least some transportation funding and the states could decide how to use that funding. This is preferable to ideas that ultimately have all projects selected by Federal officials.

Public Transportation

Public transportation is not just for big metropolitan areas. Even though our share of Federal transit program funds is very small, transit plays a role in the surface transportation network in rural states.

The Federal transit program includes apportionments for rural transit. Federal investment in rural transit helps ensure personal mobility, especially for senior citizens and the disabled, connecting them to necessary services. Transit service is an important, often vital, link for citizens in small towns to get to the hospital or clinic as well as to work or other destinations. Some rural areas are experiencing an increase in the age of the population. Public transit helps senior citizens meet essential needs without moving out of their homes. Federal public transportation programs must continue to include funding for rural states and not focus entirely on metropolitan areas.

Further Discussion of the National Benefits of Significant Federal Transportation Investment in Rural States

Before closing we provide some additional information on the important benefits provided to the nation from Federal surface transportation infrastructure investment in rural states like ours.

Transportation Investment in Bridge States Connect the Nation's People and Businesses

Highway transportation between population centers in different regions of the country requires good roads to bridge the often vast distances between origins and destinations. This connectivity benefits the citizens of our nation's large metro areas because air or rail may not be the best option for particular movements of people or goods across the country. The many trucks on highways in states like Idaho, Montana, North Dakota, South Dakota, and Wyoming demonstrate every day that people and businesses in the major metropolitan areas benefit from the nation's investment in Federal-aid highways in rural states.

The most recent data we have seen on truck origins and destinations show that the percentage of truck traffic using highways in our respective states that does not either originate or terminate within the state exceeds the national average. For Wyoming the percentage was 77.1; South Dakota, 68.2; Montana, 62; North Dakota, 59.4; and Idaho, 53.2. The national median for states is approximately 45 percent. Clearly, trucking in our states is largely "long haul" and serving a

national interest. Moreover, in Wyoming trucks account for 60 percent of current traffic on I-80.

Ensuring that the nation is well connected through a system of Interstates and other routes in and across rural states enables a great deal of long distance freight movement and supports the nation's economic competitiveness.

Essential Service to Agriculture, Natural Resources, Energy

A significant portion of the economy in our region is based on agriculture, energy production, and natural resource extraction. Agriculture is one sector of the economy in which the United States has consistently run an international trade surplus, not a deficit. Over the last two decades roughly 30 percent of all U.S. agricultural crops were exported.

There is a strong national interest in ensuring that agricultural, forest, and other resource products have the road network needed to deliver product to markets, particularly export markets. A key part of that network is the roads below the National Highway System, where crops and resources begin their journey from point of production to destination.

In addition, the ethanol and alternative fuel industry, the wind power generation industry, and oil, natural gas, and coal reserves are located mostly in rural America and not on National Highway System routes. These industries are an important part of the national effort to reduce dependence on foreign oil. The roads that serve them need preservation and, in some cases, improvement.

Tourism Access

Without a strong road network in the rural West, access to many of our country's great National Parks and other scenic wonders would be limited. The residents of major metropolitan areas may travel the roads approaching Yellowstone National Park or the Mount Rushmore National Monument infrequently. But those citizens want quality highway access to these national treasures for those special trips. Millions of those special trips are made even though the roads leading to the parks are fairly distant from the Interstate System. For example, in 2010 recreational visitors to Yellowstone, Glacier, and Grand Teton national parks totaled nearly 8.5 million people. The entire population of Wyoming and Montana combined is less than 1.5 million.

Other important scenic destinations are located in this region – from the Theodore Roosevelt National Park in North Dakota, to the Badlands National Park in South Dakota, to the Craters of the Moon National Monument and the Sawtooth National Recreation Area in Idaho. Investment in highways that provide access to these wonderful places also helps ensure that American and international tourism dollars are spent in America, furthering national economic goals.

The Federal Highway Program Should Continue to Provide Funding for Interstates, the NHS, other Arterials, and Major Collector Routes

Under this long-standing statutory policy, approximately 24 percent of the nation's over four million miles of public roads are eligible for Federal aid. This strikes a good balance, focusing the Federal program on the more important roads, but not on so few roads that connectivity and

rural access are ignored. We emphasize that non-NHS Federal-aid roads are an important part of the network of Federal-aid routes. These roads make up approximately 20 percent of total road miles in the nation and carry over 40 percent of the traffic nationwide. These routes provide an important link between the NHS and the local roads where so many trips begin or end.

Attached to our prepared statement is a map that shows the huge gaps between NHS routes in our states. Entire states can fit into those gaps. This illustrates how important it is to support routes in addition to the NHS to ensure national connectivity and access.

In many parts of rural America air service and passenger rail service are hundreds of miles away and not a viable option. For those parts of our country the road network is a lifeline, making it essential to preserve the Federal-aid network in good condition. Some of the citizens most in need of a lifeline of Federal-aid highways are among our nation's poorest and most isolated citizens, including some living on Indian reservations.

Further, over the last two or three decades tens of thousands of rural rail branch lines have been abandoned. Over that time, Class I railroads have shed more than 100,000 route miles. While some former Class I miles are still operated by smaller railroads, many rural areas must rely more heavily on trucks for important commerce needs. In turn, that means the road network has become even more important in meeting those needs, such as delivering crops to grain elevators or moving raw products to, or finished products from, ethanol production facilities.

This is confirmed in the "Study of Rural Transportation Issues" released by the United States Department of Agriculture and the USDOT on April 27, 2010. This Federal report found that various changes in rail transportation have "resulted in the movement of grain over local roads for longer distances."[1]

For these and other reasons, the extent of the road network eligible for Federal funding should not be reduced.

Improving Safety

There has been increased and welcome attention in recent years, including in SAFETEA-LU, to the national interest in improving safety on rural roads. More than two-thirds of all roads in the U.S. are located in or near areas with populations of less than 5,000. Approximately 70 percent of Federal-aid highway lane miles are in rural areas. A 2001 GAO Report found that, on rural major collectors, the fatality rate per 100 million vehicle miles traveled (VMT) was over three times the comparable fatality rate on urban freeways. In Idaho, 79 percent of all highway fatalities from 2004-2008 occurred on rural routes.

Today, with a Federal-aid highway system that properly includes routes in addition to the NHS, the most important of rural roads are broadly eligible for Federal funding. In addition, safety projects are eligible for funding on all public roads. Those aspects of current law should continue under new legislation. Moreover, continuing to provide a strong share of Federal transportation funding to rural states will enable them, in turn, to make investments that will

[1] See a "Study of Rural Transportation Issues" by USDA and USDOT at, for example, preface, pages ix and x.

improve safety and save lives on many rural routes.

Large Parcels of Federal Land Warrant Federal Transportation Investment in Impacted States

There are huge parcels of Federally owned land in the West. Idaho, for example, is over 60 percent Federal and tribal lands; Wyoming, over 50 percent; Montana, roughly one-third. Even California is over 40 percent Federal and tribal lands.

Development or use of Federal lands is either prohibited or limited, and state and local governments can't tax them. Yet, the nation's citizens and businesses want reasonable opportunities to access and cross those lands. This is an expensive transportation proposition for sparsely populated states. Significant investment of transportation dollars by the Federal government has been and remains a proper response, both in terms of apportionments to low population density states and in terms of direct Federal programs generally referred to as the "Federal Lands Programs."

Distinct from apportionments to states, the Federal highway program has long included separate funding for Indian Reservation Roads and highways on Federal lands and in national parks. These are lands with no private ownership (except perhaps small inholdings). While there are national parks, other public lands, and tribal territories throughout the country, it is fair to say that the Federal public lands highway programs probably never would have been developed but for the large Federal and tribal land areas in the West. We were pleased that the Policy and Revenue Study Commission's report recommends continuation of Federal Lands highway programs. We agree; the Federal lands highway programs should be continued.

Rural States Face Serious Obstacles in Preserving and Improving the National Highway and Surface Transportation Network

Our rural states face a number of serious obstacles in preserving and improving the Federal-aid highway system within our borders. As noted earlier, our states:

- are geographically large, often including large tracts of Federal lands,
- have low population densities, and
- have extensive highway networks.

Taken together, this means that, in our states, there are very few people to support each lane mile of Federal-aid highway. In North Dakota, for example, there are about 16 people per lane mile of Federal-aid highway, in Idaho 60, in South Dakota 19, in Montana 29, and in Wyoming 29. The national average is approximately 129 people per lane mile. This alone indicates that our citizens have limited ability to pay for the national network connectivity that benefits the entire nation.

In addition, the per capita contribution to the Highway Trust Fund attributable to rural states generally exceeds the national average, as vehicle miles traveled (VMT) per capita in our states is also above the national average. In addition, rural states and areas generally have per capita incomes below the national average even as they make these contributions to the Highway Trust

Fund. For example, the per capita contribution to the Highway Account of the Highway Trust Fund attributed to Montana is $151, compared to a national average of $114. This higher per capita contribution is made even though the per capita income in Montana is over $5,000 less than the national average.

These factors make it very challenging for rural states to provide, maintain, and preserve a modern transportation system that connects to the rest of the nation and to global markets and economic opportunities -- even with Federal funding at today's levels. And our citizens must contribute not just towards capital investment, which is partially funded by the Federal program, but also to maintaining Federal-aid highways, which is solely a state expense.

Accordingly, to achieve the important benefits of a truly national, interconnected highway and surface transportation system, the Federal highway program must provide significant funding for the Federal-aid road network in rural states.

Our Needs Are Large, and Inflation Has Made it Much Harder to Meet Needs

Rural states' needs for highway investment and maintenance exceed available combined Federal, state, and local resources by a wide margin. Program levels have not risen with inflation and, even with our efforts to be efficient, future needs are building up. We are very mindful that budgets are constrained, but do note that the needs are there for additional funding for highway and surface transportation programs. Any additional funding certainly would be put to good use promptly in our states.

Conclusion

Significant Federal investment in surface transportation infrastructure in rural states is a prerequisite to moving people and goods throughout the country and is in the national interest, for the many reasons we have presented today. We are hopeful that this national interest will be reflected in the funding provisions of the reauthorization legislation, as it has been in previous surface transportation laws.

We also recommend that the highway and other programs be simplified and that the program and project delivery process be expedited. We are also hopeful that Congress will exclude from the legislation any proposals that would complicate planning or program provisions.

With significant Federal investment in surface transportation infrastructure in rural states and a streamlined and simplified program, our states (as well as others) will be better equipped to help meet national interest surface transportation investment needs -- while generating jobs and economic growth. This approach will benefit not just residents of rural America, but also the citizens and businesses of our nation's more populated areas.

That concludes our statement. I'll be pleased to respond to questions at the appropriate time though, to the extent the responses go beyond the positions we have addressed in writing, I am able to respond only for my own department.

We (the transportation departments of Idaho, Montana, North Dakota, South Dakota, and Wyoming) thank the Committee for its consideration of our views.

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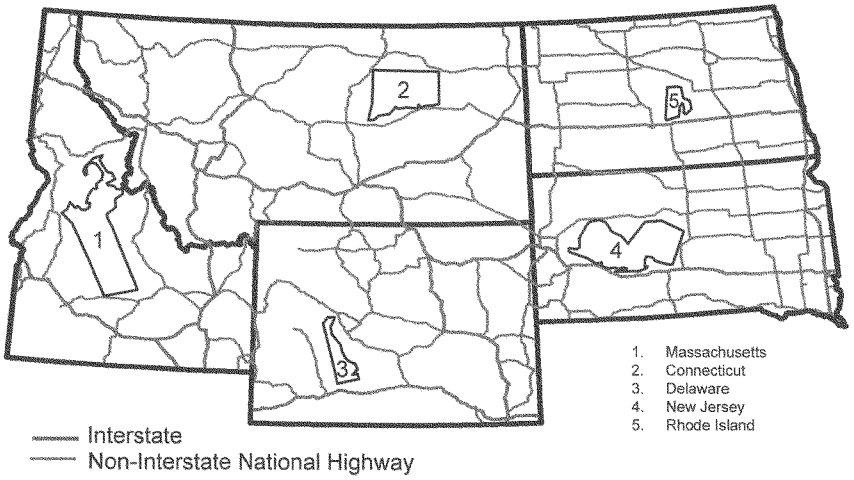
One page map attached

Interstate and Non-Interstate National Highway Systems in ID, MT, ND, SD and WY

Entire Federal-aid System is Necessary for Connectivity



Senator CARPER. Has Mr. Cooper he been introduced?

Senator SESSIONS. I introduced Mr. Cooper, and I think he would be ready to testify, Mr. Chairman.

Senator CARPER. Are you ready?

Mr. COOPER. I am ready.

Senator BAUCUS. Let her rock and roll. Thank you.

STATEMENT OF JOHN R. COOPER, DIRECTOR, ALABAMA DEPARTMENT OF TRANSPORTATION

Mr. COOPER. Mr. Chairman, Ranking Member Inhofe and Members of the committee, good morning. My name is John Cooper and I am the director of the Department of Transportation for the State of Alabama, and I am here today to testify on behalf of that Department.

We appreciate being given the opportunity to be heard. We appreciate being given the opportunity to provide our input to the committee. We particularly appreciate Senator Sessions and his role in transportation both nationally and in our State.

My written testimony was provided earlier and is available for the record. In the brief time that I have this morning, I would like to make just a few points that we believe are germane to this discussion, at least from our perspective.

My testimony is based on the assumption that funding for transportation will be difficult, at best, and most probably reduced. In our State, revenues from our State taxes on fuels generally are at the same level they were 10 years ago. While we realize that no final resolution has been reached at the Federal level, we assume that some reduction is probable.

This environment dictates that we use available funds as well as possible. Now, I realize that Alabamians may be known for maintaining a somewhat strong skepticism to Federal regulation, but nevertheless I believe we have some points that are worth you hearing and I would like to ask you to consider.

First, we believe the next reauthorization should reduce the number of funding categories to three or at most four. A suggestion would be Interstate highways, the national highway system, major urban areas, and another category. We believe that would be one way to categorize funding that would preserve congressional intent, while allowing funding to be more efficiently directed within a particular State. The large number of categories presently is not necessary and it becomes particularly troublesome when we have short-term extensions of the Act.

Second, we believe Federal oversight of transportation should be limited to activities of true national interest. Clearly, this would mean the Interstate highways and major national highways. But we do not believe that the Federal Highway Administration should be involved in work that is done on minor highways or the bridges on those highways.

Third, there are numerous areas where Federal regulations create additional costs and impede the efficient use of funds. Three of those which are referenced in my written testimony are, No. 1, situations where bridge re-work is required simply because resurfacing is being done on a particular highway; second, the application of what are called the logical termini regulations to situations

where we believe they are inappropriate; and third, requirements for updated environmental work after only 3 years, which is not long in the development of highway systems today.

In summary, we ask you to consider whether what might be called the hands-on involvement of Federal Highways in all aspects of road construction and maintenance, supported by significant staffing presence in each State, has proven to be a sound approach. Would we be better served by regionalized oversight function with more responsibility being delegated to the States?

To touch on a couple of other points, we will support the inclusion of performance standards in the reauthorization, we know that is being discussed, so long as the performance standards are tailored the needs of a particular State and so long as those standards are not a way for the implementation of additional Federal oversight.

Finally, from the standpoint of our State, I would be remiss if I didn't express my concern over the growing emphasis on high-speed rail, a mode of transportation that does not present a viable solution to problems with transportation in our State. We hope your will not use scarce Federal highway dollars to support that mode.

As I said at the beginning, I appreciate the opportunity to be here. We thank you for listening to our views and we are prepared to address any questions.

[The prepared statement of Mr. Cooper follows:]

ISSUES FOR SURFACE TRANSPORTATION REAUTHORIZATION

US SENATE COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS,

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

CHAIRED BY: BARBARA BOXER

WRITTEN TESTIMONY

JOHN R. COOPER, DIRECTOR

ALABAMA DEPARTMENT OF TRANSPORTATION

APRIL 14, 2011

Written Testimony – John R. Cooper
Alabama Department of Transportation
Issues for Surface Transportation Reauthorization
April 14, 2011

I want to thank the Senate Committee on the Environment and Public Works, Subcommittee on Transportation and Infrastructure, for this opportunity to express my thoughts on Surface Transportation Act Reauthorization. My name is John Cooper and I am the Director of the Alabama Department of Transportation. Since my appointment in January, I have come to realize how important federal transportation funding is to our transportation program.

In Alabama, our annual federal program funding amounts to over $850 million in apportionments on the highway side and approximately $23 million for transit. This is supplemented by approximately $450 million that we have generated at the state level from our 18¢ tax on gasoline and diesel fuel. We have worked hard in Alabama to avoid debt financing and have maintained our program on a pay-as-you-go basis. We recognize the importance of the user fee concept for transportation funding.

Our recent experiences with the federal highway program have been difficult due to the numerous short term extensions. Given the fact that our federal funding is provided through "categories," short term extensions only provide very small pots of allocated funds for each category. That may allow the funding of small projects, but not the larger projects. While our planning efforts continue, it is impossible to execute our plans because each category is not fully funded. This impacts our program, delays projects, and generally results in increased project costs.

Therefore, the first point I would like to make to the committee as you consider policies for reauthorization is increased flexibility in the program. If the number of funding categories was reduced and the states were provided flexibility to direct federal funding toward state defined priorities, it would allow us a better use of federal funds.

For example, appropriations are provided for interstate maintenance, national highway system, surface transportation program, safety, congestion mitigation and air quality, large urban areas, small urban areas, counties, transportation enhancement, bridge replacement, rail highway crossings, and other categories. It would enhance our ability to utilize our funds if the number of categories could be reduced. I believe the program could be reduced to three or four major categories. Congressional interest

could still be served and funding for eliminated categories could be maintained through eligibility protocol.

We understand, it will be extremely difficult to increase transportation funding at this time with the current economic situation. Therefore, it is important to allow increased flexibility to allow the states to use the funds available.

We realize highway trust fund receipts cannot support current expenditure levels. We are concerned that it takes periodic transfers from the general fund to maintain the solvency of the highway trust fund. We are very concerned about these actions because not only do they increase the national debt, they move us away from the user fee concept. We have been told that until a permanent fix for the highway trust fund is developed, we will be required to "live within our means." While we understand the funding difficulties facing Congress, we believe that eventually a solution will be realized. Until then, it may be appropriate to consider a shorter term reauthorization - say in the range of two years versus a six year reauthorization to allow us the opportunity to try to develop a "fix" to the funding dilemma. I realize this is contrary to the State's normal position, but I don't believe it is in our Nation's best interest to develop long-term reauthorization principles without corresponding funding.

Another area in which I believe we could improve the states' ability to use their federal funds is in the area of regulatory changes. We believe there are regulatory changes that will enable us to do things quicker, more efficiently, and sometimes cheaper, without sacrificing environmental and other protections that Federal Regulations were intended to provide.

We are aware that the Federal Highway Administration (FHWA) is also working to review current regulations. We are participating in the "Every Day Counts" initiative which is an FHWA effort to shorten project delivery time. One over-arching change that would help deliver projects would be to reserve federal oversight to only activities of national interest. The Interstate Highway System and our National Highway System are certainly of national interest and we welcome federal oversight in these areas. The bridge replacement program is another area in which we believe there is a national interest and the federal government should be involved in that program as well.

However, when we are trying to resurface a roadway to preserve the pavement and provide a safe riding surface, it is detrimental to the overall program when regulations require ancillary improvements for which no documented need has been addressed or benefit attained can be identified.

One example is the requirement to retrofit bridge posts and rails. Crash studies have shown that the safety of bridge rails can be improved through changing the configuration from a post and rail configuration to a Jersey Barrier Configuration. We believe bridge rail retrofit should be required where there is the greatest potential to save lives.

However, when we resurface a roadway, regulations require that bridge rails be retrofitted regardless of specific safety considerations or the potential to provide a safety benefit. We believe the bridge rail retrofit program could be better served if states were allowed to develop criteria to evaluate the geometric conditions of the roadway in the area of the bridge, crash history, traffic volume, and other pertinent factors, and then use these factors to prioritize the expenditure of funds to retrofit bridge rails so that the most critical bridges are addressed first. The arbitrary requirement to replace bridge rails during the resurfacing program detracts from our ability to maintain our system, plus it ignores the approach of addressing the most critical bridge needs first.

Another example of regulatory reform is the "logical termini" regulation. The logical termini regulation requires states to consider potential environmental impacts adjacent to the project. We support this regulation in concept, but its application goes beyond what we believe is necessary to protect future environmental impacts. One example of this is a project we have been working on to improve an intersection in rural Alabama. We were required to evaluate environmental impacts for seven miles so that if future roadway improvements were made, the work at the intersection would not preclude any alternatives to be considered on the future improvements. In this situation, there were opportunities to realign or consider alternative improvements when the future work is done, that would not have been dictated by the original project. This is an area of regulation we believe needs to be addressed.

Another area of regulation requires a written evaluation of an approved environmental impact statement before a project may advance if no major action has occurred within three years. Considering the typical life of a project, a three-year time period is too short. This currently results in multiple reevaluations that are very costly and time consuming. We have reevaluations being required on projects where rights of way have already been purchased and there is no question that additional study will not cause any change in decisions made. We would like to see the regulations changed to lengthen the three-year evaluation requirement.

There are other areas of regulations that I would like to address and have included them in an addendum to my written report.

It has been suggested that the next transportation authorization include performance oriented measures. Traditionally, the Federal Surface Transportation Program has focused more on process than outcomes. This requires states to meet procedural requirements; such as, a fiscally constrained transportation plan, but ignores whether such a plan will produce an improved system. In recognition of this paradigm, Congress, the federal government, and states have acknowledged the value of a program driven by performance outcomes. Spending our limited funds to provide the greatest enhancement to our transportation system makes good sense.

I wish to express a word of caution with regard to nationally established performance standards. Not all states are alike. We each have unique needs. There is not a common set of national performance standards that could be applied equitably to all states. Should there be a desire from Congress to include performance measures in the next transportation authorization, we would ask that any requirements be directed to the states to establish their own program, tailored to their unique needs and circumstances, and avoid any national standards that compare one state against another.

We would also express caution toward creating a performance measurement program that would result in another venue of federal oversight. Any nationally established goals and objectives will likely result in additional, promulgated rules, regulations, and guidelines that could

become a reporting nightmare and avenue for greater federal control of our transportation program. In a time when we may receive fewer federal resources; federal regulations and mandates should be reduced, not expanded.

I would be remiss if I didn't express my concern over the growing emphasis on high speed rail. High speed rail does not present a viable solution to transportation issues in Alabama. While there might be some appropriate applications for high speed rail, it should not come at the detriment of our highway system. I believe it is not in the best interest of this Country to use scarce highway generated tax dollars to fund high speed rail. If this Country does wish to move in the area of travel by high speed rail, I would hope that an alternate funding source could be identified that does not dilute the already stressed highway trust fund.

The purchasing power of highway funds in Alabama has brought us to the point of almost becoming nothing more than a maintenance department. We are struggling to preserve our existing highway system and have very little available funding for system enhancements. We believe that our responsibility is foremost to preserve the investment we've already made in transportation. With current funding levels, very little funding is available for increasing the capacity of our existing roads or constructing new roads, which we still need in Alabama.

I recognize the difficult tasks facing Congress and I believe increasing flexibility and addressing regulatory reform will help enhance the value of our limited federal transportation dollars.

Thank you for the opportunity to express my comments concerning the next federal transportation reauthorization. I will be happy to address any questions you might have. Thank you.

ISSUES FOR SURFACE TRANSPORTATION REAUTHORIZATION

US SENATE COMMITTEE ON THE ENVIRONMENT AND PUBLIC WORKS,

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

CHAIRED BY: BARBARA BOXER

ADDENDUM TO WRITTEN TESTIMONY

JOHN R. COOPER, DIRECTOR

ALABAMA DEPARTMENT OF TRANSPORTATION

APRIL 14, 2011

Addendum to Written Testimony - John R. Cooper
Alabama Department of Transportation
Issues for Surface Transportation Reauthorization
April 14, 2011

Title of Regulation, Statute or Policy Guidance:

23 CFR §771.125 (b) The final EIS will be reviewed for legal sufficiency prior to Administration approval.

Description of Specific Issues, Problems, Shortcomings:

It is recognized that a legal sufficiency review may provide valuable input into the development of an Environmental Impact Statement to produce a document that can withstand legal challenge. However, not all EIS's will be the subject of a legal challenge. There are many projects that have overwhelming public support and the risk of a legal challenge is minimal. Projects and documents that have minimal risk of a legal challenge should be exempt from the legal sufficiency reviews. Some legal sufficiency reviews have taken over a year to complete. Other reviews have suggested additional studies even after many previous technical reviews by environmental experts. Making this an optional requirement, to be performed at the discretion of the state FHWA office, will save valuable time and cost.

Recommendation for Modification, Elimination:

Make the legal sufficiency review in 23 CFR §771.125 (b) an optional requirement, to be performed at the discretion of the state FHWA office.

Addendum to Written Testimony - John R. Cooper
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Title of Regulation, Statute or Policy Guidance:

23 CFR §771.129 – Re-evaluations

Description of Specific Issues, Problems, Shortcomings:

Title 23 CFR 771.129 requires a written evaluation of an approved EIS before the project may advance if no major action has not occurred within three years. The three year time period is too short considering the typical life of a project. The three year time period requires multiple re-evaluations on projects that are costly and time consuming. FHWA has required additional studies during the re-evaluation process on projects simply because the standard method of study has changed. This has occurred on projects where rights of way have already been purchased for the approved alternate and there is no question that the additional study will not cause any change in decisions made. These studies have delayed the advancement of projects for years with no real value added to the process.

Recommendation for Modification, Elimination:

Change all references to three years in regulations regarding environmental reevaluations (23 CFR §771.129) to six years.

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Title of Regulation, Statute or Policy Guidance:

Title 23 USC §109 paragraph (n) – Standards
"It is the intent of Congress that any project for resurfacing, restoring, or rehabilitating any highway, other than a highway to which access is fully controlled, in which Federal funds participate shall be constructed in accordance with standards to preserve and extend the service life of highways and enhance highway safety."

Description of Specific Issues, Problems, Shortcomings:

It is up to each state Division Office of the Federal Highway Administration (FHWA) to decide what standards to apply that enhance highway safety. Depending on one's interpretation, the simplest resurfacing job can become major reconstruction work in order to apply a standard that "enhances safety." It is not believed that the intent of this law was to require that any federal money spent on a resurfacing job requires that the road be upgraded to modern standards; however, some FHWA Division Administrators are using this section of law to require the upgrading of certain features on projects. This can add unnecessary cost and time to a project. Paragraph (n) is redundant and unnecessary since paragraph (c) and paragraph (o) already address the establishment of standards.

Recommendation for Modification, Elimination:

Eliminate Title 23 USC §109 paragraph (n)

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Title of Regulation, Statute or Policy Guidance:

Section 4(f) [now codified in 49 U.S.C. § 303 and 23 U.S.C. §138]

Description of Specific Issues, Problems, Shortcomings:

The regulation commonly referred to as Section 4(f), refers to the original section within the U.S. Department of Transportation Act of 1966 which established the requirement for consideration of park and recreational lands, wildlife and waterfowl refuges, and historic sites in transportation project development. The law, now codified in 49 U.S.C. § 303 and 23 U.S.C. §138, is implemented by the Federal Highway Administration (FHWA) through the regulation 23 CFR 774. Before approving a project that uses Section 4(f) property, FHWA must either (1) determine that the impacts are *de minimis*, or (2) undertake a Section 4(f) Evaluation. If the Section 4(f) Evaluation identifies a feasible and prudent alternate that completely avoids Section 4(f) properties, it must be selected. If there is no feasible and prudent alternate that avoids all Section 4(f) properties, FHWA has some discretion in selecting the alternative that causes the least overall harm. FHWA must also find that all possible planning to minimize harm to the Section 4(f) property has occurred. Section 4(f) properties include publicly owned public parks, recreation areas, and wildlife or waterfowl refuges, or any publicly or privately owned historic site listed or eligible for listing on the National Register of Historic Places. Section 4(f) only applies to funding from the US Department of Transportation and does not apply to other federal agency funded projects. State DOT's are held to a higher standard under Section 4(f) than other agencies (state or federal) whose funding comes from sources other than DOT. Properties that are "potentially" eligible for the National Register of Historic Places are already protected under Section 106 of the National Historic Preservation Act, but must also undergo the rigors of Section 4(f). Section 4(f) studies and reviews will add at least an additional year to the environmental process.

Recommendation for Modification, Elimination:

Eliminate Section 4(f) requirements

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Title of Regulation, Statute or Policy Guidance:

23 USC §106 (h) – Major Projects

Description of Specific Issues, Problems, Shortcomings:

Title 23 USC §106 (h) requires that all projects over the cost of $500,000,000 have a project management plan and an annual financial plan. It is believed this section of law was established under SAFETEA-LU in response to the scope and cost overruns associated with the Boston Tunnel. While the intent to oversee and manage costly projects is important, the level of detail these plans require is very time consuming. States with projects on the Appalachian Development (APD) Highway System are already required to prepare cost-to-complete estimates on a periodic basis following federal guidelines. Funding to the states for APD corridors is based on the cost to complete. The federal rules and funding mechanisms in place for APD corridors satisfy the intent of 23 USC §106 (h), however, FHWA is requiring a separate financial plan that follows an additional set of guidelines in order to satisfy 23 USC §106 (h). Exempting APD corridors from the duplicative 23 USC §106 (h) requirements will save time and streamline the process.

Recommendation for Modification, Elimination:

Exempt highways and projects on the Appalachian Development Highway System from the requirements of 23 USC §106 (h).

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Title of Regulation, Statute or Policy Guidance:

23 U.S.C. 112 (b) and 23 CFR 635 Subpart B - Force Account Work

Description of Specific Issues, Problems, Shortcomings:

Even though Title 23 USC 112 (b) allows the use of the force account method of contracting, FHWA's interpretation of rules [23 CFR 635 Subpart B] governing the use of force account contracting has severely restricted the use of force account work. The law and rules allow force account work when it is determined to be cost effective. 23 CFR 635.204 Determination of More Cost Effective Method or an Emergency establishes the process for making a determination that force account construction is cost effective. Section 635.205 Finding of Cost Effectiveness defines work that is considered to be cost effective for force account construction due to its "inherent nature" or to protect the "rights and responsibilities of the community at large." The adjustment of railroad or utility facilities are given as examples that are cost effective due to their inherent nature. FHWA has interpreted Section 635.205 Finding of Cost Effectiveness as the only conditions under which work by force account can be allowed. The FHWA interpretation renders Section 635.204 (c) moot. FHWA guidance further states that "any noncompetitive construction contract method requires a cost effectiveness determination as well as an evaluation that demonstrates circumstances are unusual and unlikely to recur." The "unusual and unlikely to recur" condition is not supported by statute. 23 CFR 635.204 (a) states "Congress has expressly provided that the contract method based on competitive bidding shall be used by a State transportation department or county for performance of highway work financed with the aid of Federal funds unless the State transportation department demonstrates, to the satisfaction of the Secretary, that some other method is more cost effective or that an emergency exists." The law does not require the state to demonstrate that conditions are unusual and unlikely to recur.

Significant time and cost savings can be achieved though a greater allowance of force account contracting in accordance with Section 635.204 (c).

Recommendation for Modification, Elimination:

It is requested that FHWA allow force account contracting when the conditions of 23 CFR 635.204 (c) are met.

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April 14, 2011

Title of Regulation, Statute or Policy Guidance:

23 USC Section 217(g) and FHWA Guidance - (Updated April 4, 2007) Bicycle and Pedestrian Provisions of Federal Transportation Legislation

Description of Specific Issues, Problems, Shortcomings:

23 USC Section 217(g) states, in part:

(g) Planning and Design.--

(1) In general.--**Bicyclists and pedestrians shall be given due consideration** in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively. **Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate**, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

FHWA Guidance - (Updated April 4, 2007) Bicycle and Pedestrian Provisions of Federal Transportation Legislation states the following:

> "Due consideration" of bicycle and pedestrian needs should include, at a minimum, a presumption that bicyclists and pedestrians will be accommodated in the design of new and improved transportation facilities. In the planning, design, and operation of transportation facilities, bicyclists and pedestrians should be included as a matter of routine, and the decision to not accommodate them should be the exception rather than the rule. There must be exceptional circumstances for denying bicycle and pedestrian access either by prohibition or by designing highways that are incompatible with safe, convenient walking and bicycling.

The law clearly states that bicycle and pedestrian facilities shall be considered where appropriate. FHWA guidance has embellished the law from "consider where appropriate" to a must include condition unless not doing so can be justified. And, furthermore, "there must be exceptional circumstances" for not providing such facilities.

This places an undue burden on states to justify exceptional circumstances when not including provisions for bicyclists and pedestrians in a project.

Recommendation for Modification, Elimination:

We request FHWA rescind their guidance on the meaning of "due consideration."

Senator BAUCUS. Thank you, Mr. Cooper.

Several points come to mind here. One, we don't have a lot of money here. At at the current rate, under a 6-year program, the number of dollars spent per year reduced, I think it is something like $40 some billion a year, from $42 billion down to $28 billion. If we take the 6 years in the current funding levels, the annual funding payments would be approximately from current $42 billion down to about $28 billion, unless we find new revenue.

I don't think we want to be in that position where it is only $28 billion. That is a huge blow to our country.

Which raises the question of the 6-year versus a 2-year bill. I just raise that because if we can't find revenue to pay for a full 6-year bill, it might be better to go for a shorter which is fully funded for at least those 2 years.

The next basic question is this: We need to get the highway program back into a national program, to restore the pride that we once had in the Interstate highway system. President Eisenhower conceived the idea and built it, proposed the idea. I have forgotten what year we built the Interstate system, but it is a national system. It passes through urban States and rural States.

It is true that there are points of congestion. There is no doubt about that, in some of the urban States, cities and ports. But it is also true that the rural States need a highway system, the Federal Interstate. I mention my State, Montana, has one of the highest State gasoline taxes in the Nation. The Interstate Highway System would stop at the Montana border, probably the Wyoming border, maybe North Dakota border if there were no Federal system. We can't afford it in Montana, don't have the resources. Of course, freight has to go across the country. It is a national program.

So I am just asking a couple of questions and you can take any one you want, any one of you. One is what do we do to assure we have full funding? We can't have fewer dollars for this system. Second, what do we do to get back to the national focus on energy so this is an American program? Is it not just a little sectional this community and that community, and so on and so forth, program. We can leave then things like performance standards so people get a better sense of the money that is being spent correctly, not wasted.

Any thoughts? I will just go down the line here. I don't have a lot of time here, but Mr. Smith, I will start with you.

Mr. SMITH. Well, Senator, we think that the best way to provide the funding for the highway system is from the users. Obviously, the fiscal problems of the United States preclude a lot of general funds going into transportation. Specifically, to move from a gasoline tax to a vehicle mileage tax, which represents a surrogate for the older system.

You really have to go that way because with the introduction of hybrid vehicles, electric vehicles and so forth, the efficiency of the vehicles is not producing the kind of gasoline tax revenues into the fund. So that is one thing.

The second is to use technology in the areas where there is most congestion, to manage transportation demand. Where that has been done, it is very successful. The people that need to utilize the system in the peak hours pay more for the lane or the time of day

that they use. With the technology that is out there today, both of these are feasible solutions.

Senator BAUCUS. Ms. Thomas, your thoughts?

Ms. THOMAS. I would just add that New Mexico is also a very rural State. Our largest city is only a half million, so we have the same problems Montana has. We don't have the funding to maintain a Federal system through our State.

I would agree with Mr. Smith. A vehicle miles traveled tax seems reasonable to me, and also the technology. My daughter is a transportation planner. She works in Albuquerque. She is familiar with those systems. I know how beneficial they are.

But I would also continue to put in a plug for other modes of transportation. In Southern New Mexico, that is a very high-poverty place and not everybody in our rural areas can even afford automobiles. So we also need public transit.

Senator BAUCUS. OK. Mr. Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

Senator BAUCUS. What do you want to do? Go back and forth?

Senator INHOFE. That would be nice.

Senator BAUCUS. Yes, that is what I thought.

Senator INHOFE. Senator Sessions, I think your witness may be leaving, that is why we are deferring to you?

Senator SESSIONS. That would be great.

Mr. Cooper, one of the things I understood, for example, is that even a modest repair or work on an intersection could result in the State required to do an environmental audit or review of a large area of the entire highway. Are those kind of things actually happening to your department?

Mr. COOPER. We have had instances where that has happened. We did attempt to widen a two-lane intersection in a rural area, of two State highways covered by parts of the Federal system. In order to do that, and it would have been to simply widen an intersection for about 100 yards, we were required to do a corridor study of 7 miles in thought that eventually we might want to widen the entire 7-mile corridor between two small towns. It took about over a year to do that corridor study.

Senator SESSIONS. That delayed both your repair at the intersection and increased cost for it?

Mr. COOPER. Well, it increased cost and it actually was a safety-motivated repair. We were having and continued to have a number of accidents at that intersection. It has poor line of sight and poor grade, something that was correctable. But in order to do that and protect the ability to use Federal funding on that road, we had to study a corridor of 7 miles environmentally.

Senator SESSIONS. In your judgment, that was not a smart use of resources or a legitimate basis to delay the safety actions you intended to undertake?

Mr. COOPER. I think we would acknowledge there is a place for the logical termini. We did not believe it was here. The problem is that the regulations get written, the rules get written, and then they tend to be interpreted rather absolutely and rather rigidly without, in our view, any input of common sense. We do not believe common sense would have supported doing that corridor study for 7 miles.

Senator SESSIONS. With regard to your overall challenges that you have, I am aware that Alabama has certain serious congestion problems in certain aspects of the Interstate system, and some of those repairs are exceedingly costly, I guess, in terms of the size of Alabama's budget.

How do you see the Federal-State responsibility there? You indicated that you thought the Federal Government should reduce its responsibility in the non-major highways and increase it in its Interstates and major highways. Would you share a little more of your thoughts about that, please?

Mr. COOPER. Well, clearly the Federal highways are, to use an old Southern expression, the big rocks of highways. They are the important arterials that connect across our State and across our country. Federal involvement, we understand, is very necessary there and a shared State-Federal financing is appropriate. We accept that involvement and believe it is appropriate.

Our questions on Federal involvement are where the tentacles of it go down into rural roads, roads that we do not believe have national significance. As to the funding of our Interstates, it is almost an insurmountable object in many ways. We currently are rebuilding one mile of Interstate in Birmingham at a cost of over $23 million. That is competitively bid with five responsible bidders. It is a pretty representative price.

We believe that we could spend our entire budget on repairing and maintaining the Federal system, the Federal Interstate system for a couple or 3 years and probably not totally catch up to where we would like to be. I think our situation in that regard is reflective of many States.

Senator SESSIONS. That's $23 million for that 1 mile in Alabama's Federal highway funds?

Mr. COOPER. It is shared funding. The larger part is Federal. It is an Interstate highway.

Senator SESSIONS. We get about, what, $500 million to $600 million from the Federal Government?

Mr. COOPER. Collectively, we get about $800 million.

Senator SESSIONS. Eight hundred million dollars.

Mr. COOPER. Eight hundred million dollars. Some of that goes directly to the large urban areas and the bulk of it, about $560 million comes to ALDOT.

Senator SESSIONS. Mr. Smith, you mentioned the electrification of vehicles and the need to get off our dependence on foreign oil and the wealth transfer, the economic impact that has. We have been hearing a lot of talk about natural gas, increasing supplies and the lower cost. One estimate I had recently was that the price of natural gas compared to fuel was $24 a barrel. Now, we are over $100 a barrel for oil.

Have you considered, particularly in your localized FedEx vehicles, natural gas as an alternative?

Mr. SMITH. Well, Senator, one of the things that the Energy Security Leadership Council advocated right at the onset was to maximize U.S. production of U.S. oil and gas. Fortunately because of technological developments, as you point out, we now have large supplies of natural gas that just a few years ago were deemed to be unrecoverable.

So the issue is what can that natural gas best be used for? Based on our analysis, it can be very productively utilized for centrally fueled heavy fleets: buses, garbage trucks, things that began and end at the same point every day. It is probably not a particularly cost-effective or energy-efficient system for most other transportation based on the experimentation and the analysis that we have done.

We believe, however, that the use of natural gas for the production of electricity is hugely important. As I mentioned, the Electrification Coalition has been focused very heavily on how does the country electrify a large part of our light-duty vehicles, personal automobiles and smaller pickup and delivery vehicles.

That is very profound because the operating cost of a small vehicles, say, a FedEx Express pickup and delivery vehicle, relative to a diesel-powered vehicle, is about a 75 percent or 80 percent per mile savings. Basically, the power to generate that propulsion during the day is already produced during the evening and is dissipated because there is no place to store it.

So the real element in electrification is how fast the battery technology can produce lower battery costs and performance. Today, it is about 100 miles for a charge produced overnight. If it is a 220-volt recharge, it is about a 4-hour cycle. In four to 5 hours, based on our analysis and the Department of Energy, ARPA-E, as they called it, Advanced Research Projects Agency-Energy, thinks that those costs will give you about a 200 to 250-mile range for a personal automobile or a small commercial vehicle, and the price will be about 40 percent or 50 percent less than it is today.

So you are getting pretty close there, but the numbers are quite astounding. We burn today about 10 million barrels of oil in our light-duty sector. Remember, 98 percent of all transportation is fossil fuel; 70 percent of all petroleum is burned by transportation. In the light-duty sector, it is about half of our oil consumption per day. At a 2.5 percent to 3 percent GDP growth rate over the next 25 years, that will grow, even with the new fuel efficiency standards, if we don't do something, to about 14 million barrels a day.

If you execute the recommendations of the Electrification Coalition in the report that we put out, that can be reduced by 2035 to 4 million barrels a day. So there is a swing of 10 million barrels a day there between making a major effort to electrify and not. The cost is really by Washington standards very modest and there is a huge ROI.

Senator BAUCUS. Thank you very much, Mr. Smith. Thank you, Senator.

Next is Senator Carper.

Senator CARPER. Thanks. Thanks to all of you for joining us today. I have a couple of questions for Mr. Smith and then one for the panel. Before I ask those questions, let me say this.

We last raised the Federal gasoline tax in I think 1993, raised it to about 18.5 cents per gallon. Today, we are in a situation where we don't have enough money in the Transportation Trust Fund to build all that we need to build. I think the Nation's engineers have evaluated our transportation infrastructure and given it a grade D as in delta. That is not good.

What we do since we don't have enough money in the Transportation Trust Fund, we borrow money from our general fund. Because there is not enough money in our general fund to serve all of our needs, we do around the world and borrow this year about $1.5 trillion.

I know that we have a saying that if things are worth having, they are worth paying for. I am very encouraged with the idea of a vehicle-miles-traveled approach. I think it makes all the sense in the world. Congestion pricing, that kind of thing, it makes sense. We can toll. That makes sense. It makes a whole lot of sense to move people out of cars, trucks and vans where they have densities to other forms of other transportation, whether it is buses or trains or transit.

But we need to raise some revenue here, and nobody wants to run away from that. I proposed, along with former Senator George Voinovich, that we raise the Federal gasoline tax about a penny a month for 15 months. The Erskine Bowles-Alan Simpson Deficit Commission came back. They ended up recommending we raise it a penny a quarter for 15 quarters. That would give pretty much the money that we need to go forward and actually take that great D up to something like a C or a B, and to be able to meet our needs, but that is the kind of things we have to do.

We have to find the will to raise the revenues. If we are not going to do that, we shouldn't be spending all this money that we don't have, and simply go around the world hat in hand and borrow it. You don't need to hear that lecture from me, but I lay that at your feet and I lay it at the feet of my colleagues.

Thank you.

Senator CARPER. Mr. Smith, question. You guys deliver a lot of packages every day. God only knows how many you deliver at FedEx. I am sure that the kind of price increases that we have seen in gas have an inordinate effect, a bad impact on your bottom line, and that congestion can have a debilitating effect on your ability to deliver on time.

Could you just give us some idea of what impact congestion and the rising price of oil are having on you business?

Mr. SMITH. Well, first of all, Senator, let me reiterate in response to your remarks there, we have supported an increase in gasoline taxes to fund the transportation infrastructure of the country. The problem is, as I just mentioned, as things electrify and get more efficient, you are not going to be able to raise the revenue from the gas tax to fund it. So you ought to decide how much we need to spend and then find an efficient funding mechanism, which we would recommend as the VMT, transportation demand management.

Senator CARPER. I agree. I agree.

Mr. SMITH. Now, to your specific question, it is hard to assess exactly what the cost of congestion is, but there are a lot of studies by the DOT that put the cost in lost productivity to the Nation in the hundreds and hundreds of millions of dollars. So it is definitely something that improves our GDP and it reduces our fuel consumption.

On the effects of high fuel prices on us, we don't try to speculate or hedge. We have a base cost of jet fuel and diesel fuel in our rates

which is put up on the Internet. When it goes above that cost on a barrel of fuel, we increase the fuel surcharge. Then each year over the last 10 years, we have raised our base.

So the bigger effect is what it does on overall GDP. The facts of the matter are our increased use of petroleum, 60 percent of which is produced abroad, acts as a very deleterious tax on the American public when the prices run up, and it reduces demand and GDP as a result.

Senator CARPER. OK, thank you.

I just want to ask one more question, and that is a number of experts have noted that the Federal transportation program does not have a coherent vision. They have suggested that the transportation bill that we are going to work on should establish national goals to guide the Federal program. I agree.

Do you believe that reducing oil consumption should be a national transportation goal?

Mr. SMITH. We absolutely think that it should be a goal. This is a military and security and economic problem of the highest order. Every policy that the government has, including our transportation policy, should include some sort of petroleum consumption metric as an integral part of the process, in our opinion.

Senator CARPER. All right. My time is about to expire.

Let me just say again, as we have seen this run-up in gas prices, we have also seen a dramatic increase of cars, trucks and vans being introduced that get considerably better gas mileage. I drove for the second or third time this last week the Chevrolet Volt, a great vehicle, terrific mileage, terrific performance. We are going to start building it in our old G.M. plant in Delaware next year, a Fisker product that gets about 80 miles per gallon.

So the ability to generate money from the vehicle fuel tax, gasoline tax, is going to diminish over time. If we are smart, we will do what some others have said and take these heavy diesel vehicles especially and begin converting them to compressed natural gas. There is a great opportunity to save gas there as well.

But when people, I will be honest with you, folks are reluctant to raise a user fee like the gasoline tax, and just politically it is a difficult thing to do. But if things are worth having, we need to summon the courage to do something. Vehicles miles traveled, I would like to say we can turn on a switch and it will be there tomorrow. It is not. It is going to take a while, a good while, before we can have that kind of component.

In the meantime, I would just ask my colleagues to keep in mind, we have seen this run-up in gas prices. In 1 week, gas prices go up by more than 15 cents in 1 week, and that is not money that goes into improving our infrastructure in this country; not money that is going to make us any more productive in this country. It is money that ends up in the pockets of people in a lot of countries that are unstable, undemocratic governments, and we have to be smarter than that.

Thank you.

Senator BAUCUS. Thank you, Senator.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

Let me just kind of, well, I would only say this, in line with the previous question. I won't ask you a question, Mr. Smith, but I would only make an observation. I think everyone, it should be a part of this discussion, and that is we in the United States have the largest recoverable reserves in gas, coal and oil of any country in the world. Our problem is we are not developing our own resources. It is a political problem and I have nothing against my good friends who disagree with me philosophically, but we could be self-sufficient, at least from Middle Eastern oil.

Now, I happen to be, and I looked over here, my two friends are not here. I think they are coming back, but I rank normally as one of the most or the most conservative Member of the Senate. Yet I am a big spender in two areas. One is national defense and one is infrastructure. I think that is what we are supposed to be doing here.

I am a little disturbed, more than a little disturbed, because when I chaired this committee in 2005, we had the last transportation reauthorization bill that we had. It was a $286.4 billion bill, and if you take the math that Senator Baucus mentioned, it is accurate. If you divide that out, it would be $48 billion a year for the 6 years. But if you take the transit out, it would be around $42 billion.

Now, we have some pretty persuasive evidence that even with that amount of money, that barely maintained what we have today. Here is the big problem. The problem is we need to have more money generated for that purpose. I would respectfully disagree with Ms. Thomas in some of these areas because one of the problems we have had, I can remember back in the days when we always had a surplus in the Highway Trust Fund.

In addition to the problems we have that have already been mentioned in terms of fuel efficiency and all of that, one of the problems we have, and everybody, and this is the nature of government, they all want to hitchhike on anything where there is a pot of money. So they all came in. They said, well, we want our bike trails in there and we want all this stuff.

It used to be just bricks and mortar and maintenance and bridges. In the State of Oklahoma, I think we are ranked last. I will ask Mr. Ridley to see if he agree with this. Either Missouri or we are ranked last in the condition of our bridges. We had a bridge in Oklahoma City that dropped concrete on a lady. It killed her, the mother of two small children.

This is a real serious problem that we have, and we have some ideas on what we want to do to correct this problem.

Let me ask Mr. Ridley if you could talk about some of the Federal red tape that would make our dollars go further, could you kind of give us some ideas? Then maybe some of the other witnesses would like to share or see if they agree with your thoughts on this.

The Federal red taps is using up a lot of the money that could be used for bricks and mortar.

Mr. RIDLEY. Senator Inhofe, you are exactly right, exactly how much money you would save by the bureaucratic system that we have now put in place. The Chairman made mention earlier about the trust fund that was enacted in 1956 when President Eisen-

hower signed into law the Interstate law. We have used those funds in two ways that has been a detriment on the trust fund. One is the bureaucratic regulations that we have to go through that really create no value. The second is that those funds are used for anything and everything other than what their intended purpose was for, and that is to build and maintain the national highway system.

The regulations that you speak of, surely we could all agree that working within existing rights of way, the footprint of an existing facility, and that if all we are trying to do is to keep that system in the state of good repair, to replace the existing pavement in kind, not add capacity, but just allow us to rebuild that system, surely if we had the chance to be able to rebuild bridges on our Interstate system and replace it in kind where we stay within our existing footprint, not add additional right of way, not have to move utilities, not add capacity, that we ought to be able to do that simply and efficiently with Federal funds or a joint use of State and Federal funds.

Yet today, we cannot. An example of that would be on South Canadian River out west of Oklahoma City on I–40, we have a bridge that has a sufficiency rating of less than 40, two bridges eastbound and westbound. They are functionally obsolete and structurally deficient. They are only 30 feet wide. They were built under the old standards back in the early 1960's when we first built the Interstate system. Both those bridges need to be replaced. We have the money set aside to be able to do that. We have been 15 months going through some 12 different studies that have to be done in order for us to rebuild those two bridges, which seems somewhat ridiculous to me to be able to put back a bridge.

When we get all said and done, we are still going to build the bridge. It is going to be in the exact location of the existing ones, and we create not value with the studies and the regulatory efforts that we have to go through.

Senator INHOFE. Yes, Mr. Chairman, could I just ask one more question of these three witnesses here? In terms of streamlining, because we talk about this all the time here, what areas do you see, and Mr. Cox, perhaps you could start off, where we could actually get a lot more roads for our dollars in terms of streamlining?

I know pretty much what the situation is in Oklahoma. What is it in Wyoming?

Mr. COX. Mr. Chairman, Senator, first of all, avoid adding any additional regulatory burden to the next bill. I am in broad agreement with Oklahoma's statement against the backdrop of really limited funding, limited fund-raising ability perhaps, for the highway program.

One of the most important things to look at is what are the bureaucratic roadblocks and the bureaucratic costs in implementing a Federal funding program. So we are very concerned about standing up any new Federal regulatory process. Last year's bill in the House of Representative talked about at least two new offices within the USDOT. We couldn't support that at all.

Mr. Chairman, also one other comment I would say, reiterating what I said in my testimony, is give NEPA hard deadlines for every applicable comment period. Give them a timeline and a fail-

ure to tender comments, particularly on the part of resource agencies, equals concurrence.

In our world, where we have rulemaking authority that we have to implement in a wide variety of areas, we go out for public comment. We publish. We go out for public comment; take comments; take them into consideration; make a decision; make the rule.

Senator INHOFE. Well, my time is expired, but do you generally agree with that, Mr. Cooper? Just kind of yes or no?

Mr. COOPER. Senator, I do.

Senator INHOFE. All right. What I would like to do for the record is to ask each one of you to kind of list those areas such as you did and several others have, and try to attach something on there in terms of the cost, having to do with endangered species, NEPA and all these things that might be seen as obstacles in terms of getting the most building out of our highway dollars.

So if you could do that for the record, I would appreciate it.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator.

Senator Sanders.

Senator SANDERS. Thanks very much, Mr. Chairman.

Let me just begin, and this has been a really informative panel, by making two statements and see if there is any disagreement here among the panelists.

No. 1, is there any disagreement that our infrastructure is deteriorating seriously in a very significant way? We all agree on that, no matter what our political perspectives may be.

As a former Mayor, I think you will agree with me that if you don't put money into improving your infrastructure, it probably doesn't get better the next year. Is that right? In fact, it becomes pretty stupid because you end up spending more money than you should have spent if you properly maintained.

Is that correct? OK.

Now, I want to pick up on the point that Senator Baucus made a moment ago. What we have heard today from Mr. Smith and others, which I think makes a lot of sense. From an environmental perspective, if we get automobiles that get better miles per gallon, that is good. I believe that very strongly. If we move to an electrification of vehicles, I believe that that is good also from an energy independence perspective, as well as an environmental perspective.

But obviously, it is not good in terms of funding the Highway Trust Fund. That we all agree on.

So I want to get back to the I think important question that Senator Baucus asked, and just say this. Senator Carper made the point that raising the gas tax is politically unpopular. Well, it is and it should be. In my State, you have many people who today living in rural areas, drive 50, 100 miles to work; drive 50, 100 miles back. The amount of money they are now paying for gas to fill up their tank has soared. They don't have the money to pay more to go to work. That is the simple reality. Their wages have gone down. Their transportation costs are going up.

So I hope that we can look at other more progressive and fair ways of raising revenue to rebuild our infrastructure. We heard from Mr. Smith and Ms. Thomas. Maybe we will start with Mr.

Searles and just go on down the line and just continue Mr. Baucus' line of questioning. Where do we raise that money?

Brian, do you have any thoughts?

Mr. SEARLES. One of the things we have done in Vermont recently is put a 2 percent tax on gas, not a two cent per gallon tax. What that allowed us to do is raise money for a transportation infrastructure bond fund so we are borrowing and servicing the debt with that. It is a short-term matter, but at least we have been able to get the benefit, if you can call it that, of rising gas prices for our infrastructure.

Senator SANDERS. OK. Thanks.

Mr. Lewis.

Mr. LEWIS. Ultimately, the vehicle-mile-traveled tax is the true user fee. You pay for what you use. I think there is a lot of work to be done to get there. I think that is a future revenue source that makes a lot of sense.

In the meantime, there are other existing user fees that I think we can make some better use of. It doesn't work everywhere in the country, but there are areas like in the Northeast Corridor where I think increased use of tolling is an opportunity to raise significant funding as a user fee.

Take the I–95 corridor, Maine is tolled. New Hampshire is tolled. Massachusetts is not. Rhode Island is not. Connecticut used to be. New York and New Jersey is. It is a mixed bag. There are opportunities in urbanized areas.

Senator SANDERS. Well, let me interrupt you and ask you. My understanding is heavy trucks have a lot more negative impact, destructive impact on bridges than do small cars. Are we properly taxing these heavy trucks for the actual damage that they do?

Mr. LEWIS. I would defer to others on that, and perhaps Mr. Cox or Mr. Smith. Trucks do pay a larger fee. Whether it is the right amount, whether we need to take more control in terms of the permitting of excessively overweight trucks, I think that is an issue.

Senator SANDERS. But they do more damage than an automobile.

Mr. LEWIS. They absolutely do more damage, but they are also necessary for the movement of goods and services.

Senator SANDERS. Right. Right. Let me just go on down.

Mr. Ridley.

Mr. RIDLEY. Mr. Chairman, if I may, the idea that we can spend our money wise, the existing funds that we have, I think is something that we need to consider, on how do we spend the existing funds that we have to ensure that we get the biggest return on investment. Certainly, again, as we have pointed out, that the trust fund was established to build the national highway system and that is where the——

Senator SANDERS. But do you disagree that given the deterioration of the national infrastructure, that we don't need more money?

Mr. RIDLEY. No, I think, Senator, with all due respect, I think that the State DOTs, it is not our position to tell the Members of Congress how to fund the transportation system. I think it is our job to explain the problems we have the rules and regulations that are set in place, as well as the condition of the system and how it is deteriorating. I think that Congress has to make those decisions.

Senator SANDERS. OK. Thank you very much.

Mr. Cox.

Mr. COX. Mr. Chairman, Gary said that much better than I could have, I think. One comment that I would make is that in Wyoming at the legislative level, at the State legislature level, there is a very similar debate going on. There is a growing acknowledgment of the need for funding for transportation infrastructure. There are multiple studies going on during the interim between sessions this year.

The argument over whether or not the need exists has ceased. Now, it is an argument over where the money will come from.

Senator SANDERS. There is an agreement now that you need more money, is what you are saying?

Mr. COX. There is certainly agreement there, and I recognize the obvious nature of the need for more revenue. Again, like Director Ridley said, our position has been to communicate the magnitude of the need.

But also, there is one comment that I want to make with regard to the VMT tax. The vehicles miles traveled by the average driver in Wyoming is the highest in the Nation at about 17,000 miles per year. So when that is taken into consideration, how do you integrate into that equation how to——

Senator SANDERS. So you are suggesting that a VMT tax might be unfair to rural areas?

Mr. COX. It might have a disparate impact on rural drivers unless there is some way to mitigate that.

Senator SANDERS. Good. OK. Great.

Thank you all very much.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you.

Senator Barrasso.

Senator BARRASSO. Thank you very much, Mr. Chairman.

Director Cox, the map that you included in your testimony I thought really highlighted the connectivity challenges that we face in Wyoming and Idaho and Montana and North and South Dakota. As Senator Baucus has said, Montana and Wyoming allow the flow of commerce to move from coast to coast. These are the bridge States that keep our transportation system whole.

Could you elaborate a little bit on the national consequences of not adequately funding the rural States like Wyoming and Montana?

Mr. COX. Mr. Chairman, Senator Barrasso, first of all, I guess I would start by saying that Wyoming historically is like many other States, I think: very dependent on Federal funding to take care of, particularly, the Interstate highways. There was a term used by my colleague from Alabama. I can't remember exactly what it was, but what we call I–80 in Wyoming is the thousand-pound gorilla.

The fact is, and this is from an established study, I–80 would take all of our Federal funding. If Federal funding remained flat for the next 25 years, I–80 would take all of the Federal funding that Wyoming receives to preserve it in its present condition, without adding bridges, without adding off-ramps and on-ramps; without any notion of capacity addition or anything like that.

So the need is obvious. Any cessation or any loss of Federal funds is going to have a dramatic impact on that. A few years ago, I

learned that about 20 percent of the American population lives within several hundred mile radius of Chicago. Many of the goods that serve that population enter the United States at the western ports: L.A./Long Beach, Oakland and Seattle. Most of those goods travel by rail and by highway across the rural States in order to get to that population center. It spreads out from there.

So, the whole idea of funding these rural bridge States in an ongoing sense is absolutely critical, in my opinion.

Senator BARRASSO. You testified that there was a time when the Federal Highway Administration was truly a resource for the States and the Departments of Transportation, and for contractors. But over the past years, the Highway Program has become more and more complicated. Red tape continues to slow projects, and that, of course, drives up the cost.

There are so many things I think that Washington gets wrong, States get right. Can you talk a little bit about a few of the areas where Federal regulations could be maybe scaled back to allow the highway dollars to go further?

Mr. COX. Mr. Chairman, Senator Barrasso, I guess I would reiterate the comments that I made just a little bit earlier about avoiding additional regulations in the new bill. Again, giving NEPA hard deadlines for all comment periods involved in the process we think is critical. I agree with Mr. Ridley's comments in the broad context of any kind of reconstruction that takes place within the footprint of existing facilities needs a categorical exclusion granted.

Senator BARRASSO. When you came in and I mentioned to you, Director Cox, that this was quite an impressive panel. You said, you know, Gary Ridley is the real deal. Listen to this guy.

Mr. Ridley, is there anything that you would like to add, I have another minute or so left, that you think we haven't heard yet on this committee?

Mr. RIDLEY. No, sir. I think the committee has asked questions that were pertinent to the topic. I certainly think that my colleagues from the other States have a good grasp of the situation. Hopefully, Members of Congress will listen to these learned gentlemen and women that you could help the situation. It certainly needs our full attention.

Senator BARRASSO. Thank you.

Director Cox, anything else that you would like to add?

Mr. COX. Mr. Chairman, the general question was raised a little while ago about a 3-year bill versus a 6-year bill. Obviously, the optimum for the States and their ability to plan in a long-range sense is a 6-year bill.

I think we fully appreciate the difficulty of funding for the bill, but the longer we have that we can predict funding, whether it's Federal funding or State funding, the better off we are in the planning sense. Thank you.

Senator BARRASSO. Thank you.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator.

Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

Let me first request that an article entitled "Rhode Island Has the Fourth Worst Bridges in the Nation" be, by unanimous consent, made a matter of record.

Senator BAUCUS. Without objection.

[The referenced document follows:]

Published online March 31, 2011

TRANSPORTATION

Rhode Island has the 4th-worst bridges in the nation

By PBN Staff

PROVIDENCE – Rhode Island ranked 4th-worst nationally for the overall condition of its bridges, according a recently-released report, "The Fix We're In: The State of Rhode Island's Bridges."

Just three states – Iowa, Oklahoma and Pennsylvania – had a higher percentage of their bridges labeled as "structurally deficient," a term that does not mean the bridges are unsafe, but rather require significant maintenance, rehabilitation or replacement.

Transportation For America, the coalition behind the report, said that one in every five bridges that motorists cross in Rhode Island every day are likely to be deteriorating and 21.6 percent of the bridges statewide are structurally deficient, as compared to the national rate of 11.5 percent.

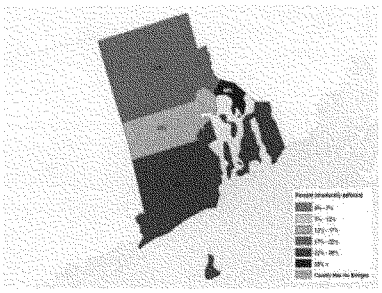

IMAGE SOURCE TRANSPORTATION FOR AMERICA

BRISTOL COUNTY had the highest percentage of bridges deemed "structurally deficient" at 60 percent. Kent County, at 17 percent, had the fewest. For a larger version of this image, CLICK HERE.

"The maintenance backlog will only worsen as bridges age and costs rise," said the report citing statistics from the Federal Highway Administration in 2009:

"$70.9 billion is needed to address the current backlog of deficient bridges. This figure will likely increase as many of our most heavily traveled bridges – including those built more than 40 years ago as part of the Interstate System – near the end of their expected lifespan."

States with the best bridges were Florida and Nevada, with 2.4 percent and 2.2 percent, respectively, of bridges deficient.

In Rhode Island, there are 754 highway bridges: 602 are state-owned, 145 are owned by cities or towns and seven bridges are owned by "other" entities such as private businesses and federal agencies.

Ownership is important to note, Transportation for America said, because it often determines who is responsible for maintenance and repair.

One hundred and sixty-three of the Ocean State's bridges qualify as "structurally deficient" and have average annual daily traffic of 3 million vehicles.

The structurally deficient bridge with the highest traffic volume in Rhode Island is in Warwick, on the Interstate 95 over Jefferson Boulevard.

The county with the highest percentage of structurally deficient bridges was Bristol County, with three of its five bridges needing significant maintenance or repair. The county with its bridges in the "best" state was Kent County with 18 of its 106 bridges labeled as "structurally deficient."

The average age of bridges in Rhode Island was 52.6 years old as compared to the national average of 42 years old.

Senator WHITEHOUSE. Unfortunately for the Ranking Member, Oklahoma is one of the three States that has a higher percentage than Rhode Island of structurally deficient bridges, but we clearly share an intense concern about this. I wanted to ask Mike Lewis, our DOT director, in that vein to talk a little bit about the, you mentioned it during your testimony, but elaborate a little bit on the situation with the Providence Viaduct.

First of all, does that count as a bridge, even though it looks like one. It is not over a body of water or anything. It is kind of a highway interchange, goes right by the mall in Providence. You drive underneath it and you look up and there are boards that have been put across the I-beams underneath it to prevent exactly what happened in Oklahoma. It is falling through and if it were to fall on somebody, they could be hurt or killed. So they have this jury-rigged wooden net, I guess, to protect against pieces falling on the traffic below.

We really need to solve that problem. It is I–95 going right through Providence, and if it were to go, it would be really very significant in terms of its regional economic impact.

Mike?

Mr. LEWIS. Absolutely, Senator. You are absolutely right. As I mentioned earlier, it is one of probably 160 structurally deficient bridges in the State. For many States that is a small number, but relative to Rhode Island, it is a very large number. I–95 is the lifeblood of the State. It is the corridor from New York to Boston and on up the East Coast and on down to Washington.

So if we were put in a position of having to post the Providence Viaduct with weight limits or, God forbid, close it, you would be basically cutting off the Interstate corridor through the State and cutting off the capital city. There are no good detours unlike the Pawtucket River Bridge that we are currently detouring commercial traffic.

The current posted bridges in the State of Rhode Island add up to over 800 miles of detour routes. So every day, the commercial traffic that has to detour around these posted bridges is incurring an aggregate of 800 miles of detours for those posted bridges.

Senator WHITEHOUSE. At huge cost to the trucking industry and the shippers and the people who are receiving the goods.

Mr. LEWIS. Just an example of that, one posted bridge in the city of Cranston had the RIPTA, our transit agency, had to detour the bus route around that bridge. That single detour of a single bus route cost the transit agency over $300,000 in additional operating costs that 1 year; one bus route because of the detour. Multiply that with commercial.

Senator WHITEHOUSE. So you can extrapolate that. So the costs of all this are very high. One of the solutions that we have proposed in Rhode Island is to put tolls on I–95 to generate some of our own funding since the Federal funding is insufficient for these purposes.

I can remember driving through Connecticut when I–95 was tolled in Connecticut and it was a pain in the neck because at each toll plaza you bottlenecked and you had to wait. When that cleared, it was a real blessing to everybody.

Could you describe a little bit what the toll technology is like now with respect to toll plaza bottlenecks?

Mr. LEWIS. Well, I think the technology today is vastly different from that which you described. New Hampshire recently, just a year ago, introduced open road tolling at their Hampton toll plaza on I–95, which had previously been a cash-only facility. The backups in traffic have virtually been eliminated. You can travel through the toll plaza using an EZ pass transponder at highway speeds, so safety is completely eliminated as an issue for cash toll plazas.

There are other roadways across the country and in Canada and around the world that are completely electronic, and that may be an opportunity in the future.

Senator WHITEHOUSE. So it takes the hassle out of tolling.

Mr. LEWIS. It really does. It takes the hassle out. Again, it is a user fee that goes directly into that facility, and increased flexibility for States where it is appropriate to utilize that in the upcoming bill would be very beneficial.

Senator WHITEHOUSE. In the end of my time, I complimented you on the intensity of the effort you put into getting the Recovery Act funding out into Rhode Island. Can you comment on what you saw in terms of jobs and additional economic activity based on the way the Recovery Act was spent in Rhode Island?

Mr. LEWIS. Well, in the small State of Rhode Island, we were, as you know, Senator, one of the largest, most impacted States in terms of the economy. We are still one of the highest unemployment rates in the country.

By putting a number of jobs out for Rhode Island, spreading across the State geographically, as well as different types of work to get as many contractors and labor to work. We were able to keep people from becoming unemployed in the construction industry as much as putting people in new jobs.

So it was very much of a benefit to the State and transportation infrastructure investments, those are good jobs. They have a ripple effect. The investment goes back into the local economy.

So I think certainly an increased investment in infrastructure has a positive beneficial impact on local and regional economies, as well as obviously the national economy.

Senator WHITEHOUSE. My time is expired. I thank the Chairman and the Ranking Member.

Senator BAUCUS. Thank you, Senator.

Senator Boozman.

Senator BOOZMAN. Thank you, Mr. Chairman.

Again, I appreciate you all being here, appreciate the testimony. One of the things, and it just is a recurring theme here and was a recurring theme in the House for the 9 years that I was there, is all of the bureaucracy and things that go on. It seems like that was one of the first things that we were talking about. Well, it was. We discussed it then, and if anything, the bureaucracy has increased significantly in the last 9 years.

We had the study in the last reauthorization that came out that, you know, highlighted this. Yet, we have just got to address that problem. That truly is a cost-saver in a very difficult financial time. So we do appreciate your testimony in that regard.

Mr. Smith, we had the opportunity to visit the other day about some of these issues. You mentioned your views on electric cars for the vehicles that are doing the services like yourself at FedEx and then maybe the Frito-Lay people.

Can you talk a little bit about electric cars and where you see that going in the future? The reason I bring that up is that that is an area where because they would not be participating in the gas tax, it is another reason that we really do need to figure out in a very fair way how we get around that.

I think coming from Alabama, Mr. Cooper, you brought up the fact about the fact that some of our rural States, you know, so much traveling is done. If you go to some other system, how do you get all that stuff worked out?

But could you comment a little bit about the electric cars and where you see that going in the future?

Mr. SMITH. Well, Senator, I made some comments earlier on this, but electrification is a real opportunity for the country to significantly reduce energy consumption in general. When combined with maximizing our own resources in this country, we could significantly reduce the amount of imported petroleum that we use. I gave the projection we could actually reduce it from about 14 million barrels a day estimated in 2035 to about 4 million barrels a day.

On the gasoline taxes, I also mentioned we support a VMT, but as was noted a few moments ago and as we suggested to deal with congestion, the use of modern RFID taxes can give all kinds of information and things could be tweaked in many different ways. The larger vehicles that are used in commercial transport get about 5.9 miles per gallon. So by definition, they pay a higher gas tax into the system because they use more gas.

Well, if you go to a VMT, the transponder needs to be able to say, you know, I am a heavy truck. The VMT mileage for that truck might be different. Similarly, for State roads or rural transportation, which on a gasoline tax if you are driving more miles and you have an inefficient vehicle, you are going to pay a lot of gasoline tax relative to somebody that is using a commute in a metropolitan areas for 10 miles a day.

So you can adjust the VMT actually easier once you move to that kind of velocity. That is why we support that and transportation demand management in the major metropolitan areas.

The University of Texas, I think, estimated by the way that the cost of congestion in just the top 15 or 20 markets in the United States cost the economy about $115 billion a year. So there is a lot of improvement that can be made by going to a VMT and transportation demand management.

Senator BOOZMAN. With the added axles and things, do you agree that the heavier trucks are harder on the roads?

Mr. SMITH. Sure. The heavier the weight of the vehicle, it puts——

Senator BOOZMAN. Even if you distribute the load out?

Mr. SMITH. Well, it certainly makes a difference, but it is, like our airplanes, you know, we have a six-wheel dolly or four-wheel dolly. It distributes the weight and it is better, but it is the absolute weight that deteriorates the runway. A Cessna doesn't put as

much wear and tear on the Oklahoma City airport as one of our wide-bodies. In the highway area, that would be true.

Now, having said that, we very much support efficiency improvements in vehicles. One of the things in my testimony is a recommendation that the so-called pups, the 28-foot vehicles, be permitted to go to 33 feet. If you saw these vehicles on the road, you wouldn't be able to tell the difference between the two.

They are actually more stable and safer, according to our drivers. You get about 18 percent fuel improvement. You can carry more weight, but again under a VMT, you can account for that given the type of vehicle because it can tell the transponder as it goes through the EZ pass location, I am a 33-foot twin trailer rig operating for FedEx or UPS or Conway or whoever the case may be.

Senator BOOZMAN. Thank you very much.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator.

Senator Merkley.

Senator MERKLEY. Thank you very much, Mr. Chair.

Thank you all for your testimony.

Mr. Smith, I really want to thank you for your detailed presentation and your Co-Chairmanship of the Energy Security Leadership Council. Many of the issues that you are talking about in there are ones that I am deeply interested in. I put out last year a report, America Over the Barrel, that highlighted many of the same issues. It is tremendous to have you working on this. My staff is passing me a copy here.

But I also want to thank you for the leadership of FedEx in this regard. I believe you all have been using quite a lot of hybrid Navistar vehicles, but you are having delivery of completely electric vehicles starting this year, maybe 400 vehicles, something of that nature.

Mr. SMITH. We have I think about 400 hybrids, and we are just starting to get delivery of the all-electrics. I think we have like 25 of those, but that fleet will grow substantially in years to come.

Senator MERKLEY. OK. I think I saw a press release today that by the end of the year, the all-electrics were going to be in the hundreds in your company. I am not sure if that was right or not, but in that regard, is the range sufficient to get one through the day, if you will in terms of fulfilling the type of urban routes that you have?

Mr. SMITH. Well, the battery technology that is out there today can give you about a 100-mile range, legitimate range, because you are going over hills or whatever the case may be. There are a significant number of our pickup and delivery routes that can be served with all-electrics.

In the next 5 years, we believe that the battery technology will allow a doubling of the range and probably come close to halving the battery cost. Then you open up a broader perspective.

On a personal side, about 75 percent to 80 percent of personal vehicles in the United States and light-duty vehicles are driven less than 40 miles per day. Now, clearly if you use it to commute every day and then you want to go on a vacation, that is an issue. But as far as urban or city transportation, all-electrics in the years to

come will offer a very big opportunity to use less fuel, create fewer emissions and reduce our dependence on imported petroleum.

Senator MERKLEY. Yes.

Mr. SMITH. As you know. You are one of the authors of the Act to solve this problem.

Senator MERKLEY. Well, I want to praise my colleagues. Senator Snowe has been very involved and is the chief cosponsor of our bill for a National Energy Security Council to take and create an organization that would carry a vision for ending our addiction to foreign oil over multiple Administrations over a couple of decades. Senator Lamar Alexander is co-sponsor of the electric vehicle bill and been very involved on that front.

But I also love and want to recognize that utilizing that either hybrid or electric technology allows you to recapture the energy lost by everyone else when we come to a stop every block, if you will, and those energy savings are enormous.

I wanted to turn, and Mr. Cox and Mr. Ridley, I think both of you mentioned performance measures in your written testimony. I have a bill that encourages cities over 500,000 to establish a baseline of performance metrics. They choose the metrics, so it is not a national vision.

Those metrics might be congestion. They might be greenhouse gas emissions and so on and so forth. Then calls for them to develop multiple transportation scenarios to weigh them against that metric as they proceed in transportation planning.

This is essentially so that we get more bang for the buck, if you will. But I just wanted to ask you all if that kind of fit into your sense of whether or not there is value in the performance measure perspective.

Mr. COX. Mr. Chairman, Senator Merkley, in the broad sense, it would be accurate to say that every State Department of Transportation measures front way, back way and cross-wise. So, there is a lot of performance measurement going on. We believe in that. I think there is consensus in the transportation community that performance measurement is critical.

From Wyoming's perspective, what is important is not to impose performance measurement in a transportation bill. I think the biggest thing to avoid would be paving the way for a Federal agency to measure and pit State DOTs against one another, and further and more dramatically, even incentivize or disincentivize agencies based upon how they compare with other States' performance measures.

In the broad sense, we support performance measurement. That is how we live in our world.

Senator MERKLEY. Thank you.

Mr. Ridley.

Mr. RIDLEY. Mr. Chairman, Senator, I certainly agree with Director Cox in his assessments of performance measures. In taking it one step farther, I think it is important in any performance measure, you ought to have a return on investment. You cannot compare one community, one State, one region how they are able to perform and perform for improvement, make improvements, without first taking into account the moneys that they have available,

either local, State or Federal funds. So somehow you have to have a return on investment.

The other thing I think that is an important component on performance measures is I think that the Federal Government and the resource agencies ought to have, as Mr. Cox again pointed out, a performance measure on how well they do their business in reacting to our requests. So I think that that is certainly an important aspect of any performance measure.

So as we progress through a project delivery system, that the resource agencies of the Federal Government are also graded on their performance.

Senator MERKLEY. Thank you both very much.

Senator BAUCUS. Thank you, Senator.

Mr. Smith, I would like for you to just give us a sense of the importance of the facility you have in Butte, Montana. You have a transfer facility there. It is right off the Interstate. In fact, two Interstates cross there at Butte, MT.

So as we write a bill, a national bill, if you could give us a sense of the importance and the relevance of the national system in the context of a rural State like Montana, especially that new facility you have in Butte.

Mr. SMITH. Well, Senator, as you pointed out and some of the others, we have a national economy. The ability to trade and exchange goods between Butte and every other point in the United States is a huge part of the dynamic of our GDP. We have several very important facilities in Montana: the one in Great Falls, which you are familiar with, our express location there at the airport; the new Butte location is at an intersection there in your State that is very productive.

So you can't deal with this issue on just a State-by-State basis. It has to be done at national funding level and then complemented, you know, for the rural and less national infrastructure on a different basis. So the dollars should be apportioned as part of a national system and not as part of a balkanized system, in our opinion.

Senator BAUCUS. I am just a little frustrated by how we pay for all this. To be honest, I have been involved in many highway bills. They are basically 6-year bills. I cannot remember a time as challenging as today, with all the different forces converging. One is the Trust Fund is deteriorating. That is a big one. The politics in our country today, it is very, very difficult to get additional revenue.

Obviously, the costs are going up because fuel is going up, equipment is more expensive, asphalt is more expensive. You have to just keep up.

Also we have to compete internationally. Other countries have very up to date infrastructure systems. It is incredible. Not long ago, I was over in China, Chongqing, and was stunned when I got off the plane at the airport. It was one of the most fancy modern airports I have seen. Then I drove on the highway. It is a big Interstate highway system. My gosh, it rivals ours. Chongqing is a city population of about 30 million people.

I asked the Mayor, where did you get all the money to build this highway? A little sheepishly, he said, well, the central government

just gave them the money and built this big highway. I thought, gee, that is pretty neat. Too bad we can't do more of that in the United States.

Of course, to be honest, I found out later that they do not use their reserves for projects like this, although in China the central government decides where all the money goes. As you know, it is Chinese policy to move out to the west and central China, and so forth.

But that is just a diversion, although it is challenging because we have this big national debt, some of it owned by China in their currency reserves, which makes it harder for us to come up with additional revenue to borrow more, if you will, or to tax more.

After that, it is just all the changes in technologies. We talked about electrification of fleets. I think we should move in that direction to the degree that seems to make sense. Then all the tensions between urban on the one hand and rural on the other.

Ms. Thomas, I understand your concerns. You live in a community where livability is really important. Of course, it is important to all our communities, but it is a certain kind of livability that is important in Las Cruces.

So I just urge us all to keep working on this. One thing I think we need to do, I am reminded a little bit of efforts that we undertook a few years ago on an earlier highway bill, and Senator Byrd did a super job, Senator Robert Byrd, and in going around the room, all the groups were working on a highway bill. He asked each person in the room: Stand up and say what you are doing to generate support for this highway bill? What are you doing? What are you doing? All the way around.

Then we met again about, oh, maybe a month later and he went back again: What have you done? And so forth.

I mention that because we might more easily find ways to finance our transportation system the more all of us, clearly all of you, go out and generate support in your communities, to your Governors, your Mayors, your legislators and so forth. There is just a dire need that we have facing us. Oklahoma and Rhode Island bridges, for example, and the other example, I have forgotten what it was, Interstate 80, I guess, in Oklahoma. My gosh, level funding just doesn't quite take care of it.

So I just urge all of us to step up because Congress tends to respond, frankly. It doesn't lead a lot. It tends to respond to what the people at home want. So I urge you to help generate some enthusiasm here so we can find some resources to finance what we need to do.

OK. Thank you very much.

The hearing is adjourned.

[Whereupon, at 11:55 a.m., the committee was adjourned.]

[Additional material submitted for the record follows.]

STATEMENT OF HON. THOMAS R. CARPER, U.S. SENATOR FROM THE STATE OF DELAWARE

I would like to welcome our witnesses to this important hearing. I am especially pleased that Fred Smith is here. Mr. Smith is the CEO of FedEx and Chairman of a group called the Energy Security Leadership Council. Given that FedEx delivers 8.5 million packages per day, Mr. Smith knows a thing or two about transpor-

tation. I am looking forward to hearing from Mr. Smith on his thoughts about the U.S. transportation system.

I am also looking forward to hearing from Mr. Smith about the impact of America's dependence on foreign oil. This is a topic that I am very concerned about, and here is why: The United States consumes close to 19 million barrels of oil per day. Of that 19 million barrels, about 70 percent, or 13 million barrels, is consumed in transportation. Our planes, trains and automobiles consume nearly twice as much oil as is consumed by the entire economy of any other country. Let me say that again. The U.S. transportation system consumes nearly twice as much oil as is consumed by the entire economy of any other country.

Today, every American is feeling the consequences of our dependence on foreign oil. The average price of regular, unleaded gas is now three dollars and eighty cents. The price of gas has risen a full dollar since last year. We will likely see a national average of four dollars per gallon in the near future. These prices are hurting the household budgets of every American and the profitability of our businesses. They are also hurting economic recovery.

Mark Zandi, an economist at Moody's, recently said, "The surge in oil prices since the end of last year is already doing significant damage to the economy." So, this leads to an important question: Is our dependence on foreign oil good for the United States? I believe the answer is a resounding "NO". It is bad for our economy and it is bad for our national security. The good news is that we are starting to head in the right direction.

The Obama administration has fast-tracked new CAFE standards to reach 36 miles per gallon by 2016 and is currently working on ambitious targets that will extend to 2025. These standards have the potential to reduce U.S. oil consumption by 20 percent. While this is a significant improvement, we must go further.

The decisions we make in this committee will have significant impact on our dependence on foreign oil. As this committee develops a new transportation bill, we have an opportunity to create a 21st Century transportation system that consumes less foreign oil, not more.

First, we must establish a national goal for reducing transportation oil consumption. This goal should be incorporated into the states' long-range transportation plans so that our local partners are working toward the same goal. Second, we must target areas with high congestion and offer transportation options that are less petroleum-intensive. Our dependence on foreign oil is not a Democratic issue or a Republican issue and the solutions need not be political. Reducing foreign oil imports will improve our national security and strengthen the economy.

I am looking forward to working with Chairman Boxer and Ranking Member Inhofe to make sure the transportation bill takes us in the right direction.

STATEMENT OF HON. BERNARD SANDERS, U.S. SENATOR FROM THE STATE OF VERMONT

Thank you, Madame Chairwoman for calling this hearing on the next surface transportation bill.

I would like to welcome Brian Searles, Vermont's Secretary of Transportation. Brian has only been on the job a few months, but he is no stranger to transportation issues. In fact, this is his second stint as Transportation Secretary during more than 40 years in public service. Brian has been the director of Burlington International Airport; he has been a police chief, a city manager, the director of the Vermont Criminal Justice Training Council, the State Commissioner of Personnel, and the Deputy Secretary of Administration. Welcome, Secretary Searles.

Brian is going to talk about an issue that is very important to me: rural and small State concerns in the transportation bill.

To my mind, it is very unfortunate that urban and rural interests are sometimes framed as being in opposition with one another. There is an idea held by some people that transportation money spent on rural areas is money ill-spent. That rural transportation projects simply do not have sufficient "cost-benefit" to merit Federal funding. That the only reason rural projects get funded at all is because of political considerations.

Madame Chairwoman, I'm sure you agree that rural areas contribute greatly to this nation's economy. Our Federal transportation policy must address rural needs just as it must meet the needs of our Nation's largest ports, urban transit systems, and more heavily traveled highways and bridges.

While it is absolutely appropriate for this committee to focus greater attention on "projects of national significance," we must also take into account projects of regional significance, as well.

When we debate new financing mechanisms—like the National Infrastructure Bank—we must make sure they are useful for rural projects, and not just for large-scale, revenue-producing projects.

As we consider funding formulas and programs, we must make sure that rural areas are not left behind. I congratulate my colleague, Senator Barrasso, for introducing a rural mobility bill last session in response to a proposal that would have directed $50 billion just for urban mobility projects.

The reality is that the current system for planning, building and maintaining infrastructure is not keeping up with the needs of rural America. Let me quickly mention a few challenges.

It is no secret that low-income rural residents, the elderly, and the disabled have few transportation options. Thirty-eight percent of rural residents live in areas that have no public transit options at all—and the transit options that do exist are very limited.

The rural poor have to drive long distances—often in older model cars that get poor gas mileage—to get to low paying jobs, to see a doctor, or to go to school. A recent study showed that rural households in the lowest 20 percent income bracket spend an average of 42 percent of their limited incomes on transportation. Forty-two percent. That doesn't leave a whole lot for other basic needs, like shelter, food, clothing and healthcare.

Meanwhile, America's rural infrastructure is old, and outdated. In my State of Vermont, just under a third of our bridges are either "structurally deficient or functionally obsolete," and fully 60 percent of those have structural deficiencies. It is well beyond the capacity of a small State like ours to make these urgently needed bridge repairs.

According to the Federal Highway Administration, 36 percent of Vermont's Federal aid roadways are rated "not acceptable" and are in need of major repairs or replacement.

Given the need to drive long distances and the condition of rural roads, it is not surprising that the rural highway fatality rate is more than twice the urban rate per mile driven.

Let me conclude by saying this: We have heard in previous hearings about the dire need to invest in our nation's roads, bridges, transit, and high speed rail. We have heard that failure to make these investments could jeopardize our long-term economic competitiveness in the global economy. We have heard that investing in infrastructure supports millions of decent paying jobs that cannot be out-sourced or off-shored.

I strongly believe the next surface transportation bill can address the enormous infrastructure needs of our cities—which we all know have been ignored for far too long—as well as the needs of rural America. We, as a Nation, can and must do both.

Let's get it done. Let's reinvest in America.

STATEMENT OF HON. TOM UDALL, U.S. SENATOR FROM THE STATE OF NEW MEXICO

Thank you, Senator Baucus for holding this hearing to focus on issues critical for surface transportation reauthorization. I am pleased to welcome today a witness from Las Cruces, New Mexico. Councilwoman and Mayor Pro-Tem Sharon Thomas.

Since being elected to the City Council, Sharon has been working with the city of Las Cruces and the Las Cruces MPO to enhance their transportation system. While improving mobility for vehicles, the City and MPO have also been successful in improving modal choices for all members of the community as well as making the system overall safer through programs like safe routes to school and complete streets.

Transportation reauthorization is critical for our states and local communities. We need to work together to provide a long term reauthorization bill so that they are able to plan ahead. They need to know what funding will be available to determine what maintenance needs will be able to be met and where critical capacity expansion can occur.

But the reauthorization bill also provides us with an opportunity to change the way our system is developed. We need to ensure that vehicles can get efficiently from their origin to their destination—we also need to improve mode choice for people who cannot or choose not to drive. When people are able to take the bus, walk or ride their bike to their destination, there are fewer cars on the road which leads to less congestion.

Too often the discussion about providing bike lanes or sidewalks or more buses is focused on taking funding away from our 'core' transportation focus, roadways. While that may be, on one level, correct, it is not entirely accurate. Successful bike,

walk and transit projects are often located within the densest part of any community. In the sections of town, where there is no longer room to add additional roadway capacity. By providing mode options, capacity is often increased and not, as many argue, decreased.

In most cases, communities where these investments are made also enjoy external benefits beyond roadway capacity improvements. Areas of town, that accommodate all users become desired places to live and to work—they become safer for vehicles and for pedestrians and cyclists—economic development opportunities increase—and the people who live and work in these areas become healthier through more exercise and better air quality.

As we continue to discuss reauthorization it is critical that we look at our nation's transportation system and find areas in which we can improve. I look forward to hearing the ideas of the witnesses and working together with the members of this committee to incorporate those ideas into a long term surface transportation bill.

Before the

Committee on Environment and Public Works

United States Senate

Statement for the Record

By

The American Trucking Associations

Hearing on

Issues for Surface Transportation Authorization

April 14, 2011

INTRODUCTION

Chairman Boxer, Senator Inhofe and members of the committee, thank you for the opportunity to submit comments for the record on this topic of critical importance to the American Trucking Associations (ATA).[1]

Madam Chairman, a safe, efficient system of highways connecting America's cities, towns and rural areas is essential to our country's economic well-being, military security, and overall quality of life. Our predecessors recognized this reality by creating the Interstate Highway System, which has served our country well, and today allows even the smallest entrepreneur to serve markets throughout the country and around the world.

Every day, thousands of trailers and containers, carrying everything from grain to machine parts, flow through our ports, across our borders, and on our rail, highway, air and waterway systems as part of a global multimodal transportation logistics system. It is a complex array of moving parts that provides millions of good jobs to Americans, broadens the choices of products on store shelves, and creates new and expanding markets for U.S. businesses. Highways are the key to this system. Trucks move 70% of our Nation's freight tonnage[2] and draw 82% of freight revenue.[3] In addition, trucks move $8.3 trillion worth of freight each year, nearly 60% of the U.S. economy.[4] The trucking industry is expected to move an even greater share of freight in the future.[5]

Trucks are also crucial to freight moved by rail, air, and water. The highway system connects all of these modes to manufacturing and assembly plants, warehouses, retail outlets, and homes. An efficient highway system is the key to a fluid global supply chain, which in turn is a fundamental element of a growing and prosperous economy. It should also be noted that despite the emphasis on promoting the use of intermodal transportation for moving the Nation's freight, 93% of freight moves by a single mode.[6] The reason for this is that moving freight by multiple modes adds handling costs and additional time, and increases the possibility of breakage. Therefore, the share of additional freight that could benefit from intermodal service is extremely small, and the vast majority of freight will continue to be carried by trucks on the highway system well into the foreseeable future.

Unfortunately, Madam Chairman, our current highway system no longer meets our transportation needs. While the condition of our highways and bridges has steadily improved in recent years, the performance of the system is deteriorating.

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[1] The American Trucking Associations is the largest national trade association for the trucking industry. Through a federation of other trucking groups, the industry-related conferences and its 50 affiliated state trucking associations, ATA represents more than 37,000 members covering every type of motor carrier in the United States.

[2] U.S. Census Bureau, *2007 Commodity Flow Survey*, Dec. 22, 2009

[3] Global Insight, *U.S. Freight Transportation Forecast to...2021*, 2010

[4] U.S. Census Bureau, *2007 Commodity Flow Survey*, Dec. 22, 2009

[5] Global Insight, *U.S. Freight Transportation Forecast to...2021*, 2010

[6] U.S. Census Bureau, *2007 Commodity Flow Survey*, Dec. 22, 2009

In 2009, drivers in metropolitan areas wasted 4.8 billion hours sitting in traffic and burning 3.9 billion gallons of excess fuel, at a cost of $115 billion.[7] The cost to the trucking industry was $33 billion.[8] Disruptions to the movement of freight on our nation's highway system due to congestion jeopardize the tremendous gains the trucking industry has made to improve supply chain efficiencies. Congestion slows delivery times, creates unpredictability in supply chains, and ultimately makes U.S. businesses less competitive and consumer products more expensive. Indeed, in its 2008 *State of Logistics Report*, the Council of Supply Chain Management Professionals described a logistics system whose costs between 2003 and 2007 rose nearly twice as fast as GDP.[9] Madam Chairman, if we fail to address congestion, these costs will continue to rise, and will translate into higher consumer prices and slower job growth, and weaken the United States' ability to compete in the global economy. However, the real costs of congestion are largely hidden. The supply chain is wound so tightly that any disruption or slow-down can cause significant ripple effects.

Madam Chairman, incremental solutions will not allow us to meet the Nation's current and future transportation needs. The federal surface transportation program in its current form will not suffice. While more resources than are currently available will be necessary to finance the transportation improvements needed to get our country out of traffic gridlock and to make driving less hazardous, we can no longer afford to spend limited federal resources on projects that do not meet our most important national needs. Therefore, federal funds must be invested in a manner that will most effectively address these requirements. Furthermore, outdated federal laws and regulations that are detrimental to motorists and to society at large must be reformed.

CONSOLIDATE AND IMPROVE THE PERFORMANCE OF PROGRAMS

When the federal highway program was created, it had a clearly defined mission: to finance construction of the Interstate Highway System. When that mission was complete, highway user revenues were still flowing into the Highway Trust Fund (HTF), but Congress did not identify a new federal role. As a result, the federal program lost its focus, and now gives as much priority to funding bicycle paths as to providing resources for the improvement of Interstate highways responsible for the safe and efficient movement of millions of people and trillions of dollars worth of freight. It is time to acknowledge the fact that the program does not have sufficient resources to satisfy all constituencies. The program should be refocused to address the most pressing needs from a national perspective, and should eliminate extraneous programs and project eligibilities that are more appropriately dealt with at the local or state level, or through General Fund resources.

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[7] Texas Transportation Institute, *2010 Urban Mobility Report, Dec. 2010*
[8] Ibid.
[9] Council of Supply Chain Management Professionals, 19th Annual *State of Logistics Report*, June 18, 2008.

Consolidated Highway Program
The various federal-aid highway program categories should be consolidated into a single program to eliminate unnecessary red tape that has little practical effect, but creates bureaucratic headaches for both state and federal agency employees. Furthermore, eligibility should be limited to the National Highway System (NHS) and a limited number of other highways with significant passenger vehicle and freight traffic. States should be given broad authority to use the revenue for construction, reconstruction, rehabilitation, planning, capital safety improvements, operational improvements, and other projects and activities designed to improve the safety and efficiency of eligible highways. Revenue from the program should not be transferable to non-highway projects or programs. According to the Federal Highway Administration's 2008 *Conditions and Performance* report, federal highway user fee revenue is sufficient to maintain current levels of condition and performance on the NHS, and to begin to make improvements in the system.

Address Freight Bottlenecks
Freight tends to be concentrated along a few major corridors, principally on the Interstate System and other highways that are part of the NHS. Many of these corridors are also among the most heavily congested in the nation. Providing funding to address the immediate and longer-term deficiencies plaguing these important corridors is a necessary and appropriate feature of a nationally focused federal-aid program.

A study for the Federal Highway Administration (FHWA)[10] identified the highway bottlenecks that cause the greatest amount of delay for trucks. Based on the agency's estimates, ATA calculates that these bottlenecks cost the trucking industry approximately $19 billion per year in lost fuel, wages, and equipment utilization. The study estimated that highway bottlenecks account for 40 percent of congestion.

Eliminate Extraneous Programs and Eligibilities
In an era of limited resources for transportation, it is difficult to justify federal funding for projects whose benefits are extremely localized, or which provide limited benefit to those paying into the program. Therefore, ATA recommends eliminating the Enhancements program, the Congestion Mitigation and Air Quality Program, and other programs which specifically fund non-highway projects.

Transit
Because funding is so constrained now, we encourage the Senate to consider funding all or a portion of the transit program out of the General Fund. This would provide an immediate injection of approximately $5 billion in highway funding annually, while strengthening the user pays principle that has historically been the foundation of the Highway Trust Fund. New or expanded transit projects increasingly justify their federal funding based on benefits that have little to do with improving highway mobility. This includes providing transportation services to underserved populations such as the elderly or handicapped, spurring community economic development, and supporting "livability"

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[10] Cambridge Systematics for the Federal Highway Administration, *Estimated Cost of Freight Involved in Highway Bottlenecks*, Nov. 12, 2008.

initiatives. The Obama Administration acknowledged this shift in policy with the issuance of new guidance in 2010.[11] It is appropriate, therefore, that these investments, made for the general good and not for the benefit of those paying into the HTF, should be financed out of the General Fund.

Eliminate Earmarks
Madam Chairman, ATA supports the moratorium on highway earmarks. Project selection must be based on sound economic analysis. It is also evident that the money for many earmarks is never spent because the project is not a priority for the State or because the earmark will fund only a small portion of the project's total cost.

SOURCES OF FUNDING

Trucking companies are willing to support an increase in the fuel tax if the revenues are dedicated to projects and programs that will benefit goods movement on the nation's highways. While we understand that a fuel tax increase may be off the table in this Congress, the fact remains that no other source of funding has been identified that –

- Will produce the level of revenues needed to meet current and future highway infrastructure needs;
- is easy and inexpensive to pay and collect;
- has a low evasion rate;
- is tied to highway use; and
- does not create impediments to interstate commerce.

Private financing of highway infrastructure can play only a very limited role in addressing future transportation needs, and certain practices may generate unintended consequences whose costs will vastly exceed their short-term economic benefits. In particular, we are very concerned about attempts by some states to carve up the most important segments of the Interstate highway system for long-term lease to the highest bidder. We believe that leasing existing Interstate highways to private interests is inconsistent with the efficient and cost-effective movement of freight, is not in the public's best interest, and represents a vision for the Nation's transportation system that is short-sighted and ill-conceived. We therefore oppose these schemes.

ATA is strongly opposed to tolls on existing Interstate highways. While federal law generally prohibits this practice, Congress has, over the years, created a number of exceptions. Imposing tolls on existing lanes of the Interstate System would have a devastating effect on the trucking industry. The industry is highly competitive and taxes of this magnitude simply cannot be passed along to shippers. Furthermore, tolls cause diversion of traffic to alternative routes which are usually less safe and were not built to handle the additional traffic. We urge the Committee to eliminate pilot programs which provide tolling authority for existing Interstate Highways and to refrain from authorizing additional tolling flexibility.

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[11] http://www.fta.dot.gov/news/news_events_11036.html

We also support substituting the 12% federal excise tax (FET) on the retail sale of trucks, tractors, and trailers with a higher diesel fuel tax. According to the Joint Committee on Taxation, an increase of 7.3 cents per gallon of diesel fuel tax would be sufficient to recover revenue from elimination of the FET. The FET provides a disincentive to carriers who wish to purchase new equipment, which is normally safer and cleaner than the equipment they replace. Aftermarket equipment designed to improve safety or reduce emissions, such as lane departure warning systems and aerodynamic packages, are also taxed. Another benefit of replacing the FET with a diesel tax increase is that year-over-year revenues from the diesel tax tend to have small fluctuations, while FET revenues can fluctuate significantly, depending on the state of the industry. For example, FET revenues dropped from $3.8 billion in 2007 to $1.4 billion in 2008. This was the primary cause of the unanticipated crisis which forced Congress to provide an injection of General Fund money to the HTF in order to prevent the HTF's insolvency.

Finally, ATA is strongly opposed to the imposition of mileage-based user fees. While we recognize that in the future a replacement for the fuel tax as the primary source of revenue for highway funding will be necessary due to changes in vehicle technology, that future is likely two decades away. Currently, available options for implementing vehicle miles traveled fees are limited. These options all have extremely high collection costs and will experience a very high level of evasion.

A mileage-based fee is extremely inefficient and very difficult to administer. Collection costs for the federal fuel tax are less than 1%. Collection costs for Germany's truck VMT tax system, currently the most sophisticated VMT tax in the world, are 23% of revenue. Since the fee is imposed almost exclusively on the Autobahn, which has the greatest volume of traffic, and Germany's user fee rates far exceed levels that would be acceptable to U.S. drivers, this should be considered a conservative figure.

While it can be argued that technological advances and economies of scale will eventually bring costs down, the cost of administering the system will never come close to the cost of collecting the fuel tax. The fuel tax is collected from several hundred taxpayers, while the VMT fee would have to be collected from individual taxpayers for each vehicle. In 2009, there were about 246 million registered vehicles in the U.S. Therefore, a bureaucracy would have to be established to deal with 246 million individual accounts. Compare this with the IRS, which processes less than 180 million tax returns each year. The physical and bureaucratic infrastructure necessary to effectively collect a VMT fee would have to be massive, and the cost to both government and taxpayer would be enormous. Furthermore, because a VMT fee would have to rely on technology for monitoring and collection, significant enforcement challenges resulting from system tampering and equipment malfunction should be expected.[12]

The challenges facing fuel tax revenue over the next 20 years can be addressed with a rate increase. Substituting an untested, inefficient revenue collection mechanism for an efficient revenue mechanism that is already in place would be illogical and irresponsible,

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[12] Texas Department of Transportation. *Vehicle Mileage Fee Primer*, p. 16. Dec. 2009.

and would receive significant resistance from the trucking industry and other highway users.

CUT GOVERNMENT RED TAPE AND STREAMLINE THE PROJECT DELIVERY PROCESS

Streamlining of Project Approvals
Federal rules that extend the timeline for project delivery by seven to 10 years must be reformed. Based on experience with projects such as the replacement of the I-35 bridge in Minneapolis and reconstruction of I-15 in Salt Lake City in preparation for the Winter Olympics, we know that streamlining can be accomplished without compromising the environment or overlooking community impacts. ATA recommends that several steps be taken to streamline the project delivery process:

- Eliminate redundancies in the NEPA process by allowing alternatives analyses, studies and other planning processes that are completed outside of NEPA to be accepted as part of the NEPA process.
- Streamline the permitting process among various agencies by eliminating redundant requirements, centralizing coordination within FHWA, and setting strict time limits for reviews.
- Allow for a simplified NEPA process for projects with few significant impacts.
- Revise Council on Environmental Quality regulations to narrow the number of "reasonable alternatives" on a project-level basis.
- Allow for a single EIS rather than a draft and final EIS, while preserving adequate opportunities for public comment and review.

More Effective Utilization of Highways Through the Use of More Productive Trucks
In addition to better, less congested highways, the trucking industry needs to improve its equipment utilization if it is to meet current and future demands. The United States has the most restrictive truck weight regulations of any developed country. At the same time, America's freight transportation demands are greater than any other nation's, and we have the world's most well-developed highway system. Based on projected increases in demand for truck transportation, greater truck productivity will be essential if we are to avoid total gridlock on our highways.

Research demonstrates that more productive trucks can be as safe as or safer than existing configurations. Furthermore, because fewer truck trips will be needed to haul a set amount of freight, crash exposure – and therefore the number of crashes – will be reduced.[13]

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[13] See for example: Campbell, K.L., *et al.*, "Analysis of Accident Rates of Heavy-Duty Vehicles," University of Michigan Transportation Research Institute (UMTRI), Report No. UMTRI-88-17, Ann Arbor, MI, 1988.; Transportation Research Board, National Research Council, "Truck Weight Limits," Special Report 225, Washington, D.C., 1990; Cornell University School of Civil and Environmental Engineering, "Economic and Safety Consequences of Increased Truck Weights," Dec. 1987; Scientex, "Accident Rates For Longer Combination Vehicles," 1996; Woodrooffe and Assoc., "Longer Combination Vehicle Safety Performance in Alberta 1995 to 1998," March 2001.

More productive vehicles would also produce important environmental benefits by reducing vehicle miles traveled, fuel consumption, and greenhouse gas emissions. Use of these vehicles could reduce fuel usage by up to 39%, with similar reductions in criteria and greenhouse gas emissions.[14]

In order to take advantage of the benefits that productivity increases can deliver, Congress must reform its laws to give states greater flexibility to change their size and weight regulations. Ultimately, it is the consumer who will benefit most from size and weight reform, because more productive trucks will keep costs down for virtually every product Americans make, buy, and sell. Furthermore, more productive trucks will not harm the freight railroads; only a small portion of truck freight is actually conducive to movement by rail. We would also like to note that ATA members are significant users of rail intermodal service, and trucking companies are among the railroads' largest customers. We find the railroads' opposition to improvements in truck productivity very disingenuous given our members' importance to their traffic levels and bottom lines.

THE OBAMA ADMINISTRATION'S REAUTHORIZATION PROPOSAL

Madam Chairman, ATA has many serious concerns with what we know so far about the Obama Administration's reauthorization proposal. While we appreciate the Administration's support for significant increases in funding for transportation, the complete lack of an explanation for how the massive spending increases are to be paid for is troubling, and does not help to advance the debate. Furthermore, the Administration has proposed to include programs not traditionally funded from the HTF in a new Transportation Trust Fund. In order to qualify for trust fund status, these projects must be funded primarily from user fees. It is unlikely that new user fees will be identified, and therefore we can only assume that highway users may be required to pay for these programs. ATA will strongly oppoe any additional diversion of highway user fees to other modes of transportation.

While the proposal purports to significantly increase funding for highways (without an identified funding source), the ramp-up in funding over time is dwarfed by increases to transit and passenger rail. Given the serious deficiencies facing the highway system and the fact that 70% of freight[15] and 89% of passenger-miles[16] move on highways, the Administration's priorities seem to based more on ideology than on practical analysis. Compounding this lack of resources for highways, the USDOT's proposal would prevent states from spending a significant share of their highway allocations on capacity expansion, despite the need for more resources to address a costly and worsening congestion problem in cities throughout the country.

ATA opposes the Administration's proposal to fund a livable communities program from the HTF. Projects funded under this program are unlikely to be in the national interest,

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[14] American Transportation Research Institute, *Energy and Emissions Impacts of Operating Higher Productivity Vehicles, March* 2008.
[15] Global Insight, *U.S. Freight Transportation Forecast to...2021*, 2010.
[16] USDOT Bureau of Transportation Statistics, *National Transportation Statistics*, 2008

will not produce significant safety, mobility and economic benefits, and are more appropriately funded from local sources than from federal highway user fees.

We also oppose the Transportation Leadership Awards program. A program designed to promote innovations in transportation policy may be laudatory under some circumstances. However, USDOT under its current leadership is likely to only support projects which meet an ideological vision that is out of step with the vast majority of the American public, and which do little to improve highway safety or mobility.

ATA is also concerned about the Administration's Infrastructure Bank, or I-Bank proposal. Once again, funding for this proposal has not been identified, and we will oppose any attempts to fund it from highway user fees. The Administration's proposal to select projects for funding or financing from the I-Bank without any input from outside sources is a thinly veiled attempt to once again put the Administration's ideological stamp on the federal transportation program. And at the end of the day, the basic issue remains – what will be the revenue stream to repay I-Bank loans.

CONCLUSIONS

Madam Chairman, thank you for the opportunity to offer our views on how, collectively, we can further improve truck and highway mobility. A strong federal highway program is necessary to achieve these goals, and significant additional resources must be made available to this purpose. However, in the absence of new resources, the federal program should be reformed to ensure that revenues are invested in critical projects that serve the national interest. Furthermore, outdated project review and size and weight regulations should be changed to improve the efficiency of our highway system.

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