LONG-TERM FINANCING OPTIONS FOR THE HIGHWAY TRUST FUND INCLUDING MEMBER PROPOSALS

HEARING

BEFORE THE

SUBCOMMITTEE ON SELECT REVENUE MEASURES

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

JULY 23, 2009

Serial No. 111–29

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

63–001 WASHINGTON : 2011

For sale by the Superintendent of Documents, U.S. Government Printing Office
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THURSDAY, JULY 23, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SELECT REVENUE MEASURES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:00 a.m., in Room 1100, Longworth House Office Building, the Hon. Richard E. Neal [chairman of the subcommittee] presiding.

[The advisory of the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

Neal Announces Hearing on Long-Term Financing Options For the Highway Trust Fund, including Member Proposals

July 16, 2009

By (202) 225–5522

House Ways and Means Select Revenue Measures Subcommittee Chairman Richard E. Neal (D–MA) announced today that the Subcommittee on Select Revenue Measures will hold a hearing on possible long-term measures to finance the Highway Trust Fund, including specific Member proposals that have been introduced in the 111th Congress. 2The hearing will take place on Thursday, July 23, 2009, in the main Committee hearing room, 1100 Longworth House Office Building, beginning at 10:00 a.m.

Oral testimony at this hearing will be limited to Members of the House of Representatives and other invited witnesses. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

FOCUS OF THE HEARING:

The hearing provides Members the opportunity to speak on behalf of specific proposals they have introduced that would affect the long-term funding for the Highway Trust Fund. Following the Members' testimony, invited witnesses will comment on those and other proposals.

BACKGROUND:

The current authorization of surface transportation programs expires on September 30, 2009. Federal highway and transit expenditures are derived from the Highway Trust Fund. The Highway Trust Fund was established in the Highway Revenue Act of 1956 (P.L. 84–627) to meet certain financial obligations incurred for the construction of the interstate highway system and other federally financed highways, and was codified in Section 9503 of the Internal Revenue Code by the Highway Revenue Act of 1982 (P.L. 97–424). The Trust Fund was designed to be a self-financing mechanism using new and existing highway user taxes.

Recently, the balance of the Highway Trust Fund has fallen dramatically. Last year, $8 billion was transferred from the general fund of the U.S. Treasury to the Highway Account. In order to guarantee long-term stability for surface transportation programs, any long-term reauthorization must also include a stable source of revenue to support program funding.

In announcing the hearing, Chairman Neal stated, **"An efficient and functional transportation network is crucial to maintaining the livelihood of the American people and the growth of the American economy. This hearing will address options before the Congress to provide the necessary long-term funding for investment in an economically sound and environmentally responsible way."**

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://democrats.waysandmeans.house.gov, select *"Committee Hearings."*Select the hearing for which you would like to submit, and click on the link entitled, *"Click* *here to provide a submission for the record*." Once you have followed the online instructions, complete all informational forms and click "submit" on the final page. ***ATTACH*** your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, by close of business **Thursday, August 6, 2009.** Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225–1721.

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1. All submissions and supplementary materials must be provided in Word or WordPerfect format and MUST NOT exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons, and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202–225–1721 or 202–226–3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at *http://democrats.waysandmeans.house.gov*.

Chairman NEAL. Let me call this hearing to order. And I would encourage our witnesses to take their seats. Let me welcome all to this hearing by the Select Revenue Measures Subcommittee to explore options for financing our long-term transportation infrastructure needs.

We are fortunate today to be joined by the bipartisan leadership of the House Transportation and Infrastructure Committee who come here this morning united in their message for a 6 year reauthorization bill. This committee has responsibility over the revenues generated to support any authorization. And many of our witnesses today will tell us that current revenues will not be sufficient to cover the cost of maintaining and improving our transportation infrastructure.

As we heard in our last subcommittee hearing a month ago focusing on the needs of the system, all 50 states need substantial revenue simply to maintain the current state of infrastructure, and certainly more to improve it.

Scottish Poet Robert Louis Stevenson said, "I travel, not to go anywhere, but to go. I travel for travel's sake. The great affair is to move." For me, Americans traveling for travel's sake no longer carries the same joy it once had. The current state of our infrastructure, increasing congestion, and safety concerns are major reasons why. Whether it is the family cross-country road trip or a business visit across state, Congress must ensure that the infrastructure that delivers these travelers is safe, efficient and modern.

Let me now recognize Mr. Tiberi for his opening statement.

Mr. TIBERI. Thank you, Mr. Chairman. As we have heard from witnesses at last month's transportation hearing held by this subcommittee and the Oversight Subcommittee, the demand for additional highway spending continues to grow. At the same time, concerns have been raised about the viability of the current Highway Trust Fund financing structure, as well as the fairness of the current structure. The Congressional Budget Office projects that simply extending the current Highway Trust Fund revenue and spending levels would result in a total shortfall of more than $70 billion over the fiscal year period of 2010 to 2015.

As we are all aware, however, many reauthorization plans propose spending much, much more than the current level. Today, we will have an opportunity to hear about various proposals to pay for the new spending. We look forward to hearing today from our colleagues in the House, from stakeholders in our communities and from the Administration, which has proposed a more limited reauthorization and has already ruled out an increase in the gas tax.

I know, Mr. Chairman, that the topic of this hearing is long-term financing options, but I think it is important to emphasize, as I did at last month's hearing, the near-term shortfall in the Trust Fund that is staring us in the face. It is my understanding that there will be a shortfall of more $3 billion, perhaps as much as $7 billion, between now and the end of September. Based upon what I am reading in the papers, it sounds like this hole may be plugged by another transfer from the general fund of the Treasury, which is currently more than $1 trillion in the red for this fiscal year.

I would like to make a couple of observations. The shortfall is not a surprise. We have known about it for months. And even now with the deadline looming, I am not confident that we have a true picture of how much funding will be required to keep the Trust Fund in operation through the end of September, given the conflicting estimates that I have read over the last couple of days.

I hope today's hearing will shed additional light on how the Majority plans to address the looming shortfall because this near-term issue needs to be more closely examined, and time is obviously running out.

Thank you, Mr. Chairman. I yield back.

Chairman NEAL. Thank you, Mr. Tiberi. And you should know that the Majority side here is very interested in getting the Minority side fully involved in how we finance the short-term needs.

Mr. TIBERI. Thank you.

Chairman NEAL. We are very fortunate this morning to have a panel of experts from Congress and around the country to share their thoughts on our transportation needs. We look forward to their testimony here today, and we thank you for your participation. Without objection, any other Members wishing to insert statements as part of the record may do so. All written statements, written or proposed by the witnesses, will be inserted into the record as well.

Chairman NEAL. I do not think there is anybody that I have ever met that knows more about transportation or has a longer institutional memory than our first witness, Chairman Oberstar. And I would recognize Chairman Oberstar for his statement.

STATEMENT OF THE HONORABLE JAMES L. OBERSTAR, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MINNESOTA

Mr. OBERSTAR. Thank you very much, Mr. Chairman. And I thank all the members on both sides of the aisle for their participation, most of whom I have known for a great many years. And I was very touched by your opening quote of Robert Louis Stevenson who also wrote: "The greatest adventures in life are those we do not go forth to seek." I think you could tie that to transportation, because transportation is an adventure. Everyday we go out on the roadways of America, as I did this morning, I could have driven from my hometown of Chisholm to Duluth, 90 miles in the time it took me to go 17 miles in Washington traffic this morning. That is an adventure none of us want to go forth to seek.

We have been working for two and a half years on the future of transportation, holding hearings on the operation and effectiveness of the existing Surface Transportation Act. Mr. DeFazio chairs that subcommittee. Mr. Duncan has been his partner on the Republican side. We've had over 100 hours of hearings, with over 200 witness, including testimony from all participants and players. We have thoroughly reviewed the issues, evaluated the reports of the two national commissions, the National Transportation Policy and Revenue Study Commission and the National Transportation Finance Commission. Both of which highlighted the shortfalls of investment that is needed to bring our system up to a state of good repair and to advance that system to a state of higher level of efficiency.

Out of all those ideas and testimony, I distilled a proposal which is on the screen, and I hope on the desks in front of you. The column on the left simply recites the evolution of the Highway Trust Fund from 50/50 revenues, 50 federal out of general revenues, 50 state out of state funding, until the Interstate Highway System in 1956 and the establishment of the Highway Trust Fund. And we had the gas tax that funded the Interstate Highway System, gave us the greatest mobility of any country in the world, expanded our gross domestic product from $345 billion in 1956 to roughly $13 trillion that we have today, largely because of that mobility created by the Interstate Highway System.

It was this Committee on Ways and Means that provided the financing, three cents fuel tax or "user fee" it was called on gasoline then was 30 cents a gallon. President Eisenhower signed the bill in September. Construction began in September of 1956 but in February of 1957, the Bureau of Public Roads said three cents is not going to be enough, we need another penny. That one cent was reported out of this Committee, brought to the House floor and passed on a voice vote. You cannot pass a prayer on a voice vote today in this body or the other body, but there were Members of Congress who stood on the brink of history, and looked forward to the future, and said we are going to be investing in a program, we are going to be taxing ourselves for a transportation system that we may not even use in our lifetime, and some of them did not. They invested in the future. And they did the right thing, they laid the foundations. Now, that Trust Fund and the system of surface transportation funding at the federal level is in need of serious overhaul.

So, our bill, 775 pages, incorporates these principles that are in the schematic I laid out: Restructure the Department of Transportation, create a Council on Intermodalism and an under secretary for intermodalism, and require all the modal administrations in DOT to meet with each other. They have not done that in 40 years. I was also on the committee staff when we created the Department of Transportation in 1966. I have watched it over all these years. Those modal administrators have not done as much as what you are doing on this committee, sitting at the same table and talk with each other, in 43 years. It is time to fix that.

We will require them to establish a national strategic plan, oversee the Mega Projects Program, meet at least monthly, and bring into that circle the Corps of Engineers and the U.S. Coast Guard and Amtrak, which does not appear to be on this schematic. And then we are going to take the 108 categories of funding and condense those down into four major formula programs and simplify the process, eliminate 75 categories, and give states greater flexibility. It will establish a national program and require states to develop 6 year national strategic investment plans with annual benchmarks of reporting so that the public knows both in those states and nationally where their transportation dollars are going, how they are being used, and whether progress is being made toward the goals that the states are setting.

We will have the critical asset investment category, which was cited time and again, especially in the two national reports, as the most critical need. It will bring our Surface Transportation Systems up to a state of good repair, by fixing the bridge decking, the highways that we drive on, the potholes, and make the system work. It is not working now. And we are going to provide the funding and the structure for highway safety improvement, the surface transportation program, congestion mitigation and air quality improvement. Our plan includes a major emphasis on rural roads and a freight improvement formula. And on the second page, we will have—I do not know how you get to the second page, there you go. My staff wants me to learn the computer. I tell them, "If I learn it, then who needs you?"

[Laughter.]

Mr. OBERSTAR. So we move from a highly prescriptive program to a performance and outcomes-based surface transportation program in which there is a true partnership between the Federal Government and the states. And we restructure the Federal Highway Administration, create an Office of Expedited Project Delivery. It is intolerable that it takes 3 years to do a simple mill and overlay grind on the road surface that we now have and put it back in place. It is intolerable it takes 14 years for a transit project from idea to rider-ship, we can condense that from 14 years to, as we have structured it, to actually 3 years.

And then we are going to deal with the major metropolitan areas of this country where 80 percent of the congestion is situated and create Metropolitan Mobility Centers and give them a wide range of private and public sector tools to deal with their revenue needs and to address the congestion, and again develop 6 year investment plans with annual benchmarks of achievement and annual accountability and reporting.

You cannot ask people to continue paying for a system that is not working. We are re-creating transportation and providing a system that will work more efficiently, address the needs of this country, and move our people and goods in our society more effectively.

Unfortunately, the current Administration is not ready to move with a new idea, but we are. And we are not waiting for them. We do not have time for an 18 month head start program on transportation for the folks over at the White House, so we are moving ahead.

Unfortunately, in the Highway Trust Fund, revenues have not kept up with needs. We should have indexed the highway user fee a long time ago, but that got lost in the process.

So we have two needs, we need an infusion to various points raised. We need an infusion to carry the program under current law through the end of this fiscal year, not an extension of law. The law stays in place. Before the August recess, this Committee has a responsibility to provide $3 billion intra-governmental transfer to the Highway Trust Fund, as was done last year. It was $8 billion. Carry us through the end of the fiscal year. And in the month of September, we can enact our larger program. With your participation, we can then address the long-term financing needs.

The total shortfall by October 2nd will be $1.9 billion. We suggest a $3 billion transfer to cover that $1.8 billion and whatever re-estimate may result in August by the Office of Management and Budget and the Federal Highway Administration. They make a monthly adjustment of their numbers, and that number could go up or could go down, but we need a little a bit of cushion in there. We do not need $20 billion or $27 billion to carry us through the end of the fiscal year. And the $3 billion is simply a portion of what the Trust Fund is owed for not receiving interest from the Treasury on gas tax revenues deposited in the Treasury over the last 12 years for the use of Highway Trust Fund revenues for disaster relief. When that money should have come out of general revenues, it was taken out of the Trust Fund over the past year, $6.8 billion, and other lost revenue over these years.

There are a number of revenue options that Mr. Mica, Mr. DeFazio and other members of your witness panel today will discuss, long-term financing options that can generate over $250 billion. What we need is $144 billion long term to bridge the gap between current services of current law and the $450 billion figure of our surface transportation program out over the next 6 years. We need a 6 year bill, not an 18 month bill. States need continuity, dependability.

Contractors need to know that when they start a project, the funds will be there at the end of it and not have to have a stop/start the process. That has been the genius of the Highway Trust Fund, a dependable revenue stream, and that is what we are asking you. There are a whole series of proposals about issuing long-term Treasury bonds to finance increased funding. Mr. DeFazio has an interesting proposal on the transaction tax, on speculative trading of crude oil futures. Mr. Mica and I have talked about a number of his ideas engaging private sector financing. All of those ideas are welcome. We will take any dollar you can scare up for us for the Trust Fund. And Mr. Calvert also will come to you with a very interesting proposal for intermodal development at port from a container type of fee.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Oberstar follows:]

THE HONORABLE JAMES L. OBERSTAR
CHAIRMAN, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
STATEMENT BEFORE THE SUBCOMMITTEE ON SELECT REVENUE MEASURES
COMMITTEE ON WAYS AND MEANS
HEARING ON SURFACE TRANSPORTATION FINANCING
July 23, 2009

Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee, thank you for the opportunity to participate in today's hearing on long-term financing options for the Highway Trust Fund. It is an important and timely topic. With the impending cash shortfall in the Highway Trust Fund, and the current surface transportation authorization act set to expire on September 30, 2009, we have critical decisions to make – decisions that will shape the future of surface transportation in the United States.

SURFACE TRANSPORTATION AUTHORIZATION ACT OF 2009

The Committee on Transportation and Infrastructure has developed a surface transportation authorization bill that will transform Federal surface transportation from an amalgamation of prescriptive programs to a performance-based framework for intermodal transportation investment. The bill is designed to achieve specific national objectives: reduce fatalities and injuries on our nation's highways; unlock the congestion that cripples major cities and the freight transportation network; provide transportation choices for commuters and travelers; limit the adverse effects of transportation on the environment; and promote public health and the livability of our communities.

Specifically, the Surface Transportation Authorization Act of 2009 redefines the Federal role and restructures Federal surface transportation by consolidating or terminating more than 75 programs. It consolidates the majority of highway funding into four core formula categories designed to bring our highway and bridge systems to a state of good repair; improve highway safety; develop new and improved capacity; and reduce congestion and greenhouse gas emissions and improve air quality. The bill creates a similar core category construct for transit and highway safety investment. The bill also establishes new initiatives to address the crippling congestion in major metropolitan regions, and eliminate bottlenecks in freight transportation. *See attachment 1.*

In addition, the Surface Transportation Authorization Act reforms the U.S. Department of Transportation (DOT) to require intermodal planning and decision-making; ensure that projects are planned and completed in a timely manner; and ensure that DOT programs advance the livability of communities. It improves the project delivery process by eliminating duplication in documentation and procedures.

The bill authorizes funding of $450 billion over six years – the minimum amount needed to stop the decline in our surface transportation system, begin to make improvements, and restore and enhance the nation's mobility and economic productivity.

The Surface Transportation Authorization Act:

- Provides $337.4 billion for highway construction investment, including at least $100 billion for Critical Asset Investment to begin to restore the National Highway System (NHS) (including the Interstate System) and the nation's bridges to a state of good repair;

- Provides $99.8 billion for public transit investment to restore the nation's public transit systems to a state of good repair, and provide access and transportation choices to all Americans from large cities to small towns; and

- Doubles investment for highway and motor carrier safety to $12.6 billion.

In addition to this $450 billion, the Act invests $50 billion over six years to develop 11 authorized high-speed rail corridors linking major metropolitan regions in the United States. The high-speed rail initiative will provide greater consideration for projects that: encourage intermodal connectivity; produce energy, environmental, and other public benefits; create new jobs; and leverage contributions from state and private sources.

Examples of critical investments under the Surface Transportation Authorization Act include:

- **State of Good Repair.** The bill makes the preservation of the nation's existing transportation assets a national priority. The newly-created Critical Asset Investment provides States with $100 billion to preserve and improve the condition of the nation's core highway and bridge network, the NHS (which includes the Interstate system). This legislation also streamlines Fixed Guideway Modernization to better assist public transit agencies in maintaining aging rail systems, including tracks, stations, and rolling stock. *See sections 1110 and 3021 of H.R. ___, the "Surface Transportation Authorization Act of 2009".*

- **New Capacity.** The bill includes a wide range of different programs that allow States, metropolitan regions, and public transit agencies to finance highway and transit capacity. The bill authorizes several core highway formula programs (e.g., the Surface Transportation Program) that finance highway and bridge capacity; authorizes bridge capacity under the newly-created Critical Asset Investment; and establishes a new Freight Improvement program that is expected to be very heavily focused on highway freight capacity investments. The bill establishes Metropolitan Mobility and Access, which includes investment in highway and transit capacity expansion projects as part of an area's metropolitan mobility plan. This legislation also dedicates $25 billion for Projects of National Significance (PNS), to finance high-cost projects, aimed at addressing chokepoints on the system through various strategies, including new highway and freight rail capacity. Finally, the legislation streamlines the transit New Starts and Small Starts program to speed the delivery of new transit capacity and eliminate costly delays. *See sections 1105, 1106, 1110, 1205, 1206, and 3008 of H.R. ____, the "Surface Transportation Authorization Act of 2009".*

- **Freight/Goods Movement.** Recognizing the important role of the Federal Government in supporting interstate commerce and the nation's freight transportation system, the bill targets investment in facilitating goods movement, economic development, and international competitiveness. The new Freight Improvement program provides States with a dedicated source of funding for freight-related highway projects and requires each State to develop a strategic, statewide, comprehensive freight plan. The bill also dedicates $25 billion for Projects of National Significance to invest in high-cost projects that address major bottlenecks, choke points, and delays on the freight network. The legislation creates an Office of Intermodalism, administered by the Under Secretary of Transportation for Intermodalism, which will be responsible for coordinating the various modal programs to provide an intermodal and efficient approach to meeting mobility and goods movement needs on the system. The Under Secretary will also be charged with developing a comprehensive, multimodal National Transportation Strategic Plan. This plan will provide a framework and vision for development of a surface transportation network to expand access and mobility of people and freight. *See sections 1105, 1201, 1206, and 1207 of H.R. ____, the "Surface Transportation Authorization Act of 2009".*

- **Metropolitan Mobility.** To improve passenger and freight mobility in our metropolitan areas, this legislation creates a $50 billion initiative for Metropolitan Mobility and Access. This program is designed to unlock the congestion that chokes major metropolitan regions through multimodal, targeted investments. This legislation also increases the existing population-based allocation of funding within States under the Surface Transportation Program to facilitate more local decision-making and enable large metropolitan regions to directly address their congestion and accessibility challenges. This legislation also streamlines the transit New Starts and Small Starts program and eliminates requirements designed to delay the approval of new transit lines. *See sections 1105, 1106, and 3008 of H.R. ____, the "Surface Transportation Authorization Act of 2009".*

- **Rural Roads.** The bill provides significant funding to improve transportation systems, access, and mobility in rural areas. Newly-established programs, such as the Critical Asset Investment and Freight Improvement programs, provide States with funding to preserve and improve the NHS. Over 70 percent of the NHS is located in rural areas. In addition, under Freight Improvement, States are authorized to use funds for projects on roads within an approved inventory of secondary freight routes, further expanding access and economic development in these areas. The legislation will also significantly improve rural road safety through the restructured Highway Safety Improvement program. States are required to focus investment on their most dangerous roadways, including rural roads (which account for an estimated 55 percent of all motor vehicle crash-related fatalities). Furthermore, the bill significantly increases funding for small urban and rural transit services, including designating 20 percent of all funding allocated to States under Coordinated Access and Mobility for improving transportation options and access to jobs for low-income and elderly residents in rural areas. *See sections 1105, 1108, and 3009 of H.R. ____, the "Surface Transportation Authorization Act of 2009".*

This $500 billion investment will be welcome news to the hard-hit construction industry. With 1.6 million construction workers out of work, enactment of the Surface Transportation Authorization Act will deliver good, family-wage jobs, while also improving the deteriorating infrastructure and laying the foundation for our future economic growth. The $500 billion investment of this bill will **create or sustain approximately six million family-wage jobs.**[1]

In sum, the Surface Transportation Authorization Act of 2009 transforms the nation's surface transportation framework and provides the necessary investment to carry out this vision. This increased investment is accompanied by greater transparency, accountability, oversight, and performance measures to ensure that taxpayer dollars are being spent effectively and in a manner that provides the maximum return on that investment.

However, we cannot carry out this transformation without your help. The Committee on Ways and Means must undertake the difficult task of identifying the revenue to finance this bill.

FINANCING SURFACE TRANSPORTATION

LEGACY OF SAFETEA-LU

We have reached the logical conclusion of the course set by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (P.L. 109-59), which was enacted in 2005. Unfortunately, the legacy that has been left for users is an over-extended Highway Trust Fund. Unless the funding and revenues for the Trust Fund are increased substantially, the Trust Fund will be unable to support even current investment levels for highway, highway safety, and public transit in fiscal year (FY) 2010 and the coming years.

SAFETEA-LU intentionally put the Highway Trust Fund on the path to a zero cash balance. Recent declines in vehicle miles travelled due to high fuel prices and the weak economy have merely exacerbated a pre-existing imbalance between Trust Fund revenues and expenditures that was created by SAFETEA-LU.

The previous Administration was not willing to make any hard choices to resolve this imbalance. This reluctance to face tough choices has left highway users with a legacy of uncertainty and potential funding cuts. The mainstay of surface transportation funding is the 18.3-cent-per-gallon gasoline user fee, which has not been increased since 1993, and produces progressively less revenue as the fuel efficiency of automobiles increases.

The current user fees, which have lost 33 percent of their purchasing power in the last 15 years, generate only enough revenue to finance $35.1 billion of Federal highway, highway safety, and public transit investments in FY 2010, which would be a 34 percent cut from this year's $53 billion funding level.

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[1] This estimate is based on 2007 Federal Highway Administration data on the correlation between highway infrastructure investment and employment and economic activity, and assumes a 20 percent state or local matching share of project costs. The Federal Highway Administration estimates that $1 billion of Federal investment creates or sustains 34,799 jobs.

Without additional revenues, a six-year surface transportation authorization bill could fund only $236 billion in highway, highway safety, and transit investment – a **$90.4 billion** cut from the current investment level ($326 billion) over the next six years. *See attachment 2.* ***This cut would result in a loss of more than three million good, family-wage construction jobs.***

The previous Administration's unwillingness to make hard choices has left the 111th Congress, and particularly the Committee on Ways and Means and the Committee on Transportation and Infrastructure, with the unenviable task of finding a way to finance the existing program level, in addition to much-needed increases in investment. The current Administration is not ready to make choices, and proposes to defer a long-term authorization act for 18 months. Our Committee, however, is ready; we have done our homework and have a six-year bill ready for Floor action.

HIGHWAY TRUST FUND SHORT-TERM INFUSION

The Highway Account of the Trust Fund needs a short-term infusion of cash to finance existing commitments through the end of the fiscal year. ***The program needs a cash infusion, not an extension of the authorization act.***

According to DOT, the Highway Account of the Trust Fund is running out of cash as early as the beginning of September and may not have enough funding to reimburse States for their Federal highway investments. By September 4, 2009, the Highway Account will not have sufficient funds to reimburse States for highway projects (-$435 million), and DOT will immediately begin rationing those reimbursements. This will create major cash flow problems for States and significant uncertainty for the future of the program.

By October 1, DOT estimates that, without action by Congress, the Highway Account balance will be -$1.9 billion. Therefore, the Committee on Transportation and Infrastructure recommends that the Committee and Ways and Means transfer at least $3 billion from the General Fund to the Highway Account of the Trust Fund. This transfer covers the shortfall and provides a $1 billion cash balance to offset any additional shortfall if, during the August re-estimate, DOT finds that its estimates are in error.

LONG-TERM FINANCING OPTIONS

There are numerous options to finance the surface transportation framework set forth by the Committee on Transportation and Infrastructure. To finance the level of investment proposed by the Surface Transportation Authorization Act, Congress must provide additional funding and revenues of $140.5 billion over the six-year authorization period for fiscal years 2010 through 2015. Of this amount, Congress must provide $65.5 billion in revenues over six years simply to fund the existing surface transportation investment level ($326 billion). To finance the $450 billion of highway, highway safety, and public transit investment of the Surface Transportation Authorization Act, Congress must provide an additional $75 billion over six years.

The core source of funding for the investment contained in the new authorization must continue to be a stable, reliable, and dedicated revenue stream, including user fees. This unique financing mechanism is one of the primary reasons for the success of the nation's surface transportation network since enactment of the Interstate Highway program 53 years ago.

Two commissions were established by Congress in the 2005 Act to examine the issue of surface transportation financing. Both the National Surface Transportation Policy and Revenue Study Commission (Policy Commission) and the National Surface Transportation Infrastructure Financing Commission (Financing Commission) recommended that the gasoline and diesel user fees be increased. We know this is an option that will work to provide a stable, reliable, and dedicated revenue stream for surface transportation programs.[2]

Although increasing and indexing the gasoline and diesel user fee is a viable financing mechanism that has been recommended by both Commissions, I do not believe that the user fee should be increased during the current recession. Any user fee increase should not take effect before the economy is fully recovering (e.g., two consecutive quarters of economic growth). This approach will ensure that any user fee increase will not increase the burden on American working families during this troubling time.

There are many other financing options that would provide the necessary funding for our bill without increasing the gas tax. A few examples:

1. **Restoring the Highway Trust Fund for Emergency Relief, Vehicle Safety Research, and Foregone Interest ($27.4 billion).** This option involves restoring amounts to the Highway Trust Fund owed to it for Emergency Relief ($6.8 billion), vehicle safety research ($635 million), and foregone interest ($20.0 billion). These transfers from the General Fund would provide an immediate infusion of cash to the Trust Fund.

   Over the past 20 years, $6.8 billion has been spent from the Highway Trust Fund to respond to emergencies, such as the September 11 attacks and natural disasters. Although the Federal-aid Highway program includes $100 million per year from the Highway Trust Fund for Emergency Relief, significant, unforeseen expenses from disasters are authorized to be appropriated from the General Fund. This option would immediately transfer $7.3 billion from the General Fund to the Trust Fund to repay the Trust Fund for past unauthorized Emergency Relief expenditures. *See attachment 3.*

   Similarly, $635 million could be repaid to the Trust Fund from the General Fund for amounts appropriated from the Highway Trust Fund and spent on vehicle safety research. The National Highway Traffic Safety Administration's highway safety activities are authorized to be funded from the Highway Trust Fund; its **vehicle safety** activities are not. The vehicle safety programs are authorized to be appropriated from the General Fund. In five of the past 12 years, vehicle safety activities have been funded from the Trust Fund. This option would immediately repay the Trust Fund for the $635 million in unauthorized appropriations from the Trust Fund for vehicle safety activities since 1998.

[2] Each one-cent-per-gallon increase in the gasoline and diesel user fee provides approximately $1.8 billion of additional revenue per year for surface transportation programs.

Foregone interest earnings also fall into this category. As part of the Transportation Equity Act for the 21st Century (P.L. 105-178), the Trust Fund stopped earning interest on its cash balances after September 30, 1998. Other trust funds (e.g., the Airport and Airway Trust Fund) continue to earn interest. To my knowledge, the Highway Trust Fund is the only trust fund of its type that does not earn interest. This option would reinstate an estimated $20 billion in interest that would have been earned from fiscal years 1999 through 2009 on the cash balance of the Highway Trust Fund if the Trust Fund had been permitted to continue earning interest. Of the $20 billion of foregone interest, the Committee estimates that approximately $15.2 billion would accrue to the Highway Account, and $4.8 billion would accrue to the Mass Transit Account.

In total, this option would provide $27.4 billion for the Highway Trust Fund.

2. **Issuing Treasury Bonds to Finance Increased Funding of Early Years ($60 billion).** Under this option, the Department of Treasury would issue $60 billion of 10-year Treasury bonds to finance the increases in funding provided during the first several years of the bill. The bonds would begin to be repaid in FY 2012 with revenue from the Highway Trust Fund and would be retired in 10 years. This option would enable Congress to increase investment in highway and transit infrastructure while recognizing that the revenues necessary to finance this investment will need to be provided after the economic recession. This option would provide $60 billion for the Highway Trust Fund. This amount would be repaid in subsequent years.

3. **Requiring Fuel Tax Exemptions to be Reimbursed by General Fund ($6 billion over six years).** Another option is to have the General Fund, rather than the Highway Trust Fund, support long-standing fuel tax exemptions. Current law exempts from taxation certain uses of fuel, such as use by state and local governments and non-profit educational organizations, even though such use imposes wear-and-tear on the roads and highways that are supported by the Highway Trust Fund. When fuel is purchased for these uses, the tax has already been imposed on the fuel, and the ultimate purchaser is entitled to a payment or refund of the taxes imposed on the fuel. The refund is paid by the General Fund, which is then reimbursed by the Highway Trust Fund. This option would end the reimbursements from the Highway Trust Fund to the General Fund. Full refund payments would continue to be made from the General Fund, but the Highway Trust Fund would no longer bear the cost of these refunds. In May 2009, Representative John Lewis introduced H.R. 2391, the "Highway Trust Fund Fairness Act of 2009", which addresses this issue.

   This option would provide an estimated $6 billion to the Highway Trust Fund over six years (FY 2010-FY 2015).

4. **Increasing the Per Barrel Fee on Crude Oil and Imported Gasoline and Diesel ($24 billion over six years).** In 1990, Congress established the Oil Spill Liability Trust Fund (OSLTF). The OSLTF is funded by an excise tax on each barrel of oil imported or produced domestically. The tax is currently eight cents per barrel of oil. This option increases the excise tax by $1 per barrel on crude oil and refined gasoline and diesel. It

exempts aviation, farm, and all other non-transportation uses. Subcommittee Chairman Peter A. DeFazio will discuss this option in more detail.

This option would provide an estimated $24 billion to the Highway Trust Fund over six years.

5. **Instituting a Transaction Tax on Speculative Trading of Crude Oil Futures ($190 billion over six years).** This option would institute a transaction tax of 0.2 percent on trading of crude oil futures. This option includes a protection for traders interested in legitimately hedging the cost of crude oil futures, such as airlines. It would deter crude oil speculation and provide significant revenue to finance this legislation. Subcommittee Chairman DeFazio has initiated this option and will discuss it in more detail.

   This option would provide an estimated $190 billion to the Highway Trust Fund over six years.

6. **Implementing Other User Fees.** The Policy Commission and the Financing Commission have recommended many other user fees for Congress' consideration.

   For example, in addition to recommending an increase in the gasoline and diesel user fees, the Financing Commission recommended a variety of other user charges, including an increase in the **Heavy Vehicle Use Tax**. Currently, an annual tax is imposed on each truck with a Gross Vehicle Weight of 55,000 pounds or more. The operator of each such truck currently pays an annual tax of $100 plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds (maximum tax of $550). This rate has not been increased since 1983. Studies conducted by the Federal Highway Administration have found that user fee revenues paid by trucks weighing more than 70,000 pounds do not fully account for the share of highway infrastructure costs attributable to such vehicles. The Financing Commission proposed to double the annual tax rate to $200 plus $44 for every 1,000 pounds the truck exceeds 55,000, and increase the maximum tax to $1,100 to restore the purchasing power of the tax. This option would provide an estimated $6.7 billion to the Highway Trust Fund over six years.

   The Financing Commission also recommended consideration of **vehicle registration fees**. Currently, all States impose annual vehicle registration and related fees. According to the Commission, a national annual vehicle registration fee of $2.75 per car and $5.50 per truck would raise $6 billion over six years.

   To help finance freight-related infrastructure improvements, the Financing Commission considered a **container fee** to be a "strong" option. Currently, there are more than 150 deep draft seaports located along the Atlantic, Pacific, Gulf, and Great Lakes coasts, as well as in Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands. Deep draft ports accommodate ocean-going vessels, which move more than 99 percent of U.S. overseas trade by weight and 64 percent by value. The DOT projects that, compared to tonnages recorded in 2001, total freight moved through U.S. ports will increase by more than 50 percent by 2020, and the volume of international container traffic will more than double. According to the Financing Commission, a $10 fee on every Twenty-Foot Equivalent Unit (TEU) container moving through a U.S. port would raise roughly $3 billion over six years. Representative Ken Calvert will propose a similar, very attractive idea in his testimony today.

In addition, the Financing Commission recommended a **freight waybill tax**, which would be a sales tax on freight shipping costs. According to the Commission, a 0.1 percent tax on truck freight waybills would raise $620 million per year and a similar tax on waybills for all transportation modes would raise $740 million annually.

Finally, we need to begin the transition from the gasoline and diesel user fees to a **vehicle miles travelled (VMT) fee system** that charges users for each mile driven.

CONCLUSION

In summary, there are many options for financing the Surface Transportation Authorization Act of 2009. None will be popular. However, without new revenues, our highway, highway safety, and public transit programs face enormous cuts at a time when the nation's surface transportation network requires a substantial increase in investment just to maintain current standards. By making this investment, we will transform the future of surface transportation in the United States, and put Americans back to work in jobs that can never be outsourced.

The Committee on Transportation and Infrastructure stands ready to provide whatever assistance you may find helpful as you examine potential methods of financing surface transportation to provide sufficient, stable, reliable, and dedicated revenue for infrastructure investment.

Chairman NEAL. Thank you, Chairman Oberstar.

Our friend, Mr. Mica, is recognized to testify.

STATEMENT OF THE HONORABLE JOHN L. MICA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MICA. Thank you, members of the Ways and Means Committee for the opportunity to present some of our ideas, and you have to make some of the choices on finding viable financial solutions for our highway and national infrastructure.

Let me say first of all that we all know that the need is great. We are looking at 9.5 percent unemployment. I have a statement from the Pennsylvania DOT secretary who said for construction workers, unemployment is 21 percent. I have some places in my district that have 15 percent unemployment and construction is probably equal to this 21 percent we are seeing across the nation. Nothing can put people to work faster than building our nation's infrastructure, nor can we more wisely invest the people's money and have something tangible after we have expended the funds.

One of the problems we are having with the current stimulus package, and also even the limited amount of dollars that went into infrastructure, was the inability to get the money is out. This is not what I have said. CBO and others have said that, there has been difficulty in getting that money out. I believe that we can increase the dollars available and actually get more dollars from what we are spending without raising taxes.

So the first thing I propose for the record is my 437 day plan, which is speeding up the process, such as we did with the bridge that collapsed over the Mississippi River in Minneapolis, that horrible tragedy, but we built that bridge in 437 days. And this is a proposal, we have some of the elements in our bill, maybe you could adopt more, that would allow us to move these projects which will save time and money and get people working and infrastructure built. So, that is my first priority.

The second is I think that we can do a lot more public/private partnerships, and we will have some specific suggestions on that. And that is also taking private dollars and bringing them into the infrastructure game and setting the rules for that.

The gas tax as we know it, folks, is basically dead, 18.4 cents per gallon is less money coming in. Cars are driving further on one gallon of gas, and we are going to alternative fuel. So even if you raise the gas tax by $5 a gallon, at some point folks are not going to be using just gasoline. They are going to be plugging their car in, using other means, so that is dead. I would propose that we look at some alternatives. One that I might suggest is abolish the 18.4 cent per gallon gas tax and move to a flat tax. A flat tax instead of having 18.4 cents per gallon would join 45 states and the District of Columbia with a flat sales tax. Right now, 7.5 percent, down from 18.4 cents, would raise a similar amount of money. Of course, we would have to have a cap so it does not go up too much. We would have to have a floor so it does not in fact evaporate our revenue.

But there are more creative ways and fairer ways until we probably get down the pike to a vehicle miles travelled tax, some sort of chip that actually calculates the weight of the vehicle, the miles traveled, the type of fuel used, and then you pay on that basis.

But I believe that in addition to abolishing the gas tax, there are a whole host of alternative financing options, not my proposals necessarily but some by the Revenue Commission that was created under the past SAFTEA–LU bill. Some of those include increasing the cap on private activity bonds raising $450 billion. The current cap is $15 billion, you could go to $45; create a new federal program to fund state infrastructure bank, $72 billion. One billion invested in an infrastructure bank, properly leveraged, will yield $12 billion in a year, and provide additional funding for TIFEA loans. That could create $24 billion in revenue. Create a national infrastructure bank, that is a whopping $300 billion. And just $5 billion a year in an infrastructure bank can be leveraged to fund $50 billion in projects. And, finally, what I mentioned in the beginning, the second part of my plan is not only speeding up the process but also bringing in public/private partnerships, defining, tolling and some of the things that we have not done that can create dramatic revenue.

So, I am asking that members of the Ways and Means Committee not shove this aside. Mr. Oberstar and I believe that we must go forward with a 6 year bill. This is the only job stimulus hope that the people of this country have.

Let me tell you, I brought this dollar too to demonstrate one thing. This is one dollar, and take this one dollar on infrastructure, ladies and gentlemen. Right now, according to my state of Florida, my local district secretary told me he is getting projects for 25 to 30 percent lower. So for 75 cents, I can get a dollar's worth of project right now. We will never have a bargain on building the country's infrastructure again.

So I urge you, with Mr. Oberstar, not to put this off. The problem is not going to go away. In fact, it is going to get worse. In fact, right now, the proposal is to take the money from general treasury, which could not be a worse—there could not be a worse solution. Here, if we take the money that we have got, we spend it more wisely, and we expand it, we can get a bargain for the buck. So, I urge you to do that, and I would like this dollar submitted as part of the record.

[Laughter.]

[The prepared statement of Mr. Mica follows:]

[COMMITTEE TO SUBMIT]

Chairman NEAL. Thank you, Mr. Mica. And you should know that I share your position, along with Mr. Oberstar, that we should go forward as well.

Mr. DeFazio is recognized for testimony.

STATEMENT OF THE HONORABLE PETER A. DEFAZIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. DEFAZIO. Thank you, Mr. Chairman. Thank you for your interest in this subject and holding this hearing today.

I think if everyone in the hearing room were quiet for a moment and we listened, we would basically be able to hear America's infrastructure crumbling around us. A status quo bill, as recommended by the Administration and supported by two committees in the Senate, guarantees that we will not even begin to deal with the backlog of deferred maintenance, $80 billion of deferred maintenance on our transit systems in America. That means people are dying, as they did in Washington, D.C., because of our lack of investments in those transit systems. And if we continue down that path with a status quo bill, more people will die. More accidents will happen.

We have 160,000 bridges on our National Highway System that are either load limited, structurally deficient or functionally obsolete, again causing accidents, causing delay, adding to cost for business and consumers all across America, people stuck in traffic. We could go on at some length. Those are all the things that will not be addressed by an 18-month extension.

There is another thing we walk away from, we walk away from one million jobs a year if we support a status quo bill. That is what the White House proposal and the Senate proposal would do. If we failed to pass this bill with enhanced and additional investment, we walk away from one million jobs a year. And I think we could use those jobs and that investment in America.

Obviously, it is difficult to find the funding we need to get to a $450 billion bill, we need $140 billion of additional revenue. We have proposed a number of things. Mr. Mica has talked about an infrastructure bank, yes, that is great except guess what, infrastructure banks mean the local district or state has to pay the loan back. There is no transit system in the world that makes money. An infrastructure bank is going to do nothing for transit. Unless you want to have toll roads everywhere, the infrastructure bank is not the solution to our bridge or highway problem. So I believe we need additional investment.

I have tried to accommodate the concerns of the White House and others to find ways outside the traditional gas tax. It seems to me the one no-brainer that we could adopt would be to stop losing ground and that is when the construction industry comes back, and it will, and when construction inflation kicks in again, index the gas tax to the cost of construction inflation. If we had done that back in 1993, we would not be in this state of disrepair. We would have been able to make a much bigger investment. We have lost more than a third of the value of that dollar Mr. Mica showed us since 1993.

You could take a second step, you could take the anticipated and scoreable estimates on construction cost inflation over the term of the bill, and you could use it to finance bonds. CBO says that we could, this is an informal analysis from CBO, but basically a one penny increase in the gas tax could back a 10 year bond of $13 billion. So if we go back to historic construction inflation, say if the economy recovers in 18 months or 2 years, and we index the gas tax, we could put $50 or $60 billion up front in the Trust Fund in the first year and pay it back out of those small increments that would come in the gas tax in the later years of the bill.

If you want to be more ambitious, and I think we should be, you could look at taxing a barrel of crude oil. The idea would be to move some of the burden and the cost upstream from America's consumers, from the truck drivers, from the individual passenger vehicle owners and others, and move it upstream. If you put a dollar per barrel tax, you would raise approximately $24 billion over 6 years for one dollar on a barrel. Now, remember last year, there was one day when the speculators drove up the price of oil $24 in one day. Well, $24 would be perhaps a bit steep to put on a barrel of oil but a dollar or say $5 would virtually pay the bill. And the prospect is that some of that would come out of the OPEC countries. It would restrain their capability of manipulating and jacking up the price. It could come out of some of the people further upstream. It could come out of the obscene profits of Exxon-Mobil. It could come out of some of the speculators and others.

Yes, some of it would get passed on to the consumers but since we are talking about a competitive industry here, the provision of fuel to the American people, of course they could not pass on all those costs, so there would be some way of sharing the burden there. So a $5 tax per barrel would raise almost what we need for the bill.

And, finally, I was inspired flying back to Oregon a couple of weeks ago reading the paper where the paper said the price of crude oil had doubled this year, demand is flat, and it is all due to speculation. And I started thinking about that and I thought, well, what if we just taxed speculative trades? And the Commodity Futures Trading Commission conveniently divides the world between hedgers and speculators, so we would protect hedgers like airlines, trucking companies, steamship lines, railroads, others who are ultimate consumers of fuels, but the financial speculators would pay a very modest fee.

If we put a two-tenths of one percent tax, two tenths of one percent, on crude oil trades and a half percent tax on crude oil options, estimates are that could raise $190 billion over 6 years, which means we could pay for the bill, and we could pay for something else, maybe part of healthcare or we could reduce the deficit with some of that money or you could make the tax a little lower and just come out even.

Now, there are some who say, "Oh, my God, the liquidity in the market setting and all the things that happen that are beneficial because of speculation," you would still have a lot of robust trading among hedgers, and I think some speculators would still trade. Some of them are not just trading on the two-tenths of one percent margin, and there would still be a market. But we assume that the price of oil would fall dramatically because a lot of speculators would get out of the market, and we assume that that trading would drop by 60 percent. That still raises the $190 billion.

So, Mr. Chairman, I think there are ways to get to the investments the American people need and want, produce the jobs, give people the help they are going to get out of traffic, fix our broken system, repair the bridges, invest in our transit systems, and make America competitive once again and put the joy back in traveling.

Thank you, Mr. Chairman.

[The prepared statement of Mr. DeFazio follows:]

STATEMENT OF THE HONORABLE PETER A. DEFAZIO
CHAIRMAN, SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

HEARING OF THE SUBCOMMITTEE ON SELECT REVENUE MEASURES
COMMITTEE ON WAYS AND MEANS
LONG-TERM FINANCING OPTIONS FOR THE HIGHWAY TRUST FUND
July 23, 2009

Chairman Neal, Ranking Member Tiberi, and members of the Subcommittee, thank you for the opportunity to testify today on my thoughts on long-term financing options for the Highway Trust Fund. The Transportation and Infrastructure Committee has laid out a blueprint for reform of our current surface transportation programs. The Surface Transportation Authorization Act of 2009 provides clear national transportation objectives and holds states and local governments accountable to how they spend Federal transportation funds. We now hope to work with your Subcommittee to fund these important reforms and to do so in September. While much of the debate so far has focused on raising the gasoline tax, in my testimony today I will highlight innovative ways to generate the necessary revenue, including bonding, a fee on barrels of crude oil at the refinery, and a tax on crude oil securities transactions. In these tough economic times we must look at new and creative means to improve our nation's deteriorating transportation infrastructure.

At one time the U.S. led the world in surface transportation investment, which created a transportation system second to none. However, the actual purchasing power of the 18.4 cent Federal gasoline tax has declined 33 percent since 1993, the last year it was increased. The results of that decline in purchasing power and the lack of increased investment are clear. We now have an economy threatened by congestion. The deterioration of the quality of our surface transportation system has been detailed in many reports, including in two blue ribbon reports commissioned by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFTEA-LU). The conditions of our nation's highways, bridges, and transit systems fall far short of being in a state of good repair. Almost 61,000 miles on the National Highway System are in poor or fair condition; more than 152,000 bridges are structurally deficient or functionally obsolete; and the nation's largest transit agencies face an $80 billion maintenance backlog to bring their rail systems to a state of good repair.

This aging infrastructure network has a direct impact on the economy. The congestion that results from our aging system impairs freight movements within the U.S. and raises the cost of American-made products. In just-in-time delivery the longer a delivery truck sits in traffic the more the product costs and the less competitive our businesses are in the global marketplace. Additionally, commercial trucks must often take detours to avoid weight-limited bridges, costing them precious time. By 2050, congestion costs could represent 14% of national GDP, up from 1.5% of GDP in 2003.

In addition to affecting the economy and how much Americans pay for goods, our deteriorating surface transportation system affects Americans' daily lives. A recent study found that for the average driver, rough roads add $335 annually to typical vehicle operating costs. In urban areas with high concentrations of rough roads, extra vehicle operating costs can be as high as $746 annually. According to the Texas Transportation Institute, in 2007 congestion cost Americans $87 billion in wasted time and fuel. And it's not just increased costs that have an impact: approximately 42,000 people are killed each year on the nation's highways with an estimated 15,000 traffic deaths occurring where substandard road conditions were a factor.

Rep. DeFazio Testimony to Subcommittee on Select Revenue Measures
July 23, 2009
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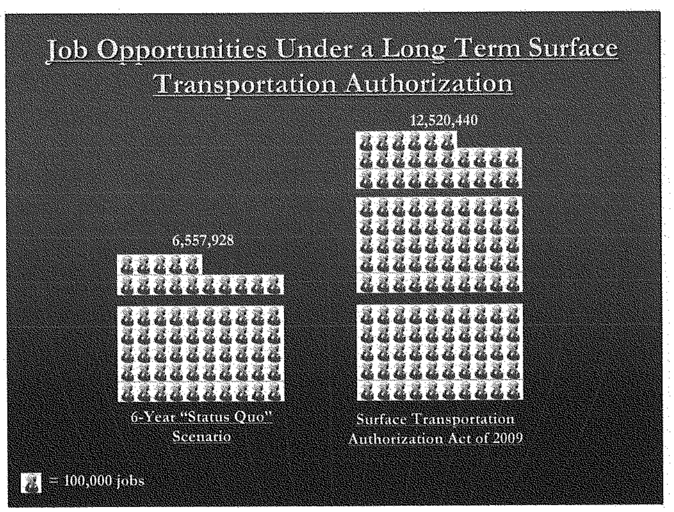
The SAFETEA-LU National Surface Transportation Policy and Revenue Study Commission report in January 2008 estimated we should be investing a minimum of $225 billion from all sources annually in all modes of transportation (highways, bridges, transit, freight rail, and passenger rail). Additionally, the American Society of Civil Engineers estimates the nation's infrastructure requires an investment of $2.2 trillion over the next five years to bring our infrastructure to a state of good repair. We are currently investing only $85 billion from all sources annually, and while China spends 9% of its GDP on infrastructure, the U.S. spends just 0.93% of its GDP on infrastructure investments.

The bill Chairman Oberstar, Ranking Members Mica and Duncan, and I have proposed will provide a substantial funding increase over current levels by authorizing $450 billion over six years to begin to make measurable improvements in our infrastructure backlog and to improve the average driver's daily commute. It has never been more imperative that Congress pass a long-term authorization measure by the end of this year and before the next construction season begins. The Surface Transportation Authorization Act of 2009 (STAA) will create a well-funded, streamlined, efficient and effective transportation program. Our bill reforms how Federal transportation programs work and will make our highways safer, improve our roads and transit systems, make our businesses more competitive, and reduce the amount of time the average person spends in gridlock.

In addition to reducing congestion and improving the safety of the system, as you can see on the below chart the STAA will create or sustain over 12.5 million family wage jobs. That's six million more jobs, or roughly one million more jobs per year, than if we continue status quo funding. That means that under the Administration's eighteen-month extension proposal 1.5 million jobs would be lost. We can't afford to walk away from one million jobs. And we certainly can't afford it in this economy.



Rep. DeFazio Testimony to Subcommittee on Select Revenue Measures
July 23, 2009
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I appreciate the difficult situation this Subcommittee and the full Committee on Ways and Means face in raising revenue to pay for health care reform and other important priorities. The current economic climate is certainly not an ideal time to raise revenue to pay for needed investment in our failing transportation infrastructure. However, investment and reform cannot be put off – our economy is too dependent on an efficient system to wait. In order to aid the important work you are doing, I have compiled a number of potential funding sources to support the Highway Trust Fund and help finance the bill. It is worth noting that due to the time lag between when highway and transit funds are first made available for obligation and when they are actually expended from the Highway Trust Fund, **a $450 billion authorization measure does not require $450 billion in revenues.** Based on preliminary estimates from the Congressional Budget Office (CBO), **a total increase of roughly $140 billion** in Highway Trust Fund revenues over the six-year period from FY 2010 – 2015 (over and above the estimated baseline revenues of $230 billion during that same time period) would be sufficient to fund a $450 billion bill.

There are three funding proposals I believe hold the most promise. First, I recommend indexing the gas tax to the construction cost index and dedicating the increase to repaying a ten year bond in order to gain revenue for the first years of the six year bill. An informal CBO analysis estimates a one cent increase in the federal fuel excise tax for ten years could be used to back a bond issue totaling approximately $13 billion. The bonds would be retired in ten years and this entire sum would be available in the first year of the bill (FY 2010). Indexing the gas tax to the construction cost index (using historical data) could conservatively bond $50 to $60 billion. Currently, the construction cost index is flat or negative, therefore it is expected a gas tax increase due to indexation would be delayed until the economy improves.

Second, a fee imposed on barrels of crude oil, both imported and domestic, and an equivalent fee on imported refined gasoline and diesel could be used as an alternative method to generate revenue for the Highway Trust Fund. **A $1 fee per barrel of crude oil and an equivalent fee on imported refined gasoline and diesel – exempting all non-transportation uses from the fee – would generate approximately $24 billion over the six year authorization bill.** A $5 fee per barrel would generate approximately $120 billion over six years. The February 2009 report from the SAFETEA-LU National Surface Transportation Infrastructure Financing Commission rated this as a "strong option" for generating revenue for the Highway Trust Fund. A major advantage of taxation at the refinery level is that the total cost is not directly passed onto consumers, as it is in the current federal fuel excise tax system. It is arguable that part of the barrel tax would be borne by OPEC nations, oil companies, intermediaries, or speculators.

Finally, we can potentially raise $190 billion over six years by enacting a minuscule transaction tax on speculative crude oil trading. That is just a fragment of the $10.5 trillion that is traded in oil futures annually. A transaction tax on crude oil securities can make up the $140 billion funding gap, and could potentially reduce the price of crude oil and reduce volatility in the crude oil market. Under some estimates these revenues would be more than what's necessary to restore the solvency of the Highway Trust Fund and provide additional investment that could be targeted for intermodal purposes like high-speed and freight rail improvements, or even deficit reduction. National Economic Council Chair Larry Summers endorsed similar proposals in a paper he wrote while at Harvard. **By taxing crude oil futures at 0.2% and the premium of crude oil options at 0.5%, this tax could raise $190 billion over six years (assuming the price of oil fell to $50 a barrel and trading oil securities fell by 60%).** This estimate includes a tax exemption for legitimate hedgers, like airlines and railroads, so they see no effect except less volatility and lower oil prices. The U.S. Commodity Futures Trading Commission distinguishes between legitimate hedgers and short-term speculators, making the exemption straightforward. Since the tax is on speculation only, it deters speculation and undermines much of the crude oil price bubble. It is the only revenue source that lowers the price of oil while raising revenue for the Highway Trust Fund.

There are many funding options to be considered and many difficult decisions to make. While it would be easy to follow the course of the Obama Administration and postpone action on surface transportation authorization until sometime in the future, delay is unacceptable. The time for this authorization is now and the decisions will only get tougher. An eighteen-month extension will leave states without the reliable funding source they need to plan significant multi-year projects. During the twelve extensions of the Transportation Equity Act for the 21st Century (TEA-21) before SAFETEA-LU was signed into law, states significantly pulled back on investments in highway and transit construction projects because of uncertainty regarding how much Federal funding the state would receive.

My home state of Oregon is a perfect example of the effect extensions have on the ability of state's to plan multi-year projects. In 2004 and 2005 as Oregon was developing its 2006-2009 State Transportation Improvement Program (STIP), which identifies the funding for and scheduling of transportation projects for a four-year period, the state had to assume flat Federal funding levels in 2006 and beyond because of uncertainty over when TEA-21 would be reauthorized. Once SAFETEA-LU was signed into law, they were able to add $212 million in additional "unanticipated" funding to the 2006-2009 STIP. However, an on-time authorization bill would have allowed Oregon to begin those projects much earlier. The Oregon DOT, and every state DOT, now face the same situation as they have no certainty of Federal funds until we complete a new authorization.

It is clear jobs will be lost if we pass a temporary extension of our current surface transportation authorization, and we will lose out on the 1.5 million jobs that could be created by the Surface Transportation Authorization Act of 2009 over the next eighteen months. An extension will undermine the job creation potential of the Recovery Act, and it will lock us into the failed policies of the past while preventing us from moving towards the transportation system of the future.

We owe it to our future generations to act now, not later. We have a significant opportunity to address the long-term issues impacting our roads, highways, and transit systems and a piecemeal approach to fixing our transportation network will not work. We need a long-term perspective to rebuilding America. While there are some who say we should consider a second stimulus, a second stimulus isn't necessary. This surface transportation authorization is the next stimulus. It is our jobs bill.

Transportation investment creates jobs and assets that benefit generations to come. With some innovative thinking we can provide the long-term financing that is necessary to sustain the Highway Trust Fund. While I have laid out three options, there are many alternative funding mechanisms out there. I stand ready to assist this Subcommittee in its work to fund the Surface Transportation Authorization Act of 2009 to provide a vision and a path towards a 21st Century transportation system.

Thank you.

Chairman NEAL. I certainly thank the witnesses.

Mr. MICA. Mr. Chairman?

Chairman NEAL. Yes, Mr. Mica?

Mr. MICA. If I may, our ranking member of the subcommittee, Mr. DeFazio's counterpart, is not able to be with us; Mr. Duncan. And I would ask unanimous consent to submit his statement for the record.

Chairman NEAL. So ordered.

[The prepared statement of Mr. Duncan follows:]

STATEMENT OF THE HONORABLE JOHN J. DUNCAN, JR.

COMMITTEE ON Ways and Means

HEARING

July 23, 2009

As my colleagues have mentioned, this hearing will address one of the most difficult issues we face in reauthorizing the surface transportation programs this year.

While we can all agree that the highway, transit, and highway safety programs are vital to the success of our Nation, it is far more difficult to agree upon, or even devise, a plan for how to fund these programs.

I join Chairman Oberstar, Ranking Member Mica, and Chairman Defazio in their effort to move a 6-year authorization bill that will provide solutions to our Nation's transportation challenges. I have appreciated the opportunity to work with the Committee to draft a long-term authorization that will create jobs, and serve as a much needed economic stimulus in these difficult times.

The American Society of Civil Engineers estimates that we need to invest more than $2.2 trillion over the next 5 years just to our improve the state of our Nation's infrastructure.

The Department of Transportation estimates that 37 percent of our Nation's highways are in poor or fair condition and 1 out of every 4 bridges is structurally deficient or functionally obsolete.

Deteriorating bridges, congested highways, and inefficient freight movement cost our Nation lives, money, and time.

The need for a robust, long-term authorization bill is clear, but finding mechanisms to finance it are more challenging.

I, along with all of my colleagues on the Transportation and Infrastructure Committee, believe that investment in infrastructure is vital to economic growth. However, in these difficult economic times, I believe that financing that investment by raising the gas tax would place too much of a burden on hardworking families and struggling small businesses.

In the last surface transportation authorization bill we created two Commissions to come up with recommendations on how to finance these programs. Both of these Commissions have completed their work, and both have created a laundry list of alternative financing options for these programs.

My colleagues on this panel have mentioned several of those financing options and the witnesses that will testify later this morning will mention others.

I hope that we can look at all of the innovative financing options that are on the table and work together to come up with a plan to finance the next surface transportation authorization bill.

I would like to thank the Committee for its hard work in finding solutions for this complex problem and I look forward to working with you to craft a Surface Transportation bill that will improve the state of our Nation's infrastructure.

Mr. MICA. It is shorter too.

Chairman NEAL. Thank you very much. We will get to Mr. Calvert shortly. Since we have the opportunity to interact with many of the witnesses on an everyday basis, it strikes me that hearing from some of the witnesses that are here as well on a busy day might not be a bad idea as we go forward. Is there anybody who would like to be recognized to question our colleagues here?

Okay, I want to thank you for your very thoughtful testimony. And certainly the engagement that you offered, I think will be very helpful to us down the road.

Let me call up our second panel this morning.

Mr. Meek, you are recognized to offer your testimony.

STATEMENT OF THE HONORABLE KENDRICK MEEK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Mr. MEEK. Mr. Chairman, it is an honor to come before the subcommittee. I guess I am just changing seats here from where you are and other members are at this particular time to be a witness, and I am glad to have the opportunity to do so.

Mr. Chairman, I have already entered my full testimony for the record. And I wanted to just share with the committee members and the members that are not on the committee, that this hearing is going to be very, very significant to moving forward, moving on transportation issues. And I have a piece of legislation, which is H.R. 1806, the Freight Rail Infrastructure Capacity Expansion Act of 2009. I filed this legislation because I welcome the opportunity to mitigate not only congestion on our highways and remain competitive in the global market but alsoconserve energy and reduce harmful emissions and lessen the cost of highway maintenance.

My legislation provides a 25 percent tax credit for infrastructure investment and new tracks, intermodal facilities, yards, locomotives and projects that will expand rail capacity. Railroads will be eligible for the credit but so will shippers or any other entity that invests in new rail capacity.

The second investment incentive would allow the expensing of all qualified rail infrastructure capital expenditures. This will be an outstanding step towards making sure that we expand our rail capacity.

I think it is also important to note that my bill also requires compliance with the Federal Wage Act, the requirements under the Davis-Bacon Act as a condition of eligibility for the tax credit and expensing allowances provided by the bill.

I think it is important also, Mr. Chairman, to point out to the committee that this dramatic increase in volume will be able to assist transportation of freight in the United States of America.

The U.S. Department of Transportation predicts the doubling of freight volume moving across the nation by 2035 which will be able to assist our economy in competing with other global markets.

And I also want to add for the committee, for the record here, Mr. Chairman, when we look at freight rail, it plays an important role in reducing not only congestion but also carbon emissions. We can move one ton of freight 436 miles on a single gallon of fuel. One train can pull 280 trucks, take 280 trucks off of the road and also allow us to break down as it relates to the level of traffic that we have on the road now.

I think it is very important, Mr. Chairman, in these very tough times that this industry has put forth a number of dollars towards building capacity. This bill will provide jobs in this very difficult time in our country's history, and will also allow us to be ahead of many other countries that are still dealing with the issue of freight capacity.

There is an article, Mr. Chairman, I would like to also enter into the record, just talking about the investment of transportation. I did not want to keep Chairman Oberstar here for a very long time, but it is in this edition of Newsweek. And I happened to read this article, it is Newsweek on July 27, 2009 and it is on page 13, and it talked about the need for speed.

It is talking about high-speed rail, but it is also talking about infrastructure and capacity. It mentions in Germany, there are $58 billion in subsidies over 5 years in incentives, $58 billion in Germany. And in France, there is a 1,180 miles of track that has been laid and the train that is the second fastest train in the world, an investment has been made of $45 billion. Thirteen billion has also been placed in other countries but it says here as it relates to our investment it is in the millions.

And I think when we have an industry, such as the freight industry in moving freight and cargo in our country, willing to put forth the dollars to increase capacity, then we can definitely meet them with the two initiatives that I have pointed out here into the record of the 25 percent tax credit for infrastructure investment and also making sure that those who put forth expenditures in increasing capacity, that they are incentivized to do so. These are very rough times. There are a lot of jobs that can be created. It is green. It is something that we can all embrace on the bipartisan level. And I can say that both of the incentives that I have identified here this morning have support on both sides of the aisle, and it is American. It cannot be outsourced. And it is green. And it is a beautiful, beautiful piece of legislation.

[Laughter.]

Mr. MEEK. So I am hoping that we can see fit to add this, not only see this bill move forward but also be added to any legislation that moves through this subcommittee. Thank you so very much, sir.

[The prepared statement of Mr. Meek follows:]

Prepared Statement of the Honorable Kendrick B. Meek

Chairman Neal, Ranking Member Tiberi, and fellow Members of the Subcommittee:

I am pleased that Chairman Neal and Chairman Lewis held the Joint Ways and Means Subcommittee Hearing on June 25, 2009, to review highway and transit investment needs. Chairman Neal and Ranking Member Tiberi, I thank you for holding this Subcommittee hearing today, and allowing me the opportunity to tell you about my legislation that I filed—H.R. 1806, the Freight Rail Infrastructure Capacity Expansion Act of 2009.

I filed the Freight Rail Infrastructure Capacity Expansion Act of 2009 because I welcome the opportunity to help our nation mitigate congestion on our highways and remain competitive in the global market, as well as conserve fuel, reduce harmful emissions, and lessen the costs of highway maintenance. We need a coherent federal policy regarding freight movement in general, and its role in congestion in particular.

The dramatic increases in the volume and value of goods moved via surface transportation modes over recent decades is evidence of a need for a coherent federal policy regarding freight movement in general And its role in congestion in particular. Arguably, traffic congestion is the biggest problem that faces the nation's highway system. Miami is the 8th most congested city in the U.S. The hours of delay per traveler per year in Miami is 50. Congestion in Florida's largest 5 urban areas—Miami, Tampa-St. Petersburg, Orlando, Jacksonville, Sarasota-Bradenton—costs drivers in those areas $5 billion annually in lost time and extra fuel costs. Most experts agree that urban road traffic congestion has intensified and becomes more widespread during the past quarter century.

Many observers are concerned that unless there are significant increases in freight infrastructure investment, especially investment targeted at bottlenecks, the transportation network could become inefficient and a drag on the economy. As the nation faces escalating fuel prices, increasing traffic congestion and an ever-growing need for more freight transit, railroads will be a major part of the answer. Although trucks continue to transport about 75% of the total value of shipments in the U.S., rail can be seen as an efficient, cost-effective, and environment-friendly substitute for a good deal of this traffic.

Even though railroads are investing record amounts in capital spending, it will not be nearly enough to meet expected future demand. A report by the American Association of State Highway and Transportation Officials (AASHTO) states that America needs an additional $2 billion a year in rail infrastructure investment in order for the railroads to maintain market share and meet the country's minimum future freight transportation needs.

Our economy cannot prosper if we have a shortage of transportation capacity. Already, transportation gridlock costs our economy hundreds of billions of dollars each year, a tab that will only grow if we do not address our transportation capacity challenges. My legislation is one way to help address this challenge while also providing a valuable economic stimulus.

For these reasons, I have filed legislation which provides a 25% tax credit for infrastructure investments in new track, intermodal facilities, yards, locomotives and other projects that expand rail capacity. Any and all businesses that make capacity-enhancing investments, not just railroads, would be eligible for the credit; i.e.,shippers. A second investment incentive would allow for expensing of all qualifying rail infrastructure capital expenditures. This incentive recognizes the extremely capital-intensive nature of the rail industry, where capital expenditures exceed 17 percent of revenues.

My bill also requires compliance with federal wage rate requirements under the Davis-Bacon Act as a condition of eligibility for the tax credit and expensing allowance provided by the bill.

The U.S. Department of Transportation is predicting *a doubling of freight volumes* moving across our nation *by 2035,* and a growing body of government and academic research shows that if the U.S. economy wants to grow at its current level, freight transportation *must* increase3 its capacity. Freight rail plays an important role in reducing highway congestion. Railroads can move one ton of freight 436 miles on a single gallon of fuel. One train can take 280 trucks of the road—the equivalent of 1,100 autos—reducing congestion and pollution while saving energy.

Based on data from a study by the American Association of State Highway and Transportation Officials, for each 1 percent of long-haul freight moved by rail instead of by truck, fuel savings would be around 110 million gallons per year and annual greenhouse gas emissions would fall by around 1.2 million tons.

We know that President Obama is all for increased infrastructure investment. We know from the last Subcommittee Hearing that there will be a significant economic effect on the transportation network, and the economy as a whole, unless there are significant increases in freight infrastructure investment, especially investment targeted at bottlenecks.

In addition, we need to reduce the percentage of greenhouse gases. Because railroads are, on average, three or more times more fuel efficient than trucks, and because greenhouse gas emissions are directly related to fuel consumption, every ton-mile of freight that moves by rail instead of truck reduces greenhouse gas emissions by two-thirds or more—without negatively impacting our economy.

I feel strongly that freight rail represents our nation's best opportunity to mitigate congestion on our highways and remain competitive in the global market, as well as conserve fuel, reduce harmful emissions, and lessen the costs of highway maintenance. Add the fact that the railroad industry is committed, and prepared to begin construction immediately, putting thousands to work within weeks, positively affecting the amount of domestic and international trade capacity within months.

An investment in a rail infrastructure tax credit would be a measure we could all be very proud of.

Chairman NEAL. Thank you, Mr. Meek.

The gentleman from California, Mr. Calvert, is recognized for testimony.

STATEMENT OF THE HONORABLE KEN CALVERT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CALVERT. Thank you, Chairman Neal, Ranking Member Tiberi, and the Members of the Committee. I thank you for giving me the opportunity to testify before you today.

It is no secret that one of the biggest challenges in this Congress will be to find necessary revenue streams to pay for investments in our country to fix the problems we are having in transportation today. Throughout the country, Americans are well aware that our transportation infrastructure is directly linked to our nation's economic competitiveness. We know this because our constituents certainly have told us so, not only verbally but with their pocketbooks. Back in my own congressional district in California, a super majority of the constituents have voted on more than one occasion to raise local sales tax revenue and dedicate that revenue to transportation projects.

Additionally, local governments have imposed transportation mitigation fees on development of new homes and commercial businesses. In short, our local communities have been pursuing a wide range of innovate revenue streams to address transportation challenges that exist now and will certainly worsen in the future.

Given the broad consensus that existing federal revenue channels are inadequate to match the transportation needs, I believe this committee should pursue a wide range of revenue streams.

Today, I would like to focus my comments on the potential benefits of a freight fee, which is by no means a silver bullet but can certainly provide significant benefits in addressing our nation's goods movement challenges.

My congressional district is more than 50 miles from the Port of Los Angeles in Long Beach. Yet, my constituents see and feel the impact of trade and the goods movement it brings every single day. Freight moving to and from our ports and highways, along our rail lines and at the various places where our roads, rail lines and warehouses intersect results in overwhelming congestion.

In addition, the growing interaction between commuters and freight affects them both in equally negative manner. As many of you know all too well, the challenge posed by movement of goods is not exclusive to southern California. Gateway communities all over the nation are experiencing decreased burdens of infrastructure surrounding air, land and sea ports.

In a proactive attempt to address the freight challenges introduced along with my colleague Jesse Jackson, Jr., the "Our Nation's Trade Infrastructure Mobility and Efficiency Act," or recently called the ON TIME Act, the bill H.R. 947, which was introduced February 20th of this year, will fund the construction of high priority transportation projects, which would alleviate congestion in our nation's trade gateway corridors through a dedicated trade-based funding stream.

Let me explain exactly what the ON TIME Act would do. The bill directs the U.S. Department of Transportation to designate key trade transportation corridors or National Trade Gateway Corridors extending out from every official land, sea and airport entry in the United States, of which there are 350 in the United States.

Project eligibility under the ON TIME Act would be limited to transportation projects located within designated National Trade Gateway Corridors. Furthermore, the legislation limits funding to surface transportation projects as highway improvements, truck climbing lanes, truck bypasses, great separations and interchanges on key freight routes. Publicly-owned intermodal freight transfer facilities' improvements for the transportation link, which is out of port facilities also would qualify as eligible projects within the boundaries of a port terminal.

The bill grants the project selection authority not to the United States Department of Transportation or Congress. To ensure all interested parties have an opportunity to engage in the project selection process, the legislation requires states to seek input from local governments, transportation agencies, port authorities, regional planning authorities, as well as public and private stakeholders.

The ON TIME Act also requires each state to establish a process for rating proposed projects in accordance with the purposes of the legislation.

The ON TIME Act derives its trade-based dedicated funding stream through the establishment of a capped nominal ad valorem fee on all goods entering or existing through the official ports of entry. The ad valorem fee will be based equal to .75 percent of the stated value of the shipment, with a cap of maximum fee of $500, whichever is less.

The money generated by the establishment of the fee will be deposited in the National Trade Gateway Corridor fund, which the ON TIME Act establishes as a separate trust fund account with the United States Treasury.

The fee established in the ON TIME Act is designed to ensure that it would be paid by the beneficial cargo owner rather than the transportation service providers, such as the ship, trucking or railroad companies. Additionally, the fee is designed to be collected and administered by existing Federal Government agencies through the use of existing forums and processes to the fullest extent possible not creating additional bureaucracy.

The bill apportions the funds collected by the newly established fee to the transportation improvement projects within the National Trade Gateway Corridor in which it is collected. Therefore, all funds generated from the application of the fee on goods imported or exported at the Port of Charleston, for example, would be apportioned to the transportation projects within the National Trade Gateway Corridor designated for the Port of Charleston.

While I remain strongly committed to a number of core principles contained in this bill, such as ensuring that the collected funds are spent where and how they are intended and preventing the creation of any new bureaucracies, I would welcome the insight and expertise of all of you on how to help fix our nation's freight infrastructure.

I am confident we can all work together to create a solution to ease the congestion bogging down the freight and the communities in these gateway communities. And I certainly thank you and look forward if you have any questions.

[The prepared statement of Mr. Calvert follows:]

Statement of the Honorable Ken Calvert
Subcommittee on Select Revenue Measures
Hearing on Long-Term Financing Options for the Highway Trust Fund
July 23, 2009

Chairman Neal, Ranking Member Tiberi and members of the Committee, thank you for giving me the opportunity to testify before you at the hearing today.

It's no secret that one of the biggest challenges this Congress will face is finding the necessary revenue streams to pay for the investments our country must make in conjunction with the reauthorization of the surface transportation bill. Throughout the country, Americans are well aware that our transportation infrastructure is directly linked to our nation's economic competitiveness.

We know this because our constituents have told us so – not only verbally, but also with their pocketbooks. Back in my congressional district in California, a supermajority of my constituents have voted, on more than one occasion, to raise local sales taxes and dedicate the new revenue to transportation projects. Additionally, local governments have imposed transportation mitigation fees on the development of new homes or commercial businesses. In short, our local communities have been pursuing a wide-range of innovative revenue streams to address transportation challenges that exist now and will worsen in the future.

Given the broad consensus that existing federal revenue channels are inadequate to match our transportation needs, I believe this Committee should pursue a wide-range of revenue streams. Today, I would like to focus my comments on the potential benefits of a freight fee, which is by no means a silver bullet but can provide significant benefits in addressing our nation's goods movement challenges.

My congressional district is more than 50 miles from the Ports of Los Angeles and Long Beach, yet my constituents see and feel their impact of trade and the goods movement it brings everyday. Freight moving to and from the ports on our highways, along our rail lines, and at the various places where our roads, rail lines, and warehouses intersect results in overwhelming congestion. In addition, the growing interaction between commuters and freight affects them both in an equally negative manner.

As many of you know all too well, the goods movement challenge is not exclusive to southern California. Gateway communities all over the nation are experiencing the increased burdens of freight infrastructure surrounding air, land and sea ports.

In a proactive attempt to address the freight challenges I introduced, along with my colleague Jesse Jackson Jr., the "Our Nation's Trade Infrastructure, Mobility, and Efficiency Act" or the ON TIME Act. The bill, H.R. 947, which was introduced on February 20th of this year, will fund the construction of high priority transportation projects which alleviate congestion in our nation's trade gateway corridors through a dedicated trade-based funding stream.

Let me briefly explain in more detail what the ON TIME Act would do.

The bill directs the U.S. Department of Transportation to designate key trade transportation corridors, or National Trade Gateway Corridors, extending out from every official air, land and sea port of entry in the United States.

Project eligibility under the ON TIME Act would be limited to transportation projects located within a designated National Trade Gateway Corridor. Furthermore, the legislation limits funding to surface transportation projects, such as highway improvements, truck climbing lanes, truck bypasses, grade separations, and interchanges on key freight routes. Publicly-owned intermodal freight transfer facilities and improvements to the transportation linkages out of port facilities also qualify as eligible projects within the boundaries of a port terminal.

The bill grants states with the project selection authority, not the U.S. Department of Transportation or Congress. To ensure all interested parties have an opportunity to engage in the project selection process, the legislation requires states to seek the input from local governments, transportation agencies, port authorities, regional planning organizations, as well as public and private freight stakeholders. The ON TIME Act also requires each state to establish a process for rating proposed projects in accordance with the purposes of the legislation.

The ON TIME Act derives its trade-based dedicated funding stream through the establishment of a capped and nominal ad valorem fee on all goods entering and exiting through official ports of entry. The ad valorem fee shall be equal to .075 percent of the stated value of the shipment, with a cap or maximum fee of $500, whichever is less. The money generated by the establishment of the fee will be deposited into the "National Trade Gateway Corridor Fund," which the ON TIME Act establishes as a separate "trust fund" account within the U.S. Treasury.

The fee established by the ON TIME Act is designed to ensure that it is paid by the beneficial cargo owner, rather than transportation service providers, such as steamship, trucking, or railroad companies. Additionally, the fee is designed to be collected and administered by existing federal government agencies through the use of existing forms and processes to the fullest extent possible.

The bill apportions the funds collected by the newly established fee to transportation improvement projects within the National Trade Gateway Corridor in which it was collected. Therefore, all funds generated from the application of the fee on goods imported and exported at the Port of Charleston, for example, would be apportioned to transportation projects within the National Trade Gateway Corridor designated for the Port of Charleston.

While I remain strongly committed to a number of the core principles contained in the bill, such as ensuring the collected funds are spent where and how they are intended and preventing the creation of any new bureaucracies, I welcome the insight and expertise many of you have on our nation's freight infrastructure. I am confident that if we work together, we can create real solutions to ease the congestion bogging down the freight and commuters in our gateway communities.

Thank you again for allowing me to testify and I look forward to your questions.

Chairman NEAL. Thank you, Mr. Calvert.

The gentle lady from Florida, Ms. Brown, is recognized to testify.

STATEMENT OF THE HONORABLE CORRINE BROWN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF FLORIDA

Ms. BROWN. Thank you very much, Mr. Chairman. And I appreciate the opportunity to speak to the committee today concerning the serious need for increasing freight rail capacity in this country. I want to thank Chairman Rangel for his strong leadership in support of transportation issues. And I also want to publicly thank Mr. Oberstar and DeFazio and Mr. Mica for their work and dedication to develop a surface transportation reauthorization bill. I refer to Mr. Oberstar as the "transportation guru," and I think a lot of people in this room would agree with that.

The need for additional rail capacity: Congestion has become a major problem across all modes of surface transportation. Current trends and studies all suggest a growing congestion problem on our freight rail network. Since deregulation in 1980, Class 1 freight ton-miles have increased 93 percent, while miles of track have decreased by 40 percent.

The Department of Transportation estimates that the demand for freight rail transportation will increase by 88 percent by 2035. A study conducted by the Cambridge Institute found that the cost of improvement needed to accomplish rail demand in 2035 is estimated at $148 billion in 2007 dollars.

Short line rails are dealing with the same capacity and financial problems facing the Class 1 rails. Private and government studies indicate that it will cost $13 billion to bring the national short line system up to the necessary level of efficiency.

Environmental friendly: You cannot find a greener transportation mode than rail. In 2007, freight railroads moved a ton of freight an average of 436 miles per gallon of diesel fuel more than three times as far as you could move it on the highways. A single intermodal train can take 280 trucks off the highway, reducing congestion and improving greenhouse gas emissions.

Short lines are also environmental friendly. They use approximately 184 million gallons of fuel to move 10.6 miles car loads of freight annually while trucks require 540 million gallons to move the same freight.

My strong support for a tax credit: My subcommittee has held numerous hearings on the subject of rail capacity and how to deal with the expected growth, and we have a very strong support for a rail tax credit. In fact, the financial segment has expressed a strong willingness to invest in rail if the rail tax credit was enacted into law.

Short line tax credits: An extension of the short line tax credit is a no brainer. It is a system that works, and it will help to improve the ailing infrastructure provisions.

The legislation, H.R. 1789, which a Transportation Committee member introduced, one, to show that we support it, but also to express the need for tax credits. Last week, the Department of Transportation had solicitation for high-speed rail in a city, a passenger rail. The response was $102 billion. Well, we cannot just come up with those dollars from the Federal Government. We have got to figure out a way of how we can bring in our partners.

Just last Friday, I took the train up from Washington to New York. And of course we were on the Amtrak system, but what we saw was that we need to fix our bridges, we need to fix our tunnels. And the tax credit would be one way to bring in our partners.

With that, I am hoping that we would include a tax credit in any bill that moves. We have a dire need to fund our infrastructure transportation system. And we know for every dollar, every billion dollars that we invest in transportation, it generates 44,000 jobs.

Thank you, Mr. Chairman, for giving me the opportunity to speak to the committee. And one of the things that I have learned since I have been in Congress, you can get things done if you do not mind who gets the credit. So I am just hoping that you all will move the tax credit and the short line.

Thank you.

[The prepared statement of Ms. Brown follows:]

Prepared Statement of The Honorable Corrine Brown a Representative in Congress from the State of Florida

Thank you Mr. Chairman. I appreciate the opportunity to speak to your committee today concerning the serious need for increased freight rail capacity in our country. I also want to thank Chairmen Oberstar and DeFazio for all their hard work and dedication in developing the surface transportation reauthorization bill. I refer to Mr. Oberstar as the "transportation guru" and I think a lot of the people here would agree with me.

Congestion has become a major problem across all modes of surface transportation. Current trends and studies all suggest a growing congestion problem on our passenger and freight rail network. Since deregulation in 1980, Class 1 freight ton-miles have increased 93%, while miles of track have decreased 40%. Passenger trains are also seeing increased ridership, with demand expected to grow. Amtrak ridership is at its highest levels since their operations began in 1971, and we will soon implement High Speed Rail on corridors throughout the United States.

The Department of Transportation estimates that the demand for rail freight transportation will increase 88 percent by 2035. At the request of the National Surface Transportation Policy and Revenue Study Commission, the railroad association commissioned an assessment of the capacity of the nation's rail system to accommodate the estimated increase in rail freight traffic. *The National Rail Freight Infrastructure Capacity and Investment Study,* conducted by Cambridge Systematics, Inc., found the costs of improvements needed to accommodate rail freight demand in 2035 is estimated at $148 billion (in 2007 dollars). The Class I railroads anticipate that they will be able to generate approximately $96 billion of their $135 billion share through increased earnings from revenue growth, higher volumes, and productivity improvements, while continuing to renew existing infrastructure and equipment. This would leave a balance for the Class I freight railroads of $39 billion or about $1.5 billion per year.

Short Line railroads are dealing with the same capacity and financing problems facing the class I railroads. Private and government studies indicate it will cost $13 billion to bring the national short line system up to the necessary level of efficiency.

There are many reasons why we should look to freight rail as part of the solution to our transportation challenges. Moving more freight by rail brings with it enormous environmental advantages. In 2007, freight railroads moved a ton of freight an average of 436 miles per gallon of diesel fuel, more than three times as far as it could move on a highway. Freight trains also help reduce greenhouse gases. According to the U.S. Environmental Protection Agency, freight trains are cleaner than trucks, emitting only a third as many greenhouse gases to move the same volume equivalent distances. And freight rail also helps reduce highway congestion. A single intermodal train can take 280 trucks off the highways.

Short lines are also environmentally friendly. They use approximately 184 million gallons of fuel to move 10.6 million carloads of freight annually, while trucks require 540 million gallons to move the same freight. Short lines keep 30 million truckloads a year off the highway, saving $1.3 billion per year in highway damage costs.

The problem is that railroads don't have enough capacity to handle the expected freight traffic increase. Unless that capacity is increased, more and more freight will have to move onto the nation's already congested and strained highways.

A 2007 study indicated that $148 billion should be invested to expand the capacity of the freight rail network by 2035 in order to keep up with demand. Railroads are already investing heavily to maintain, upgrade and expand their networks—more than $9 billion in capital improvements last year. That same study indicated that the freight railroads could raise about 70 percent of the expansion funds themselves. But that leaves a gap of about $1.4 billion annually between what the railroads themselves can invest and what is needed.

One way to help bridge the gap is through a modest program of tax incentives. Several pieces of legislation have been proposed in this Congress that provides tax credits for rail projects that add capacity to the nation's rail network, and I strongly support those efforts.

I introduced legislation, H.R. 1789 with Transportation Committee Ranking Member Mica that would combine both the Class 1 and short line railroad tax credits and includes fair wage provisions. We introduced this legislation to express the support of the transportation committee for these valuable and necessary tax incentives.

The incentive could be utilized not just by railroads but also by others who invest in those projects, such as a shipper who builds a spur to a plant or a trucking company that invests in an intermodal terminal.

The short line tax credit provision extends the current incentive for short line railroads to invest in track rehabilitation by providing a tax credit of 50 cents for every dollar the railroad spends on track improvements.

If that money is invested, highway congestion, stress on bridges and transportation-related greenhouse gas emissions can all be reduced while existing passenger rail capacity for High Speed Rail, Amtrak and local commuter trains can be retained.

As we begin to reauthorize the next surface transportation bill, it is critical that the need for additional rail capacity for both freight and passenger rail be addressed. The future of ground transportation is on our rails, whether it is taking freight off congested highways or moving people on high speed rail corridors.

There is no one solution that will solve rail congestion. However, providing tax incentives to the Class 1 and short line railroads would allow the government and the private sector to work together to increase and improve both freight and passenger rail capacity.

With that, I would again thank the subcommittee for allowing me to testify at today's hearing and would encourage the committee to include these rail capacity tax credits in the financing title of the Surface Transportation Authorization Act of 2009 (STAA).

Chairman NEAL. That, by the way, is no small matter as you know, Ms. Brown. I thank the gentle lady for her testimony.

The gentleman from Texas, a member of the Ways and Means Committee, is recognized.

Mr. Brady.

STATEMENT OF THE HONORABLE KEVIN BRADY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. BRADY. Thank you, Mr. Chairman. First, let me tell you this is an impressive looking dais, and I like seeing it from this angle. I think it is important for you to hold this hearing. I appreciate you and Ranking Member Tiberi doing this. Ways and Means is charged with designing the financing structure to support America's transportation goals, and we ought to be aggressively engaged in doing this.

I am a veteran of three highway reauthorization bills. This year, instead of submitting earmarks, I submitted four key reforms. I did that because we looked at just the local projects in our district that totaled $4 billion, and realized that acquiring $10 million of earmarks will not move our district toward mobility or for hurricane corridors or anything we really need.

I wanted to quickly touch on those four reforms. The first one is the vision. I think we need to call for a new national mobility summit, bring together the best and brightest state, local and federal transportation experts to formulate a new 21st century vision. And leaders would deliver that vision to Congress by October 1st of next year. I think we all agree that having a new strategic vision for transportation ought to include a comprehensive view, rail, barge, ship traffic, aviation, highways and transit, that integration is the way mobility works at the community level. It needs to start, the vision for America needs to start that way as well. I think our vision has been adrift since the completion substantially of the interstate system. Let's come up with a new one.

The second reform is accelerating projects and saving money. Congress and the White House, we ought to work together to accelerate mobility projects, make more efficient use of federal transportation dollars by streamlining the burdensome regulatory progress. We are wasting money and losing time. We learned from the I–35 bridge in Minneapolis that we can streamline these processes and still maintain a safe, environmentally friendly transportation system.

The third reform is that highway taxes should be spent on highways. We have to do more to ensure that the federal fuel taxes are not diverted to other non-transportation projects, such as in the past snowmobile trails, daycare centers and museums. It is unfair to taxpayers. It shortchanges our transportation goals and undercuts confidence in our system. We ought to require that a minimum of 95 percent of federal fuel taxes be spent directly on highways, bridges, transit research and the Smart technologies to improve mobility.

Finally, how do we finance it? Now, I think the way we do it, and the fourth reform I suggest is to sunset the Highway Trust Fund in two and a half years. Let's force Congress to work through a new financing mechanism for the infrastructure in America. Too often we kick the can down the road, and we have done that unfortunately on both sides of the aisle. I think we ought to put the pressure on ourselves to develop a reliable and adequate financing stream to fund a new integrated transportation system. We ought to explore the traditional financing sources, but we also ought to look at a new infrastructure tax credit, modeled on Congressman Meek's legislation dealing with the Railroad Investment Tax Credit, drawing new private capital to help improve our ports and our barge traffic, our local roadway projects and our rail spurs and other investment. I think that could be a key way to bring more dollars to the problem. And I think, again, the Rail Investment Tax Credit is so critical because our challenge in the future is not cars, it is cargo.

The freight rail on our highways is going to be the real problem America has to face, and I think being able to move some of that freight onto our rail and barge and other areas is key.

Mr. Chairman, private activity bonds were created in the last reauthorization bill, capped at $15 billion. We ought to look at how that tool is working and can it be improved.

And, finally, let's fix what is wrong with the current highway funding system. Let's focus on a new vision. Let's find the funds to invest in the infrastructure. I think too often we jump to step three without doing the first two.

Again, Chairman, thanks for having us today.

[The prepared statement of Mr. Brady follows:]

Congressman Kevin Brady of Texas
Testimony before the Committee on Select Revenue Measures
Committee on Ways and Means
July 23, 2009
Hearing on Financing Options for the Highway Trust Fund

Chairman Neal, Ranking Member Tiberi, and Members of the Sub-Committee, I thank you today for the opportunity to sit on the other side of the dias, and testify on behalf of an issue of critical importance to our nation: transportation policy reform.

While the Committee on Transportation and Infrastructure has the responsibility to create our transportation policy, the Committee on Ways and Means is charged with designing financing structures that support those transportation goals.

As a Member of the Committee, I stand open to discuss Members' proposals to improve financing, and will touch briefly upon a few.

But first, I believe, we must set a comprehensive vision for transportation reform. We need to decide where we want to go before we decide how to get there.

For far too long, America's transportation vision has been adrift and we have lacked a coherent policy. More than ever, America is looking for solutions and now is the time to act. We need a new strategic vision for transportation that includes a comprehensive view of all modes: rail, barge and ship traffic, highways, transit and aviation. And we need an action-forcing event to get us to do it.

Neither individual earmarks, nor a series of transfers to keep the highway trust fund solvent, will lead us to where we need to go. Our transportation system is broken, and America is demanding that Congress get serious about addressing our crumbling infrastructure and the way we finance it.

Transportation Reform

As a veteran of three highway reauthorization bills, this year I chose to submit four reform proposals rather than earmarks.

1) A National Mobility Summit

To help lawmakers with direction to meet our growing mobility needs, now is the time to bring together the best and the brightest state, local, and national transportation experts to formulate a new 21st century vision. Leaders from this summit would then deliver a strategy, recommendations, and measurable goals to lawmakers and the President by October 1st of next year.

2) Accelerating Projects, Saving Money

Congress and the White House should accelerate mobility projects and make more efficient use of federal transportation dollars by streamlining the burdensome regulatory and permitting process. As we learned from the I-35W Bridge in Minneapolis, we can streamline these processes and still maintain a safe and environmentally friendly transportation system. State and local governments need more flexibility and responsibility for designing, permitting and constructing projects.

3) Highway Taxes Spent on Highways

We must do more to ensure that federal fuel taxes are not diverted to other non-transportation projects. Some estimates say this is as high as 30 percent. It is unfair to taxpayers and it shortchanges our transportation goals. We should require that, at a minimum, 95 percent of federal fuel taxes be spent on highway, bridge, transit, research and smart technologies that directly improve mobility.

4) Sunset the Highway Trust Fund

The broken Highway Trust Fund is a symptom of a larger challenge: America's infrastructure investments are falling far short of our nation's mobility needs. Too often, Congress kicks the can down the road and refuses to make hard decisions about the challenges facing America.

We need to force action. Congress should sunset the Highway Trust Fund on December 31, 2011, so that Congress and The White House will have to act now to develop reliable and adequate financing to fund a new, integrated transportation system.

Financing Reform

Traditionally, we have financed transportation and infrastructure projects through federal fuel taxes. This does not include state fuel taxes, which average around 20 cents a gallon for gas and diesel.

But as we all are acutely aware, higher fuel prices and a tough economy over the last year have led Americans to drive far less. That also means we're collecting fewer fuel taxes to fund infrastructure projects – which are important to our communities and to our economic recovery.

As a result, last year, the Highway Trust Fund went broke. Congress approved a transfer of $8 billion from the General Treasury Fund to the Fund, and we are facing the same dilemma this year as well. Over the longer-term, the picture is very dark: the Congressional Budget Office estimates a shortfall of $73 billion over the next five years if we simply extend current law.

We must modernize our financing tools to support a new 21st century transportation strategy.

Some of these ideas may include allowing states to reclaim a greater share of federal fuel taxes, creating an Infrastructure Tax Credit and expanding the use of private activity bonds to attract more private capital into all modes of transportation.

The Infrastructure Tax Credit

We should explore creating an infrastructure tax credit to attract more private capital into transportation, including rail and barge capacity, bridges, port improvements, and local roadway projects. A model for this might be the 25 percent tax credit that Congressman Meek has sponsored to incentivize companies to invest in our nation's rail infrastructure.

The challenge for the future isn't cars, it's cargo. Expanding our nation's rail, barge, and port capacity is critical if our economy is going to grow and remain competitive. Transportation experts predict that U.S. freight tonnage will increase 80 percent by 2020. If we don't plan correctly, most of that increase will move over America's roads, a few feet away from our cars and trucks. Even with expanded highway capacity, I'm not convinced our roads can handle it all. We will still face congestion, safety, and environmental challenges. Increasing our rail capacity is a critical part of the solution: One rail train can take 280 trucks off the road. And it can haul a ton of freight 423 miles on just one gallon of diesel.

America's railroads know what the future holds and are already investing in their own infrastructure at record levels – five to six times greater than the average U.S. manufacturer. But that's not enough to meet demand today or in the future. And railroads are somewhat unique in that they must pay for and maintain their own infrastructure. Both short and long-haul railroads must expand significantly, and are struggling to do so. A tax credit can help railroads meet that rising demand, and prevent billions of tons of new freight from overwhelming our highways.

Private Activity Bonds

Private activity bonds were created in the last transportation authorization bill as a tool to finance transportation projects, up to $15 billion. In any long-term reauthorization bill, we should consider whether to raise this cap, and look to other ways to strengthen their use, including those outlined in the February 2009 *National Surface Transportation Infrastructure Financing Commission's Report.*

Conclusion

To address our nation's transportation challenges, we must first and foremost fix the current system. Transportation dollars are too often wasted on non-transportation projects, lost in red tape, or mired in the inequities of the federal "donor-donee" allocation.

Second, we must work now to create a new 21st century transportation vision that integrates all modes of transportation.

And then we need to decide how to fund this new strategy. Too many lawmakers are jumping to this third step without addressing the first two critical ones.

Mr. Chairman, Mr. Tiberi, Members of the Sub-Committee, I thank you again for the opportunity to offer my ideas on transportation reform, and look forward to continuing our work on this important issue.

Chairman NEAL. I thank the gentleman.

And, Mr. Moran, the gentleman from Kansas, is recognized to offer testimony.

STATEMENT OF THE HONORABLE JERRY MORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. MORAN. Mr. Chairman, thank you very much. I appreciate you and Mr. Tiberi allowing me this opportunity. I want to speak to part of what my chairman, Ms. Brown, spoke about earlier, the Railroad Short Line Rehabilitation Tax Credit.

The tax credit was originally enacted for a 3 year period beginning in the year 2005 and was extended again by Congress in 2008. That tax credit now expires at the end of this year, and the gentleman from North Dakota, Mr. Pomeroy, and I have sponsored H.R. 1132 to extend this credit for an additional 3 years.

The importance of the short line railroad industry is in who and where they serve. America's 500 short lines operate nearly 50,000 miles of track or almost a third of the national railroad network. For large areas of the country, and particularly for rural areas like Mr. Pomeroy's and mine, short lines are the only connection to the national railroad network. For the small businesses and farmers in those areas, the short line's ability to take a 25 car train 75 miles to the nearest Class 1 railroad interchange is just as important as the Class 1's ability to attach that block of traffic to the 100 car train moving it across the country.

My Kansas grain farmers cannot make the journey to the export markets in the Gulf without Class 1 railroad service, but they cannot even start the journey without the short line service. And short lines do not just serve rural areas. Indeed, every member of this subcommittee but one has one or more short lines operating in their congressional districts.

The majority of short lines are created by entrepreneurs who purchase the marginal or money-losing lines of Class 1 railroads. Much of the track would have otherwise been abandoned and most of it could not justify much of an investment by the previous owners. To smaller, local businesses, short lines have been very successful in turning these into profitable lines on a profit and loss basis, but they serve such small customers that do not ship much volume, so it is difficult for them to fund the enormous cost related to deferred maintenance.

Today, short lines reinvest on an average of 30 percent of their annual gross revenues in repairing and upgrading their infrastructure. Even with that, government and private studies indicate that unmet infrastructure needs on all U.S. short lines run some place between $10 and $13 billion.

The Short Line Tax Credit provides 50 cents for every dollar the railroad invests in track rehabilitation up to a credit cap equal to $3,500 per mile of track owned by the company. It has leveraged hundreds of millions of dollars of private investment in vulnerable railroad infrastructure. The National Railroad Tie Association estimates that the credit has allowed the short lines to purchase and install 750,000 ties a year over and above their normal purchases.

Let me give you a couple of important reasons for extending the Short Line Tax Credit. First, the primary beneficiaries of the tax credit are not the short lines, they are the railroad shippers. They are their customers. When the short line railroad upgrades track, those shippers receive faster, safer and more competitively priced services. Most important, they can utilize the newer, heavier long load railroad cars that are becoming the standard for Class 1 carriers. The heavier cars require a much stronger track structure. And if the short line track is not upgraded to handle them, the shippers must send product by truck to the nearest Class 1 railroad.

Attached to my statement is a sampling of testimonials from shippers that speak to the benefits. And I hope that members will take the time to briefly take a look.

Also, in today's recession, short line rehabilitation creates jobs and does it immediately. Most short lines do not have the in-house manpower to undertake rehabilitation projects and must hire contractors and laborers to do the work. Short lines are constantly installing new rail, ties and ballasts, the amount limited only by funding availability. If extra work becomes available tomorrow, the work gang that is currently installing ties and rail between milepost A and milepost B will be hired to keep going to milepost C because virtually all short line capital investment is made on existing company-owned rights away, there is no regulatory or environmental delay. There is an immediate benefit.

When the tax credit was originally introduced, it attracted 268 cosponsors, a widely supported piece of legislation. As of today, there are 120 cosponsors to Mr. Pomeroy's bill, H.R. 1132, and we are collecting more each and everyday. I hope you will include this measure in whatever legislation is available as a vehicle before this tax credit expires at the end of the year.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Moran follows:]

Prepared Statement of The Honorable Jerry Moran a Representative in Congress from the State of Kansas

Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee, I appreciate the opportunity to speak on behalf of the short line railroad rehabilitation tax credit. The tax credit was originally enacted for a 3 year period beginning in 2005 and extended for two more years in 2008. The credit expires at the end of this year and Congressman Pomeroy and I have sponsored H.R. 1132 to extend the credit for an additional 3 years.

The importance of the short line railroad industry is in who and where they serve. America's 500 short lines operate nearly 50,000 miles of track, or almost a third of the national railroad network. For large areas of the country and particularly for rural states short lines are the only connection to the national railroad network. For the small businesses and farmers in those areas, the short line's ability to take a 25-car train 75 miles to the nearest Class I railroad interchange is just as important as the Class I's ability to attach that block of traffic to a 100-car train moving across the country. My Kansas grain farmers cannot make the journey to export markets in the Gulf without Class I railroad service. But they can't start the journey without short line service.

And short lines do not serve rural areas exclusively. Indeed all but one Member of this subcommittee has one or more short lines operating in his or her district.

The majority of short lines are created by entrepreneurs who purchase the marginal or money losing lines of the Class I railroads. Much of this track would otherwise be abandoned and most of it could not justify much investment by the previous owners. As smaller, local businesses, short lines have been very successful in turning these into profitable lines on a P&L (Profit and loss) basis. But they serve small customers that do not ship in volumes large enough to fund the enormous cost of eliminating this deferred maintenance. Today, short lines reinvest on average nearly 30 percent of their annual gross revenues in repairing and upgrading their infrastructure. Even with that, government and private studies indicate that the unmet infrastructure needs on all U.S. short lines run between $10 and $13 billion.

The short line tax credit provides 50 cents for every dollar the railroad invests in track rehabilitation up to a credit cap equal to $3,500/mile of track owned by the company.

It has leveraged hundreds of millions of dollars of private investment in vulnerable railroad infrastructure. The National Railroad Tie Association estimates that the credit has allowed short lines to purchase and install 750,000 ties/year over and above their normal annual purchases.

Let me give you a couple of important reasons for extending the short line tax credit.

First, the primary beneficiaries of the credit are railroad shippers. When their short line railroad upgrades track they receive faster, safer and more competitively priced service. Most important, they can utilize the newer heavier load railroad cars that are becoming the standard for the Class I industry. These heavier cars require a much stronger track structure and if the short line track is not upgraded to handle them, the shipper must sent his product by truck to the nearest Class I railroad. Attached to my statement is a sampling of shipper testimonials that speak to these benefits and I hope Members can take the time to briefly review those statements.

Also, in today's recession, short line rehabilitation creates jobs and does so immediately. Most short lines do not have the in-house manpower to undertake rehabilitation projects and must hire contractors and laborers to do the work. Short lines are constantly installing new rail,ties and ballast, the amount limited only by funding availability. If extra work becomes available tomorrow, the work gang that is currently installing ties and rail between milepost A and B would be hired to keep going to milepost C. Because virtually all short line capital investment is made on existing company owned right-of-way there is no regulatory or environmental delay.

When the tax credit was originally introduced it attracted 268 co-sponsors. As of today we have 120 co-sponsors on H.R. 1132 and are collecting more each day. I hope you will include this measure in whatever legislative vehicle is available before the credit expires this December.

Chairman NEAL. I thank the gentleman. I believe there are no questions of this panel, but we are going to recognize now Mr. Blumenauer and then Mr. Pomeroy for statements.

Mr. BLUMENAUER. Thank you, Mr. Chairman. And I deeply appreciate your leadership in convening yet another one of these hearings that are so important for our committee. This, as you know, has long been an interest of mine. As I listened to our colleague, Mr. Brady, I agreed with the points that he brought forward, but I do feel that we already have the vision that he is talking about. This has been created, and we are going to hear from witnesses again today, that will talk about the vision for the transportation system. We have heard from Mr. Oberstar and Mr. DeFazio about what their weaving into it. I think there is an emerging consensus about the vision for transportation.

And I could not agree more about the notion of having more value in the system. But, again, here there is no need to delay to understand how to get more value out of each dollar.

Our former colleague, Secretary LaHood, and I spent two days in Portland earlier this month where people were brimming with ideas about how to squeeze more out of each dollar, streamline the process, and we will hear more about that today.

It does require at the end of the day more money. And I appreciate what our friends are saying about the rail tax credit. I cosponsored it before, I will cosponsor it again. I think they are right on. I think the potential of a freight fee ought to be explored.

And Mr. Calvert mentioned what local communities are doing. And as I have been working on this issue around the country, I am struck that local communities are far beyond Congress. They are stepping up, they are raising property taxes, they are raising sales taxes, even in difficult times, to move forward.

And we do not have to repeal the gas tax to create a crisis for Congress to act. We have had testimony, Mr. Chairman, and again I appreciate your doing this, where people are talking about the crisis right now. We do not have enough money to even fund our current inadequate transportation system. And, as Mr. Mica pointed, we are in a downward cycle in terms of what is going to happen with greater fuel efficiency, electric cars, hybrids, the Highway Trust Fund is in a death spiral.

I think it is very clear what we should be doing, and I think our witnesses today have given us good advice. We ought to adjust the transportation funding sources for inflation. We ought to look at new sources. I am pleased that I was able to get into our cap and trade legislation before it left the House, something that is going to be in the neighborhood of $40 billion that will be used to green the transportation infrastructure.

But I would call particular attention, Mr. Chairman, to legislation that I am dropping today that would extend the demonstration project for Vehicle Miles Traveled, a user fee that is much more effective than the gas tax. When the gas tax was originally enacted, it was a very good approximation for road use. It no longer is a good approximation for road use, and it is becoming more and more inaccurate over time.

You are going to hear from one of the witnesses today about an experiment we have done in Oregon where people have voluntarily decided they will pay at the pump based on miles traveled, not gallons used. And you will hear that it has been successful. We have got the technology. People, when they understand it, feel comfortable with it.

And it has the potential of dramatically expanding what we can do not just to raise revenue in a more equitable fashion, by people who really use the system, it can be used for truckers, it can be used for motorists. We can add into this more benefits for users of highways that can streamline their process in terms of not just how they pay for it but parking, tolling, actually some things that could affect how they get access to the roadways. I have legislation that would extend the pilot project to every state in the union so people will feel comfortable with it.

They will understand how it works, will benefit from it because every single expert witness that we will hear from acknowledges that unless we fix the system, the wheels fall off, as Mr. Mica says. We have to have something akin to a real user fee. And, finally, that is going to get the support we need for the additional revenue.

President Eisenhower and President Reagan understood a user fee made sense, and they supported actually increasing those user fees, like the gas tax. I think it will give us a broad base of support to move forward. I appreciate the courtesy in making some brief comments, and look forward to working with the committee on following through with this.

Chairman NEAL. We thank the gentleman. The gentleman from North Dakota, Mr. Pomeroy, is recognized.

Mr. POMEROY. Thank you, Mr. Chairman. I will be very brief. I want to first of all commend my name sake, Congressman Blumenauer, the Earl part, he is really one of the visionaries in Congress, not just on this committee but in Congress, on infrastructure. And I am very pleased, Mr. Chairman, that you are holding this hearing and you have held other hearings, giving us an opportunity across the committee to begin to catch up a little bit on the learning curve given the difficult decisions that are in front of us.

I want to speak not on grand vision but really on a very specific point, and that is the need for continuing the Section 45G Railroad Track Maintenance Tax Credit for short line railroads. I commend Jerry Moran, it has been my pleasure to work with him from the time we initially passed this tax credit, because our areas represent vast areas producing bulk commodities and yet we have had the main Class 1 railroads basically diminishing their service areas, identifying central track and leaving others, in ways that do not comprehensively serve the market needs of the agriculture districts we represent.

Well, I note that while the short lines are particularly important to areas like Congressman Moran's and mine, they are also playing a role in metropolitan and more heavily developed areas, including the chairman's district, the ranking member's district, and are really found throughout the representation of Congress.

A couple of problems: The assets acquired really require some investment. We are all familiar with the notion of hand-me-down clothes. Well, they have got hand-me-down track, and it takes some investment to bring it up and that is especially true in light of the second feature these days. They are often having to run unit trains, which have much heavier trains than the track was initially designed for. So not only do they have dated infrastructure, they have got to bring that infrastructure up to what 21st century transportation needs are, and that is a tremendous investment.

These are pretty small scale economic entities. Without the capital wherewithal to really make the investment. So, we have found that a tax credit has worked very well. My friend, the Chair, has noted the role of the tax credit in leveraging infrastructure investment. We have got we think at least two to one leverage, for the tax credit we get an equal amount of private capital. In Congressman Moran's district, there is some representation that the dollar of tax credit has leveraged $7 of private capital. That is a pretty efficient way to address what is an undeniable infrastructure need relative to short line railroad.

I have a statement, Mr. Chairman, I ask that would be included in the record. Again, I commend Congressman Moran for his leadership in this area. I so appreciate the work of Chair Brown on helping us along on this one, and look forward to the work of this subcommittee, Mr. Chairman. Thank you.

[The prepared statement of Mr. Pomeroy follows:]

CONGRESSMAN EARL POMEROY

Committee on Ways and Means
Subcommittee on Select Revenue Measures
Hearing on Transportation Member Bills
July 24. 2009

I thank the Chairman of the Subcommittee on Select Revenue Measures for holding this hearing on a subject of great importance to the well-being of transportation in North Dakota and across the United States.

I am especially pleased that my colleague Representative Jerry Moran is here to testify before the Subcommittee about the importance of short line and regional freight railroads and the benefits that they provide to farmers and natural resource producers in my state as well as 13,000 railroad customers in 48 other states.

I have been pleased to work with Rep. Moran on this issue since 2003 and appreciate his leadership and dedication to the short line railroads across the nation and the important connections that they maintain between our rural communities and the Class I railroads.

I look forward to working with you, Mr. Chairman, and Chairman Rangel on ensuring the long-term viability of federal transportation programs by providing incentives to invest in this infrastructure such the Section 45G railroad track maintenance credit.

The tax credit has encouraged short line and regional freight railroads to restore and to improve 50,000 miles of railroad track that otherwise would have been abandoned. While most short lines serve rural areas, they also play a critical role in metropolitan and more heavily developed areas like the districts of the Chairman, the Ranking Member and hundreds of other Members of the body.

The challenge that most short line railroads face is two-fold:

- First, these railroads have acquired assets that require them to often reinvest 15 percent, and in some cases over 30 percent of their gross revenues just to keep their trains on the rails. In hundreds of cases, these railroads cannot close the infrastructure gap.

- Secondly, the railroad industry has changed dramatically since the 1980s when hundreds of short lines were originally created. Today, "unit trains" of 60 or even 100 cars are now the norm for grain and oil from North Dakota. Not only are these trains longer, but they are heavier – using the newer generations of 286,000-pound cars which quickly wear out the lighter infrastructure on short lines. While increasing freight volumes on short lines is a good thing, increased volumes in heavier cars often wears down the infrastructure faster than available capital budgets can keep up.

The original Section 45G railroad track maintenance credit expired in 2007, but was extended at the end of last year. The credit is set to expire once again at the end of the 2009 tax year. With Mr. Moran I introduced H.R. 1132, which is currently co-sponsored by over 120 of our colleagues – a number that continues to grow toward the 248 cosponsors of this bill in the 110th Congress.

Each year Section 45G helps support over $330 million in infrastructure investments on short line and regional railroads by providing a maximum of $165 million in investment credits. This credit encourages small railroads to partner with railroad customers and suppliers to make infrastructure investments. In Rep. Moran's Kansas the Section 45G tax credit for short line railroads got a 7-for-1 return on the value of the credit.

As short line revenues have fallen with the economy this credit has become an even more important part of upgrading small railroad infrastructure. Customers like the cement and lumber industries have fallen on hard times as has our manufacturing base. But these industries will come back, and our railroads must be ready for the recovery.

In North Dakota, Dan Zink of the Red River Valley & Western Railroad has often spoken to me of the importance of short lines to our North Dakota communities and businesses. For example the railroad has used the credit to replace light ~~with~~ weight track that can take heavier loads enabling a local gain elevator in Edgley, ND to expand their facilities.

The 45G credit is a great example of this committee's ability to create innovative infrastructure funding techniques.

Chairman NEAL. Without objection, your statement will be included in the record.

And if Mr. Meek would like to talk about his beautiful initiative.

Mr. MEEK. No, everything is beautiful. I am from Florida. But let me just say, Mr. Chairman, in response to my colleague Mr. Blumenauer, who I have a great deal of respect for. In my 14 years of public service, I can count on one hand the people I have served with that have a true legislative mind focused on solutions. When I was in the Florida Legislature, there was a member, and Chairwoman Brown may remember this person, his name is Alzo Redick, serving out of Orlando. We had a great debate on the floor. He stood up and said to all of the members, "Listen, people did not elect us to describe the problem but to be able to find solutions to the problem."

I want to thank you for identifying the green initiatives, and cosponsoring the legislation. But, the freight rail companies have put forth 17 percent of all revenues towards rail infrastructure and they are required through federal legislation to deal with the safety crossing, and that creates jobs. That is the reason why I am supporting this bill strongly because I want to create jobs not only in Florida but also in the Midwest. And you know, Mr. Chairman, the train leaves the station and Midwest and rural communities and coal land and all of those areas are left behind.

Our discussion here today is very fruitful. I think it is important to note that the policy that has been put forth by the committee of substance, from the Transportation Committee, it all goes toward incentivizing those U.S. companies, U.S. jobs and creating those jobs in this recession. And in some parts of America, whether urban or rural, there is a depression because no one is providing these jobs.

So, Mr. Chairman, you know that we will continue to discuss this. I want to thank you for allowing me to testify today.

Chairman NEAL. Thank you very much. I want to thank the panelists. And if there are no questions, we will let them move along. And we will call up our third panel.

First, let me welcome back to the subcommittee Roy Kienitz, the undersecretary of policy at the U.S. Department of Transportation. Next, I am pleased to welcome Mr. Peter Picknelly, the president of Peter Pan Bus Lines in Springfield, a continuing generation of successful businesspeople and also most benevolent to many causes in and around the Springfield area and a great employer in our region. And he is here on behalf of Peter Pan Bus Lines, a member of the American Bus Association board of directors, and also I think he has brought his daughter to Washington to do a great tour afterwards. And we are delighted that he is here as well.

We would also like to recognize Mr. Robert Darbelnet, the president and CEO of the American Automobile Association, or AAA, as it is well known. We also want to welcome Mr. Wick Moorman, the president and CEO of Norfolk Southern Corporation, testifying on behalf of the American Railroad Association.

And, finally, we will hear from Ms. Barbara Windsor, the president and CEO of Hahn Transportation in New Market, Maryland, who is testifying on behalf of the American Trucking Association.

Let me recognize Mr. Kienitz for his opening statement.

STATEMENT OF THE HONORABLE ROY KIENITZ, UNDERSECRETARY OF POLICY, UNITED STATES DEPARTMENT OF TRANSPORTATION

Mr. KIENITZ. Thank you, Mr. Chairman. It is good to see the members again to discuss this important topic. Thanks for having us again. I will try to be mercifully brief. Our approach to this issue I think is to begin with first principles, which is what are the objectives that we want the system for transportation investment to achieve, and the ones that the Secretary has been articulating I think are reasonably clear. We want to enhance the economic competitiveness of the country, create the safest transportation system we can have, deal with the environmental impacts and create an environmentally sustainable system, and really invest in community livability as much as possible. Those are sort of the four main points that we see as the organizing principles.

The reauthorization is really an opportunity to re-examine the structure on the revenue side and on the spending side, with the principal question being: Are we collecting revenues and spending revenues in a way which has the greatest effect in enhancing our ability to achieve those goals?

We have a system now whereby the costs that occur to consumers are largely not frankly on the tax side. The federal gasoline tax of 18.4 cents is of course on a worldwide basis not particularly high, but there are very high costs which occur to families on their private expenditure side, car ownership, car insurance and other things. So one of the things we want to look at is not just the ability of investments made with government funds to deal with system issues but also their ability to deal with family issues, access to jobs, family expenditures, things like that. So we want to be able to look at the question of how we are managing costs in the aggregate, not just on the government side of the balance sheet but also on the family and business side of the balance sheet.

You want a system obviously that is in a state of good repair. That is something that Mr. Oberstar has emphasized and that is an emphasis with which I think it is impossible to disagree. There is a long way to go there. I know that many of the state DATs have put increasing emphasis in the last decade into really trying to put their money into state repair programs, and that has shown some benefit over time, but I think we all recognize that a lot more effort needs to be made there.

And, finally, a third point also emphasized by Mr. Oberstar and the members of his committee, is the performance of the system. Congestion is obviously an indicator of that but there are many other performance indicators that we want to look at, and that is community quality of life, environmental outcomes as well.

So, the principles that we would apply to looking for or examining any proposal for financing a system is, one, is it adequate to meet a level of need that the country has, just in terms of sheer size. That is an obvious question. Second, and this is something that has already been alluded to, is the system sustainable over time? I have certainly been in this business for 20 some years now, and I remember every year people come and say, "Well, everyone is about to drive electric cars, and there will not be any more gas tax," and for about 19 of the last 21 years, that has not been true, and now all of a sudden actually it is starting to be true. So the long-predicted flattening out of revenues from the gas tax is actually now occurring. The recession is obviously a big piece of that in the recent run up in gas prices. But underlying that, you have a long-term flattening out in the ability of that tax to generate critical revenues and that is obviously a real issue.

Third, the funding system that we adopt, should contribute to the idea of intermodalism or multi-modalism or flexibility. I am very encouraged by the level of support that we saw in the previous panel for freight transportation financing systems, be it container fees or other types of things. I think those get at very important sets of problems, but one of the difficulties we have in this transportation financing and funding system is the degree to which both the revenue and the expenditures are sliced up into little pieces. We have transit funds. And we have highway funds. And we have bridge funds. And we have rail funds. And we have air quality funds. And we have environmental funds.

And each of those separate little pieces constrains the ability of the people who are trying to manage that system on a day to day basis to actually address the high priority needs, and that balancing act becomes harder. So even though that might be an effective way to generate revenue to do some important projects, I think stepping back, our goal would be a system in which whatever revenue is collected is more broadly available so that the folks in New York City are going to spend it frankly in a dramatically different way than the rural areas. So that is the sort of flexibility we think will be most effective.

A fourth principle is the system we have now started out, as Mr. Oberstar mentioned as being really about a set of national needs and slowly over the years has turned into a program which does not focus very much on national needs and responds to a lot of local and regional desires. And that is not inappropriate, but I think we have gotten to the point where we do not really have an articulated set of national goals, and we do not have a program that is built around trying to achieve those goals. The financing system should hopefully, in our view, come back to that.

And, finally, whatever amount of money is raised through the system, it is going to be a limited amount of money. Given that, we need to do the best we can to make sure we are designing and selecting really the best projects out there. The state of the art, certainly on the maintenance side, has improved the technical systems that the states mostly use to design and select state of good repair projects have become very good. I think there is still a lot more learning to be done when we are talking about big capacity enhancement investments, be it on high-speed rail or highways or freight projects. That is going to be an area of focus for us.

Obviously, many suggestions have been made by the two financing commissions and by various members of this body and folks around the country about how to generate revenues for the system, and in particular how to generate revenues that are well above the revenues generated now. We obviously are looking at those. We are aware of a lot of them. I do not come to you today with a proposal or a particular area of support. I think the view of the Administration has been that that is a tough nut to crack and may take some time to do it well. And for that reason, we are supporting an extension of the program at the current funding level. But, obviously, we will be happy to work with this committee and all the Members of the House on these issues as we go forward.

[The prepared statement of Mr. Kienitz follows:]

STATEMENT OF
UNDER SECRETARY FOR POLICY
U.S. DEPARTMENT OF TRANSPORTATION
ROY KIENITZ

BEFORE THE
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SELECT REVENUE MEASURES
U.S. HOUSE OF REPRESENTATIVES
JULY 23, 2009

Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee:

Thank you for inviting me to appear before you today to discuss long-term financing options for the Highway Trust Fund.

I appeared before you a month ago to discuss the short-run problems facing the Highway Trust Fund; today I would like to focus more on a set of guiding principles for evaluating the long-term options for funding the Highway Trust Fund.

The principles that should be reflected in a long-term plan for funding the surface transportation system begin with our goals for the transportation system. We want a transportation system that will enhance the Nation's economic competitiveness, improve transportation safety, improve energy efficiency, and enhance livability. We need a transportation funding system that will support the achievement of these goals.

In the long run, one of our key goals is to increase the economic competitiveness of our Nation by investing more aggressively in our future. Just as past generations built the transcontinental railroad, the Erie Canal, and the Interstate Highway System, so our generation must build the transportation infrastructure that our Nation will need in the 21st Century. Enhancing our economic competitiveness requires a transportation system that reduces costs and is more reliable for both passengers and businesses. We need a transportation system that achieves a state of good repair and that achieves a high level of performance. Increasing the economic competitiveness of our transportation system will also require us to target our investment more carefully by using the best analytical tools available.

We also need to make sure that our investment allows us to begin making progress on halting the seemingly inexorable growth of greenhouse gases in our atmosphere, and that means reducing the carbon footprint of the Nation's transportation system. About 28 percent of the greenhouse gases generated in the United States are attributable to transportation, so we need to build a more energy-efficient transportation system. We need to build a sustainable model for transportation in the 21st Century, built on cleaner energy and reduced environmental costs.

We also need to make sure that our transportation investment enhances the livability of our communities. We need to build a transportation system that gives our citizens the choices they want – to get to their destinations by the transportation mode of their choice, whether that is driving, or public transportation, or bicycling, or walking. When people choose public transportation, we need to make sure that intermodal connections are safe and easy – from transit to intercity rail, from transit to air, and from highways to transit. We need to make sure that the transportation system doesn't impose excessive external costs on our local communities. We need to make sure that Americans, whether they live in urban areas or rural areas, have access to our bus, rail, and aviation systems that is cost-effective for users and society as a whole. We need to integrate our planning processes for transportation, land use, and housing so that we build communities where our transportation systems and land use patterns are made for each other.

In order to achieve these goals, we need a system of transportation funding that is both adequate to address the needs of the Nation's economy and sustainable with respect to changing economic circumstances. Transportation patterns will change. Prices of fuel will rise and fall. New technologies will emerge. We need a robust transportation funding system that can continue to generate the revenues we need in spite of changes in the environment within which the transportation system operates.

We also need a transportation funding system that is flexible with respect to the surface transportation needs it can support. All the surface transportation modes make an important contribution to meeting the Nation's surface transportation needs; we need a funding system that can meet the funding needs of all these modes. We need to be able to invest in the kinds of transportation infrastructure that will meet the Nation's objectives of safety, economic competitiveness, energy efficiency, and livability. A transportation funding system that is restricted to funding only certain kinds of transportation cannot meet these needs efficiently.

ENSURING THE ADEQUACY OF SURFACE TRANSPORTATION FUNDING

The first principle for funding the surface transportation system is that the funding system be adequate to address the needs of the Nation's economy. There is considerable reason to believe that our current funding system is not adequate to our needs.

In some respects, the nation's inventory of roads, bridges, and transit systems has steadily improved. Over the past ten years, we have expanded our highway network by more then 80,000 miles, enough to circle the globe more than three times, and the number of route-miles of transit systems has increased by 44,000 miles. The percentage of miles traveled that is on highways in good condition has increased from 39 percent to 47 percent; the percentage of bridges that are structurally deficient or functionally obsolete has declined from 32 percent in 1998 to 27 percent in 2008, and the average condition of the Nation's transit buses has improved from 2.94 to 3.01 (3.0 = "fair").

Still, there is much work to do. We need to bring our Nation's highways, bridges, and transit systems up to a state of good repair, both to improve safety and to enhance economic competitiveness. About 53 percent of highway miles traveled are on roads that are in less than "good" condition. Almost 30 percent of our bridges are structurally deficient or functionally obsolete. Almost 22 percent of our transit buses – and 32 percent of our transit rail cars – are over-age, while 76 percent of our transit bus facilities and 56 percent of our transit rail facilities are in less than good condition. We don't even know the condition of our railroads and ports, because we don't gather any data on that in a systematic way.

PROMOTING SUSTAINABILITY OF THE TRANSPORTATION FUNDING SYSTEM

The funding system for surface transportation must not only be adequate; it must also be able to sustain the appropriate level of funding in the presence of fuel price and technology changes. Serious concerns have been raised about the ability of the fuel tax to support even current funding requirements. The National Surface Transportation Infrastructure Financing Commission, authorized in SAFETEA-LU by this Committee, concluded that improvements in fuel economy threaten the sustainability of transport funding. The Department of Energy forecasts that the average fuel economy of the U.S. vehicle fleet will rise from 20.4 miles per gallon (MPG) in 2009 to 28.9 mpg in 2030. The Administration estimates that this will result in a stream of fuel tax revenues that grow in nominal terms but falls in real, inflation-adjusted terms. The Financing Commission, however, believes that this forecast could well understate the actual increase in fuel efficiency. If fuel prices increase more sharply than expected, or if vehicle technologies (such as alternative fuels and battery technologies) change more quickly than expected, or if concerns about global warming become more compelling, efforts to improve fuel efficiency could reduce fuel tax revenues faster than currently forecast. The revenue generated by the fuel tax is vulnerable to these changes in fuel prices, technology, and environmental concerns. We will probably need a more diverse, flexible funding system to enhance the sustainability of our surface transportation funding system.

THE FLEXIBILITY OF THE TRANSPORTATION FUNDING SYSTEM

Meeting the Nation's goals of improving economic competitiveness, increasing fuel efficiency, and enhancing safety and livability will require a surface transportation funding system that is adaptable to whatever modes of transportation are best suited to meeting these objectives. We need to be able to direct infrastructure investment toward rail and port and bicycle projects as well as highway and transit projects. One weakness of the fuel tax is that, because it is paid by only one mode of transportation, it inevitably creates pressures to spend revenues only on that mode of transportation. While it can be argued that expenditures on other modes divert traffic from highways and thus benefit highway users, and that expenditures on less environmentally damaging transportation modes reduce the environmental impact of the transportation system, the benefits of these policies are difficult to quantify and therefore will inevitably be debated. Looking ahead, we will need to consider how to make our system for financing of transportation investment better suited to meeting the Nation's objectives of economic competitiveness, energy efficiency, and livability.

THE FUNDING SYSTEM MUST SUPPORT IMPORTANT SURFACE TRANSPORTATION REFORMS

Our approach to achieving these national transportation goals of economic competitiveness, safety, energy efficiency, and livability relies on several key strategies, and it is important for our funding system to support these strategies.

First, because economic competitiveness is such a compelling objective for our surface transportation system, it is important for that system to be designed to address national needs for an efficient 21st Century economy. When supply chains reach across America, it is important to have a funding system that provides national funding to address national needs as well as local funding to address local needs.

Second, improving the Nation's economic competitiveness requires us to achieve our transportation goals with maximum cost effectiveness, which in turn requires us to draw upon the best available economic analysis to guide our transportation infrastructure investment decisions. In the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants and High-Speed Rail portions of our Recovery Act programs, we have called upon grant applicants to provide benefit-cost analyses of their proposed investments. The analysis of costs and benefits of an investment project would be a helpful tool for decision makers to identify projects that generate the greatest value for society. For projects designed to maintain or rebuild existing infrastructure, we will be calling on states and local authorities to make greater use of asset management techniques to reduce the costs of maintaining their infrastructure in a state of good repair over the long term. If we invest more efficiently, we can get more from every dollar that we invest – more economic productivity, more safety benefits, more accessibility, more sustainability, and more livable communities.

Third, we need to improve accountability by making greater use of performance measures for our transportation system. When we invest tax dollars in transportation infrastructure, people have a right to know what performance they can expect from that investment. We need to measure how well our transportation system is performing and report back on whether we are meeting our performance objectives. We need to demonstrate that we are using the public's tax dollars responsibly and that people are getting the performance improvements they paid for.

Finally, we want our investments in the surface transportation system and the transportation system more broadly to incorporate the latest technologies, and to take advantage of the opportunities that new technologies present to us. We need to make greater use of Intelligent Transportation Systems, both to reduce highway congestion and to improve safety in all our modes. We will move promptly to implement the positive train control requirements in last year's Rail Safety Improvement Act, and we will provide the resources necessary to deploy the Next Generation Air Transportation

System. And, of course, new technology will be the basis of more energy-efficient and safer cars, trucks, and other vehicles.

Thank you for the opportunity to appear before you today to discuss long-term funding options for the Highway Trust Fund. I believe that this challenge offers us an opportunity to chart a new course for transportation infrastructure investment in the United States over the years to come. I look forward to working with Congress and transportation stakeholders to make this a reality.

I will be pleased to respond to your questions.

Chairman NEAL. Thank you, Mr. Kienitz.

Now, we would like to recognize Mr. Picknelly. And, again by way of introduction, he owns the second largest bus line in America.

Mr. Picknelly.

STATEMENT OF PETER A. PICKNELLY, PRESIDENT, PETER PAN BUS LINES, SPRINGFIELD, MASSACHUSETTS

Mr. PICKNELLY. Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee, it is an honor to appear before you on behalf of Peter Pan Bus Lines to discuss the uniquely beneficial role that inner city buses play in providing service on our nation's highways.

Peter Pan Bus Lines is one of the largest privately owned bus companies in the United States, providing inner city bus service to over 100 communities throughout the Northeast. Inner city buses are a vital part of our nation's transportation system. According to the American Bus Association, we carry more than 700 million passengers per year, roughly the same number as commercial airlines. More people ride inner city buses in two weeks than take Amtrak in a year.

Inner city buses are the greenest mode of transportation, emitting less CO2 per passenger mile than any other mode of passenger transportation. Inner city buses are the most energy-efficient transportation mode, getting more passenger miles per gallon than any other form of transportation.

Inner city buses are a major factor in reducing congestion. Imagine what Washington, D.C. traffic would be like if the more than 6 million tourists that now travel to D.C. by motor coach every year came in their own cars instead.

Inner city buses serve rural America. Over 2,000 communities are served by inner city buses, far more than are served by the airlines and Amtrak combined.

Inner city buses provide affordable transportation for those who truly need it. Sixty percent of Peter Pan customers have household incomes under $35,000. Eighteen percent have income of under $10,000.

Inner city buses are operated by small businesspeople, each owning an average of eight motor coaches.

Inner city buses operate with far less federal subsidies than any other mode of passenger transportation. According to the Nathan Report, in the decade ending in 2005, public transit received 55 percent of all federal subsidies. Airlines received 37 percent, Amtrak 8.2 percent, and inner city buses received only three-tenths of one percent.

The small amount of inner city bus subsidy is primarily the partial exemption from the federal fuel tax. I strongly believe that it is in the public's interest for this exemption to continue. The exemption is critically important to our industry. Its annual cost is relatively small, approximately $34 million in 2005 dollars. The exemption was first enacted in the 1970s in response to the energy crisis and is still necessary today. The exemption should remain so that inner city buses can continue to provide congestion reduction, service to small towns, affordable transportation and preservation of small business. And, most importantly, we need it. We simply cannot pass the increased cost on to our customers with their limited incomes.

Last year, in the height of the fuel crisis, we attempted to raise some of our fares between $2 and $4, the result was a mass exodus of passengers, and we had to rollback the increases.

We are also facing costs of ever-increasing federal mandates. These include chair lifts on every bus, more expensive EPA-mandated engines, new safety requirements, while at the same time we are confronted with new federally-subsidized rail competition on many of our New England routes.

If affordable inner city bus transportation is to survive, we and our customers need the existing fuel tax exemption to continue. If the federal fuel tax is to be increased, we must preserve the current 70 percent exemption.

Thank you for giving me this time to testify. Thank you.

[The prepared statement of Mr. Picknelly follows:]

SELECT REVENUE MEASURES SUBCOMMITTEE

WAYS AND MEANS COMMITTEE, U.S. HOUSE OF REPRESENTATIVES

HEARING ON LONG-TERM FINANCING OPTIONS FOR THE HIGHWAY TRUST FUND

Testimony of Peter A. Picknelly, President, Peter Pan Bus Lines, Springfield, MA

On

The Highway Trust Fund and the Role of Intercity Buses

July 23, 2009

Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee, it is an honor to appear before you to discuss the future of the Highway Trust Fund and the uniquely beneficial role that intercity buses (a/k/a motorcoaches or over-the-road buses) play in providing service on the nation's highways.

Peter Pan Bus Lines, headquartered in Springfield, MA, is the largest privately-owned bus company in the United States. We provide fixed route, intercity bus service throughout New England and partner with Greyhound Lines, Inc. to provide bus service throughout the Northeast Corridor. Peter Pan also partners with Greyhound in providing curbside intercity service through BoltBus, and we provide charter, tour, and special operations services throughout the Northeast.

Peter Pan is an active member of the American Bus Association, and I am a member of the ABA Board. Although I am appearing today to present Peter Pan's views, I believe that those views are shared by ABA and the bus industry generally.

Intercity buses are a unique transportation resource for the nation in many ways.

According to ABA surveys, **more than 700 million passengers per year travel on intercity buses**; this is approximately the same number as take commercial airlines and many times the number that travel on Amtrak.

Intercity buses go anywhere and do anything. Services provided by intercity buses include intercity, fixed-route services; charter and tour services; intermodal connections to airports and train stations; long-haul commuter services; military transportation; contract services for employers and businesses; and much more.

Intercity buses are the greenest mode of transportation. The recent report by the Union of Concerned Scientists, Getting There Greener[1], concluded that intercity buses

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[1] Getting There Greener, The Guide to Your Lower-Carbon Vacation, Union of Concerned Scientists, December, 2008, pages 2, 27-28, 31.

emit less CO_2 per passenger-mile than any other form of intercity motorized transportation, including rail, air and auto. A report by M.J. Bradley and Associates found that motorcoaches emitted less CO_2 per passenger-mile than all transportation modes, both intercity and transit.[2] Attached is a chart from the Bradley Report comparing the CO_2 emissions and the energy efficiency of all motorized transportation modes.

Intercity buses are the most energy-efficient transportation mode. The Bradley study found that motorcoaches get more passenger-miles per gallon and use less BTU per passenger mile than any other intercity or local transportation mode.

Intercity buses are major factors in reducing congestion. Every motorcoach has the potential to take 55 cars off the road. Just imagine what Washington DC traffic would be like if the more than 6 million tourists who take motorcoach charters and tours every year came to DC in their cars instead!

Intercity buses serve rural America. Over 2000 communities are served by intercity buses, far more than are served by the airlines or Amtrak. As operating costs have escalated, thousands of communities have lost intercity bus service; we are working hard to preserve the remaining service.

Intercity buses provide affordable transportation. Everybody knows you can travel between Washington and New York on Bolt, Peter Pan, Greyhound, or one of our bus competitors for $20 or so, which is far less than air or rail, or even private auto. But the fact is that bus is far cheaper than air or rail in virtually every corridor where there is meaningful competition.

Intercity buses are operated by small business people. The ABA membership is comprised mostly of small business men and women. In fact, the average ABA bus operator member has eight motorcoaches and the company is likely to be a family owned business.

Intercity buses are the most cost-effective transportation mode. They are generally operated by private sector companies with far less federal subsidies than other passenger transportation modes. A comprehensive intermodal analysis prepared by Nathan Associates found that in the decade ended in 2005, Amtrak received $46.06 in net federal subsidies per passenger trip; commercial air carriers received $4.32 in federal subsidies per passenger trip; public transit 77¢ per passenger trip; and intercity bus 6¢ per passenger trip. During that decade, public transit received 55% of total federal subsidies; air passenger transportation (commercial and general) received 37%; Amtrak received 8.2%; and intercity buses received .3% (three-tenths of one percent).[3]

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[2] Updated Comparison of Energy Use & CO2 Emissions From Different Transportation Modes, M.J. Bradley & Associates, October, 2008, pages 4-6.
[3] Federal Subsidies for Passenger Transportation, 1960-2005: Focus on 1996-2005, Nathan Associates, Inc., September, 2007, pages 2, 3, 20.

The relatively tiny amount of intercity bus subsidy is primarily the intercity bus industry's partial exemption from the federal fuel tax. Intercity buses pay 7.3¢ of the 24.3¢ per gallon federal fuel tax and are exempt from the remaining 17¢ per gallon. We believe strongly that it is in the public interest for this partial exemption to continue.

First, although the exemption is critically important to the industry, its annual cost is relatively small, approximately $34 million in 2005 dollars.

Second, the exemption was first enacted in the 1970s as a response to that era's energy crisis. The intent was to encourage the use of intercity buses because of their energy efficiency. That rationale is even more important today and is bolstered by the unique role that intercity buses play as the mode of transportation that emits the least amount of greenhouse gases per passenger mile.

Third, continuation of the exemption strongly supports The Administration's and the House's policy as expressed in the recently-passed American Clean Energy and Security Act of 2009, the "cap and trade" legislation. The focus of the transportation provisions of the ACES Act is to encourage the usage of transportation modes that conserve energy and reduce greenhouse gases. That is exactly what intercity buses do more than any other mode. Thus, continuing the intercity bus exemption directly contributes to achievement of the ACES Act transportation objectives.

Fourth, the exemption should continue in order to encourage all of the other public benefits of intercity buses that I have described – congestion reduction, service to small towns, affordable transportation, and preservation of small businesses.

Fifth and perhaps most important, we really need it. It is extremely difficult to compete in the transportation marketplace with the federal subsidy disparity I described earlier in my testimony. And things are about to get worse.

On the one hand, we are facing the costs of ever-increasing federal mandates – wheelchair lifts on every bus; new and far more expensive EPA-mandated engines in 2010 and beyond; and new safety standards including seatbelts, stronger bus roofs and windows, enhanced fire retarding materials and systems, and electronic onboard recording systems. All of these mandates have societal benefits, but they will make the cost of acquiring and operating motorcoaches much more expensive without offsetting federal support, except for a small program to help pay the costs of acquiring the wheelchair lifts.

On the other hand, we confront increasing federally subsidized competition. This is a major problem for Peter Pan. On one of our core routes, Providence-Boston, the MBTA has started federally subsidized non-commuter, intercity rail service in direct competition with Peter Pan. That has decimated our bus service.

On our most important route, Springfield-New York City, federal funding is being sought, and is likely to be granted, to start new passenger rail service between Springfield and New Haven in direct competition with Peter Pan. There are distinct public benefits to these subsidized rail services, but those subsidized services make it critically important that our fuel tax exemption be continued in order to help us preserve our service, which we believe uniquely benefits society.

I would like to turn now to the larger question of surface transportation reauthorization. Peter Pan supports enactment of a six-year reauthorization bill as soon as possible. Chairmen Oberstar and DeFazio and Ranking Members Mica and Duncan deserve a great deal of credit for authoring a far-sighted, comprehensive bill that attempts to meet the nation's needs for improved transportation infrastructure and enhanced mobility while improving the energy-efficiency of our surface transportation system and reducing greenhouse gas emissions. Although the industry is working with the Committee to make sure that motorcoaches play an integral role in achieving those objectives, Peter Pan supports the basic direction of that legislation.

There clearly are massive infrastructure needs with regard to highways, bridges, and transit systems. One needs only travel the Massachusetts Turnpike and the other major highways between Boston and New York to realize that fact. Peter Pan believes strongly that highway trust fund dollars should only go to meet those highway and transit needs. They should not be allowed to be diverted to other transportation entities such as intercity passenger rail. Under the recent rail passenger and economic stimulus bills, and indeed the FY10 House appropriations bill, there is ample funding for passenger rail; there is no need to raid the highway trust fund for more.

The Subcommittee has received a great deal of expert testimony on the need for increased funding in order to maintain and upgrade our highway and transit systems. There is little I can add to that. I agree that all funding options – infrastructure bank, tolling, public-private partnerships, increased fuel taxes – should be on the table. They probably all will be needed in order to accomplish what is needed in a six-year bill.

Peter Pan has a particular concern about future federal tax increases. That is the extent to which the existing intercity bus exemption would be extended to any future fuel tax increase. We believe that the unique public benefits of intercity buses, as I have described in my testimony, would justify exempting intercity buses entirely from any such increase, particularly if public transit buses are fully exempted.

But Peter Pan understands the argument that as interstate highway users, we should contribute something, notwithstanding the energy, environmental and other benefits of intercity buses. One suggestion would be an exemption from future federal diesel fuel taxes that is the same percentage of those taxes as the percentage of our partial exemption from current taxes. That is, if there were a 10¢ gallon increase, intercity buses would be exempt from 7¢ per gallon and would pay 3¢. This would be a 70% exemption, which is the same percentage as the exemption from current taxes (17¢ = 70% of 24.3¢). Thus, all of the reasons for continuing the current exemption would apply equally to the same partial exemption from future fuel taxes.

Mr. Chairman, thank you for the opportunity to testify today on this critical issue for intercity buses. Hopefully, I have demonstrated the uniquely important role that intercity buses play in meeting our nation's transportation, environmental, and energy independence goals and why that role should be encouraged through continuation of the partial fuel tax exemption from current and future federal fuel taxes. I would be happy to answer any question you or the other members of the Subcommittee might have.

1 Results of Analysis

Average energy use and CO_2 emissions by mode are shown in Table 1.1. Selected data from Table 1.1 is also summarized in Figures 1.1 – 1.3.

MODE	Pass-mi/Gal**			Btu/pass-mi			CO2 g/pass-mi		
	low	AVG	high	low	AVG	high	low	AVG	high
Motorcoach	173.2	**206.6**	232.7	583	**668**	757	44	**50**	59
Van Pool	60.3	**106.1**	203.8	677	**1,300**	2,289	50	**97**	170
Heavy Rail	52.0	**160.8**	210.9	654	**858**	2,653	115	**151**	467
Commuter Rail	60.6	**92.4**	263.6	524	**1,493**	2,278	92	**164**	242
Intercity Rail (AMTRAK)	55.8	**67.0**	128.1	1,077	**2,061**	2,471	190	**186**	184
Car Pool - 2 person	36.3	**54.3**	111.4	1,239	**2,540**	3,800	92	**189**	283
Light Rail	4.0	**120.6**	198.9	694	**1,144**	34,375	122	**201**	2,559
Trolley Bus	55.1	**106.6**	125.2	1,103	**1,294**	2,505	194	**228**	441
Domestic Air Travel		**44.0**			**3,138**			**234**	
Car - Avg Trip	28.7	**42.9**	88.0	1,569	**3,215**	4,810	117	**239**	358
Transit Bus	4.4	**31.4**	124.1	1,112	**4,391**	31,256	83	**308**	2,330
Car - 1 Person	18.2	**27.2**	55.7	2,478	**5,080**	7,600	184	**378**	566
Ferry Boat	1.9	**12.9**	30.9	4,463	**10,690**	71,869	332	**796**	5,352
Demand Response	1.1	**8.8**	48.3	2,858	**15,727**	127,179	213	**1,146**	9,463

****Passenger miles per Diesel Equivalent gallon**

Table 1.1 Energy Use and CO_2 Emissions, by Mode

In Table 1.1 the high and low figures for motorcoaches are based on averages for different industry segments (charter/tour/sight-seeing versus commuter/airport/intercity fixed route service). For the other public modes the high and low figures are based on the range of results from individual transit agencies in the NTD database. For private autos the averages are based on US fleet average fuel economy (22.4 MPG) while the high figures are based on the use of a "typical" sport utility vehicle (15 MPG) and the low figures are based on use of a hybrid car (46 MPG).

As shown, motorcoaches on average used 668 btu/pass-mi and produced 50 g/pass-mi of carbon dioxide. On average, motorcoaches use the least amount of energy and produce the lowest carbon dioxide emissions per passenger mile of any of the transportation modes analyzed.

Chairman NEAL. Thank you, Mr. Picknelly.

Mr. Darbelnet is recognized to testify.

STATEMENT OF ROBERT L. DARBELNET, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN AUTOMOBILE ASSOCIATION (AAA), HEATHROW, FLORIDA

Mr. DARBELNET. Thank you very much, Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee. On behalf of our 51 million AAA members, I would like to commend you for holding this hearing on a topic which for far too long has been shoved aside.

I doubt if you have very many opportunities to have some of your taxpayers appearing before you and advocating that their burden be increased, but that is the essence of my message to you this morning. And let me briefly explain why and under what conditions we would be supportive of an increase in the gas tax.

As to why we are taking this position, first, the nation's transportation infrastructure is in dire need of an upgrade. This has been well-documented. You acknowledged it in your opening comments. I will not expand upon that.

Second, even if what we have in terms of infrastructure was in good condition, it still is falling short of our growing needs as a nation. And, as a result, taxpayers across the country are paying the price in the form of endless hours in congestion, motorists dying in crashes that could be avoided if we were doing a better job of maintaining our roads, and seeing the nation fall behind in terms of its competitiveness from a global perspective.

As to the third reason why we are taking this position, and this may be something that has not received a lot of visibility or attention, as motorists over the last few years, we have been enjoying the effect of a decrease in the actual tax we are paying for the use of our roads. When you set the tax at 18.4 cents in 1993, we understood what the burden was. But over the intervening period, during which no adjustment has been made to the level of the tax, in today's dollar, that burden has actually declined by about 6 cents. Furthermore, we are all buying more fuel-efficient vehicles. For example, if the car I was driving in the year 2000, 9 years ago, was getting 18 miles per gallon, and if today I am driving a vehicle that gets 23 miles per gallon, I am actually paying 27 percent less in terms of the tax for every mile I travel on our highway or highways. If you combine the effect of inflation and those more fuel-efficient vehicles, we are actually paying as motorists about half of what we were paying when you set the rate.

All right, let's turn to the conditions under which an increase in the gas tax would be something that we would support and encourage our members to support. First, we need a major reform in the manner in which we decide what is going to be spent and where it is going to be spent. The motorist, the taxpayer, does not want business as usual. We want accountability. We want to be able to see the benefits that result from our tax dollars being spent on the transportation infrastructure. And it is possible to demonstrate that but not under the current approach.

Second, we need a national vision for transportation in this country. And I am sorry to tell you that we do not have one. That is not to say that the Department of Transportation and the people who work there do not do a lot of things that are very beneficial to transportation in this country, but if you turn to DOT and you looked for an overall vision for the nation's transportation infrastructure, you cannot find it. If it is there, it is very well guarded.

And, third, if we are going to support such an increase, it is going to have to be in a form that is fair to all of the users of the transportation networks. Motorists are certainly willing to pay their fair share but there are other users of the infrastructure, and we believe that they need to make their proportionate contribution to the overall effort.

We recognize that you are faced with a rather difficult and perhaps unpleasant task because you are asked to consider the possibility of raising the burden of taxpayers, particularly at a time when everyone is looking for additional ways to reduce rather than increase what they spend. But if you consider the dire circumstances of the nation in terms of the transportation infrastructure, if you recognize that over time you will not be deriving more funds from the current taxing techniques that are in place, and if we consider the importance of maintaining a national network that allows us to be competitive in the global economy, I think you will recognize that you have no choice but to consider the adjustment that has been recommended by now two commissions and a host of other organizations, all in favor of an increase in the gasoline tax.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Darbelnet follows:]

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Testimony of
Robert L. Darbelnet
President and CEO
AAA
Before the U.S. House of Representatives
Committee on Ways and Means, Subcommittee on Select Revenue Measures
"Long-Term Financing Options for the Highway Trust Fund, including Member Proposals"
July 23, 2009

Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee. I am Robert Darbelnet, President and CEO of AAA. Thank you for inviting me to speak with you today regarding funding options for the nation's transportation system.

By way of background, AAA was founded in 1902 to advocate for better roads and motorist safety. AAA is a not-for-profit, fully taxpaying federation of motor clubs in the U.S. and Canada serving over 51 million members. Nearly 27 percent of all North American passenger vehicles belong to AAA members. Our members are prime users and beneficiaries of the nation's surface transportation system. They are commuters, leisure travelers, business owners, users of public transportation and bicyclists.

Economic Recovery Down Payment

The nation's existing infrastructure is in dire need of an upgrade. A number of reports have detailed the deteriorating state of the transportation system, including the American Society of Civil Engineers, which gave the nation's transportation infrastructure poor grades (Roads D-, Transit D, Bridges C). The funding needed just to bring our existing system to a good state of repair is estimated at over $100 billion annually, according to the National Surface Transportation Policy and Revenue Study Commission.

Even if what we have was in good condition, it falls well short of our needs. We have a system that, after decades of neglect and under-investment, represents a growing barrier to America's competitiveness in the global economy. We can't have the economy we want with the transportation system we have.

AAA strongly supported funding for transportation infrastructure projects in the economic recovery legislation earlier this year. Given the backlog of needs and growing demands on the system, we believe even more could have been dedicated to transportation in that bill. While the roughly $48 billion for transportation is a much needed boost, it should not be considered a substitute for the broader transportation investment needed, or an excuse to delay the difficult work that must be done. Investing in transportation shouldn't be considered a luxury.

Policy/Program Reforms

Let me preface my comments about funding options with a couple of crucial points on policy. First, given the critical role transportation plays in the nation's economy, we believe transportation should be a priority for Congress. Transportation is the foundation on which continued economic recovery and improved quality of life will be built.

Second, we know from research we've conducted that the public wants transportation improvements, and they would be willing to pay for them if they had more confidence in how their money is being spent. The public isn't interested in business as usual. They want accountability, results, and the ability to see how increased investment improves their travel experience.

AAA believes Congress needs to clearly outline the mission of the federal transportation program and put forward a comprehensive package of reforms and accountability measurers the public will accept. I commend Chairman Oberstar for taking the lead in this reform effort and keeping the pressure on to get a comprehensive bill done this year. He has put forward a bold proposal, and while we may not agree with everything in it, it's the critical first step.

Earmark Reform

Another element of reform that we think is important deals with earmarks. To regain, maintain and enhance the public's trust in federal transportation spending, earmarking should be eliminated or significantly reformed. If maintained, earmarked projects must meet clearly established effectiveness and benefit criteria and be previously identified in a state or regional transportation plan as high priorities. Selection must be based on merit and the ability to cost-effectively improve mobility and traffic safety while ensuring transparency so there are no surprises to the public.

Funding Options

In terms of funding, I expect many of your colleagues in Congress may not envy your position. The task of finding revenues to support the funding levels envisioned in Chairman Oberstar's proposal – at a time of economic hardship – is a thankless job. But we can't continue to put off the tough decisions, and we also can't pretend that there is some new funding source to solve this serious problem. While there's been a lot of talk about new and "innovative" ways to fund transportation, there are really only a handful of options to choose from to get the job done in the short term.

Gas Tax

Two congressionally appointed, bi-partisan transportation commissions, comprising noted transportation experts from multiple sectors, and a number of other credible sources have studied this issue from every angle and issued reports. Although they differ slightly in the magnitude or timing of specific alternatives, they all reached similar conclusions.

In the short term, they all agreed that the only real funding option to get the revenues needed is an increase in the federal gasoline tax. Granted – the timing is not great given the economic challenges facing the nation. But we are undeniably at a crossroads with transportation funding, and we can't put off the tough decisions any longer. AAA will support a gas tax increase, provided it's tied to a significantly restructured program that is performance based, and ensures accountability and transparency. We agree with the experts who have concluded that, at least for the next decade, the federal gas tax remains the best way available to generate significant amounts of revenue. It is fraud-resistant, easy to administer, and it maintains the user-fee principle that has served as the backbone of the transportation program for over 50 years.

It's worth noting that motorists have actually been enjoying a lower gas tax burden when factoring in inflation. The current 18.4 cents gasoline tax hasn't been increased since 1993. In today's dollars, 18.4 cents represents 5.9 cents less than it was in 1993. Also, motorists who have taken advantage of more fuel efficient cars are paying less in taxes for every mile driven. For example, if in 2000 I was driving a car that got 18 mpg and today my car gets 23 mpg, I am now paying 27% less in tax for every mile I travel on the nation's roads. As we work to attain even higher CAFE standards, the overall fuel efficiency of our national vehicle fleet will improve significantly, thus having the effect of diminishing returns from existing gasoline tax rates.

AAA acknowledges that additional revenue sources will be needed now and into the future, and that we will need to begin transitioning to a successor funding system. We're willing to consider all funding options, including vehicle miles traveled tax systems, tolling and public-private partnerships. But for AAA, protecting the public interest will continue to be paramount, and all funding options will be evaluated in this context.

Public-Private Partnerships

Private investment has been touted as a simple, "tax free" way to raise large amounts of money for transportation. But the reality is private investment will likely only constitute a small portion of revenue for transportation in the near term, and it is not "free" money. Transportation users will be paying private investors back in the form of tolls or some other method of taxation for years.

AAA has significant concerns about how private investment has been portrayed in recent years, particularly with regards to the long-term lease of existing assets. These are complex financial and operational arrangements and they warrant close scrutiny. The problems we now face have been years, if not decades, in the making. We are kidding ourselves if we think there is a quick or easy fix.

Our roads and bridges are not financial assets to be sold to the highest bidder. There are other objectives that need to be part of the deal. Objectives such as:

- Ensuring value is really being added by the private partner.
- Providing the customer better service in return for the higher tolls they will be required to pay.
- Sharing equitably the risks between the private and public partners.
- Balancing the interests of all stakeholders.

AAA recommends creating a federal framework for public-private partnerships that ensures the public interest is not ignored in the quest to receive the highest bid price. In any of these arrangements, motorist fees must be fair and equitable, up-front lease payments should not be diverted for non-transportation purposes, and high levels of public oversight must be maintained, among other protections.

Tolling/Pricing

Tolling and pricing are among future solutions to increase capacity and manage congestion. However, they are not a panacea. We won't fix the nation's transportation funding shortfall by assuming that tolled or priced projects will fill the gap. Expansion of tolling and pricing projects must be thoughtfully and carefully implemented. Every project must be judged on its merits. Motorists must be assured that tolls are fair and equitable, transparent, and are used for the purposes for which they are collected. In addition, AAA generally opposes congestion pricing when it is implemented as a punitive measure to get people out of their cars while providing no alternatives. A better approach is to provide a priced road as an alternative to existing congested roads. Many people don't have flexibility with their employers to alter their work schedules to non-peak travel times. By providing priced lanes as a superior service alternative, motorists can choose to use them when time and predictability are most important.

Vehicle Miles Traveled Tax

We fully expect that Congress will take additional steps in this next authorization bill to vet various vehicle miles traveled (VMT) tax scenarios as a long-term financing option to replace the federal gas tax. Pilot tests in Oregon and other areas have demonstrated some of the technical challenges that need to be overcome with a VMT system, in addition to addressing the public's significant concerns about privacy. Additional testing and study of the VMT system is warranted to determine if technical challenges and other concerns can be addressed. The variable pricing ability enabled by a VMT system is considered a benefit by some and a source of concern by others. This is an area where we believe policymakers need to be upfront with the public about what they'll be asked to pay. Charging motorists for externalities that were never factored into the gas tax should be thoroughly debated.

Conclusion

AAA recognizes that the challenges before you are not easy. I understand the reluctance to ask the public to dig deeper into their wallets for any reason right now. But a strong case can be made for transportation, and if given a program they can understand, I think the public will be supportive.

If we are sincere in our desire to grow our economy in a way that keeps us globally competitive, reduce fatalities, cut commute times and improve our environment, we need to put that proposal forward, tell the public about it and rally for their support.

AAA is committed to doing its part to engage our members and raise awareness about the importance of transportation. We're doing so through our "Making America Stronger" campaign and web site, www.AAAMakingAmericaStronger.com. Our research shows Americans understand that a free-flowing, safe, efficient transportation system is needed to keep us competitive in the global economy. Again – the bottom line is that we can't afford to put off the tough decisions any longer.

Thank you for the opportunity to testify today and I look forward to working with all of you on these important issues in the weeks and months to come.

Chairman NEAL. Thank you.
Mr. Moorman is recognized to testify.

STATEMENT OF C. WICK MOORMAN, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NORFOLK SOUTHERN CORPORATION, NORFOLK, VIRGINIA

Mr. MOORMAN. Thank you, Mr. Chairman. And my thanks to you and the subcommittee for this opportunity to appear today on behalf of both Norfolk Southern Corporation and the Association of American Railroads to discuss why the freight railroad infrastructure tax incentives that you have heard about make sense for America. America needs more transportation and it needs it now. The Department of Transportation projects that freight demand will almost double by the year 2035, and today's transportation network is simply not up to it. Railroads are the most affordable and environmentally responsible way to meet this demand, and that is why tax incentives for rail capacity expansion will be good public policy.

Many people do not realize that the railroads own their infrastructure and pay property taxes on it that benefit the localities in which we operate. Railroads also reinvest substantial sums in the network, a record $10.2 billion in capital improvements last year alone. It is also worth mentioning that railroads pay nearly all of the costs for their infrastructure. And since 1980, we have spent more than 40 percent of our total revenues, $440 billion, to maintain, improve and expand our networks.

Even in today's tough times for business, freight railroads continue to make major investments in their systems, and this year, in fact, will be the third highest capital expansion program that the freight rails have had in their history.

Our company, Norfolk Southern, for example, just this month announced plans to spend more than $300 million on new intermodal terminals in Pennsylvania, Alabama, and Tennessee. They will support local economic development, as well as our Crescent Corridor Rail Initiative, which you can see illustrated behind me, and every major railroad in the United States and Canada has similar projects on the boards.

Yet, as much as we are investing right now, it is not enough. One recent study found that $148 billion in investment in freight rail capacity expansion is required over the next 25 years just for the railroads to maintain their current market share. Now, of that $148 billion, the railroads themselves can generate about $96 billion, leaving a $52 billion gap. And unless a way is found to eliminate this shortfall, it is estimated that up to one third of the key rail corridors in this nation will become congested, leading to decreased service levels and serious national transportation problems.

As significant as the $52 billion shortfall seems, the number is actually probably significantly higher for several reasons. The first is that the study was predicated just on the railroads maintaining their market share and not diverting additional traffic from the highway. Second, the study does not account for any additional capacity for increased passenger service in some of the nation's freight-owned rail corridors. Third, the study was written before the congressionally-mandated requirement of the installation of positive train control, with its estimated $6 to $8 billion price tag. And, finally, the study's estimate of $96 billion in railroad investment did not account for the current uncertainties in the railroad's ongoing coal-related revenues when climate change legislation is enacted.

The bottom line is that there is a significant funding challenge in front of us, and tax incentives to expand freight rail capacity are a sensible way to help bridge this gap. The cost of these incentives would be about $300 million a year, but they would generate about a billion in economic stimulus. They would create some 20,000 jobs and yield other enormous public benefits, which you have already heard about today in terms of fuel reduction, fuel efficiency, reduction in CO2 and other emissions, reduced highway congestion and increased safety.

Now, the Crescent Corridor, which I mentioned before, the board behind me shows what it could mean for Virginia alone in terms of these benefits. Our state partners, like Virginia, are increasingly aware of all of these benefits and Governor Rendell of Pennsylvania has taken a leadership role in mobilizing the nation's governors to promote freight rail transportation.

I would urge this committee to join the states in a federal partnership by moving the Freight Railroad Investment Tax Credit bill, which I will now call a "beautiful, beautiful" piece of legislation. You will hear me say that a lot. The legislation was introduced by Representatives Meek and Cantor. It will help this country's world-leading freight railroads meet the challenges of the projected 70 percent growth in freight traffic over the next 25 years in our nation.

Thank you.

[The prepared statement of Mr. Moorman follows:]

STATEMENT OF

CHARLES W. MOORMAN
CHAIRMAN, PRESIDENT, AND CHIEF EXECUTIVE OFFICER
NORFOLK SOUTHERN CORPORATION

ON BEHALF OF THE
ASSOCIATION OF AMERICAN RAILROADS

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SELECT REVENUE MEASURES

HEARING ON INFRASTRUCTURE INVESTMENT

JULY 23, 2009

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Introduction

On behalf of Norfolk Southern Corporation and the Association of American Railroads (AAR), thank you for the opportunity to appear before you today to discuss why freight railroad infrastructure tax incentives make sense for America.

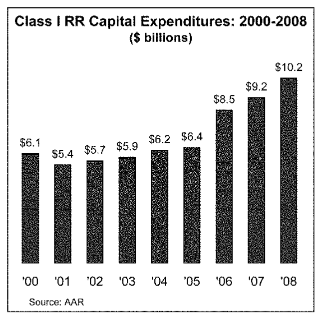
My railroad, Norfolk Southern, operates approximately 21,000 route-miles in 22 states and the District of Columbia. We are part of a 140,000-mile U.S. freight rail network that serves nearly every industrial, wholesale, retail, agricultural, and mining-based sector of our economy. Whenever Americans grow something, eat something, mine something, make something, turn on a light, or get dressed, Norfolk Southern or some other freight railroad is probably involved somewhere along the line.

We all know we're going through some very difficult economic times. At some point, though, strong economic growth will return — hopefully sooner rather than later — and when that happens, America's demand for freight transportation will continue the upward trend that has been its hallmark for decades. Railroads are the most affordable and environmentally-responsible way to meet this demand. Simply put, more railroading is good for America.

But to take full advantage of railroads' unparalleled potential to lower shipping costs, ease congestion by taking trucks off the highway, save fuel, and reduce harmful emissions, smart public policy is needed. Many transportation experts, business leaders, policymakers, and rail customers agree: tax incentives for freight rail capacity revitalization represent just the kind of smart policy we need. The benefits of such a policy to America's economy and environment are real, measurable, and well worth it.

Railroads Are Re-Investing Record Amounts — But More is Needed

In recent years, America's freight railroads have been re-investing record amounts back into their networks. Norfolk Southern, for example, spent $1.6 billion on capital expenditures in 2008, a record for us and nearly double what we spent just a few years ago. Collectively, U.S. Class I railroads invested $10.2 billion in capital expenditures in 2008, also a record high and also nearly double what they spent just a few years ago. Adding in spending on maintenance of their infrastructure and equipment, from 1980 to 2008 America's freight railroads re-invested some $440 billion of their own funds — more than 40 cents out of every revenue dollar — to create the best freight rail network in the world.



Today, freight railroads pay nearly all of the costs of their tracks, bridges, and tunnels themselves. By contrast, our friends in the trucking, airline, and barge industries operate on highways, airways, and waterways that receive substantial government financing.[1]

The massive investments railroads must make in their systems reflect their extreme capital intensity. From 1997 to 2006 (the most recent year for which data are available), the average U.S. manufacturer spent 3 percent of revenue on capital expenditures. The comparable figure for U.S. freight railroads was 17 percent, or more than five times higher.

Indeed, the four largest Class I railroads spend far more on capital outlays and maintenance of track and roadway than the vast majority of state highway agencies spend on

[1] The fuel and other taxes that other modes of transportation pay to support their infrastructure do not cover the full costs to the government of providing it.

their respective highway networks. Only the highway agencies of Texas, Florida, and California spend more on highway capital and maintenance than Union Pacific and BNSF each spend on their networks. CSX and Norfolk Southern are in the top 12 compared with all states.

RR Spending on Way & Structures vs. State Highway Agency Spending 2007 ($ billions)

		Total
1.	Texas	$10.96
2.	Florida	$6.09
3.	California	$5.43
	Union Pacific	**$4.16**
	BNSF	**$4.05**
4.	New York	$3.88
5.	Pennsylvania	$3.79
6.	Illinois	$3.51
7.	Michigan	$2.65
8.	North Carolina	$2.52
	CSX	**$2.49**
9.	Georgia	$2.30
10.	Ohio	$2.25
11.	New Jersey	$2.08
	Norfolk Southern	**$2.07**
12.	Virginia	$1.90

Data include capital outlays and main-tenance expenses. Sources: FHWA, AAR

Despite today's tough economic climate, freight railroads are continuing to make massive investments in their systems. In just one example, Norfolk Southern recently announced that it will invest $112 million on a new intermodal terminal in McCalla, Alabama. Construction is scheduled to begin early next year, with the facility set to open in 2012. In addition to facilitating more efficient and environmentally-friendly freight flows, the project could generate as many as 8,000 spin-off jobs. Every major railroad in Canada and the United States has similar projects in the works.

Why? Railroads are more than willing to take on more traffic, but they know that if future demand is to be met, rail capacity must be expanded.

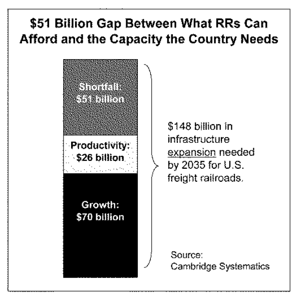
A few years ago, a study of future freight rail capacity needs was undertaken at the request of the National Surface Transportation Policy and Revenue Study Commission. The purpose of the study, which focused on 52,000 miles of primary U.S. rail corridors, was to estimate the cost of the expansion in capacity necessary for U.S. freight railroads to handle the 88 percent increase in freight rail traffic forecast by the DOT for 2035, assuming no gain in rail's market share.

The study found that if rail capacity needs are not properly addressed, by 2035 some 16,000 miles of primary rail corridors — nearly one-third of the 52,000 primary rail miles covered in the study — will be so congested that train flows would be unstable and congestion and service delays would be persistent and substantial. Because the rail system is so interconnected, this outcome would mean that the entire U.S. freight rail system could become, in effect, disabled.

The current economic downturn will probably delay previously projected growth (and therefore needed rail capacity levels) by a few years. Nevertheless, if America is to have the rail capacity it needs in the years ahead, the issue must be addressed now.

As they do today, Norfolk Southern and other freight railroads will continue to pay the overwhelming majority of the costs of their tracks, bridges, tunnels, and other infrastructure and equipment. However, there is a gap between the socially-optimal level of rail capacity and what railroads are likely to be able to afford on their own.

The rail capacity study noted earlier found that U.S. freight railroads will likely be able to generate only around $96 billion of the $148 billion in new capacity they will need by 2035 to move the freight America will need to have moved. This leaves a funding gap of around $51 billion.



The $148 billion is for new rail tracks, bridges, tunnels, and other infrastructure. It does not include the hundreds of billions of dollars railroads will spend to maintain and replace their existing infrastructure over the same period, or the hundreds of billions of dollars they will spend to maintain and replace locomotives, rail cars, and other equipment. Nor does it include investments needed to allow additional passenger railroad use on freight-owned tracks or rights-of-way.

The $148 billion also does not include what freight railroads will have to spend to comply with the Rail Safety Improvement Act of 2008 (RSIA). This legislation mandates that positive train control (PTC) be installed on all rail main lines used to carry passengers or certain highly-hazardous materials by December 31, 2015. RSIA authorizes railroad safety technology grants of $50 million per year from 2009 through 2013. Even if all those funds were used for PTC — which is extremely unlikely, given the many other potential uses for the funds — railroads would still be responsible nearly all of the $5 billion to $7 billion current estimated cost of PTC implementation.

This funding shortfall means that many rail projects that would otherwise expand capacity and improve the ability of our nation's farms, mines, and factories to move their goods to market; speed the flow of international trade; relieve highway congestion; reduce pollution and greenhouse gas emissions; lower highway costs; save fuel; and enhance safety will be delayed — or never made at all.

A Railroad Investment Tax Incentive Would Help Bridge the Funding Gap — and Stimulate the Economy

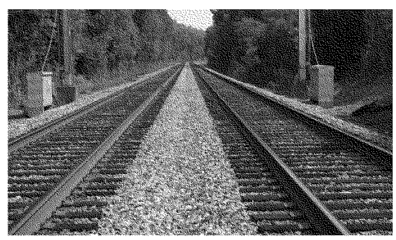
A sensible way to help bridge this funding gap is to institute tax incentives for projects that <u>expand</u> freight rail capacity, such as new track, bridges, tunnels, and intermodal facilities. All businesses that make capacity-enhancing rail investments — not just railroads themselves — would be eligible for the incentives.

The cost of freight railroad infrastructure tax incentives would be about $300 million per year. The stimulatory benefit to the U.S. economy would be much greater. Based on U.S. Department of Commerce data, every $1 of rail infrastructure investment that would be stimulated by a tax incentive would generate more than $3 in total economic output. Thus, $300 million in additional freight rail capacity investment would result in nearly $1 billion in overall economic stimulus. We estimate that each $1 billion of new rail investment induced by the tax incentives would create 20,000 jobs.

In a January 2008 report, the Congressional Budget Office lists three main criteria for assessing a fiscal stimulus proposal.

First, is it cost effective? The budgetary cost of a rail infrastructure ITC is small compared to the stimulative benefit to the economy.

Second, is it likely to be timely? Highways and other public works projects can take years to plan and begin, and years more to build. Freight rail projects, though, can be started far more quickly, sometimes in a matter of months. Moreover, tax incentives for freight rail infrastructure investment would immediately stimulate additional investment and employment by rail suppliers as they responded to increases in multi-year capital projects by the rail industry.



Third, how certain are the economic effects of the proposal? Virtually no one disputes the need for, and the economic benefits of, transportation capacity expansion. A rail infrastructure tax credit would yield immediate, positive economic benefits.

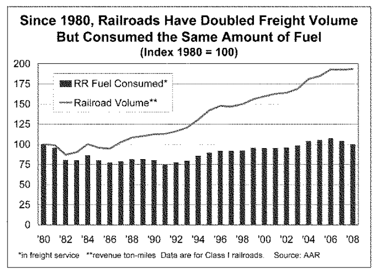
For a railroad considering whether to fund an expansion project, a tax incentive would reduce the cost of the project, raising the likelihood that the project will be economically viable. The incentive would help worthwhile projects get built sooner, but would not be enough to cause economically-unjustified projects to go forward. It would also help fund investment, like PTC implementation, for which the benefits are predominantly public benefits.

Huge Benefits to the American Public

The tremendous public benefits of moving more freight by rail would far exceed the costs of rail infrastructure tax incentives.

Fuel efficiency

In 2008, U.S. freight railroads moved each ton of freight an average of 457 miles per gallon of fuel. Since 1980, railroads have nearly doubled how much freight they move — while using the same amount of fuel. How many other industries have doubled their output without using more fuel?

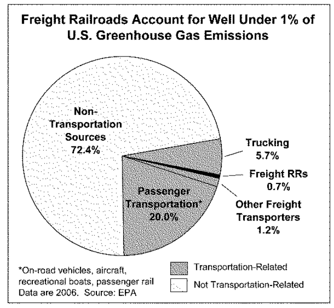


Railroads are three or more times more fuel efficient than trucks. In fact, if just 10 percent of the long-distance freight that currently moves by truck moved by rail instead, fuel savings would exceed a billion gallons per year. This is exactly the kind of solution to energy problems that America is looking for. If rail capacity is to expand sufficiently to handle such an increase in traffic, very large capital investments would have to be made in rail terminals, main tracks, and other areas. An infrastructure tax incentive is a sound way to encourage this investment.

Greenhouse Gases

Greenhouse gas emissions are directly related to fuel consumption. That means moving freight by rail instead of truck reduces greenhouse gas emissions by two-thirds or more. If just

10 percent of long-distance freight now moving by truck moved by rail instead, annual greenhouse gas emissions would fall by more than 12 million tons — equivalent to taking 2 million cars off the road or planting 280 million trees.



Freight Railroads Account for Well Under 1% of U.S. Greenhouse Gas Emissions

*On-road vehicles, aircraft, recreational boats, passenger rail
Data are 2006. Source: EPA

America's seven largest freight railroads have all joined the Environmental Protection Agency's "SmartWay Transport," a voluntary partnership aimed at improving fuel efficiency and reducing greenhouse gas emissions.

Highway Gridlock

Because a freight train can do the work of 280 or more trucks, railroads help fight highway gridlock. In a very real way, freight rail gives us back one of the most valuable assets of all — time.

Railroads also reduce the huge economic costs of highway gridlock. According to a study released a few weeks ago by the Texas Transportation Institute, highway congestion in the United States already costs us $87 billion each year just in wasted travel time (4.2 billion hours) and wasted fuel (2.8 billion gallons). Lost productivity, cargo delays, and other costs add tens of billions of dollars to this tab.

Relief for highway gridlock is right in front of us — but it's not on the highways. Shifting freight from trucks to rail reduces the pressure to build costly new roads and helps cut the cost of maintaining the roads we already have. A few years ago, the American Association of State Highway and Transportation Officials (AASHTO) estimated that if all rail freight were shifted to trucks, it would cost governments an extra $128 billion for highway improvements. That number is surely much higher today.

Pollution

Moving freight by rail rather than truck significantly reduces emissions, and that means cleaner air for all of us. In March 2008, the EPA issued — and the rail industry immediately endorsed — stringent new locomotive emissions standards that will cut particulate emissions by up to 90 percent and nitrogen oxide emissions by up to 80 percent. The new standards will also yield big reductions in emissions of other harmful pollutants.

Safety

Encouraging more rail movements would improve safety. Rail freight transport incurs about 12 percent of the fatalities and 6 percent of the injuries that trucks do per trillion ton-miles, and the employee injury rate for railroads is half that of trucks.

Passenger Railroading

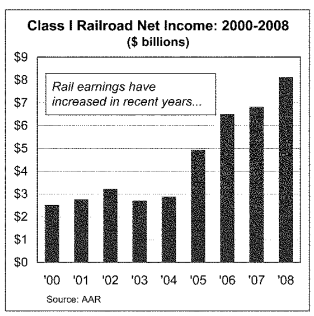
Freight railroads currently provide the majority of the right of way and infrastructure necessary to accommodate more than 315 Amtrak passenger trains per day over 43 routes, carrying an average of 78,500 passengers per day. Indeed, 71 percent of the miles traveled by Amtrak trains are on tracks owned by freight railroads. In addition, dozens of existing or planned commuter railroads operate (or hope to operate) at least partially on freight-owned tracks or rights-of-way. Because America's economic health and global competitiveness would suffer if freight railroads were impaired by passenger railroads, great care must be taken to ensure that there is enough capacity for current and future freight and passenger rail service. An infrastructure tax credit would help ensure this needed capacity is there.

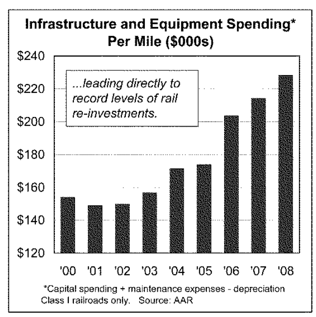
Railroad Profitability

Some observers maintain that railroads are doing so well financially that they can afford to make all the investments in rail capacity that America needs, and that no tax incentives are required. This view is extremely short sighted.

It is certainly true that the financial health of Norfolk Southern and many of America's other freight railroads has improved in recent years (although rail profitability has suffered along with everyone else's in the current downturn). Frankly, improved rail earnings should be viewed as a very positive development. They allow railroads to more readily justify and afford the massive investments that are needed to keep their track and equipment in top condition, improve service, and add the new rail capacity that America will need in the years ahead.

And, in fact, Norfolk Southern and America's other freight railroads are doing their part. In 2008, they spent more than ever before on their infrastructure and equipment. Railroads are committed to spending massive amounts in the years ahead — if their earnings allow them to — to help ensure that America has the rail capacity it needs.



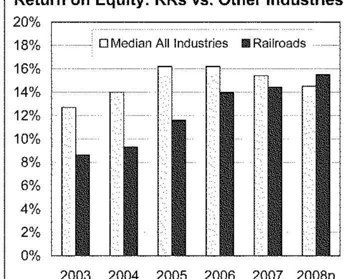


But it's important to not overstate the financial health of the freight rail industry. Even over the past few years, when the industry has been earning so-called "record" profits, rail industry profitability has consistently lagged most other industries.

Return on equity (ROE) is a common profitability measure. Based on data from Value Line (an investment research company), the ROE for the rail industry was 14.0 percent in 2006 and 14.4 percent in 2007. By contrast, the median ROE for the 89 industries (encompassing some 1,700 firms) that Value Line tracks was 16.2 percent in 2006 and 15.5 percent in 2007 — significantly higher than the corresponding rail industry figures. In other words, what may have been the best financial years ever for railroads were not enough to get them even to the halfway point among all industries. Preliminary Value Line data for 2008 show that railroad ROE might — for what would probably be the first time in history — have barely exceeded the median for all industries.

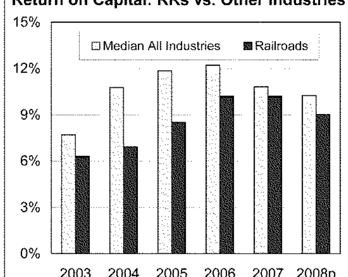
Return on total capital is another common way to measure profitability. By this measure, even in 2008 railroads were below the median for all industries.

Return on Equity: RRs vs. Other Industries



Return on equity = net profit divided by year-end shareholders' equity
p - preliminary All Industries = median of the 89 industries for which Value Line tracks ROE. Source: Value Line

Return on Capital: RRs vs. Other Industries



Return on capital = (net profit + half of long-term interest) / (shareholders' equity + long-term debt) p - preliminary All Industries = median of the 82 industries for which Value Line tracks return on capital. Source: Value Line

At Norfolk Southern, and I suspect at all other railroads, we have a "wish list" of desired investments that is far longer than we can possibly afford. Consequently, we have to choose which projects to fund. Our fiduciary responsibility to shareholders and capital providers requires us to focus our limited funds on those projects which we believe are most likely to result in the highest direct financial benefits to our railroad. Railroads are anything but unique in this regard: it's the same way for every other public company in every other industry.

While the projects we fund may well provide substantial public benefits — such as reduced highway congestion, cleaner air, improved safety, and enhanced mobility — from the point of view of our shareholders and capital providers, these are secondary to the project's financial return. This kind of imposed discipline by the financial markets is necessary and appropriate in a market economy. It does, however, tend to discourage investments that would yield significant public benefits but lesser financial benefits to the railroad. A tax incentive would increase the economic feasibility of rail infrastructure investments that produce public benefits not directly funded by the marketplace while at the same time creating a stronger basis for economic growth.

Conclusion

America today has the best freight rail network in the world. Still, it is clear that rail capacity will have to increase as the economy and population expand in the years ahead. Despite the current slowdown, the fundamental forces driving the long-term trend toward greater transportation demand are unchanged. To meet this demand, both public and private investment in transportation infrastructure will be required. These investments can come none too soon.

Chairman NEAL. Ms. Windsor is recognized to testify.

STATEMENT OF BARBARA J. WINDSOR, PRESIDENT AND CHIEF EXECUTIVE OFFICER, HAHN TRANSPORTATION, NEW MARKET, MARYLAND

Ms. WINDSOR. Mr. Chairman and Members of the Subcommittee, thank you for the opportunity to present testimony on the long-term financing options of the Highway Trust Fund. My name is Barbara Windsor. I am president and CEO of Hahn Transportation of New Market, Maryland. We are a tank truck company that moves petroleum products and cement throughout the mid-Atlantic region.

Today, I appear before you representing not just my company but also the American Trucking Association where I currently serve as a second vice chairman.

Mr. Chairman, before I begin my formal testimony, I would like to express the gratitude of the trucking industry, both the company owners, but more importantly our drivers, for your past efforts to provide tax relief for the driver meal deductions. It has meant a great deal to the industry, and we would like to thank you.

The decisions Congress makes about how to finance the next highway bill will have dramatic impact on our industry and the U.S. economy. Over 80 percent of all cargo, as measured by value, moves by truck. And America's commercial truckers contribute 40 percent of all taxes paid into the Highway Trust Fund.

As all of you are painfully aware, there are no easy answers on how we will finance our highway program. ATA believes the best way to fund the next highway bill remains the fuel tax. Gasoline and diesel fuel taxes remain a stable source of revenue for at least the next 15 to 20 years.

The fuel tax has many attributes: It is very inexpensive to administer, it is well accepted by the public, it is difficult to evade, it is tied directly to the highway use, and, unlike tolls, is collected by all miles driven, thereby maximizing revenue collections. ATA's members will support increasing the tax on diesel fuel provided the revenues go to improving the ability to move our nation's freight.

ATA has requested that there be established a dedicated freight program to address one of our most critical transportation needs, and that is congestion relief. Reform of the current program coupled with a vision for the future must occur in order to justify additional revenues. In short, ATA members are willing to pay for a value received.

ATA agrees that the private financing of highway infrastructure will play a role in addressing transportation needs for new roads. However, we are very concerned about attempts by some states to carve out the most important segments of the existing interstate system for long-term leases to the highest bidder. The trucking industry opposes the imposition of tolls on existing lanes of the interstate highway system other than the conversion of the HOV lanes into the HOT lanes.

Mileage-based taxes are receiving considerable attention as a long-term alternative to a fuel tax. ATA has reservations about such fees. Vehicle Miles Traveled, or the VMT taxes, would pose significantly more problems with respect to tax evasion. Today, fuel taxes are paid at the rack by around 1,300 facilities owned by approximately 300 companies. Auditing by the Internal Revenue

Service, while still a challenge, is manageable. A vehicle-based tax would cause the number of taxpayers to explode, essentially, every licensed driver and registered vehicle. A VMT tax also would involve very significant investments in vehicle and road-side or service station-based infrastructure. ATA supports the user pay concept and strongly believes a multi-modal funding mechanism should be established for multi-modal project eligibility.

Lading taxes, container taxes, custom fees and other freight-related charges have been mentioned as ways to generate new revenue without directly taxing highway users. However, a close review of the various proposals reveals significant legal and administrative barriers.

We join with the organizations in calling for the immediate establishment within the U.S. DOT of a technical working group to explore the various options and recommend to Congress a feasible user fee. We also believe that the existing tax refunds and exemptions should be carefully reviewed by this committee as part of the reauthorization process.

Today, these special carve-outs for off-road use, government fleets and others are estimated to cost the Highway Trust Fund $1 billion annually.

Mr. Chairman, I would like to conclude now my testimony with a comment regarding the relationship between the infrastructure needs and the recently House-passed climate and energy legislation. As we have discussed, the Highway Trust Fund is funded in large measure by the federal tax on gasoline and diesel. While we support that, these taxes are nonetheless a cost of doing business. However, the climate and energy legislation is likely to significantly increase the cost of fuel. This increase could very well jeopardize the ability of the trucking industry to both fund much needed infrastructure needs and absorb these additional costs to fuel brought about through the climate and energy legislation.

Thank you for this opportunity to testify, and I look forward to answering any of your questions.

[The prepared statement of Ms. Windsor follows:]

Before the

SUBCOMMITTEE ON SELECT REVENUE MEASURES
COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES

Statement of

Barbara Windsor
President & CEO
Hahn Transportation, Inc.

On

Long-Term Financing Options for the Highway Trust Fund, Including Member Proposals

July 23, 2009

The American Trucking Associations, Inc.
950 North Glebe Road - Suite 210
Arlington, VA 22203

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present testimony on long-term financing options for the Highway Trust Fund (HTF). My name is Barbara Windsor. I am President and Chief Executive Officer for Hahn Transportation, based in New Market, Maryland, a specialized carrier that transports petroleum products, aluminum, cement and other products throughout the Mid-Atlantic region. Today, I appear before you representing not just my company, but also the American Trucking Associations (ATA) headquartered in Arlington, Virginia, where I currently serve as Second Vice Chairman. ATA is the national trade association of the trucking industry. Through its affiliated state trucking associations, affiliated conferences, and other organizations, ATA represents more than 37,000 trucking companies throughout the U.S.

OVERVIEW OF THE TRUCKING INDUSTRY

With more than 600,000 interstate motor carriers in the U.S., the trucking industry is the driving force behind the nation's economy. Trucks haul nearly every consumer good at some point in the supply chain. Few Americans realize that trucks deliver nearly 70 percent of all freight tonnage or that 80 percent of the nation's communities receive their goods exclusively by truck. Even fewer are aware of the significant employment, personal income, and tax revenue generated by the motor carrier industry.

Nearly 9 million people employed in the trucking industry move approximately 11 billion tons of freight annually across the nation. Trucking annually generates $660 billion in revenues and represents roughly 5 percent of our nation's Gross Domestic Product. One out of every 13 people working in the private sector in the U.S. is employed in a trucking-related job ranging across the manufacturing, retail, public utility, construction, service, transportation, mining, and agricultural sectors. Of those employed in private-sector trucking-related jobs, 3.5 million are truck drivers.

The trucking industry is composed of both large national enterprises and a host of small businesses, all of whom operate in extremely competitive business environments with narrow profit margins. Roughly 96 percent of motor carriers have 20 or fewer trucks and are considered small businesses.

Truck tonnage is projected to reach more than 13 billion tons by 2020, up from 10.2 billion tons in 2008. By 2020, trucking revenue will exceed $1.1 trillion, a market share that will represent 84% of goods moved. Absent any increases in productivity, we estimate another 1.84 million more trucks will be needed to serve the nation's economy, a 26% increase.[1]

[1] Global Insight, *U.S. Freight Transportation Forecast to...2020*, 2009.

HIGHWAY TRUST FUND REVENUES

The trucking industry is a significant user of the highway system and provides a large share of revenues used to fund transportation infrastructure maintenance and improvement. In 2006, commercial trucks paid 33% of state and federal highway user fees, a total of $37.4 billion.[2] This included $17.8 billion paid into the federal Highway Trust Fund, accounting for 45% of HTF receipts. Truck use of the system was disproportionately low compared to fees paid. Commercial trucks comprised just 14.4% of vehicle miles traveled in 2006.[3]

Commercial vehicles operate on both diesel and gasoline and consequently pay the 24.4 cents per gallon diesel tax and the 18.4 cents per gallon gasoline tax. Additionally trucks paid the following in 2006:

- Heavy Vehicle Use Tax (HVUT): Trucks with registered weight of 55,000 pounds to 75,000 pounds pay a Heavy Vehicle Use Tax of $100.00 plus $22.00 for each 1,000 pounds in excess of 55,000 pounds to a maximum tax of $550,000. This tax provided $1.4 billion to the HTF.

- Sales Tax: Trucks and trailers pay 12% of retailer's sales prices for tractors and trucks over 33,000 pounds registered gross vehicle weight (GVW) and trailers over 26,000 pounds GVW. This tax provided $3.6 billion to the HTF.

- Tire Tax: Trucks pay a tire tax on tires sold by manufacturers, producers, or importers at the rate of $.0945 ($.04725 in the case of a bias ply or super single tire) for each 10 pounds of the maximum rated load capacity of 3,500 pounds. The tax provided $488 million to the HTF.

THE NEED FOR ADDITIONAL SURFACE TRANSPORTATION FUNDING

The shortage of funding for highways has been well-documented, and it is generally recognized that current investments fall well short of real needs. Various assessments have estimated that *all levels of government* must invest between $134 billion and $194 billion annually in order to simply maintain the surface transportation system's current level of maintenance and congestion.[4] An investment of $189 billion to $262 billion is necessary in order to significantly improve the condition of these systems and meet congestion reduction goals.[5] However, spending is expected to cover just 29% to 40% of these costs.

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[2] The American Trucking Associations, *Trucking Trends 2008-2009* and Federal Highway Administration *Highway Statistics 2006*.
[3] Federal Highway Administration, *2006 Highway Statistics*.
[4] *Paying Our Way: A New Framework for Transportation Finance*. Report of the National Surface Transportation Infrastructure Financing Commission, Feb. 2009. NOTE: 2008-2035. All figures in 2008 dollars.
[5] *Ibid.*

Federal spending on surface transportation infrastructure also falls well short of projected needs. While the HTF can only support a $32 billion annual program, between $60 billion and $87 billion will be needed to maintain the systems and $85 billion to $118 billion will be required to make significant improvements. A shortage of federal highway funds is particularly worrisome because federal-aid highways carry 85% of all traffic.[6]

TRANSPORTATION REVENUE SOURCES

ATA recognizes the need for additional revenues to support our nation's highway and bridge infrastructure program. ATA also strongly supports the continued reliance on the federal fuels tax – both diesel and gasoline – as the primary funding source for the Highway Trust Fund. Consequently, ATA will support an increase in those fuel taxes provided the revenues go to improving the ability to move the nation's freight. ATA believes that the current highway program does not meet the needs of either passenger or commercial transportation. In testimony before the House Transportation and Infrastructure Committee, ATA has requested that there be established a dedicated freight program to address one of our most critical transportation needs: congestion relief. Reform of the current program coupled with a vision for the future must occur in order to justify additional revenues. In short, the trucking industry will pay for value received.

While maintaining our support for the federal fuels tax, ATA recognizes that additional – or in some cases alternative – revenue sources may be needed. Whatever those sources may be, ATA believes that sources of funding for highways should meet the following general criteria:

- Minimize opportunity for evasion;
- Inexpensive and simple for government to administer, collect and enforce without imposing excessive administrative and record keeping burdens on highway users;
- Based currently on readily verifiable measure of highway and vehicle use;
- Reasonably uniform in application among classes of highway users; and
- Not create impediments to interstate commerce.

FUEL TAX

ATA believes the fuel tax meets all of these criteria. Collection costs for the federal fuel tax are just 0.2% of revenues.[7] Steps taken to move the point of taxation of fuel up the

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[6] Federal Highway Administration, *Highway Statistics 2007.*
[7] American Transportation Research Institute. *Defining the Legacy for Users: Understanding Strategies and Implications for Highway Funding*, May 2007.

supply chain have significantly reduced losses due to evasion, although[8] opportunities for revenue generation exist with additional reforms and stronger enforcement and oversight.[9] Furthermore, the fuel tax is tied to highway use; the more an individual drives, the more fuel is burned and the greater the tax burden on the motorist. And unlike tolls, which apply to the use of specific roads or road segments, fuel taxes are collected on ***all*** miles driven, regardless of the type of highway or street, maximizing revenue collections.

The fuel tax will remain a reliable funding source for the foreseeable future. While a recent decline in travel caused many to question the sustainability of the fuel tax, on closer analysis, the Federal Highway Administration (FHWA) found that nearly 60% of the decline in HTF revenues in fiscal year 2008 was the result of lower excise taxes on truck tractors, tires and the heavy vehicle use tax. Much of the downturn was attributable to a severe downturn in truck sales due to new environmental requirements for truck engines. The challenge is not to find a replacement for the fuel tax, but to design a tax mechanism to augment the fuel tax.

TOLLS

ATA opposes the imposition of tolls on *existing* lanes of the Interstate Highway System, other than the conversion of HOV lanes to HOT lanes. We support S. 1115, the "Freedom from Tolls Act of 2009", H.R. 1071, the "Keeping America's Freeways Free Act", and the elimination of certain tolling authority as proposed by the legislation under consideration by the Transportation and Infrastructure Committee – the Surface Transportation Authorization Act (STAA) of 2009. However, ATA recognizes and accepts the need for innovative financing, including tolling, for expensive *new* highways and bridges.

Tolls in general represent double taxation. Truckers pay an average of nearly 50 cents per gallon in federal and state taxes on the diesel fuel they consume, and they pay federal excise taxes on the equipment they purchase, on the tires they use, and for the privilege of using their trucks. The states levy truck registration fees that average nearly $1,700 a year per truck, and some states impose other highway use taxes as well. These federal and state taxes apply whenever a motor carrier uses a road – whether that road is tolled or not. Charging tolls on top of existing highway fees is inequitable, unfair, and inefficient.

Tolls, unlike fuel taxes, are often easily avoided, by using alternative, less safe routes. This was most clearly illustrated by the exodus of traffic from the Ohio Turnpike when toll rates on that highway were increased by 82% in the 1990s. When the Ohio Turnpike increased its truck toll rate to 17.6 cents/mile for 5-axle trucks, the result was

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[8] U.S. Department of the Treasury, Office of the Treasury Inspector General for Tax Administration. Final Audit Report – The Excise Files Information Retrieval System Has Not Been Effectively Implemented (Audit # 200520030), Oct. 18, 2005.
[9] *Ibid*

massive diversion to alternate routes. The Ohio Department of Transportation found that a decade after the increase, growth in truck traffic on the turnpike was static, while truck traffic on parallel roads tripled. ODOT determined that these parallel routes had much higher accident rates. For example, U.S. 20, which saw a 267% increase in truck traffic, had a fatal accident rate that was 17 times higher than the Turnpike's rate.[10]

When tolls are imposed on a highway, diversion of traffic can have impacts well beyond the immediate highway corridor or state border. This was clearly illustrated when Virginia was considering a private-sector proposal to build mandatory-use tolled truck-only lanes along all 325 miles of Interstate 81 in the Commonwealth. A study conducted for the Commonwealth[11] found that under the toll rates being considered, more than half of the trucks and at least three-quarters of truck vehicle miles would shift to alternate routes. Under a conservative toll rate, the study predicted that approximately 26% of truck miles would shift to routes outside the Commonwealth. Some of these routes would take trucks through already congested, highly polluted cities, including Atlanta and Washington, DC.

Continuation of federal authority over tolling Interstate Highways is the only way to ensure that the impacts of tolls on interstate commerce are accounted for when determining tolling costs and benefits. ATA strongly supports the provisions of Chairman Oberstar's STAA that would establish an Office of Public Benefit to oversee toll levels and perform an active role in protecting the public interest with respect to tolls and privatization of roads. We also support the STAA's proposal to give the OPB authority to determine whether toll rates on federal-aid highways are just and reasonable.

Furthermore, while state fuel tax collection costs are one to two percent of revenue, on major toll roads collection expenses constitute one-quarter to one-third of revenue.[12] Adoption of electronic tolling will eliminate some labor costs, but the capital investment will take decades to recover. One study found that even on toll roads with a significant percentage of users who pay electronically, collection costs were still 12% to 20% of revenue.[13] As the number of toll facilities grows, so too do the number of points of collection, creating an administrative and cash-flow nightmare for trucking companies who operate throughout the country and are often required to establish accounts with multiple tolling authorities. A lack of transponder uniformity will also force carriers to purchase and install multiple transponders.

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[10] http://www.dot.state.oh.us/news/2004/northernohiotrucktraffic/northern_ohio_truck_traffic_fact.htm
[11] Reebie Associates, *The Impact of Tolls on Freight Movement for I-81 in Virginia*, April 8, 2004.
[12] American Transportation Research Institute, "Highway Funding Analysis: Defining the Legacy for Users," 2007.
[13] *Comparative Analysis of Toll Facility Operational Costs*, Washington State Department of Transportation, Feb. 22, 2007.

PRIVATIZATION OF TOLL FACILITIES

ATA believes that private financing of highway infrastructure will play a role in addressing transportation needs for new roads. However, we are very concerned about attempts by some States to carve up the most important segments of the existing Interstate System for long-term lease to the highest bidder. We believe that leasing existing Interstate System 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.

ATA supports S. 884 and S. 885, sponsored by Senators Bingaman (D-NM) and Grassley (R-IA). S. 884 excludes privatized highways from highway allocation formulas. Federal-aid highway mileage is included in allocation formulas because it is one measure of funding need. However, if a state has effectively taken the liability for maintaining and improving the highway off its books by leasing it to a private operator, then the state no longer has a need for public funds to finance the costs associated with the facility. S. 885 increases the depreciable life and amortization period for leased highways. This legislation is necessary to prevent unnecessarily long leases and to end a taxpayer subsidy of private corporations who lease highway assets.

While privatization discussions tend to center on the ability to generate capital and up-front concession revenue, what often gets lost or ignored is the long-term impact of these deals on highway users. Recent concessions allow tolls to rise significantly more than had been the case when the roads were managed by the State or local government. Private toll road operators do not have the same concerns about the impacts of toll rates on low-income workers or on the costs to businesses that depend on the highway for transporting employees, customers, goods or services. Their primary concern is, justifiably, to maximize the toll road's profitability within the confines of the lease agreement and the law.

Supporters of privatization point out that toll rates are unlikely to increase substantially because drivers will simply migrate to toll-free roads. In some cases, a reasonable toll-free alternative may be available. On most major toll roads, however, the only alternative may be a two-lane road with traffic lights and a significant amount of local traffic. Complicating the situation is a standard practice of including non-compete clauses in lease agreements, which prohibit or severely restrict improvements to competing roads. While these clauses have become less egregious over the years, lessees have a great incentive to become advocates for making alternative routes less efficient in other ways. For example, a non-compete agreement struck between the private operator of the E-470 in the Denver area and local jurisdictions resulted in traffic lights being installed and speed limits lowered on Tower Road in Commerce City in order to make Tower Road a less attractive alternative to the E-470.[14] ATA supports Chairman Oberstar's proposal to prohibit non-compete clauses.

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[14] Denver Post. *Toll of E-470's No-Compete Pact: Deal Creates Gridlock by Design*, Nov. 9, 2005.

Privatization boosters also point to caps on toll rate increases that have been a standard part of privatization agreements. However, two major lease agreements that have been completed in the United States – the Indiana Toll Road and Chicago Skyway – have been accompanied by very large initial rate increases combined with caps on future increases that by some estimates could exceed six percent annually. Close examination of these deals reveals the extent of the problem and should serve as warnings about future privatization efforts. *(See Appendix A)*

Beyond the concerns over toll rates, there are also questions about whether private toll road operators will act in the public's best interest. It is impossible to predict changing circumstances over the life of a lease, which tends to be long-term – up to 99 years in duration. Many of the facilities under consideration for private takeover are among the most critical links in our freight and military logistics chains.

MILEAGE-BASED FEES

ATA has many concerns about mileage (or VMT) fees. The most oft-cited reason for a mileage tax is that as vehicles become more fuel-efficient, or as gasoline and diesel are replaced with alternative forms of energy, the fuel tax will become an unreliable source of revenue. However, most experts predict that this only becomes a real concern in 15 to 20 years, and even then, most interstate commercial vehicles are expected to continue to burn diesel fuel. It is also possible that new sources of energy, such as electricity, natural gas, hydrogen, etc. could be taxed, making the expensive conversion to a mileage-based tax unnecessary. Documentation from an Oregon mileage tax pilot program acknowledged that electric vehicles, which cannot be charged the mileage fee at a gas station, can be assessed a fee based on the amount of electricity used for recharging. And unless a mileage-based tax is self-adjusting, it will face precisely the same revenue-raising limitation as today's fuel tax.

There would also be significantly greater potential for tax evasion. Today, fuel taxes are paid at "the rack" by around 1,300 facilities owned by approximately 300 companies. Auditing by the Internal Revenue Service, while still a challenge, is manageable. A mileage-base tax would cause the number of taxpayers to explode – essentially to every licensed driver, with potentially multiple registered vehicles.

GPS-based systems, such as that currently being utilized for trucks in Germany and the system used in a University of Iowa study, rely on on-board technology, which can be tampered with. Significant effort and expense is required to ensure compliance. Austria, which uses a dedicated short-range communication (DSRC) system to charge truck tolls, relies on an extensive and expensive network of overhead gantries, which read an on-board unit and apply a mileage charge with each pass. Switzerland has a similar system, but also utilizes GPS. In both cases, as well as in the German system, the gantries are used to verify that a valid, working OBU is installed.

Collection likely entails significant capital and operating costs, particularly related to enforcement. The user faces potentially significant capital costs to purchase and install the transponder or on-board unit. Costs could be minimized if installed as original equipment, but near total fleet turnover will likely take 20 years, requiring extensive retrofitting unless a dual mileage/fuel tax system is adopted. It is clear, however, that the collection costs to both the user and the tax collector will be far greater than is currently experienced under the fuel tax system.

ATA is also concerned about the significant interstate commerce implications brought about by the ability to use differential pricing based on geographic location. States could very well determine where interstate traffic is prevalent and charge disproportionately high fees based on geography. This creates the need for federal oversight and possibly a high degree of federal control.

FREIGHT FEES

The STAA proposed by the House Transportation and Infrastructure Committee would make $75 billion available over the life of the bill for multi-modal programs, specifically Projects of National Significance and Metropolitan Mobility and Access. Additionally, the legislation would continue to fund other programs for which transit and freight rail projects are eligible. ATA supports the user pays concept and strongly believes that other modes of transportation should contribute to the Highway Trust Fund if they are to be made eligible to receive any portion of its proceeds.

ATA supports establishing a multi-modal funding mechanism for multi-modal project eligibility. Bill of lading taxes, container taxes, customs fees and other freight-related charges have been mentioned as a way to generate new revenue without directly taxing highway users. ATA believes that it is appropriate to ask the beneficiaries of these freight project investments to contribute toward covering the costs. However, a close review of the various proposals reveal significant legal and administrative barriers. We join with organizations such as the National Retail Federation, Waterfront Coalition and Retail Industry Leaders Association in calling for the immediate establishment, within the USDOT, of a technical working group to explore the various options and recommend to Congress a feasible user fee.

CONGESTION PRICING

One type of tolling is congestion pricing – charging higher during peak periods to encourage different behavior, either by traveling during off-peak periods or by choosing an alternate mode of travel such as public transportation. For the trucking industry, no alternate mode of transportation exists, and the trucking company's customers generally dictate pick-up and delivery times.

Because of the competitive nature of the industry, many trucking companies find it extremely difficult to assign tolls to individual deliveries, thus giving the shipper, no incentive to change schedules. This makes congestion pricing unworkable for trucking companies. These conclusions are supported by a report from the Rensselaer Polytechnic Institute.[15] That study found that when pricing was imposed on trucks entering New York City, only 9% passed the fees on to their customers, and on average, the increased rates did not recover the total toll cost. The study concluded that a toll charge of $203 – which must all be passed on to the shipper – is the minimum price necessary to substantially affect receivers' willingness to adjust delivery schedules.

The number of passenger and commercial vehicle drivers who are willing and able to change their travel patterns may be low. FHWA's 2006 *Conditions & Performance Report*, for example, determined that the average per-mile charge necessary to effect a change in behavior among enough passenger car drivers to impact congestion is 20 cents per mile. This is roughly equivalent to a gasoline tax of $4.44 per gallon.

While the London congestion charge is often cited as an example of pricing that works, the most recent evaluation by Transport for London[16] found that congestion is no better than it was prior to the adoption of pricing. Despite an expansion of the priced zone and an increase in the congestion charge, traffic conditions in London continue to deteriorate. New York City recently considered such a "cordon pricing" plan in exchange for a multi-million-dollar grant from the U.S. Department of Transportation. The idea ultimately rejected by the state legislature. An evaluation of the initial proposal submitted by the Mayor showed that pricing would have very little impact on congestion. Speeds within the pricing zone were projected to increase by just 7%, bringing speeds from a current average of 8 mph to a new average of 8.56 mph.[17]

ADDITIONAL REVENUE SOURCES

All existing tax refunds and exemptions should be carefully reviewed by this Committee as part of the reauthorization process. Today these special carve-outs for off-road use, government fleets, intercity buses, and others are estimated to cost the HTF $1 billion annually. ATA would also encourage the Committee to consider eliminating truck excise taxes on new trucks and tires, and instead charge an equivalent diesel fuel tax. Truck sales are extremely cyclical, even without recent environmental mandates, causing associated tax receipts to fluctuate wildly. Incorporating these fees into the diesel fuel tax would increase the predictability of tax revenues.

[15] Jose Holguin Veras. *Necessary Conditions for Off-Hour Deliveries, Freight Road Pricing and Alternative Policies in Competitive Markets*, 2007.
[16] Transport for London. *Central London Congestion Charging: Impacts Monitoring, Sixth Annual Report*, July 2008.
[17] City of New York. *PlanYC Transportation Technical Report*, April 22, 2007.

CONCLUSIONS

ATA urges the Committee to consider the impacts of any highway use fee on the users of the system, and to ensure that all costs, both direct and indirect, are accounted for to the extent feasible. For example, no examination of toll financing is complete without also considering the additional infrastructure, energy and environmental costs due to evasion. While ATA is willing to consider support for alternative revenue sources, we firmly believe that an increase in the fuel tax – with the additional revenue invested in projects and programs that address national needs – is by far the best way to ensure sufficient funding for highway projects over the near term.

Mr. Chairman, I would like to conclude my testimony with a comment regarding the relationship between our infrastructure needs and the recently House-passed climate and energy legislation (H.R. 2454). As we have discussed, the Highway Trust Fund is funded in large measure through the federal tax on diesel and gasoline. While we support that, these taxes are nonetheless a cost of doing business. However, the climate and energy legislation is likely to significantly increase the cost of fuel. This increase could very well jeopardize the ability of the trucking industry to both fund much needed infrastructure needs and absorb these added costs to fuel brought about through the climate and energy legislation.

Thank you for the opportunity to testify and I look forward to answering your questions.

APPENDIX A

INDIANA TOLL ROAD

In 2006, the state of Indiana agreed to lease the Indiana Toll Road to the Macquarie-Cintra private sector consortium. In exchange for a $3.85 billion concession fee, the firms can collect the toll revenue and agree to operate, maintain and improve the highway. Under the agreement, toll rates for a 5-axle truck increase incrementally from $14.55 to $32.00 in 2010 (all figures assume the truck traverses the entire length of the highway). On June 30, 2010 the lessee can increase toll rates by 8.2%, the rate of inflation (CPI) or the annual rate of change in national GDP per capita, compounded over the previous 4 years. From 2004 to 2005, the increase was 5.4%. Assuming a conservative 5.5 % annual average increase, the toll rate for a 5-axle truck may therefore rise by up to 23.9%, or to a rate of $39.64 in 2010. Therefore, toll rates for a 5-axle truck may increase by about 172% over five years if the lessees decide to maximize toll rate increases.

The impact of Turnpike privatization on users of the highway has been significant. Less than two years after financial close, toll rates for a 5-axle truck increased by more than 87%, from $14.55 to $27.25. Toll rates on cars paying cash went up by 72%. Over a 2-year period between September 2005 (prior to privatization) and September 2007 (14 months after privatization) revenue increased by more than 62% despite a four percent reduction in traffic.[18]

Toll rate increases of these magnitudes will inevitably result in diversion of traffic. By 2010, the truck toll rate on the Indiana Toll Road is likely to be approximately 25 cents per mile, 42% higher than the Ohio Turnpike's toll rate at its peak. The two highways are essentially the same route, and have similar alternatives. Therefore, it is reasonable to expect a level of diversion on the Indiana Toll Road that is at least as great as was experienced in Ohio.

There is a significant difference between the states that allows one to address these challenges effectively and forces the other to suffer the consequences. Because the Ohio Turnpike Commission is a public authority, the Governor and Secretary of Transportation were able to make changes – including lowering truck toll rates and increasing speed limits – which attracted a substantial amount of truck traffic back to the turnpike. Since control of the Indiana Toll Road has shifted from public to private hands, addressing these types of issues will not be quite as easy, and the lessees will base all changes in their operations on the potential impacts on their profitability, and not on the impacts on the public welfare.

Finally, the projected toll rates far exceed what is necessary to raise sufficient money for the operation, maintenance and improvement of the Indiana Toll Road. This means that

[18] Macquarie Infrastructure Group. Press Releases October 8, 2006; October 8, 2007.

toll road users will be forced to subsidize other state functions and enrich toll road investors, with little benefit to themselves.

CHICAGO SKYWAY

Effective in 2005, the City of Chicago agreed to a concession agreement in which Macquarie-Cintra would take control of the Chicago Skyway for 99 years in exchange for $1.8 billion. Concession revenue is to be used primarily to pay off city debt.

Macquarie-Cintra used similar toll escalation caps for both the Indiana Toll Road and Skyway deals. However, the availability of free alternatives may hold rates down. Interestingly, the lessee was given the option to increase tolls during peak travel periods for vehicles with more than 3 axles (i.e. trucks and buses), which they have already taken full advantage of. However, the concession agreement did not allow them to impose congestion pricing on passenger vehicles, which comprise the vast majority of vehicle traffic and cause the bulk of the congestion.

Toll rates will increase by 150% over the first 12 years of the lease and then are capped at about 6% (based on historical GDP/capita). Most Skyway users are Indiana residents, so there is little political impact from these increases and little recourse for users of the toll road other than to vote with their wallets and use an alternative route if possible. The toll increases are essentially a commuter tax, with the lessees and the city, not the payers of the tax, enjoying the benefits of the revenue.

Chairman NEAL. Thank you, Ms. Windsor, for your testimony. Mr. Picknelly, you testified about the partial exemption from the federal fuel tax that buses are currently eligible for. What is the history of that exemption and is it still relevant?

Mr. PICKNELLY. The history is it was enacted in the 1970s during the fuel crisis of that decade, and it was designed to encourage bus rider-ship. It was recognized then, as it still is today, that the bus is the most fuel-efficient way of moving people. So it enabled the bus operators to increase service at lower fares, encouraging people to take the motor coach versus their own car. I think it is even more relevant today, Congressman, because we have such a dependency on foreign oil, and we have global warming, for all of which the bus is a solution. If more people were to take the bus, we would be using much less foreign oil. A bus can take 55 people from Washington to New York City on less than 30 gallons of fuel. And it is the greenest mode of transportation out there, so I think today it is even more relevant than it was in the 1970's.

Chairman NEAL. Thank you. And, Mr. Darbelnet, you testified that AAA has opposed congestion pricing when no reasonable substitute has existed as an alternative route, but do you support priced roads as an alternative to congestion pricing. Can you give us an example of a priced road and explain why it is better than congestion pricing?

Mr. DARBELNET. Well, thank you. We are accepting of the fact that pricing access to roads is a reasonable way of dealing not only with our need to fund the nation's infrastructure but also to affect behavior. What we are very concerned about are situations where there is no alternative but to take a road for which there is an additional charge. So to the extent that we use road pricing or tolling on new capacity or on parallel capacity, we aslo believe that there should always be a free alternative.

Chairman NEAL. Thank you. And I am going to relinquish the chair to Mr. Thompson, only because Speaker Pelosi has requested that I be in her office for a meeting on the Medicare reimbursement geographic disparity issue. And coming from Massachusetts, you should know that is a pretty big issue. And I hope I am on the same side of it that she is.

Mr. Thompson. Mr. Tiberi is recognized to inquire.

Mr. TIBERI. Thank you, Mr. Chairman. We will miss you. Ms. Windsor, you testified at the end of your testimony that the increase with respect to the issue of the House-passed version of cap and trade, and I quote, "This increase could very well jeopardize the ability of the trucking industry to both fund much-needed infrastructure needs and absorb these added costs to fuel brought about through the climate and energy legislation." Could you elaborate because what you did not talk about was as a trucking company owner and operator, what sort of impact the legislation and what you have supported, and that is a gas tax increase, the two of them combined or just the cap and trade legislation would have on jobs in the trucking industry?

Ms. WINDSOR. Yes, we have had reservation concerning the cap and trade. We have spoken to some people, and we have been advised by one field distributor that it could increase our diesel fuel as much as 70 to 90 cents per gallon. With a fleet average of 6.2 miles per gallon, that would be an extraordinarily heavy increase to us on a day to day basis.

As we saw last year, when diesel fuel was $4 per gallon, many small companies were put out of business because they could not absorb those exorbitant fees, that on top of the diesel fuel that we already pay, the taxes.

Mr. TIBERI. What does the average member have in terms of employees, in the trucking association, what is the average?

Ms. WINDSOR. I beg your pardon?

Mr. TIBERI. The average member of your association, how many employees do they have, do you know?

Ms. WINDSOR. Well, the majority of our trucking companies are 20 trucks or less.

Mr. TIBERI. Okay.

Ms. WINDSOR. And, of course, we have the large companies also, that would be thousands and thousands.

Mr. TIBERI. But the majority are small——

Ms. WINDSOR. Small.

Mr. TIBERI. Operators?

Ms. WINDSOR. Small operators.

Mr. TIBERI. Thank you. Mr. Moorman, I want to just comment, thank you for your investment in central Ohio, Rickenbacker and Columbus.

Mr. MOORMAN. It is a great place for us.

Mr. TIBERI. And I have seen firsthand the investments that you are making and appreciate that. Mr. Kienitz, before you got here, I don't know if you heard Mr. Oberstar's testimony with respect to the shortfall of $3 billion, and I have read the Administration believes it is anywhere between $5 and $7 billion. Where do you believe that disparity is, and do you believe the $3 billion would cover the shortfall or is it in your opinion $5 to $7?

Mr. KIENITZ. Thank you, sir. The $5 to $7 number was something we released probably two months ago now, and these are all sort of projections based on what we think tax revenues will be and what we think payments out will be. We have been obviously tracking that. And I had a long meeting with our budget folks the day before yesterday to try to nail down this exact question. I think Mr. Oberstar referred to our current projection. What we do is we report projections of balances of once a week in the Trust Fund from here out until October. And so the lowest negative number on that sheet is $1.9 billion. I think he correctly stated that. I think he also correctly referred to the fact that the mid-year budget adjustment that happens every August is coming up. The last several of these have been downward adjustments for the Highway Trust Fund, and so past history would indicate that we could expect potentially more of that. And so you are in the two's and something there.

The only thing is the way that the cash management works in the Trust Fund is that we get payments twice a month from the Treasury Department, and we get bills submitted everyday by states. And so this question of what the weekly snapshot number is depends entirely——

Mr. TIBERI. So you think the $3 billion would cover it?

Mr. KIENITZ. I do not think the $3 billion would cover it.

Mr. TIBERI. Do you think it would need $5, $6, $7?

Mr. KIENITZ. I think our view is still at a minimum $5 is the number that is safe.

Mr. TIBERI. You heard Mr. Mica talk about this Vehicle Miles Traveled tax. What is the Administration's position today on that?

Mr. KIENITZ. At this point, it is not something we are supportive of at this moment.

Mr. TIBERI. But you could be?

Mr. KIENITZ. I certainly would not want to speculate on that.

Mr. TIBERI. Okay. How about Mr. DeFazio's tax that he talked——

Mr. KIENITZ. This is the tax on futures trades. I had an exchange with him at a hearing that he chaired last week on this point. We have our economic team looking at that. I think one of the issues they are examining is how would the presence of such a tax change the behavior of folks in that industry. In particular, whether it push those trades offshore where they are not subject to taxation by the United States.

Mr. TIBERI. How about the taxing of barrels of crude and imported refined gasoline?

Mr. KIENITZ. Not something that we are supporting right now that I know of.

Mr. TIBERI. How about indexing the gas tax that he talked about?

Mr. KIENITZ. Neither that.

Mr. TIBERI. Not supporting that at this point in time?

Mr. KIENITZ. I do not think so, no.

Mr. TIBERI. Maybe later?

Mr. KIENITZ. Once again, I would leave that for later.

Mr. TIBERI. Okay, thank you. Thank you, Mr. Chairman.

Mr. THOMPSON. [Presiding.] Thank you. Mr. Secretary, while you are on the tax hot seat here.

Mr. KIENITZ. Yes, sir?

Mr. THOMPSON. Can you tell me why you would believe that the Administration would not be supportive of the miles traveled tax?

Mr. KIENITZ. I think our view right now is that this summer is the middle of one of the deepest recessions that has been seen in this country certainly since I have been in this business, and maybe in 40 or 50 years, and so now is not the time to do that or seriously consider that.

Mr. THOMPSON. So that would be your answer to any of the means by which to increase revenue?

Mr. KIENITZ. That would be my principal answer.

Mr. THOMPSON. On the miles traveled specifically,——

Mr. KIENITZ. Correct.

Mr. Thompson [continuing]. is there a reason that you would put that in the good policy category or the bad policy category?

Mr. KIENITZ. Personally, I see the attraction of it given the declining yield we get out from traditional gasoline taxes. To the degree that I have discussed with people who are more expert than I about what the actual implementation of this would be, there would be a multi-year process of taking the technologies that exist, that have been tested in Oregon and a couple of other places, figuring out how to scale them, creating back office systems, there is a lot of work that would go on in doing that. So even if we decided today full speed ahead, I am not sure that within the next four or 5 years, you are actually able to transition the system over to something that is so different.

Mr. THOMPSON. Okay, thank you. Ms. Windsor, on the Vehicle Miles Traveled, do you have any insight as to whether or not you think that would be a fair way to go?

Ms. WINDSOR. We understand that with the passenger cars, it is something that has been tested and has had some pilot programs. We know that with the alternative fuels, that gasoline taxes will erode through the years. Diesel, however, will not because there are no alternative fuels for our diesel trucks at this point. So without a pilot program or further study, we feel like that we are not supporting the vehicles miles tax.

Mr. THOMPSON. Mr. Darbelnet, on your testimony, you outlined some principles that you thought we needed to adhere to, one of which it needed to be fair to all users. Do you have a comment on the Vehicle Miles Traveled, do you think that would be something that would be fair to all users?

Mr. DARBELNET. Well, I think it is worthy of consideration, and we are pleased to see the pilots that have been occurring. There are obviously some concerns, some of them relate to privacy. Some of them were mentioned earlier today, and they relate to our ability to ensure that we are actually collecting everything that we should, and that we are not exposing ourselves to greater fraud. But as a concept, the VMT tax is not that far away from what we currently have. The gas tax is in essence a tax we pay on the basis of what you assume will be the number of gallons it takes to drive 100 miles.

Mr. THOMPSON. Back to the fairness issue, do you see any problems with rural drivers versus suburban or urban drivers? People in the district where I live, they do not have, for instance, public transportation available to them. The miles that they have to drive to get to and from work, just because of the remoteness of the area, are far greater. There are a whole bunch of reasons why miles driven would calculate up a lot quicker than something else.

Mr. DARBELNET. Well, it might calculate up more quickly than something else, but it is not that different from the gas tax that we currently have, and that people in rural environments today, with no alternative but to drive their own vehicle, are buying more gas than people in urban settings where they can decide to take transit or the bus or their bike. So I do not think there is a great deal of inequity between the VMT and the current gas tax provided we address some of the other issues. Where I think we would have difficulty selling the VMT to the motoring public would be if certain categories, and I understand the point made by the trucking industry relative to diesel and so on, but if we found ourselves in a situation where motorists are paying on the basis of miles traveled and other important segments of the users are not, then I think we would have difficulty explaining why it is fair.

Mr. THOMPSON. I just did a real quick calculation to drive from one end of my district to the other. And right now under the current situation, I would pay a few dollars, a little over $4 in gasoline taxes. If we did it by miles traveled, it would be over $20, about a 380 percent increase.

Mr. DARBELNET. Well, that would appear unfair, but I assume it is a function of what rate would be establishes for the miles traveled tax. And if the rate was lower, it could equate to what you are currently paying.

I would like to make one other point about VMT, and it is that it removes, and this is not the reason not to consider it, but it removes one of the incentives which exist today for people to buy more fuel-efficient vehicles. It does not completely remove it but it mitigates it to some extent because as a taxpayer if I realize that when I am buying fuel, I am paying not only for the fuel but also for taxes. If those taxes are removed, the price of fuel hopefully would decline and the interest I might have in buying a more fuel-efficient and environmentally-friendly vehicle could be somewhat mitigated as a result. And we need to consider that as we consider——

Mr. THOMPSON. Could be reduced, there is no incentive to purchase a more fuel-efficient vehicle.

Mr. DARBELNET. It could reduce the incentive to do so.

Mr. THOMPSON. Thank you. Mr. Heller.

Mr. HELLER. Thank you, Mr. Chairman. Ms. Windsor, I am just looking at my notes here, and I am trying to figure out if you are here on behalf of the ATA or as the CEO of Hahn Transportation?

Ms. WINDSOR. Actually, both. I am a trucker and, yes, I am representing ATA.

Mr. HELLER. Did I understand correctly that the ATA does endorse a gasoline tax increase?

Ms. WINDSOR. Yes, we do.

Mr. HELLER. Is that a decision made by the board of directors or your actual members?

Ms. WINDSOR. The executive committee has endorsed it because we believe it is a user fee, yes.

Mr. HELLER. Is there a report, I do not know if it would come out monthly or quarter, of the amount of diesel that is used in this country? Someone said a report was coming out recently, I had not heard of diesel report or volume of diesel use in this country, are you aware of any report?

Ms. WINDSOR. I am not aware, but I imagine there could be a report.

Mr. HELLER. Would you anticipate that there would be an increased volume in diesel used in this country in the last 6 months or a decrease?

Ms. WINDSOR. In the past 6 months, with the new diesel that we have, it burns frankly much cleaner but we have lost some of our miles per gallon. It is very clean burning.

Mr. HELLER. Okay, so in your capacity, in your private capacity as a trucker, you would say you have increased the actual volume——

Ms. WINDSOR. Yes, yes.

Mr. Heller [continuing]. because of the——

Ms. WINDSOR. Because of the—diesel, the cleaning burning diesels.

Mr. HELLER. Thank you. Mr. Kienitz, according to Mr. Tiberi's questioning, it is hard to get you on a gasoline tax where the Administration is today, where they would be if the economy would turn around. I am not sure where you are on VMT either, and I am not trying to push you out in one direction or another but has the Administration taken any positions on some of the proposals that Chairman DeFazio discussed today? He had three proposals, one is indexing the gas tax and using the money to repay new bonds, taxing barrels of crude and imported and refined gasoline, and imposing a tax on transactions in oil futures and options. Do you guys have any positions on any of those?

Mr. KIENITZ. We are not supporting any new revenue for the trust fund from a new tax source right now. And so I guess those three would fall under that. We are certainly examining in particular the futures trading proposal because it is a complicated thing to try to figure out what the actual effect would be, but we have not endorsed any revenue.

Mr. HELLER. Okay, one more question, Mr. Chairman. The new transportation bill has a new allocation process. It was at one time 82 percent of the current funding went to highways, 18 percent went to transit. Under the new reauthorization, the proposal is 70 percent for highways, 20 percent for transit and 10 percent for high-speed rail. Has the Administration taken a position on that?

Mr. KIENITZ. I am not sure which proposal are you referring to that has that?

Mr. HELLER. I am referring to the 700-page——

Mr. KIENITZ. Oh, the committee draft?

Mr. HELLER. Yes.

Mr. KIENITZ. From the T&I committee. We have been having discussions with Mr. Oberstar and with his staff about the specifics of that bill, both its broad outlines and the specifics. We have not taken a particular position on it, either the pieces of it or the total thing, but obviously it is a major proposal, and we are hoping to work with them on it.

Mr. HELLER. Thank you. Mr. Chairman, I yield back.

Mr. THOMPSON. Thank you. Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I was intrigued, Mr. Darbelnet, you talked about how when you combine the changes in the mileage, the efficiency, with the loss of purchasing power, the average motorist today is paying about half of what they were 20 or 30 years ago, or I guess it was back in 1993, when the gas tax and diesel was last adjusted. I am curious, Ms. Windsor, how does that balance work today for the trucking industry? Have you seen efficiencies in utilization that would make your proportionate cost be that much less?

Ms. WINDSOR. Well, the price of diesel back in the 1990s was considerably less than gasoline, and that was the disparity between 18 cents and the 24 cents we pay on diesel. Now, diesel is more expensive than gasoline.

Mr. BLUMENAUER. I guess the question that I would love to explore with both the trucking industry and AAA is the equity because what is clear is that, as we go forward, there will be less being supplied by motorists per each mile driven. I want to know how that works with the trucking industry. I have been talking to people who have been talking about super-efficient trucks that are on the horizon, but I want to be able to understand what that balance is because it appears to me that the efficiency for plug-in hybrids, the alternatives, are much greater for the motoring public, so that more and more of the burden is going to fall on the trucking industry unless we do something like Vehicle Miles Traveled. So if you would help us understand what that disparity is? And I would respectfully request that we have both the AAA and the truckers help refine that.

Mr. Chairman, I appreciated your line of inquiry about Vehicle Miles Traveled, and I would just note for the record that that is entirely dependent on what the rate is. The pilot project in Oregon has been calculated based on just replacing the current miles per gallon. So that it was not designed to increase or reduce revenues, it was just designed to replicate it and test the hardware, test people's reaction to it, and I want to identify with what our witnesses are saying. That is why the legislation that I have introduced would extend the pilot project to every state in the union, so that people in rural, urban, big states, and small states can find out how it works and help us refine it because it is going to take—I agree with Mr. Kienitz, it will take four or five or 6 years to actually implement. Actually, the trucking industry could implement it much faster because so many trucks have already the monitoring equipment, but we could not do it system-wide. So I am strongly urging that we go forward with a plan to be able for people to test it, to calm their concerns that big brother is watching, although anybody with a cell phone or a Blackberry has that already, I find certain irony in people raising that while walking around with a chip that can be monitored, but being able to really test it and being able to make sure that we have a user fee in the future that helps us balance it.

And I would just note for the record, one of the things that could happen is including an adjustment for the road utilization, which we cannot do today with the gas tax, and that there is not actually the same demand with somebody with a small car in rural Montana going over that road as opposed to somebody with a larger rig that is in an area where there is more congestion and more problems. So, unlike what we do now, where they are paying more, we would have an opportunity to adjust it to attune to the circumstances.

And I will just conclude, Mr. Chairman, I know we have got votes coming forward, but I really have appreciated the testimony that has been broad-gauged, that talks about the need of investing in the infrastructure, people raising legitimate questions about balance and fairness and equity that really do need to be resolved, and looking at the mechanisms that we have got moving forward, so we do not end up penalizing rail or freight movement or auto motorists, as we move forward because the stakes are very high. And I deeply appreciate this opportunity and the witnesses presentation.

I am going to apologize in advance, we have been summoned to the Speaker's office, and so I do not know that I will be able to return for the next panel, I will if it is humanly possible.

Mr. THOMPSON. Because you may not be back, Mr. Blumenauer, let me just add I appreciate your openness to looking at the disparity between urban and rural. There are a lot of different factors, not only miles traveled but in rural districts, districts such as mine, there are often things you cannot do with a fuel-efficient automobile. It is very, very difficult to haul a gondola full of grapes to the winery with a Prius, and stock trailers and things like that, hauling logs to the mill, it is a tough deal. And there are some issues there that we would have to look closely at to make sure that everybody is treated equally and, as the gentleman from AAA pointed out, that fairness has to be an important part of whatever we do. So I appreciate your comments.

I want to thank the panelists for being here. I want to apologize to the next panel for the wait that you are going to have to put up with. We have, as was mentioned, a series of votes, so it has been concluded that we will recess the panel until after the last vote, and then we will come back and resume our work. So, panel number three, thank you. Panel number four, you have got a little bit of time to make your way up and settle in. So thank you very much. The committee stands in recess.

[Recess.]

Chairman NEAL. Let me reconvene the subcommittee. I want to thank our last panel for their patience, and I want to now call up our really last panel. First, let me welcome Allen Biehler, secretary of the Pennsylvania Department of Transportation, testifying on behalf of the American Association of State Highway and Transportation Officials.

Next, we will hear from Mr. James Whitty, manager of the Office of Innovative Partnerships & Alternative Funding at the Oregon Department of Transportation. We would like to welcome Janet Kavinoky, director of Transportation Infrastructure at the U.S. Chamber of Commerce and Executive Director of Americans for Transportation Mobility Coalition. Next, we will hear testimony from Mr. Edward Wytkind, president of the Transportation Trades Department at the AFL–CIO. And, finally, we will welcome a very patient Don Weaver, vice president of the Weaver-Bailey Contractors in El Paso, Arkansas and chair of the Associated General Contractors of America.

Secretary Biehler, you are recognized to offer your statement.

STATEMENT OF ALLEN D. BIEHLER, SECRETARY, PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, HARRISBURG, PENNSYLVANIA

Mr. BIEHLER. Thank you, Mr. Chairman, and thanks for inviting us to give comments.

The concerns of the state Departments of Transportation are pretty basic and pretty obvious, as your opening remarks earlier this morning, and that is two things: One is the immediate threat of the Highway Trust Fund insolvency, and then finally the need to enact a well-funded longer range service transportation authorization bill.

I think it is also clear that we would agree that transportation is a critical engine of the American economy, and it sustains good-paying American jobs.

SAFTEA–LU, when it was enacted back in 2005, we had hoped was going to have sufficient revenues to sustain us. We have talked and heard testimony this morning about how unfortunately that is not the case, that the revenue income is not meeting the expenses that are being incurred by the states. At least, the most recent number we had heard was that the immediate shortfall was in the neighborhood of $7.5 billion, and that that needs to be transferred into the Trust Fund simply to cover Fiscal 2009 commitments. If the Trust Fund becomes insolvent, significant problems occur for the states. The states will be saddled with the problem of what to do next and try to guess if and when the problem will be solved. And it is a real Russian roulette issue for us, but we would start taking the only responsible actions that we know how to take, which is frankly to start suspending ongoing construction contracts, as well as either delaying or simply putting off issuing new contracts. Ironically, it comes at a time when Congress saw fit to enact a stimulus bill, which has really helped all of us ramp up, and so far we have been successful at meeting all of the congressional benchmark numbers and are moving very quickly to bolster our construction work, and it would be right at that time when we would then be facing some interesting constraints in the program.

If, in fact, we do not deal with 2009 and that problem continues into the next fiscal year, Fiscal 2010, not only will we need an additional $7.5 billion for 2009, but the projection is that we will need an additional $10 billion for 2010. If we do not do that, the 2010 program is projected to drop to $5.7 billion, which is 86 percent less than projected. And so you can imagine the angst that it gives us.

I can tell you that in the case of Pennsylvania, just to use as an example, we would have to reduce our current calendar 2009 construction program by 70 percent. So it is a number that is daunting. And my colleagues around the country would face the same problems, we just cannot get there. Hopefully, we will agree that we have just got to avoid that.

As we look forward to a tougher issue, which is the 6 year reauthorization bill, we note that obviously the last time user fees were increased was back in 1993. And despite, again, hoping that our revenue was going to keep pace with our expenses, that is not the case. And so we face what we think are the right issues and tough issues of looking to user fees again as a way to address the future 6 year needs, and coming to grips with that is difficult. However, we think it is critical. In my long written testimony, AASHTO has identified a very long menu of options to choose from. We certainly note, and I know one of the speakers, in fact to my left and to your right, will be addressing the issue of VMT. AASHTO has looked at VMT, and looks at it as one of the new methods that we think is very promising to deal with the tough issues of finding funds to basically deal with the Trust Fund.

So let me just say in conclusion that both the federal highway as well as the transit programs face the long-term revenue shortfalls. In addition to pilot testing VMT, which could take years, we need to look at that mechanism, as well as perhaps a menu of other options. And, as we have noted, both national commissions, both the Policy Commission and Revenue Commission concluded that we really do need in fact to take a substantial step forward and increase revenues, and we think user fees are the primary source that we should look for.

Thank you.

[The prepared statement of Mr. Biehler follows:]

American Association of State Highway and Transportation Officials

AASHTO

The Voice of Transportation

Testimony of

Mr. Allen Biehler

Secretary
Pennsylvania Department of Transportation

On Behalf of

THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

Regarding

Long-Term Financing Options for the Highway Trust Fund

Before the

Committee on Ways and Means
U.S. House of Representatives

July 23, 2009

American Association of State Highway and Transportation Officials♦444 North Capitol Street, N.W., Suite 249, Washington, D.C. 20001♦202-624-5800

Mr. Chairman, and Members of the Subcommittee, I am Allen Biehler, Secretary of Transportation for the State of Pennsylvania and President of the American Association of State Highway and Transportation Officials (AASHTO). Today I am appearing on behalf of (AASHTO), which represents the departments of transportation in the fifty states, the District of Columbia and Puerto Rico.

First, I want to thank you, Mr. Chairman, for holding this important hearing on the long-term measures to finance the Highway Trust Fund. The immediate threat of insolvency and the impending need to enact a well funded long-term surface transportation authorization bill will benefit from the information garnered in this hearing, and for your leadership in working toward a new, multi-year surface transportation authorization bill to replace the expiring SAFETEA-LU Act.

Transportation is a critical engine of the American economy. Capital investment in our national surface transportation infrastructure is important and fundamentally different from other kinds of government operations spending. Investing in transportation assets that last 50 to 100 years or more produces economic and societal benefits for many generations to come. Moreover, it creates and sustains good-paying American jobs.

Established in 1956 to fund the Interstate Highway System, the Highway Trust Fund is the principal source of funding for Federal investment in surface transportation infrastructure. Supported by a dedicated stream of user revenue, the Trust Fund allows Congress to finance surface transportation programs through the use of contract authority, which allows for commitments to be made in advance of receipts being received. This provides the stability and predictability that are essential to the success of long-term capital investments. States and local governments are then able to execute long-term planning and multi-year construction contracts based on that stability and predictability. And over the years, Congress has provided additional revenue to ensure investments could be continued in keeping with the needs of the nation.

Today, however, the Highway Trust Fund is in crisis.

In the short-term, the Highway Account of the Trust Fund faces insolvency before the end of the current fiscal year and the prospect of a greatly reduced program in FY 2010. In the long-term, the Trust Fund faces an enormous gap between available resources and the investment needs necessary to modernize our national surface transportation systems to meet the challenges of the 21st Century.

Consequently, we find ourselves at a crossroads. This hearing is an important step to finding the way forward and to identifying ways to increase Trust Fund resources in the long-term so that the Trust Fund can meet the investment needs of the Nation.

AASHTO comes down squarely on the side of continuing a strong Federal program. AASHTO believes that a strong Federal partner is essential in meeting our short-term and long-term transportation needs. AASHTO further believes that the stability and predictability that comes from a robust, adequately financed Highway Trust Fund is essential.

Today, as we consider these issues I would like to address the short-term funding crisis facing us and offer some ideas for meeting the long-term revenue requirements for the Trust Fund.

We must fix the short-term crisis now.

The fiscal year 2009 problem: As you know, Mr. Chairman, spending from the Highway Trust Fund is exceeding the levels of revenues flowing into it. When SAFETEA-LU was enacted, it was estimated that Trust Fund reserves and current cash flows into the Trust Fund during SAFETEA-LU would be sufficient to fund all of the commitments in highway and transit investments guaranteed in the bill. But unprecedented high motor fuel prices during this period and the current severe recession have driven down demand to the point that Trust Fund revenues will be well below the levels that had been assumed at the time SAFETEA-LU was enacted.

In September of 2008, when DOT announced that insolvency of the highway program was imminent, Congress transferred $8 billion back into the Trust Fund from the General Fund to enable USDOT to honor the commitments made to the states through October, 2009. That action kept the program solvent and enabled billions in highway investments to continue.

Unfortunately, recent reports from USDOT indicate that the $8 billion will not be enough to sustain the program until September 30, 2009. Current projections now show that insolvency of the highway program is again imminent. Without an immediate fix, USDOT will not be able to honor the commitments to the states for all of FY 2009.

We must transfer sufficient funds into the Trust Fund to assure that USDOT can honor all of its commitments in FY 2009. We estimate that $7.5 billion would be necessary to accomplish this task. That is consistent with the Administration's estimate. In addition we must also make allowance for fiscal year 2010 preferably through a long-term well funded bill. But if that is delayed than we need to add additional cash to the Trust Fund, estimated to be an additional $10 billion, to ensure investment and job creation continues.

Failure to act would be devastating to the economic recovery.

If the Highway Trust Fund becomes insolvent in FY 2009, States will likely suspend new contract awards, halt right-of-way acquisition, and look for ways to stop on-going construction while maintaining public safety. If inadequate Trust Fund results cause the highway program to be cut back in FY 2010 to $5.7 billion, or 86 percent below the current program level, States will have to again cut back their programs substantially. Given the severity of the current recession, States will not be in a position to step in and fill the void. Likewise, the private sector will have to cut back this will mean cancelled contracts, plant closures and layoffs. Expansion plans will be put on hold or cancelled.

Stated differently, Congress' failure to fix the short-term Trust Fund crises will undermine the economic recovery. The ARRA has recognized the critical need to ramp up investment in infrastructure to create and sustain jobs and put in place much-needed infrastructure. Jobs are in fact being created and sustained. But if there is a dramatic decline in investment due to the short-term Trust Fund crises, it is likely that much of the important recession recovery process will be lost. Also lost will be the many important transportation improvements that will have to be postponed or cancelled.

The Long-Term Funding Needs:

While the current economic downturn has highlighted the crisis condition of the Trust Fund, this condition has been playing out since fiscal year 2002. We have consistently been paying out more than we have been taking in and thus drawing down the balance of the Trust Fund.

User fees were last increased in 1993 and costs have skyrocketed since then. While it is true that the added receipts that came to the Trust Fund in 1995 and 1998 were from those originally enacted for deficit reduction, they are not enough to sustain the current program level.

Chairman NEAL. Thank you.
Mr. Whitty.

STATEMENT OF JAMES M. WHITTY, MANAGER, OFFICE OF INNOVATIVE PARTNERSHIPS & ALTERNATIVE FUNDING, OREGON DEPARTMENT OF TRANSPORTATION

Mr. WHITTY. Mr. Chairman and Members of the Committee, on behalf of the Oregon Department of Transportation, I appreciate the opportunity to present our findings on the nation's first test of a mileage fee collection system designed to replace the gas tax as our nation's primary road-funding mechanism.

Oregon's mileage fee efforts began 8 years ago with a state legislative directive to design a new road revenue system. On the 90th birthday of the gas tax, pioneered in fact by Oregon, this formerly reliable source of revenue now faces serious challenges funding our road system, primarily because of increasing fleet fuel efficiency. Moreover, the gas tax cannot remain the major source of transportation funding if national policy seeks to reduce oil consumption in the transportation sector.

A mileage fee is based on use of the roadways and can be designed and collected in many ways, from the labor intensive paper and pencil method to hands-free electronic reporting. Each viable method should receive due consideration.

The nature of the ultimate mileage fee system, however, will depend upon tax policy set by policymakers. In the pilot test, ODOT installed mileage county transponders in 300 cars of volunteer motorists. The transponder receives satellite signals to electronically-defined geographic zones for counting miles. A computer within the car records the total number of miles driven within each zone. The transponder is passive, not like a navigation unit, and therefore is unable to track vehicle movements nor store a travel history. When a motorist pulls up to the gasoline pump for refueling, the system reads the mileage data from the transponder wirelessly in a way similar to an electronic toll system. It then connects to a central computer to calculate the mileage fee. And at the pump, the system deducts the gas tax from the fuel price and then adds the mileage fee to the customer's bill. The motorist does only one new thing, the motorist pays the mileage fee in lieu of the gas tax, and the transaction occurs as quickly as a credit card transaction.

The test was successful. The system was easy to administer, inexpensive to operate and simple for the motorist. Following the pilot, 91 percent of the volunteer motorists surveyed said they would be willing to continue to keep the mileage counting equipment in their car if the system were extended to every gasoline station statewide.

The mileage fee seems a worthy alternative to the gas tax but a few questions remain. One key issue is the rate structure. Oregon tested a flat rate of 1.2 cents per mile that corresponds with our state gas tax, but the mileage fee can be tailored to meet policy objectives in addition to raising revenue. Having a higher rate for driving during periods of congestion is one possibility. Another is a graduated rate structure designed to encourage motorists to purchase more fuel-efficient vehicles. A third possibility would be a higher rate for driving in urban areas and a lower rate in rural areas.

Policymakers have tremendous flexibility to create mileage fee rate structures. The system in Oregon used computers after all.

The mileage fee has the potential to generate at least as much revenue as the gas tax and more depending upon the rate structure and fee level set. The mileage fee can ensure that revenue levels do not decline as fleet fuel efficiency improves.

The mileage fee needs further development for adoption. Our proposal to the Transportation and Infrastructure Committee for developmental programs is attached to my written testimony.

Oregon wants to undertake a new pilot project, this time based on an open technology platform, founded on open standards and protocols, like the Internet, so the motorist chooses the transponders' capability and desired levels of privacy protection and additional products and services. This may lead to greater public acceptance, a shorter adoption time line, coverage of all types of vehicles, and the ability to evolve as technology does.

After years of speaking on this topic around the nation and engaging real citizens, I believe that appropriate policymaking and careful system design can resolve all perceived shortcomings. Technology will do what policy requires it to do. A mileage fee system designed to follow public policy set by Congress should be able to find a sweet spot of public acceptance.

I thank you, Mr. Chairman, for the opportunity to present our findings.

[The prepared statement of Mr. Whitty follows:]

House Committee on Ways and Means

Statement of James M. Whitty
Manager of the Office of Innovative Partnerships and Alternative Funding
Oregon Department of Transportation
Salem, Oregon

Testimony Before the Subcommittee on Select Revenue Measures of the
House Committee on Ways and Means
Long Term Financing Options for the Highway Trust Fund

July 23, 2009

Mr. Chairman, members of the committee, for the record my name is James Whitty, manager of the Office of Innovative Partnerships and Alternative Funding at the Oregon Department of Transportation. I appreciate the opportunity to present our findings on the nation's first test of a mileage fee collection system designed to replace the gas tax as the principal road funding mechanism. I have led and continue to lead all aspects of Oregon's Road User Fee Pilot Program from concept through design and field-testing. Today I will explain what Oregon did and the results, our future intentions and what our efforts could mean for the nation.

Background. Oregon's mileage fee research efforts began eight years ago with a state legislature directive to design a new revenue collection system to replace the gas tax as the principal way we fund our roadways. On the 90[th] birthday of the gas tax—first pioneered in Oregon—we admit the gas tax faces serious challenges in funding our road system, particularly in the long term.

First, let us give the gas tax its due. After all, the nation built the highway system with it. The gas tax is easy to pay, inexpensive to collect and raises a lot of revenue, though the gas tax is now failing because of increases in fleet fuel efficiency. Moreover, the gas tax cannot remain the major source of transportation funding if national policy seeks to reduce oil consumption in the transportation sector. Depending on design, the mileage fee has the potential to duplicate the gas tax's positive attributes, yet not decline as the nation's vehicle fleet becomes more fuel-efficient.

A mileage fee can be designed and collected in many ways, from labor-intensive paper and pencil reporting to electronic reporting and payment. The two main collection options under investigation in the United States involve electronic generation of mileage data and an electronic collection mechanism. One involves central billing to the home site. The other involves payment at the place of fuel purchase. Each has its positive and negative attributes. Most recently, investigators have begun to examine an integration of these two approaches.

The Impact of Public Policies. The nature of any future mileage fee system ultimately must depend upon the tax policies set by policymakers. To achieve public acceptability, public policy should drive design of the mileage fee collection system rather than technology. The following tax policies should receive consideration in structuring a mileage fee collection system.

- ***Breadth of charge application among payers.*** If policymakers prefer that the mileage charging system operate on a user pays basis, the collection system must capture a broad array of users; indeed, each user of the system must pay directly for the burden made on the road system.
- ***Relative fairness among payers.*** The new mileage charging system must have the perception of fairness across all user groups. Any subsidy for a particular user group must be justified.
- ***Low relative capital costs for implementation.*** The capital costs required to implement the new system must not overwhelm the ability to pay for the system.
- ***Low relative annual operating costs.*** To facilitate public acceptance, broad based taxing and fee charging systems should have low operating costs relative to the revenue generated. This condition takes on added importance if the mileage charging system replaces the gas tax as the primary road funding mechanism since the gas tax operating costs are extremely low.
- ***Low relative compliance burden.*** The system should impose minimal burdens on payers in the context of effort, cost and complexity. If mileage charging replaces the gas tax, the method of payment may need to match the simplicity of paying the gas tax in order to garner public acceptance.
- ***Minimal relative administrative burden upon the private sector.*** The system should impose minimal additional costs on businesses collecting the charge and forwarding payment to the government collection agency. As an alternative, the opportunity to earn transaction processing fees may allay the burden of these additional collection costs.
- ***Efficient administration.*** Government administration of the mileage charging system should not result in a huge and expensive bureaucracy.
- ***Effective enforceability.*** Government administration should be effective enough for assurance that most motorists actually pay the appropriate mileage charges. Government auditing costs should be low relative to revenues raised, especially if policymakers want the new system to replace the gas tax.
- ***Minimal evasion and avoidance.*** The system should make tax evasion and tax avoidance difficult. The system must assure accurate data generation and transfer as well as appropriate civil and/or criminal penalties for tax evaders.

In Oregon, a task force appointed by the Governor, Senate President and Speaker of the House—which included four state legislators—made the policy decisions directing system design. Oregon DOT designed the mileage fee collection system to follow these policies and resemble the highly efficient gas tax collection system as closely as possible.

Oregon's Road User Fee Pilot Program. In Oregon's pilot test, we installed mileage-counting transponders in the passenger vehicles of 300 volunteer motorists. These on-board transponders consisted of a receiver of satellite signals to electronically define specific geographic zones and a computer to record the total number driven in each zone. The transponder was passive—*not* like a navigation unit—and unable to track vehicle movements nor store a travel history.

Oregon's mileage fee collection system works in a fairly simple manner. When a motorist pulls up to a gasoline pump for refueling, the system reads the mileage data from the transponder wirelessly—in a way similar to an electronic toll system—then connects to a central computer for calculation of the mileage fee. At the pump, the system deducts the gas tax from the fuel price and adds the mileage fee to the customer's bill. The motorist only does one new thing—the motorist pays the mileage fee in lieu of the gas tax—and charging the mileage fee occurs as quickly as a credit card transaction.

Results for Oregon's Pilot Program. Our pilot test successfully proved concept and identified areas for further refinement. This system proved easy to administer and will be inexpensive to operate—less than one percent of total revenues—because it piggybacks upon gas tax collections. This payment system is also very simple for the motorist to use.

Results of Oregon's Road User Fee Pilot Program

Concept viability. A carefully designed mileage fee system can replace the gas tax as the principal revenue source for road funding. At conclusion of the pilot program, 91 percent of the participants surveyed said that they would agree to keep the on-vehicle equipment in their cars and continue paying the mileage fee in lieu of the gas tax if the program extended to every fueling station statewide.

Viability of paying at the pump. Motorists can pay the mileage fee at fueling stations with no difference in payment process for motorists when compared to the gas tax. Like the gas tax, a collection system can embed the mileage fee within routine commercial transactions and easily accommodate cash or credit payments.

Phase in of the mileage fee. The mileage fee can be phased in gradually, allowing non-equipped vehicles to continue paying the gas tax, while equipped vehicles could pay the mileage fee.

Integration with current systems. A mileage fee can integrate with two main existing systems: the service station point-of-sale system and the current system of gas tax collection by the state.

Viability of congestion and other pricing options. The mileage fee can electronically establish different pricing zones, even at particular times of day. This proves the mileage fee concept could support not only congestion pricing but also assessment and collection of local revenues and other "zone-oriented" features.

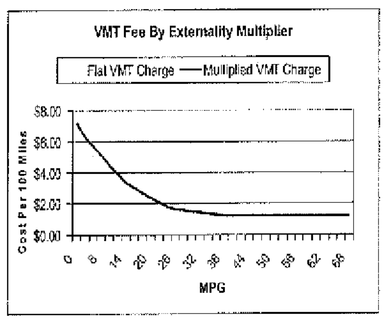
Minimal burden on business. Mileage fee administration can be automated and easily integrated into existing transaction processes.

Questions for Resolution. The mileage fee seems a worthy alternative to the gas tax, but some questions remain. One central issue is whether the system design should facilitate national revenue generation or allow state adoptions as well. Another is whether the mileage fee should replace the gas tax or simply augment it. How legislatures decide these issues will largely affect system design.

Perhaps the top issue is the mileage fee rate structure. Oregon tested a flat rate of 1.2 cents per mile that corresponds with our state gas tax, but the mileage fee can be tailored to meet policy objectives in addition to raising revenue. Having a higher rate for driving during periods of congestion is one possibility.

Another possibility is a graduated rate structure designed to encourage motorists to purchase more fuel-efficient vehicles. For example, each vehicle could be assigned a multiplier that would apply against a flat base rate. The multiplier for the highly fuel-efficient vehicles could be 1.0 with a much higher multiplier for the least fuel-efficient vehicles. The ability to create rate structures is highly flexible—the system uses computers after all.

MPG	Multiplier
42+	1.0
34	1.2
26	1.5
22	2.0
18	2.5
15	3.0
10	4.0
6	6.0



The mileage fee has the potential to generate at least as much revenue as the gas tax and more depending upon the rate structure and fee levels set. But mileage fee design can ensure that revenue levels do not decline with increases in fleet fuel efficiency.

The pay-at-the-pump model does not solve every problem. It requires a long timeline to begin and fully transition because this model relies upon automakers to deeply embed the transponders within new vehicles. The start would be at least a decade away for many reasons but primarily because automakers have a seven-year development timeline for new products. Further, the pay-at-the-pump model does not cover all-electric vehicles.

Third, as a *closed system*, the pay-at-the-pump model can evolve only very slowly as technology improves.

Further Development Advisable. The mileage fee needs further development and exploration before implementation. There are other ways to collect mileage fees and they should receive due consideration. There are other ways to create geographic zones—such as accessing cell towers—and there are other ways to bill motorists and accept payment. We have provided a proposal to the Transportation and Infrastructure Committee describing a mileage fee developmental process and recommending additional *nationally directed* pilot projects to solve the remaining issues. A slightly revised version of this proposal is attached to this testimony.

Oregon wants to undertake a new pilot project, this time based on an *open technology platform* founded on open standards and protocols—like the Internet—so the motorist chooses the transponder's capability. The motorist would choose desired levels of privacy protection and additional products and services such as immediate traffic incident reporting, real time traffic speed data, dynamic travel route time estimates and parking availability and many other market-provided options. Motorist choice of transponder and services may lead to greater public acceptance, a shorter adoption timeline, coverage of all types of vehicles and the ability to evolve as technology does.

Conclusion. After years of speaking on this topic around the nation and engaging with real citizens, I believe that appropriate policy making and careful system design can resolve most perceived shortcomings about the mileage fee. Technology will do what policy requires it to do. With careful consideration and adherence to desired public policies, this nation should be able to find the sweet spot of public acceptance.

A Legislative Concept for Creating a VMT Fee System for Passenger Vehicles

July 2009

INTRODUCTION

Fuels taxes are not expected to be a sustainable funding source for highways and transit in the future due to significant improvements in fuel efficiency and growth in the number of alternative fuel vehicles. The Oregon Department of Transportation (ODOT) developed a user fee concept based on vehicle miles traveled (VMT), which would ensure that all users pay for their use of the system and prevent revenues from falling. ODOT proved the feasibility of this concept in a pilot test, and the idea has been endorsed by a number of blue ribbon panels, including the National Surface Transportation Policy and Revenue Study Commission and National Surface Transportation Infrastructure Financing Commission. While other future funding sources may be available, fees based on the number of miles driven seem to hold the most potential as a broadly based revenue source for replacing fuels taxes.

Congress should take a number of steps to develop a vehicle miles traveled based fee system and begin the transition to this funding source when the system is developed. The next authorization legislation should:

- Set a six-year timetable to substantially complete development of a new system so it can be implemented in the next authorization cycle.
- Fund research and development efforts to identify the best collection option and design the system and technology required to implement it.
- Create working groups within US DOT to develop the systems and an independent policy oversight body with the responsibility and authority to make recommendations to Congress.
- Give the Secretary of Transportation authority to require equipment and/or interfaces be placed in all new vehicles in order to speed transition.

VMT FEE DEVELOPMENT STRUCTURE

Policy Statement

The legislation should include a policy statement specifying that Congress believes the states and federal government should fully explore transitioning from the gas tax to a funding system more directly tied to road use and impact on the road system such as a fee based on VMT. This statement should also specify that research and development of a road user fee system based on VMT and other factors should be substantially complete within six years after the enactment of the legislation so Congress or any state can make a decision on whether to implement a VMT fee in the next authorization cycle. In addition, the statement should specify that steps should be taken to allow implementation to begin quickly upon a congressional decision on this matter, and US DOT should be encouraged to proceed with all due speed and to pursue various elements of development concurrently rather than sequentially to facilitate a more speedy process.

Project Team within US DOT
Congress should direct US DOT to create a technical project team to undertake and coordinate work on implementing VMT based fee systems in passenger vehicles.

The project team would be an interdisciplinary team consisting of US DOT staff and others outside the department with a membership that would include (but would not necessarily be limited to) economists, policy analysts, systems analysts, data specialists, systems integration specialists and experts on fuels tax systems, technology, and other relevant areas. The project team should be directed to consult with interested parties, including automobile manufacturers, the fuel and electricity distribution industries, and other affected stakeholders.

The project team should be directed to immediately begin work on developing standards and protocols for mileage counting devices so that this technology could be broadly deployed at the earliest possible date. The project team should also be directed to immediately begin work on developing and/or reviewing technology and systems options for transmitting mileage data from vehicles to collection systems.

Policy Oversight Body
Congress should direct US DOT to create an independent policy oversight body with members from (but not necessarily limited to) states, metropolitan planning organizations, automobile companies, the trucking industry, the business community, non-governmental organizations, the National Academy of Sciences, AASHTO and others. This group would provide leadership over the project teams and oversee the effort, including the distribution of research and development funding. This policy oversight body should take a form that will give it the ability to operate swiftly and efficiently. US DOT and the project team should commence work prior to completion of formation of the policy oversight body.

Reports to Congress
The policy oversight body should prepare three reports to Congress during the development period for VMT fee applications to passenger vehicles.

Phase One Report to US DOT and Congress. Within 12 months of enactment of the legislation, the policy oversight body should review and analyze work completed or underway within the United States and internationally and issue a Phase One Report to US DOT and Congress on various issues related to implementation of a VMT fee charging system, including:

- Feasibility of implementation
    - Identification of potential collection mechanisms
    - Capital costs
    - System operations costs

- System risk and redundancy
- Integration with other tax collection systems
- Seamlessness of transition
- Technological reliability and security and mitigation of component failures
- Retrofitting vehicles and collection mechanisms

- Evasion and avoidance risks
- Collection and enforcement effectiveness
- Privacy protection and audit-ability
- Ease of use by motoring public
- Breadth of payer base
- Transparency and ability to send a price signal
- Adaptability for congestion pricing
- Potential for inclusion of an option for adoption by local government jurisdictions
- Adaptability for environmental pricing and recovery of externalities, including acting as a carbon tax surrogate
- Optimum system architecture
- Equipment specifications
- Benefit/cost analysis of mileage charging system alternatives, including comparisons of alternatives that are integrated with existing state, local and private sector operating systems, all within the context of likely vehicle market acceptance factors and public acceptability
- Integration with VII
- Possible phase-in schedule

This Phase One Report should recommend the advisability of replacing or augmenting the gas tax with a VMT fee. If the policy oversight body recommends replacement of the gas tax with a VMT fee, this report would develop the outlines of the preferred system architecture and identify key *pivot issues* for decision through additional analysis and research and development activities.

Phase Two Report to US DOT and Congress. Within 18 months of issuance of the Phase One Report, the policy oversight body would issue a Phase Two Report. The second report will determine the feasibility of a transitioning to a VMT fee. This report would:

- Make policy recommendations on the key pivot issues that determine system design and public acceptance;
- Define the collection system for the VMT fee;
- Recommend a rate structure for the VMT fee;
- Identify specific research needs;
- Finalize recommendations on systems architecture.

Pilot Program to Test Implementation. Upon release of the Phase 2 report, US DOT would release funding to implement at least one broad-scale pilot project to test each concept. Pilot project results would be requested within 30 months of release of the Phase 2 report.

Phase Three Report to US DOT and Congress. Within 36 months of issuance of the Phase Two Report and as quickly as possible after the conclusion of the pilot program, the policy oversight body would issue a Phase Three Report that provides results and conclusions from the following activities.

- Conduct of targeted state pilot programs for testing, public outreach and policy education;
- Conduct of a broad scale pilot program in preparation for ultimate adoption, building upon the targeted state pilot program research activity;
- Refinement of system technology to commercial viability, including setting final technology standards and database requirements;
- Identification of transition issues and required steps;
- Development of a full implementation timeline;
- Development of data to enable congressional staff to advance statements of fiscal impact for directly related legislation.

This report would also recommend to US DOT and Congress whether to transition from the gas tax to a VMT fee system. If the policy oversight body issues a positive recommendation, US DOT should have authority to develop a transition plan including issuing standards for mileage counting devices and data transmission/receiving systems on vehicles and at collection sites. US DOT should also have the authority to mandate that all new vehicles be manufactured with the required equipment and/or interfaces within a set period.

RESEARCH AND DEVELOPMENT

Congress should authorize $150 million from the Highway Trust Fund to fund *directed* pilot projects and research and development (R&D) activities. Over a six year period, $25 million would be available annually for distribution by US DOT to priority R&D activities, including targeted pilot projects to prove or demonstrate the feasibility of specific system elements and processes, as determined by the policy oversight body.

Upon passage of the legislation, US DOT should issue a Request for Qualifications for organizations such as universities, transportation agencies, and private sector firms (or consortia) who could conduct research under an open-ended contract. US DOT could select, with input from the policy oversight body, one or more of these organizations to be available to conduct research as needed on a flexible, rapid basis. US DOT should also have the ability to issue competitive grants for various research activities. US DOT should be encouraged to immediately undertake R&D activities upon enactment of the legislation rather than waiting for issuance of the Phase One Report.

Of the R&D funding authorized for the first year, $15 million should be made available upon enactment of the legislation, first, for states which have undertaken substantial VMT fee systems research, development and testing and, second, for states that have engaged in substantial planning activities for VMT fee development. These states would work in collaboration with US DOT and the policy oversight body to define a research agenda to address priority research needs.

Chairman NEAL. Thank you.
Ms. Kavinoky.

STATEMENT OF JANET KAVINOKY, DIRECTOR, TRANSPORTATION INFRASTRUCTURE CONGRESSIONAL & PUBLIC AFFAIRS AND EXECUTIVE DIRECTOR, AMERICANS FOR TRANSPORTATION MOBILITY COALITION, UNITED STATES CHAMBER OF COMMERCE

Ms. KAVINOKY. Thank you, Mr. Chairman and Mr. Ranking Member, for the opportunity to testify. On behalf of the U.S. Chamber of Commerce and our Americans for Transportation Mobility Coalition, I am here to ask you to develop a user fee-based funding and financing approach that would enable SAFTEA–LU reauthorization to move forward without delay.

Infrastructure is unlike many problems where you can wait until the last minute and write a big check. Capital construction projects require foresight, years of careful planning and predictable funding.

Two commissions and many other studies have arrived at identical conclusions. At today's level, the revenue sources for the Highway Trust Fund are insufficient to maintain federal programs at current services, much less to begin to address significant investment needs.

Both commissions also reaffirmed that for this reauthorization cycle, raising enough revenue to maintain current services and to address needs comes down to one thing: increasing user fees. The user fee system has been in place since 1956 when Congress dedicated the excise tax on gasoline to pay for construction of the interstate highway system. There is no alternative to the federal funding needed. There is no free lunch and there is no creative option that is going to fill the gaping hole that has emerged. We will either pay for these investments or accept a significantly reduced federal program.

Essentially, as the Chamber sees it, you have three options: to cut back programs to fit available funding levels and ship federal responsibilities to states and local communities; to pay for additional transportation investment with non-transportation-related tax increases or deficit spending, which discontinues the user pays basis of federal transportation policy; or to increase user fees to address the well-documented needs for today and tomorrow, which will support job creation in the short term and provide lasting investments for the long term.

The simplest, most straightforward and effective way to generate enough user fee revenue for federal transportation programs is through increasing federal gasoline and diesel taxes. This fact has been substantiated and endorsed by a broad spectrum of organizations, including the Chamber. The Chamber will offer our full support of a user fee increase if Congress can develop legislation that realistically achieves a refined federal role, oriented around national interests, significant program reform, emphasizing performance management and accountability; improvement in the integrity of user fees by limiting earmarks and non-transportation spending; and the establishment of a roadmap for a sustainable revenue model.

The House Transportation and Infrastructure Committee proposal is a good start towards achieving these objectives. However, one additional condition of the Chamber support of user fees is lacking in the T&I proposal: opening new opportunities for private investment must be part of this legislation.

In addition to increasing user fees, Congress must provide incentives for states and local communities to exercise a full range of financing options to leverage federal, state and local resources, and to access private capital. Public/private partnerships are not a substitute for federal revenues, but they do give states and communities the option to tap the estimated $180 billion in private sector capital available for infrastructure investment. This can be done while fully protecting the public interest. And the Chamber would like to work with Congress to make the necessary changes to the T&I proposal that will open up these new opportunities.

In conclusion, Chairman Neal, Ranking Member Tiberi and Members of the Committee, thank you for holding this hearing. I hope you will consider the business community's strong interest in repairing, rebuilding and revitalizing the nation's transportation infrastructure as you develop the revenue plan for SAFTEA–LU. America's transportation infrastructure cannot fall victim to the practice of doing what is easy over doing what is right. And it is not going to be easy to repair our roads, fix our bridges, and return our avenues of commerce to global competitiveness, but our economy cannot afford to ignore it any longer.

And so what remains is a matter of political will. This debate, and particularly the revenue considerations it entails, will never be convenient. There will never be a good time to talk about how to pay for transportation, but the Chamber respectfully requests that you move swiftly to develop the revenue for SAFTEA–LU. Now is the time to act.

Thank you for the opportunity to testify today, and I will be pleased to answer any of your questions.

[The prepared statement of Ms. Kavinoky follows:]

Statement of the U.S. Chamber of Commerce

ON: FUNDING AND FINANCING OPTIONS FOR SAFETEA-LU REAUTHORIZATION

TO: THE U.S. HOUSE COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON SELECT REVENUE MEASURES

BY: JANET F. KAVINOKY
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DATE: JULY 23, 2009

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business -- manufacturing, retailing, services, construction, wholesaling, and finance – is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. It believes that global interdependence provides an opportunity, not a threat. In addition to the U.S. Chamber of Commerce's 112 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Testimony of Janet F. Kavinoky

Director, Transportation Infrastructure
and
Executive Director, Americans for Transportation Mobility

U.S. Chamber of Commerce

July 23, 2009

Before the U.S. House Committee on Ways and Means, Subcommittee on Select Revenue

Introduction

Chairman Neal, Ranking Member Tiberi, and distinguished members of the House Subcommittee on Select Revenue Measures, thank you very much for the opportunity to testify about federal funding and financing options for surface transportation, including revenue options associated with reauthorization of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

My name is Janet Kavinoky, and I am the Director of Transportation Infrastructure at the U.S. Chamber of Commerce and the Executive Director of the Americans for Transportation Mobility Coalition. The U.S. Chamber is the world's largest business federation representing more than three million businesses and organizations of every size, sector, and region.

Today I am here to ask the House Ways and Means Committee to develop a funding approach to accompany the policy and programmatic aspects of SAFETEA-LU reauthorization. SAFETEA-LU reauthorization should be among top Congressional priorities during these challenging economic times. Now is the time to move on a robust, thoughtful, and comprehensive plan to build, maintain, and fund a world-class 21st century infrastructure. There can be no more delay.

Highways and Public Transportation in Context

For far too long, the United States has failed to make infrastructure a priority, relying on the investments Americans made over 50 years ago to move our nation, and our systems are deteriorating rapidly. Lack of attention to these issues has real ramifications for America's competitiveness and economic health. Without a full reauthorization, taxpayers – individuals and businesses – will see no end to these unacceptable costs that are a result of inadequate infrastructure:

- Congestion costs urban Americans 4.2 billion hours and 2.8 billion unnecessary gallons of fuel. Total cost: $87.2 billion – a "congestion tax" of $757 per traveler. (Texas Transportation Institute Urban Mobility Report 2009)

- Driving on rough roads costs the average American motorist approximately $400 a year in extra vehicle operating costs. Drivers living in urban areas are paying upwards of $750 more annually (The Road Information Program "Rough Roads Ahead: Fix Them Now Or Pay For It Later," May 2009)

- On average, about 40,000 people every year are killed on our streets and highways, with 2.5 million more injured, at a staggering annual economic cost to society exceeding $230 billion. This is equivalent to a "crash tax" of more than $800 for every person in the United States. (AAA Urban Safety Report, 2008)

These are costs to individuals. Add to that the increased costs to businesses. Before the current recession, logistics costs for business climbed for five years in a row, from 2003 to 2008. Higher transportation costs and higher inventory carrying costs – partially attributable to an unreliable, unpredictable transportation system – pushed logistics costs to nearly 10% of GDP. (Council on Supply Chain Management Professionals State of Logistics Report 2008) This nation cannot afford to wait for a solution or to settle for the status quo.

There is near-unanimity about the problems and the level of needs that the reauthorization should address. Two Congressionally-authorized, bi-partisan commissions and numerous think-tanks and interest groups have painstakingly detailed the current needs and potential solutions to the challenges in extensive reports. The pictures these groups have painted are consistently bleak and the conclusions they come to are resoundingly similar: Transportation infrastructure in the United States is at a critical juncture. If local, state, and national leaders do not start making this issue a priority and provide adequate funding, commerce will suffer, fatalities will rise, congestion and pollution with grow unabated, and the United States will find itself further and further behind its rapidly expanding international competitors.

Freight and Goods Movement

Manufactured goods and cargo move through the United States on a system primarily consisting of ports, roads, rail, and inland waterways. According to the National Surface Transportation Policy and Revenue Study Commission, on a typical day, about 43 million tons of goods valued at $29 billion, moved nearly 12 billion ton-miles on the nation's interconnected transportation network. The supply chain is viewed from initial point of origin to the final destination, with frequent junctures in between.

To keep competitive domestically and internationally, many U.S. businesses have developed complex logistics systems to minimize inventory and ensure maximum efficiency of their supply chains. However, as congestion increases throughout the U.S. transportation system, these supply chains and cargo shipments are frequently disrupted and the cost of doing business increases.

Despite the recent economic downturn, the growth in international trade is still expected to overwhelm U.S. intermodal freight capacity over the next 20 years; domestic freight volume is forecast to double and international freight volume entering U.S. ports may quadruple, according to the American Association of State Highway and Transportation Officials (AASHTO).

According to the Federal Highway Administration's (FHWA) report*, An Initial Assessment of Freight Bottlenecks on Highways,* "if the U.S. economy grows at a conservative annual rate of 2.5 to 3 percent over the next 20 years, domestic freight tonnage will almost double and the volume of freight moving through the largest international gateways may triple or quadruple.…Without new strategies to increase capacity, congestion...may impose an unacceptably high cost on the nation's economy and productivity."

Labor shortages and increased security requirements born from 9/11 are compounding these capacity constraints and increasing congestion at key entry, exit, and throughput points throughout the country.

In Memphis, TN, at a hearing of the National Surface Transportation Policy and Revenue Study Commission (NSTPRSC), on November 15, 2006, Doug Duncan, CEO of FedEx Freight and a Chamber member, summed up the freight community's acute interest in infrastructure, "I'm afraid if things don't turn around soon, we'll begin turning the clock back on many of the improvements that these supply chains have made and begin to restrain commerce instead of support commerce."

Passenger Transportation and Personal Mobility

The fastest growing segment of the economy is the services industry, for which human capital is essential. Employers rely on transportation systems to connect them to their workforce, and to connect that workforce with suppliers and customers around the country and the world. Unfortunately, increasing congestion is disrupting these important connections and imposing additional costs on the workforce and employers alike.

State and local chambers of commerce constantly remind us that their communities need transportation choices which in addition to being important solutions to growing congestion are also a valued element of economic development strategies. Yet chronic underinvestment in public transportation, such as buses, rapid transit, and commuter rail systems, is leaving these systems strained under increasing use.
While public transportation ridership is at its highest level in 50 years, with 10.3 billion

trips in 2007, the U.S. transit systems earned a D+ rating from the American Society of Civil Engineers. In 2007, Americans took 10.3 billion trips on local public transportation. From 1995 through 2007, public transportation ridership increased by 32 percent, a growth rate more than double the 15 percent increase in U.S. population and higher than the 24 percent growth in use of the nation's highways over the same period. The Federal Transit Administration (FTA) estimates $15.8 billion is needed annually to maintain current conditions, while $21.6 billion is needed to improve to "good" conditions.

The Importance of Transportation Investment to Economic Recovery in the Short-Run

Economic conditions continued to deteriorate in the first half of 2009 but the pace of contraction has moderated somewhat. Real GDP is expected to rise in the second half and bring an end to the recession before yearend. The recent improvement is the result of a number of factors including lower rates of inflation, more stability in credit markets, continued government stimulus from both monetary and fiscal policy, and a bottoming in the housing market.

While the recession appears to be ending, there are considerable risks to the forecast. Credit conditions remain tight for both households and businesses and financial markets are still stressed. In the labor market, employment declines have remained sizable and the unemployment rate will continue to rise even as the broader economy stabilizes. Finally, demand will be positive but sluggish as consumers grapple with recent declines in household wealth and state and local governments deal with large budget shortfalls.

The American Recovery and Reinvestment Act included roughly $48.1 billion in infrastructure investment to help spur job creation and allow states to keep up with key maintenance efforts during challenging economic times. Although ARRA has been criticized, the transportation projects are the good news story in the stimulus. Yes, it takes some time for the cash to flow, but what is often misunderstood is the reimbursable nature of federal-aid highway and transit programs, which means cash flows are slower than obligations. As of July 15, DOT has made more than $21 billion (nearly half the total $48 billion in funds) available to states. More than 6,300 transportation projects have been approved. For transit projects, $3.2 billion in grants have already been approved and another $5 billion are awaiting approval. More than 2,700 road and airport improvement projects, as well as hundreds of transit projects, are under way right now.

While this was a key investment that continues to spend out, the investments in ARRA should not be considered a substitute for a full surface transportation reauthorization that will address the long-term needs of the nation's transportation system. In fact, the success of the infrastructure spending in the stimulus is largely predicated on a robust, underlying set of investments through the federal programs. To bring U.S. infrastructure into the 21st century to support our recovering economy and ensure U.S. competitiveness, Congress and the Administration need to move forward with comprehensive investments through a long-term reauthorization.

Reauthorizing SAFETEA-LU will support direct, indirect and induced employment and provide long-term economic benefits by helping improve the movement of people and goods. According to the Department of Transportation, each $1 billion in federal highway investment accompanied by the state match supports 34,779 jobs. Jobs supported by investment in infrastructure are not simply confined to the boots on the ground. Infrastructure projects require materials, heavy equipment, and basic services provided through surrounding communities, which lead to growth in other key economic sectors. Each dollar invested in highway construction generates $1.80 of Gross Domestic Product in the short term, according to Standard & Poor's DRI and every dollar taxpayers invested in public transportation generates about $6 in economic returns, reports Cambridge Systematics.

Twin Engines of Reform and Revenue

Safe, Accountable, Flexible, Efficient Transportation Equity Act, a Legacy for Users (SAFETEA-LU), the current highway and public transportation authorizing legislation, expires on September 30, 2009. It has been widely criticized for doing little to identify or address national needs, was heavily earmarked, and essentially over obligated available revenues.

National needs have continued to grow as construction, labor, and land costs rapidly increase, state budgets and credit markets across the county constrict, and federal revenues fall short of projections due to a drop in vehicle miles traveled. For over two years, the Chamber and the Chamber-led Coalition, Americans for Transportation Mobility, have called on Congress to prepare for an on-time reauthorization of SAFETEA-LU. In testimony in front of several House and Senate committees, the Chamber has asked both for improvements in the way federal investments are made and the necessary funding to grow federal highways and transit programs to address needs.

In November 2008, the Chamber's board of directors approved a set of recommendations for Congress that have been provided here for you today. In it, the Chamber outlines high-level objectives the business community deems necessary for a successful bill. Among the highlights,

- Congress must ensure federal transportation policy, programs, and resources are oriented around national needs related to U.S. global competitiveness, international trade policies, interstate commerce, interstate passenger travel, emergency preparedness, and national defense.

  Over the years, these programs have devolved into a political redistribution of federal dollars, instead of thoughtful investments benefitting the nation as a whole.

- The programs should continue to emphasize safety and maintenance efforts.

  With regard to safety, almost 42,000 people are killed each year on the nation's highways, and approximately 15,000 traffic deaths annually are in crashes where substandard road conditions, obsolete designs, or roadside hazards are a factor, according to the U.S. Department of Transportation (DOT). This is unacceptable. The economic cost of traffic accidents in the United States is estimated to be almost $231 billion each year in added medical, insurance, and other expenses, which is about 2 percent of U.S Gross Domestic Product (GDP), according to the U.S. DOT.

- There is a clear national interest in ensuring adequate passenger mobility, particularly in large metropolitan areas. Congress should develop federal policy and programs that support congestion mitigation and improved mobility in urban areas by providing incentives for the adoption of strategies and use of technology that maximize the use of existing facilities, supporting public transportation capacity, availability and ridership strategies and highway capacity where appropriate.

  Much of America's economic activity is based in our metropolitan areas. The 100 largest metropolitan regions in the United States account for just 12 percent of the land area but contain 65 percent of the population, 69 percent of all jobs, and 70 percent of the nation's GDP. The largest 100 metropolitan areas also serve the majority of our transportation activity, handling 72 percent of all foreign seaport tonnage, 79 percent of all U.S. air cargo tonnage, 92 percent of all air passenger boardings, and 95 percent of all public transit passenger miles traveled.

- While the U.S. population is increasingly shifting away from rural areas into massive "megaregions," ensuring rural connectivity is a vital to the national interest. The majority of the United States' natural and agricultural resources are located in rural areas. Further, smaller communities must build and maintain the full range of infrastructure regardless of population size.

  Congress should ensure improved rural connectivity by providing federal investment in small communities and rural areas to support connectivity to major economic and population centers.

- Congress should develop a comprehensive freight program to ensure adequate capacity, reduce congestion, and increase throughput at key highway, rail, waterway, and intermodal choke points.

  The growth in international trade is overwhelming U.S. intermodal freight capacity. In the next 20 years, domestic freight volume is forecast to double and international freight volume entering U.S. ports may quadruple, according to the American Association of State Highway and Transportation Officials

(AASHTO). Transportation bottlenecks at America's major ports, gateways, and trade corridors have significant economic, environmental and energy implications. The federal government currently does not have a comprehensive plan to accommodate existing and forecast freight flow.

- Given the transportation sector contributes roughly a third of all carbon emissions and is responsible for the consumption of two-thirds of the nation's petroleum resources, any climate change legislation is liable to have significant down-stream ramifications for transportation users.

  The Chamber encourages Congress to consider the preservation of American jobs and the competitiveness of U.S. industry when devising policy. Furthermore, any approach to climate change should be international in scope, should promote the accelerated development and deployment of greenhouse gas reduction technology, should reduce barriers to developing climate-friendly energy sources, and should encourage energy conservation and efficiency.

- As the National Surface Transportation Policy & Revenue Study Commission pointed out in their report last year, under current law, there are 108 transportation programs catering to a wide range of interests. The proliferation of federal program categories encourages increased stove-piping and makes it increasingly difficult to advance overarching objectives and diminishes the effective allocation of resources.

  The Chamber recommends that Congress reorganize and consolidate the federal programs around specific, overarching national objectives to ensure that planning is more comprehensive and projects reflect the federal role.

- The Chamber also believes that Congress and the administration can do a great deal more to streamline project delivery. According to the Federal Highway Administration (FHWA), major highway projects take on average about 13 years to get from project initiation to completion while project development activities under the Federal Transit Administration's (FTA) New Starts program average more than 10 years. Delayed project delivery creates inefficiencies across the systems, translates into increased project costs, and can undermine finance plans.

  Congress should also work to expedite project delivery by looking at efforts like the I-35W Bridge reconstruction in Minnesota, which took just over a year from start to finish, as a model.

- The federal government should continue to support research, development, and application of improved technologies that improve infrastructure design, construction, maintenance, financing, and operations, and increase safety and enhance the environmental sustainability of the U.S. highway and public transportation systems.

- Finally, with regard to funding and financing, it is time Congress started to acknowledge that these programs are running on fumes. Both the highway and transit accounts are evaporating and Congress will soon be faced with a choice: to cut federal programs and investment drastically or find more revenue to support these efforts.

- Given the federal government currently provides for roughly 45 percent of all highway and public transportation investments in the United States, it is the Chamber's recommendation that you raise more revenue and better leverage federal dollars by encouraging project financing and delivery approaches that attract private investment.

The full weight of the Chamber will come behind an effort to increase user fees to provide the revenue our transportation infrastructure urgently needs, if Congress can develop legislation that realistically achieves the following:

  - A refined federal role, oriented to achieve national interests.

  - Significant program reform emphasizing performance management and accountability to ensure that costs are minimized and benefits are maximized.

  - Improvement in the integrity of user fees by limiting earmarks and non-transportation spending.

  - New opportunities to access private sector funding sources.

  - The establishment of a road map for a sustainable revenue model.

The House Transportation and Infrastructure Committee authorization bill, the Surface Transportation Authorization Act of 2009 (STAA09) is a good start toward achieving these objectives. Chairmen James Oberstar and Peter DeFazio, and Ranking Members John Mica and Jimmy Duncan (full committee and Highway and Transit Subcommittee respectively) clearly grasp that business as usual will not deliver the kind of transportation system this nation needs to grow and thrive. They have taken a good first step toward reformulating transportation policy and programs for a 21st century economy. The bill as written does not meet all of the Chamber's tests for support -- for example, it erects serious barriers to private sector investment -- however, the Chamber is pleased with other aspects of the legislation including the emphasis on reform, focus on preservation and maintenance, performance-driven safety programs, creation of a freight focus, and inclusion of investments to address congestion issues in metropolitan areas. We pledge to work with the committee to craft a bill that the Chamber can support fully.

Revenue Needs in SAFETEA-LU Reauthorization

Infrastructure is unlike other problems or programs where you can wait until the very last minute and then write a big check. Capital construction projects require foresight and years of careful planning. The nature of infrastructure requires a predictable, sustainable source of funding, whether projects are conducted by traditional pay-as-you-go approaches or are financed with debt, equity or both.

Congress must face the question of how to provide additional revenues not only to maintain current services in the reauthorization bill, but to increase investment in order to address the mounting needs for maintenance, modernization and expansion of the transportation system. The Report of the National Surface Transportation Infrastructure Financing Commission (NSTIFC) is, by far, the most authoritative and informative resource to the Committee on federal funding (revenue) options and financing mechanisms.

That commission reinforced what the National Surface Transportation Policy and Revenue Study Commission made clear: at their current levels, the revenue sources for the Highway Trust Fund are insufficient to maintain federal-aid highway and transit programs at current levels, much less to begin to address the significant investment needs totaling $225 billion per year at all levels of government.

The current user fees generate only enough revenue to finance a $35.1 billion of Federal highway, highway safety, and public transit investments in fiscal year 2010, which would be a 34 percent cut from this year's $53 billion funding level. Without additional revenues, a six-year surface transportation authorization bill could fund only $236 billion in highway, highway safety, and transit investment – $90 billion less than the current services level over the next six years ($326 billion). (Committee on Transportation and Infrastructure, Blueprint for Investment and Reform Executive Summary).

The NSTIFC also reaffirmed that for this reauthorization cycle, raising enough revenue to maintain current services and to address needs comes down to one thing: increasing the user fees on fuels. The "user fee" system has been in place since 1956 when Congress dedicated the excise tax on gasoline to pay for construction of the Interstate Highway System. This system and the Highway Trust Fund have been a stable source of federal highway and transit funding for decades and have offered states and localities the predictability and consistency necessary for capital investment. Fuel taxes are currently the simplest, fairest, and most effective way to generate additional revenues to sustain the user-fee funded approach to surface transportation infrastructure investment. Capital investment requires capital and there is no alternative for the systemic funding needed at the federal level.

The Chamber believes critical reforms need to be made to these national programs that result in a more focused, strategic federal investment that cuts wasteful spending, leverages private investment, and requires accountability. In return, Congress should provide increased revenue to address national needs. There is no free lunch, no "creative option" that will fill the gaping hole that has emerged at the federal level. There are three realistic options to consider, each with a trade off.

> *Option 1: Cut transportation programs commensurate with available funding levels by narrowing the scope of federal transportation programs or by reducing the federal matching share for projects.*
>
> Trade-off: Approaches of this type simply shift responsibility to states and local communities, which will be forced to find other revenue sources to address transportation needs.
>
> *Option 2: Pay for additional transportation spending with non transportation-related tax increases or deficit spending.*
>
> Trade-off: This approach discontinues the "user pays" basis of federal transportation policy. Instead, surface transportation programs will be paid for by increasing corporate taxes or by borrowing from future generations. Most important, this option eliminates the certainty of a multiyear transportation program and forces it to compete with other domestic discretionary programs as part of annual budget and appropriations processes.
>
> *Option 3: Increase user fees to address well-documented needs for today and tomorrow.*
>
> Trade-off: The simplest, most straight-forward, and effective way to generate enough revenue for federal transportation programs is through increasing federal gasoline and diesel taxes. This fact has been substantiated and endorsed in recent studies by a broad spectrum of organizations, including two congressionally chartered commissions and the U.S. Chamber of Commerce.

What remains is a matter of political will. This debate – particularly the revenue considerations it entails – will never be convenient. But matters of convenience are not what Americans ask of their leaders in Washington.

Laying groundwork for the future

The sustainability of the gas tax as the core source of revenue for the Federal surface transportation program will continue to be challenged by the rise in alternative fuels and improvement of fuel efficiency across all automobile classes. The Chamber encourages the Ways and Means Committee to work with the Committee on Transportation and Infrastructure to include an aggressive program of research, development and demonstrations to ready a new approach to use fee collection for the future.

Private Investment

In addition to recognizing the need for increased public funding for infrastructure projects, the Chamber also insists that Congress provide incentives for states and local communities to exercise a full range of financing options to stretch federal, state, and local resources and to access private capital.

Public-private partnerships are not a substitute for federal revenues, but they do give states and communities the option to tap the estimated $180 billion in private sector capital available for infrastructure investment. There is an extraordinary opportunity to unlock years of private sector infrastructure investment by embarking on a common-sense plan to remove and prevent new legal, regulatory, and legislative impediments that now stand in the way, which can be done while fully protecting the public interest and improving the environment.

The federal government should not stand in the way of states and local communities exercising a full range of financing options that stretch federal, state, and local resources and access private capital. Unfortunately, the House authorization bill as currently drafted actively discourages, under the guise of regulation, private investment.

Steps such as making permanent the Alternative Minimum Tax (AMT) exemption for private activity bonds for airport, water, and highway projects would continue to make these securities more marketable and would spur private investment. In addition, the Chamber supports eliminating the caps on public purpose debt. The TIFIA program can be reformed and expanded. Congress should also consider how a National Infrastructure Bank could be structured to attract increased private investment in major infrastructure projects. The success of Build America Bonds included in the ARRA package should be examined and extension of that concept considered.

In short, the private sector can provide vital capital if Congress and the administration make facilitating private investment a priority. The private sector is already responsible for most of the investments in American infrastructure. For example:

- More than 80 percent of America's energy infrastructure is owned and managed by the private sector, including dams, pipelines, the electricity grid, transmission lines, and power generation.
- Nearly all of broadband infrastructure is privately owned and operated.
- Approximately half of America's drinking water systems and an estimated 20 percent of the wastewater systems are privately owned.
- Freight railroads are businesses, and the private sector also participates in providing other transportation infrastructure including roads, ports and inland waterways, airports, and public transit systems.

- Businesses are also key players in the development and application of alternative, clean energy technologies and efficiency measures and thus, will be critical to achieving a vision of a green economy.

Encouraging private investment can help address the highway and transit needs of this country. In order to build on the private sector's already substantial role in infrastructure, there must be a concerted effort to provide incentives for private sector involvement and reduce political risk that stands in the way of private investment by reform and modernizing the rules and procedures that impact project development, finance, and execution.

Needs beyond Highways and Transit Infrastructure

Beyond SAFETEA-LU reauthorization there is a full infrastructure agenda that should be viewed as an opportunity to drive economic recovery and competitiveness—not pushed to the back of the line of national priorities. The U.S. aviation system is currently facing a capacity crisis and roughly one-third of the nation's major roads are in poor or mediocre condition. The aging inland waterway lock and dam system is affecting system capacity and reliability – of the 257 locks on the more than 12,000 miles of inland waterways operated by the U.S. Army Corps of Engineers, nearly 50 percent are functionally obsolete. By 2020, that number will increase to 80 percent. Ports need to accommodate a near doubling of cargo volumes by 2020, with some ports facing a tripling or quadrupling of container volumes moving across their piers.

Aviation

The aviation system, which facilitates business travel, tourism, the movement of domestic and international goods, and national defense, is a disgrace and has been operating without a pilot for sometime now. The state of the air traffic control system is at the heart of America's aviation woes and modernization must be a national priority. Congress and the FAA must act to transform the U.S. aviation system to meet the expected 36 percent increase in fliers by 2015, by expediting air traffic control modernization and providing the necessary investment to increase national aviation system capacity through a multi-year federal authorization.

Freight Rail

As the cost of highway freight bottlenecks and congestion has increased, many have looked to freight rail to carry more freight to relieve truck and highway congestion and help conserve energy, reduce engine emissions, and improve safety. Shippers, too, have started looking to railroads to carry more longer-distance shipments, especially as the costs of truck fuel and labor have increased. Unfortunately, the America's freight rail system also has its capacity issues.

Ton-miles of rail freight carried over the national rail system have doubled since 1980, and the density of train traffic – measured in ton-miles per mile of track – has tripled since 1980. The railroads have had substantial surplus capacity in the rail network for many years. This excess capacity has enabled the railroads to absorb traffic growth with relatively modest additional capital commitments to expand infrastructure. However, this surplus capacity has now largely been absorbed by two decades of growth and major increases in rail traffic volumes of the past few years. The railroad industry's investment in infrastructure alone will not be enough to handle the 67 percent projected increase in freight traffic between 2000 and 2020.

The administration and Congress should enact an infrastructure investment tax credit for the rail industry to help accommodate the projected increase.

Marine Transportation

In November 2007, Congress signaled the importance of investing in the nation's water transportation system when it overrode President Bush's veto of the Water Resources Development Act (WRDA) of 2007. WRDA set a coordinated federal agenda to protect the United States from severe weather and flooding and facilitated commerce at America's ports and inland waterways. This legislation was long overdue.

New federal requirements, on top of a lack of maintenance and modernization, have created congestion, impeding the movement of goods through U.S. ports and inland waterways. Ensuring waterside capacity at U.S. ports is vital to the nation's economy and will prove even more critical with the completion of the Panama Canal expansion in 2014. The administration and Congress can reinforce the federal government's commitment to investing in the nation's water transportation system by acting expeditiously to reauthorize WRDA.

What the Chamber Will Do

The Chamber's efforts on highway and public transportation issues are spearheaded by the Americans for Transportation Mobility (ATM) Coalition. The Coalition is a dynamic group representing businesses, labor groups, public transportation providers, and construction stakeholders throughout the country. To support Congressional efforts to tackle these challenging issues and provide the funding levels needed to support our infrastructure, the Coalition launched the *FasterBetterSafer* Campaign last year. The Campaign's goal is to demonstrate the groundswell of public support for repairing, rebuilding, and revitalizing America's aging transportation system. The Coalition has hosted events all over the country to educate the American public and your constituents about these critical issues and are empowering our growing grassroots network to help make transportation a national priority.

Many of the communities we visit with already have a good grasp of the problems and are working to be a part of the solution. Between the businesses that rely on complex logistics systems to move their goods and public transportation networks to bring their employees to and from work, and the laborers, contractors, engineers, materials providers, there is considerable support for improved and increased federal investment in the United States' transportation network.

The ATM and the Chamber will continue to build these networks to ensure you have all the support you need to move legislation that will make a difference.

Call to Action

For far too long, the United States has failed to make infrastructure a priority, relying on the investments Americans made over 50 years ago, which are rapidly deteriorating. Lack of attention to these issues has real ramifications for America's competitiveness and economic health. The U.S. economy has been the most competitive in the world because of its capacity for innovation, higher education system, market size, corporate ingenuity, fluid capital markets and transportation network. These advantages have allowed U.S. industries to take a leading role in the global economy providing products and services demanded worldwide. Transportation has been the foundation of this success, but it is now becoming our Achilles heel.

The U.S. network of transportation infrastructure – the highways, bridges, public transportation systems, airports and air traffic control system, rail, inland waterways and ports – have become woefully inadequate to support the 21st century economy and the American way of life. As Mike Eskew, former Chairman and CEO of UPS, recently noted, "While commuters can feel the personal assault of traffic jams and flight delays, many do not appreciate how congestion affects the movement of the nation's freight, and how an over-stressed infrastructure slows delivery times, creates unpredictability in supply chains and ultimately makes U.S. businesses less competitive and consumer goods more expensive." Without question, current investment levels and planning are not keeping pace with systemic needs.

All the while America's global competitors surpass our efforts by leaps and bounds, threatening to leave us in the dust. Decades ago the United States built the best infrastructure the world had ever known and proceeded to take it for granted. We have allowed governments at all levels to pile on complex and overlapping regulations, making it exceedingly time-consuming to build or improve America's infrastructure. Americans have learned to live with sub par performance because the deterioration has been so slow, like a trickle from a pinprick hole in a dam … roads have slowly gotten more congested … potholes have proliferated … commute times have expanded …flight delays have become more frequent … the power goes out a little more frequently. As Thomas Friedman recently noted in one of his columns, landing at Kennedy Airport from Hong Kong is like going from the Jetsons to the Flintstones.

There is near-unanimity about the problems that the reauthorization should address. Two Congressionally-authorized, bi-partisan commissions and numerous think-tanks and interest groups have painstakingly detailed the current needs of the national transportation system in extensive reports. The pictures these groups have painted are consistently bleak and the conclusions they come to are resoundingly similar: Transportation infrastructure in the United States is at a critical juncture. If local, state, and national leaders do not start making this a priority, commerce will suffer, fatalities will rise, congestion and pollution with grow unabated, and the United States will find itself further and further behind its rapidly expanding international competitors.

The reauthorization of America's surface transportation programs will not be a simple task and the Coalition recognizes the myriad challenges implicit in such a debate. However, the consequences of inaction and delay are just too great and the benefits of moving forward too considerable for Congress to abdicate. The aforementioned commissions provided hundreds of well-considered recommendations to help guide this reauthorization process and inform Congress of the appropriate reforms that need to be made. All the Congressional committees of jurisdiction have held numerous hearings to consider the best path forward and the House Transportation & Infrastructure Committee has a draft bill ready to advance for debate. What remains is a matter of political will. This debate – particularly the revenue considerations it entails – will never be convenient. But matters of convenience are not what Americans ask of their leaders in Washington.

Conclusion

Chairman Neal, Ranking Member Tiberi, and members of the Committee, I hope you will consider the business community's strong interest in repairing, rebuilding, and revitalizing the nation's transportation infrastructure as you develop the revenue plan for SAFETEA-LU reauthorization.

The Chamber will continue to educate and mobilize the American people to and demonstrate that there is an appetite for increased investment at the federal level.

The law funding our surface transportation programs expires on September 30. Congress and the Obama administration need to seize this critical opportunity to ensure America has the best infrastructure system in the world. Now is the time to act.

America's transportation infrastructure cannot fall victim to the practice doing what is easy – delaying the tough decisions – over doing what is right. It will not be easy to repair our roads, fix our bridges, and return our avenues of commerce to global competitiveness, but our economy cannot afford to ignore it any longer. It is an essential investment for the future of our country.

The Coalition strongly urges Congress to make this the national priority it should be. If done right, highway and public transportation reauthorization can help drive economic recovery and competitiveness while improving the environment and addressing critical safety needs. The decisions about funding and financing will not be easy, but that does not mean they should be avoided. The Chamber is pleased that the Subcommittee on Select Revenue Measures is holding hearings on this issue and we ask that you move swiftly to develop the revenue title for SAFETEA-LU reauthorization.

Thank you very much for the opportunity to be here today.

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Enclosure

U.S. Chamber of Commerce Recommendations to Congress Regarding SAFETEA-LU Reauthorization

Defining the National Interest and the Federal Role

- The U.S. Chamber of Commerce believes that federal transportation policy, programs, and resources should support U.S. global competitiveness, international trade policies, interstate commerce, interstate passenger travel, emergency preparedness, and national defense, which are compelling national interests.

Policy Objectives

Therefore, the federal government bears significant responsibility to ensure that efforts advancing the following policy objectives are prioritized and funded.

Modernization and Maintenance

- Highway, transit, and intermodal assets identified as being in the national interest should be brought into a state of good repair and modernized. Congress should outline a comprehensive plan involving federal, state, local, and private stakeholders to
    - define and identify highways, transit, and intermodal assets in the national interest,
    - establish performance measures to guide government investment, and
    - incorporate technology and safety upgrades, including open standards-based information technology, into modernization, maintenance and preservation activities to the greatest extent possible.

Safety

- The U.S. Chamber supports a continued federal role in ensuring a comprehensive, results-oriented approach to safety through national safety goals, performance metrics, and complementary plans to guide investment.

- Incentives should be provided for applying best practices and advanced safety technologies and equipment.

Freight Mobility

- A national freight transportation program for identifying and funding federal, state, and metropolitan efforts to ensure adequate capacity, reduce congestion and increase throughput at key highway, rail, waterway and intermodal choke points is needed.

- The program should include a national freight transportation plan built on performance measures and should include a comprehensive survey of key freight corridors and other assets.

- A national freight transportation plan should incorporate the development of new capacity, access routes to major water ports and airports, access routes to border crossings and international gateways, operational strategies to improve utilization of existing assets, and strategic intermodal investments to expedite freight movement.

- The plan should guide government project selection and prioritization.

- The program should not dilute other federal transportation priorities.

Urban Mobility

- Federal policy and programs should support congestion mitigation and improved mobility in urban areas by

    - providing incentives for the adoption of strategies and use of technology that maximize the use of existing facilities,

    - supporting public transportation capacity, availability and ridership strategies where appropriate, and

    - supporting increased highway capacity where appropriate.

Rural Connectivity

- Federal investment in small communities and rural areas should primarily support connectivity to major economic and population centers.

- Investment should be guided by national connectivity goals, population density thresholds, and standardized measures of access.

Environment and Energy

- Our country's energy goals will only be met by a commitment to technology innovation and to *all* types of available energy sources.

- Climate change policy choices have major economic consequences and should not be made without adequate opportunity for debate by lawmakers. Any and all policy decisions relating to the control or reduction of greenhouse gas emissions should be based on a complete understanding of scientific, economic, and social consequences, in order to ensure balanced industrial growth, economic progress, high-quality living standards, and a healthy environment.

- Any and all climate change policy decisions must
  - preserve American jobs and the competitiveness of U.S. industry,
  - provide an international, economy-wide solution, which includes developing nations,
  - promote accelerated development and deployment of greenhouse gas reduction technology,
  - reduce barriers to developing climate-friendly energy sources, and
  - promote energy conservation and efficiency.

- The voluntary use of all forms of public transportation that can be demonstrated to be energy efficient and cost-effective should be encouraged in a way that does not restrict individual choice among competing transportation modes.

- Strategies for improving air quality in regions of the country that do not meet federal standards (e.g., NAAQS nonattainment for a criteria pollutant) must recognize the importance of technological innovation and modernization of the economic base in achieving environmental quality, and must not place an undue burden on economic development.

Methodology

Program Consolidation and Accountability

- Federal programs should be reorganized and consolidated around specific, overarching national objectives to ensure that planning is more comprehensive and projects reflect the federal role.
- Project approval and funding should be linked to economic benefits and performance-based outcomes.
- Performance-based outcomes should be achievable and cost-effective for consumers and economically practical and feasible for industry.
- States and localities should be allowed to pursue solutions that work best locally to meet their unique transportation needs. If those solutions are implemented with federal funding, they should measurably contribute to addressing national interests.

Research and Development

- The federal government should support research, development, and application of improved technologies that
    - improve infrastructure design, construction, maintenance, financing, and operations, and
    - increase safety and enhance the environmental sustainability of the U.S. highway and public transportation systems.

Project Delivery

- The federal government should improve and make consistent the project review and approval process for all modal investments to ensure the completion of transportation infrastructure improvements in a timely and environmentally sound manner.

- The federal government must shorten the time it takes to complete environmental reviews and must support other measures to speed project delivery once they clear environmental review.

- The federal government should encourage private sector involvement to help expedite project delivery.

- Life cycle costs should be utilized in federal-aid projects where appropriate.

Funding

Federal Funding Levels

- Funding levels should be directly tied to fulfilling the federal responsibility in meeting the national interest.
- Current revenue streams are not sufficient to maintain federal-aid highway and transit programs at existing service levels, nor will they be sufficient to meet projected future highway and transit needs.
- Additional revenues are required, and the U.S. Chamber will evaluate funding levels in relation to proposed policies and programs that support the national interest and reflect an appropriate federal role.

Federal Revenue Principles

- A user fee-based trust fund, protected by budgetary firewalls, should be the backbone of federal highway and public transportation investment.

- Funding guarantees, which provide support for stable, long-term capital planning, should be maintained. General funds supporting transit programs should be guaranteed.

- Unobligated revenues should not be allowed to accumulate in the Highway Trust Fund beyond amounts necessary to meet cash flow requirements.

- Revenue mechanisms should be structured to ensure that the purchasing power of revenue sources keeps pace with inflation.

- Congress should develop a road map for a sustainable revenue model that maintains an equitable distribution across all system users, provides adequate and predictable revenue, and is administrable with minimal overhead.

- Funding allocations from the Highway Trust Fund should be strictly assigned only to transportation purposes.

Private Investment and Financing

- The federal government should encourage project financing and delivery approaches that attract private investment.

- The federal government should expand its role as a financing partner and a lender of last resort.

- Congress should lift the cap on private activity bonds for highway and transit infrastructure.

Earmark Reform

- Earmarks can undermine the integrity of federal transportation programs and should be limited if they

    - are not related to, or are only tangentially related to, transportation infrastructure,

    - do not address the goals of federal transportation policy, and

    - have limited or no national benefit.

- Any funds earmarked for specific projects in the next authorization should be obligated during the authorization period.

Conditions for Chamber Support of Increased User Fees

- The U.S. Chamber would support an increase in user fees if Congress advances a reauthorization bill that realistically achieves the following:
    - A refined federal role, oriented to achieve national interests.
    - Significant program reform emphasizing performance management and accountability to ensure that costs are minimized and benefits are maximized.
    - Improvement in the integrity of user fees by limiting earmarks and non-transportation spending.
    - New opportunities to access private sector funding sources.
    - The establishment of a road map for a sustainable revenue model.

Chairman NEAL. Thank you.
Mr. Wytkind.

STATEMENT OF EDWARD WYTKIND, PRESIDENT, TRANSPORTATION TRADES DEPARTMENT, AFL–CIO, WASHINGTON, D.C.

Mr. WYTKIND. Thank you, Mr. Chairman, for inviting the Transportation Trades Department, and its 32 affiliated unions, to present our views on the needs of our nation's surface transportation system.

I am pleased to hear the comments from many analysts today over the course of a very long hearing. And I am pleased to be here with major segments of the business community making the case for more investment in our nation's infrastructure.

We cannot wait another 18 months for reauthorization of this program, as some would have us do. Americans suffering in this recession cannot wait until 2011 for more good jobs. Our transportation system and infrastructure are plunging into a state of severe disrepair and cannot wait 18 months or longer for new investments. And our national economy, reeling from too many years of inaction and neglect on this important issue, cannot wait a year and a half, or as many argue, 2 to 3 years for Congress to work its will on this critical legislation.

Why the urgency? Well, let's look at mass transit nationwide. The systems are hemorrhaging, from Boston to St. Louis, Cleveland to Portland, Oregon, Atlanta, Miami, statewide in California and virtually every major urban, suburban and rural area in the country. Service and job cuts are mounting, and there is no relief in sight.

Transit is a growth industry. We are witnessing that growth and yet, as state and local budgets decline in this very difficult economy, massive budget crises are forcing reductions in investment in infrastructure, reductions in service, and, unfortunately, the layoff of many employees. It is no better in transportation construction nationwide, where the national jobless rate is approaching 20 percent, even worse in many states.

History shows that transportation infrastructure bills are engines of job creation. The economic recovery bill, which dedicated $48 billion to infrastructure in transportation, was a great first step but was only a down payment on the massive investments and the job creation that is so badly needed in this difficult economy.

Look at the snapshot of our infrastructure today. The average commuter rail passenger coach is 24 years old. Sixty-two percent are being used beyond their replacement age. Fifty-nine percent of transit buses need to be replaced within 6 years. More than 20 percent of city roads did not pass the basic test for pavement and ride quality. And 26 percent of the nation's bridges are structurally deficient.

Poor roadway conditions are a number one contributing cause of motor vehicle crash severity, which costs our government, the American taxpayer, and our healthcare system $12 billion annually. And if we kick this can down the road, as unfortunately some would have us do, that can is going to land in a pothole, and we are going to have a problem dealing with the immense needs of our nation's transportation system.

If you look at our passenger and freight rail needs, which the House T&I Committee bill tries to address, they also have massive infrastructure needs. Both freight rail and passenger railroad needs are tremendous and are not going to be addressed without a very serious surface transportation bill.

Some are trying to use the crisis in the Highway Trust Fund as a reason to delay a multi-year bill. The fact is that we must do both. We must pass the Highway Trust Fund before the August recess, and we must complete the authorization bill in this Congress. The nation cannot wait for action on either of these priorities.

We know that these are serious times with several critical issues demanding leadership. Last night, we heard the President make the case for healthcare reform, achieving energy independence is also a critical issue, and of course the deep recession weighs on the minds of Americans. These are issues our members care about as well, and they understand their importance and they face them everyday. But the transportation investment gap is also a critical issue. If we do not make a significant commitment to transportation now, when will we be able to do it? Without such a commitment we will cause irreparable harm to our economy for years to come.

We live in a time in Washington where there are other big issues that Members of Congress are debating and trying to solve, but if we do not act now, we are worried that the dilapidated state of our transportation system will continue to choke the U.S. economy.

We must pay for America's massive transportation infrastructure needs with dollars, not fairy dust or more hyperbole about the need to invest in America and its transportation system. There are two choices: raise revenues or fail to meet this country's real needs. If we fail, we also miss the opportunity to put people to work while the economy continues to bleed jobs. We heard from Mr. DeFazio about taxing oil securities and we think this is a serious proposal that ought to be considered because it does two things: it goes after unsavory oil speculation and goes a long way to fill the gap in our ailing surface transportation system.

The VMT issue is a very important one. We are going to join in that debate. Other than dealing with some very basic driver privacy issues, we think it is a very viable proposal that ought to be looked at, and we look forward to working with you on that.

Lastly, I would just conclude, the gas user fee is really what we need to be looking at. The transportation labor movement has endorsed an increase in the user fee tax because we think it is the only way to deal with this huge investment gap, and we are hopeful that in the coming months the Congress will work its will and adopt such a measure.

Thank you for having us.

[The prepared statement of Mr. Wytkind follows:]

TTD A BOLD VOICE FOR TRANSPORTATION WORKERS

WRITTEN STATEMENT OF
EDWARD WYTKIND, PRESIDENT
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO

HOUSE SUBCOMMITTEE ON SELECT REVENUE MEASURES
ON
LONG-TERM FINANCING OPTIONS FOR THE HIGHWAY TRUST FUND

July 23, 2009

On behalf of the 32 member unions of the Transportation Trades Department, AFL-CIO (TTD), thank you for inviting me to testify on the financing provisions of the federal surface transportation programs.

These are perilous economic times. The workers that our unions represent face unprecedented economic risks. Overall, unemployment and under-employment are high, the earning power of working families is stagnant at best and many economists say the jobless rate is likely to continue rising for many months.[1] In the transportation sector alone, approximately 367,300 jobs have been lost during this recession.[2] With that backdrop, I commend this Committee for holding this hearing to consider options for boosting investment in the nation's surface transportation infrastructure.

The reauthorization of the federal surface transportation programs, set to expire at the end of September, offers an excellent opportunity to both create economic growth in the near-term and to address years of underinvestment in our transit systems, roads, bridges and other segments of our transportation network. This is our opportunity, quite literally, to build the bridges to a better economic future.

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[1] Shierholz, Heidi, *Jobs Picture for July 2, 2009: Nine Years of Job Growth Wiped Out*, Economic Policy Institute, Washington, D.C. June 2009.

[2] Total job losses in the transportation sector come from the Bureau of Labor Statistics' *The Employment Situation: February 2008* and *The Employment Situation: June 2009*, which measure the change in nonfarm payroll figures from the beginning of the recession in December 2007 through June 2009. Figures determined by examining payroll changes from the December 2007 Establishment Data and the June 2009 Establishment Data. Industry sectors used for calculation include transportation and warehousing and manufactured transportation equipment, excluding manufactured motor vehicles and parts.

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Edward Wytkind, President • Patricia Friend, Secretary-Treasurer

Later in my statement I will specifically address several potential means to raise revenues for the surface authorization and address the Highway Trust Fund shortfall. This is the essence of our challenge. We need to repair America's crumbling infrastructure and prepare our economy for the challenges that lie ahead. We must find a way to finance Transportation and Infrastructure Committee Chairman Jim Oberstar's vision for a new transportation future. But first I would like to set the stage by addressing the state of the economy from the perspective of transportation labor. When combined with the historic economic stimulus bill, this authorization would produce additional jobs in an economy struggling to stem job losses. With all the discussion in Washington about the need to promote economic recovery, we urge you to consider this authorization legislation as another chance for Congress to pass a true stimulus bill that puts people to work in good, family-supporting jobs. After all, every billion dollars Congress and the President invest in surface transportation will create at least 30,000 jobs.

We need a surface transportation authorization bill today. To move legislation to the President's desk, we must have an honest discussion about investing in and paying for our vast transportation needs. Make no mistake – the costs of delaying this bill are higher than the costs of passing it. Without a surface transportation authorization, our transit systems will not meet soaring demand, our highways and bridges will continue to crumble, transportation and construction unemployment will rise, transporting freight will become more expensive and our economy will suffer.

Long-term postponement of the surface transportation reauthorization as some have proposed is a mistake. We simply cannot tell unemployed and underemployed transportation workers to wait at least 18 months for a crucial jobs bill that history shows will contribute to the economic recovery. The time to act on a multi-year bill is now.

We understand the concern about revenue shortfalls in the Highway Trust Fund. We share this apprehension and have confidence that Congress and the President will take the actions necessary to address the problem. But we reject the notion that pursuit of a long-term authorization now somehow threatens action to deal with the significant funding shortfalls in the Highway Trust Fund. We know that Congress will do whatever it takes – at the appropriate time – to ensure these crucial investment programs do not lapse. And we are mobilizing to urge Congress and the President to take immediate action to replenish the shortfall in the Highway Trust Fund before the August recess.

As this Committee considers revenue options for a multi-year authorization bill, we must have an honest discussion about paying for these important investments. Those on both sides of the aisle must reach consensus that cheap shots and political attack ads on the gas tax and other revenue options do a shameful disservice to our nation and undermine our ability to solve the serious national challenges we are discussing today. The nation needs a bipartisan truce on funding this program because inaction places the national economy at severe risk. Americans need leadership in Washington, not more politics as usual.

The state of transit systems across the country illustrates this point. Due to state and local budget shortfalls, service and job cuts are occurring even as transit is more popular than ever. As we speak, drastic cuts and layoffs by transit agencies are either being considered or have already happened. For example, the St. Louis Metro laid off over 550 employees and cut transit service by 30 percent,[3] while the Cleveland Regional Transit Authority (RTA) plans to cut 300 jobs.[4] Meanwhile, as states like California suffer from budget crises, the catastrophic problems faced by their mass transit systems will only add to the burden. In fact, New York City's MTA narrowly averted a doomsday scenario of service cuts and job losses through last-minute fare increases and tax hikes. To help address this problem, Congress included limited flexibility in the Omnibus Appropriations bill to allow transit agencies to use some of their capital funds provided in the economic recovery bill for operating needs. While we strongly support this provision, it is only a stop-gap measure. We need a permanent solution that provides flexibility to transit agencies so they can better manage the ebbs and flows of the economy, budgeting and funding.

Meanwhile, the capital needs of our nation's mass transit system continue to languish due to insufficient funding. The condition of transit fleets, stations and critical technologies remain incredibly outdated. According to the Federal Transit Administration (FTA), over one-third of the capital assets of the seven largest rail transit operators – who together serve more than 80 percent of all rail transit riders – are either in poor or marginal condition.[5] A $50 billion investment will be required to return these capital assets to a state of good repair. [6] Overall, estimates suggest that improving our nation's transit system will require capital expenditures of $21.6 billion annually.[7] In 2008, total capital spending at all levels on transit was only $12.6 billion.[8]

The recession has caused a dramatic downturn in construction employment. Since December 2007, almost 1.3 million construction jobs have been lost.[9] As of June 2009, there are more than 1.6 million unemployed construction workers across the nation.[10] Last month, the unemployment rate in the construction sector hit 17.4 percent—up 9.2 percentage points since June 2008[11], and in Michigan the figure approaches 40 percent. These are the worst employment numbers in any industrial sector. Construction employment is lower now than at any point in 11

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[3] Press Release, "McCaskill Urges Stimulus Money for Transit Programs to Include Operational Needs," Office of Senator Claire McCaskill, May 12, 2009.
[4] "RTA needs $9 million to avoid cutting routes, layoffs," *Cleveland Plain Dealer*, March 25, 2009.
[5] *Rail Modernization Study: Report to Congress* Federal Transit Administration, April 2009.
[6] Ibid.
[7] U.S. Department of Transportation, Status of the Nation's Highways, Bridges, and Transit: 2006 Conditions and Performance, 2007.
[8] Ibid.
[9] The Bureau of Labor Statistics, *The Employment Situation: June 2009*.
[10] Total unemployment for construction workers derived from the Household Data set of the Bureau of Labor Statics' *The Employment Situation: June 2009*.
[11] Ibid.

years.[12] Nonetheless, as the condition of our roadways and bridges continue to deteriorate, the need to put people back to work could not be more evident. As of 2008, more than 26% of the nation's bridges were classified as structurally deficient.[13] From 2005 to 2008 the number of deficient bridges in urban areas, which are the most traveled and vulnerable, increased by over 2,000.[14] To significantly reduce the number of deficient bridges will require a $6.5 billion yearly increase in spending, from $10.5 to $17 billion.[15] Similarly, the Department of Transportation has found that the urbanized portions of the interstate highway system are also declining in quality.[16] According to the American Association of State Highway and Transportation Officials (AASHTO), an investment of between $132 and $166 billion is needed to merely improve our highway system – a significant departure from $78 billion most recently allotted by all levels of government for highway capital improvements.[17]

Freight movement offers a glimpse at our overall economy. Forty percent of American freight is transported by rail.[18] Reports indicate that freight rail business is down 25 percent; at least 10 percent of the industries workers are furloughed. However, when the economy does pick up, meeting the projected demand will require an increase in investment of $3.4 billion per year.[19] Port workers on both the east and west coast are also suffering in this economic downturn. As inbound and outbound cargo is badly depressed, work hours are being reduced to levels not seen in years. Our longshore affiliates report that in some West Coast ports volume has fallen to 2003 levels, while volume on Atlantic and Gulf Coast ports is down 25-35 percent. Longshore workers understand that a strong, immediate surface transportation authorization bill will help expand the economy and will ready our transportation system and economy for the next wave of growth.

Transportation labor believes the economic recovery bill passed by Congress and the President is starting to produce real results. By mid June, the Department of Transportation had made $47.5 billion available to states and obligated $20.7 billion.[20] Hundreds of thousands of jobs will be created or saved because of these transportation sector investments. More than 2,000 highway

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[12] Summary of Subject Matter, Hearing on the Importance of Long-Term Surface Transportation Authorization In Sustaining Economic Recovery, Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, July 14, 2009.
[13] American Society of Civil Engineers, *2009 Report Card for America's Infrastructure*, January 2009.
[14] Ibid.
[15] American Association of State Highway and Transportation Officials, *Bridging the Gap*, July 2008.
[16] U.S. Department of Transportation, Status of the Nation's Highways, Bridges, and Transit: 2006 Conditions and Performance, 2007.
[17] American Association of State Highway and Transportation Officials, *The Bottom Line Report*, April 2009.
[18] "Freight Railroads: Industry Health Has Improved, but Concerns about Competition & Capacity Should Be Addressed," Government Accountability Office, October 2006.
[19] Figures from the National Rail Freight Infrastructure Capacity & Investment Study, Cambridge Systematics, Inc., September 2007, which estimates that freight rail must invest, beginning in 2007, $148 billion over the next 28 years, or approximately $5.3 billion annually. In contrast, a total of $1.9 billion was spent on freight rail in 2007. The $3.4 billion figure is the difference between these numbers.
[20] Summary of Subject Matter, Hearing on the Importance of Long-Term Surface Transportation Authorization In Sustaining Economic Recovery, Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, July 16, 2009.

bridge projects are under way and positive economic effects will continue for an additional two years. Amtrak is restoring about 80 rail cars with Recovery Act funds and has hired 400 workers, many of whom were former auto workers. It expects to fill almost 9,000 new job openings in the next two years.[21] Fifty percent of the funds for mass transit are now approved or waiting for final federal signoff. The Federal Transit Administration has awarded $3.4 billion in 360 grants. Additionally, 325 grants valued at $3.96 billion are being reviewed and pending award.[22]

But the stimulus is not enough. This nation clearly needs to continue to invest in jobs, infrastructure and to bolster our fledgling economy. The surface transportation authorization is one of the most important jobs bills in Congress. Over 12.5 million family wage jobs will be either created or preserved by the Transportation and Infrastructure Committee's surface transportation authorization.[23] One of the main hurdles to the passage of this bill are the financing provisions we are here to discuss today.

Transportation labor and several of the other organizations testifying today have called for an increase in the gas tax to fund needed improvements to our surface transportation system. This user fee has not increased since 1993, a 16-year period in which one-third of its purchasing power was lost as construction costs, freight shipments and passenger traffic skyrocketed. Increasing this user fee is core to any effort to pay for transportation infrastructure investments. We know other alternatives will be considered such as a vehicle miles tax, tolling, bonding and so on. We will work with Congress to review these options but it is important to realize that the user-based system for collecting funds to support our surface transportation system is failing and Congress must act to fix it. Unless we act expeditiously to address the fuel user fee, congestion will increase, transit systems will fail to meet soaring demand, bridges will fail, safety will suffer and unemployment will rise. This decision cannot be delayed any longer as the Highway Trust Fund and the Transit Account continue to lose purchasing power.

Two federal commissions have supported an increase. In March of this year, the National Surface Transportation Infrastructure Financing Commission called for a 10 cent increase in the federal gas tax and a 15 cent increase on diesel. Last year, a majority of the National Surface Transportation Policy and Revenue Commission called for an annual increase of five to eight cents for five years. These commissions, chartered by Congress, show the way forward. They provide the only near-term solution to our surface transportation funding needs.

Many economists, including those in the Administration, have raised concerns about increasing the gas tax during this economic downturn. Some have suggested delaying the gas tax increase for one or two years. Others support triggers so that the increase would kick in after the end of

[21] Statement of Amtrak President and CEO Joseph Boardman at a Senate press conference on July 15, 2007.
[22] "American Recovery and Reinvestment Act (ARRA)," Federal Transit Administration website, http://www.fta.dot.gov/index_9440.html, July 21, 2009.
[23] Testimony of Rep. Peter DeFazio at the Hearing on the Importance of Long-Term Surface Transportation Authorization in Sustaining Economic Recovery, Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, July 16, 2009.

the recession. Subcommittee on Highways and Transit Chairman Peter DeFazio has discussed indexing the gas tax to the construction cost index. He would also use this revenue stream to issue bonds, which would provide a funding stream in the neighborhood of at least $50 billion during the early years of the bill. Transportation Labor is not wedded to any one of these ideas, but we do believe they offer concrete, carefully considered solutions to the problems we face. We encourage Congress to carefully consider these concepts as a means to reach principled compromise on this important issue.

Mr. DeFazio has offered a new proposal worthy of serious consideration: a transaction tax on crude oil securities. Under this proposal, crude oil futures contracts would be taxed at a 0.02 percent rate with an additional 0.5 percent tax on crude oil options. This would create a $190 billion revenue stream over six years. Beyond simply providing the necessary funding, this proposal could also lower crude oil prices and reduce price volatility. With all the concerns expressed by Congress about the conduct of oil market speculators, Mr. DeFazio offers an opportunity to finally reign in the excesses created by rampant speculation, protect the public and fund vital surface transportation needs.

A variety of innovative finance proposals have been offered to fund transportation and infrastructure. While we believe that these are important ideas, they are tangential to the larger discussion of the gas tax user fee. Public-private partnership (PPP) arrangements, the federal infrastructure bank and other proposals do not offer a solution to the core funding problem. We will continue to support some of these concepts as a means to supplement direct federal investment, as outlined below, but they will never offer the primary means of transportation infrastructure funding.

PPPs arrangements are likely to be included in the final version of the surface transportation authorization. We continue to believe that the vast majority of transportation projects are not a candidate for this funding mechanism. PPPs simply cannot offer the revenue streams necessary to finance a national, intermodal transportation system. But PPPs do provide the means to fund certain types of transportation projects. With any PPP arrangement, we must protect workers and taxpayers from one-sided agreements that provide long-term benefits to investors without improving either service or infrastructure. These protections will ensure that PPPs are only allowed when the public interest is preserved. Additionally, we call for protections in this section of the bill for those workers who could potentially be adversely impacted by PPPs.

The vehicle miles traveled (VMT) fee has the advantage of charging a user fee to those who utilize our roadways, just like the gas tax. In the near future, some believe it may replace the gas tax as the primary funding source for the Highway Trust Fund. However, by most accounts it will be years before a VMT system is ready for implementation. A transition period of several years will be needed to plan such a significant change in funding. During that period we encourage Congress to consider protections in order to protect the privacy of drivers, including those with commercial drivers licenses. Additionally, we encourage Congress to exclude or discount VMT charges for mass transit and over-the-road buses because they contribute to decreases in traffic congestion.

As Congress considers these and other proposals to address financing issues in the next surface transportation authorization bill, transportation labor urges the application of all appropriate labor protections. Worker protections play an important role in any efficient and safe transportation system. We are pleased to see the Transportation and Infrastructure Committee's commitment to 13(c) transit worker protections and Davis-Bacon prevailing wage requirements. These protections should apply to all appropriate federal transportation funding programs. We look forward to working with members of Congress to ensure this outcome.

Mr. Chairman, thank you for convening today's hearing to discuss financing mechanisms in the surface transportation bill. On behalf of transportation labor, I urge you to act on this complex transportation revenue issue. We cannot postpone action on this bill for 18 months. Such a long wait will undermine the job creation benefits in the Recovery Act. And we fear an 18 month delay could result in a three or more year delay. The nation cannot wait for action on this legislation – more delay means millions of lost jobs at a time when our economy can least afford it.

The time has come to act. I urge you to do so immediately.

Thank you for inviting us to present our views.

Chairman NEAL. Thank you.
Mr. Weaver is recognized for testimony.

STATEMENT OF DON WEAVER, VICE PRESIDENT, WEAVER–BAILEY CONTRACTORS, EL PASO, ARKANSAS, AND CHAIR OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, WASHINGTON, D.C.

Mr. WEAVER. Yes, Mr. Chairman and ranking member, thank you all for letting us come today on behalf of the AGC, the Associated General Contractors, which is the oldest transportation division in the United States. We represent people that build highways, bridges, transit systems and railways. And I think it is kind of neat that the contractors get to come last. We are the ones out there building the things and putting the people to work, so we appreciate the opportunity.

We believe the transportation challenges facing the United States are significant and must be addressed in a prompt and reasonable manner. Increased investment is vital and all options should be considered. As you heard today, our immediate concern is the SAFTEA–LU shortfall of $3 to $8 billion, we are not sure, we have heard all over the road over that. But failure to do that will render us having to give our employees possibly IOUs for paychecks. It is going to be hard for our folks to take those to the grocery store and buy groceries. So anything you all can do to help bridge that gap before the end of this fiscal year, we greatly appreciate and our employees appreciate.

Congress must also take action to ensure program continuity. The construction industry makes decisions about investment in new equipment and retaining and training our workforce based on long-term goals and needs. Without the knowledge that a continuous and growing market is on the horizon, contractors will not be able to make investments necessary to train new people and buy new equipment. This hurts Caterpillar, John Deere and everybody across the row. Efficiency and productivity increases when we can project a steady workplace in the future. Enactment of a 6 year program ensures continuity and therefore must be a priority.

As part of the reauthorization, as you all well know, the Trust Fund is ultimate paygo. Highway users pay fees that reflect their usage of the system. The short fall we face in the immediate future is only a symptom of long-term problems facing the Trust Fund, as you all have heard today. Revenue has not kept pace with funding commitments and transportation needs. And as the economic conditions have worsened, revenue has continued to plummet. Significant increases in the cost of fuel, more fuel-efficient vehicles and alternatively-fueled vehicles are all impacting the revenue that comes from the motor vehicles tax. In addition, construction cost inflation has added to the Trust Fund woes, causing the buying power of the federal motor fuels tax to be reduced by nearly 85 percent since the last increase in 1993.

AGC believes that the traditional motor fuels tax is the most efficient mechanism for increasing revenue for surface transportation in the short term and should be adjusted regularly to account for inflation and growing investment needs. AGC recommends that Congress shore up this successful funding method until a better system can be found and put in place. We recommend raising the federal gas tax by 18 cents to address the effects of construction cost inflation that will restore the buying power to the 1993 levels. In order to keep pace with growing transportation costs, inflation and construction material prices and reduced income, regular increases in the cents per gallon tax will also be necessary. However, since increasing the motor fuels tax is not always politically feasible, AGC proposes establishing a Federal Highway User Rate

Commission to determine annually the federal motor fuels tax rate to avoid the instability in the annual amount of revenue collected.

AGC also suggests there should be a direct link between imported products and freight movement. Use of a Custom fee revenue will create this linkage. AGC recommends that 5 percent of current Custom port fees be addressed to the Highway Trust Fund to help address transportation freight infrastructure.

Increasing the gasoline tax by 18 cents per gallon with an additional 5 percent of Custom fees dedicated to the Highway Trust Fund will generate an additional $37.7 billion per year. This increase will allow the U.S. to invest in our highway and transportation systems at a level that will significantly close the funding gap that AASHTO identified in their released bottom line report. Creation of Highway User Commission to regularly adjust the user rate will keep us from falling behind in investment needs in the future and take a lot of heat off Congress for increasing taxes.

AGC believes financing methods such as bonding, public/private partnerships and tolling should also be used, along with the VMT studies. The two national bipartisan commissions established by SAFTEA, after examining everything, still came back to the motor fuels user fee tax as the most viable option we have currently. We hope that you all would make the necessary tough choices to support this so that we can keep working and keep improving our highways and having good employees that are able to get out there and feed their families.

Thank you.

[The prepared statement of Mr. Weaver follows:]

Prepared Statement of Don Weaver, Vice President, Weaver-Bailey Contractors, El Paso, Arkansas, and Chair of the Associated General Contractors of America

Mr. CHAIRMAN. and Members of the Committee thank you for the opportunity to present testimony on long term financing options for the Highway Trust Fund. I am Don Weaver, Weaver-Bailey Contractors, El Paso, Arkansas representing the Associated General Contractors of America. This year I am serving as the Chair of AGC's Highway and Transportation Division. AGC is the oldest construction association in the country representing contractors that build all forms of infrastructure, including: highways, bridges, transit systems, railways, airport terminals and runways, water and wastewater treatment facilities, underground utilities, public buildings, multi-family housing, office buildings, military facilities, water resource projects, energy production and conservation, and the many other structures that are the backbone of the U.S. economy and provide and ensure U.S. Citizens' quality of life. AGC represents more than 33,000 firms, including 7,500 of America's leading general contractors, and over 12,500 specialty-contracting firms. Over 13,000 service providers and suppliers are associated with AGC through a nationwide network of chapters.

Surface transportation in the United States is at a crossroads. Since the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act A Legacy for Users (SAFETEA–LU) in August 2005, the interstate highway system celebrated its 50th anniversary. It was a celebration of the world's biggest public works program responsible for providing unprecedented mobility and economic opportunities for Americans. This legacy is our duty to maintain, as it is also our duty to meet the mobility demands of the 21st Century to compete in the global marketplace and provide the best quality of life possible for all citizens. Our charge is crowded and crumbling; our country is growing and demanding. The challenges are great: resources are scarcer; energy costs are climbing; construction costs are escalating; and the public's confidence in its policy makers to address these issues is diminishing. This is what we confront at this crossroads.

AGC believes the transportation challenges facing the United States are significant and must be addressed in a prompt and responsible manner. This includes a long term authorization, a sustainable user fee funded trust fund and a focus on truly national transportation imperatives. All levels of government, including the Federal Government, must renew their commitment to the nation's transportation system. To this end, increased investment is vital and all options should be considered.

Immediate Highway Trust Fund Shortfall

The U.S. Department of Transportation (U.S. DOT) and others have found that the Highway Trust Fund will fall below the minimum cash level to make daily payments before SAFETEA–LU expires on September 30, 2009. The Federal Highway Administration (FHWA) has already notified states that it will begin slowing down reimbursements to state Departments of Transportation by mid-August if additional revenue is not provided. With the financial crisis hitting the states particularly badly (most states, including Arkansas, are constitutionally required to have balanced budgets and they are thus scrambling to make cuts), the states are already out on a financial limb. Action is needed immediately to fix this problem. To do otherwise would leave the states with the need to float millions of dollars and incur substantial borrowing costs to meet their contractual obligations or slow down payments to contractors for work completed. The most recent government estimates predict a shortfall of $7–8 billion in the Highway Account in fiscal year 2009. AGC commends the Committee for its leadership last year to avoid a similar funding shortfall and urges you to act hastily to enact a legislative fix to avoid the payment slow down later this summer.

Long Term Authorization

Because of the current state of trust fund finances, Congress must take steps to create certainty in program continuity. The construction industry makes decisions about investments in new equipment and in retaining and training a workforce based on its best projection about where the market will be over the long term. Without the knowledge that a continuous and growing market is on the horizon, contractors will not make the investments necessary to carry out this program's objectives. This is particularly true for small businesses, which typically have less operating capital to invest, thus are more risk-adverse with their capital. This trait is also magnified by the economic conditions, which make risk reduction a company's top priority. This hurts the program as much as it does the industry. Efficiency and productivity increases when contractors can project a steady future market in which to work. This helps lower costs, and allows for a better constructed project because new equipment and improved technology improves the final project. For these reasons, enactment of a 6-year surface transportation authorization bill that ensures program continuity must be a priority.

Recovery Act

Continuing the momentum of the Recovery Act investment in infrastructure is particularly important. Construction spending was less than 25% of the total spending in the ARRA, but provides some of the best investment opportunities for job creation and economic growth. AGC studied the economic impact of infrastructure investment on job creation. AGC's analysis, in partnership with George Mason University, showed that investment in nonresidential construction adds significantly to jobs, personal income, and GDP far beyond the hiring that takes place in the construction industry itself. AGC found that $1 billion in nonresidential construction spending would add about $3.4 billion to Gross Domestic Product (GDP), about $1.1 billion to personal earnings and create or sustain 28,500 jobs. The Recovery Act is already going a long way towards creating or saving jobs. But, national construction unemployment is still at 17.4 percent (not seasonally adjusted), compared with the total private unemployment rate of 9.7 percent. We are in a critical, vulnerable stage in economic recovery, maintaining program continuity is key to "staying the course" set by the Recovery Act. Shoring up the highway trust fund and ensuring a sustainable user fee funded trust fund long term is the best way to keep workers in construction careers.

Highway Trust Fund

The Highway Trust Fund is the ultimate "Pay-Go" program. Highway users pay fees that reflect their usage of the system. These fees are credited to the Highway Trust Fund which is then used to support expansion and improvement to the federal-aid highway system. This mechanism was successful in providing the funds necessary to build the interstate highway system and to continue to expand and maintain it in recent years. The Highway Trust Fund has also supported the construction and upkeep of other transportation projects, including mass transit.

However, the shortfall that we face in the immediate future is only the symptom of the long-range problems facing the trust fund. Revenue has not kept pace with funding commitments and transportation needs, and in the past few years, as economic conditions have worsened, revenue has continued to plummet as purchases of heavy trucks has declined and vehicle miles traveled have diminished. Significant increases in the cost of fuel, more fuel efficient vehicles, and alternatively fueled vehicles are all impacted the amount of revenue that comes from the motor fuels tax.

In addition to the revenue shortfall, inflation has added to the Highway Trust Fund's woes causing the buying power of the federal motor fuels tax to be reduced by nearly eighty-five percent since the user fee was last increased in 1993. The chart below illustrates the change in Producer Price Index (PPI) for highway construction inputs compared to the Consumer Price Index (CPI) since October 1993 (the month in which the last fuel tax increase took effect). The highway construction PPI is a weighted average of the prices of all materials used in highway construction, including diesel fuel and other inputs consumed by contractors. Both lines are set equal to 100 in October 1993 to show the cumulative change in prices. The lines remained very close together until the beginning of 2004, when a series of extreme price increases began for major highway inputs: steel, diesel fuel, asphalt and even concrete. The cumulative change through June 2009 in the highway PPI was 85%, compared to 48% for the CPI. In other words, an 85% increase in highway trust fund taxes would have been required to maintain the purchasing power that those taxes represented in October 2003.

Motor Fuels Tax

AGC believes that the time has now come for Congress to realize that there is no easy solution for addressing our transportation investment deficit. The level of investment provided by the Highway Trust Fund should be increased to address mounting needs. An increase in revenue is necessary just to keep up with inflation additional funding is also needed to address the backlog of transportation investment needs. Numerous authoritative reports have come to the conclusion that, for the foreseeable future, the federal motor fuels tax is the best method for funding transportation infrastructure investment and that the motor fuels tax needs to be increased. The 2006 Transportation Research Board (TRB) study, "The Fuel Tax and Alternatives for Transportation Funding," concluded that fuel taxes will continue to be the most viable source of support for the Highway Trust Fund "for at least the next 15 years."

SAFETEA–LU established two national commissions to look at the future of the federal transportation programs and to make recommendations on paying for these needs into the future. Both Commissions were appointed with bi-partisan membership and included transportation experts and individuals representing businesses and other users of the system.

The National Surface Transportation Policy and Revenue Study Commission called for a national vision to "Create and sustain the pre-eminent transportation system in the world," and recommended a variety of reforms to improve the delivery of a transportation system that supports U.S. economic growth. To accomplish this, the Commission concluded that the United States needs to invest at least $225 billion annually from all sources for the next 50 years to provide a transportation system that ensures strong economic growth. Currently, all levels of government combined are spending less than 40 percent of that amount. To support this initiative, the Commission recommended that the federal motor fuel tax be increased 5 to 8 cents per gallon per year over the next 5 years, after which it should be indexed to inflation. This conclusion was reached after an exhaustive examination of all potential funding sources. The commission concluded that the motor fuels tax provides: low administrative and compliance costs; ability to generate substantial amounts of revenue; relative stability and predictability; and ease of implementation.

SAFETEA–LU's second commission, the National Surface Transportation Infrastructure Financing Commission, consisted of an entirely different group of individuals from diverse backgrounds, including: economics, finance, industry, law, and public policy. The Commission came to the conclusion that the current federal surface transportation funding structure that relies primarily on taxes imposed on petroleum-derived vehicle fuels is not sustainable in the long term and is likely to erode more quickly than previously thought. However, the Commission also concluded that as a nation, we cannot afford to wait for a new revenue system to be put in place to start addressing the fundamental investment challenge. After reviewing a wide array of options, the Commission concluded that increasing and indexing existing mechanisms is the most effective way to raise the revenue needed to meet existing needs. The Commission recommended an immediate increase in the federal gasoline tax of 10 cents, a 15 cent increase in the federal diesel tax, and commensurate increases in all special fuels taxes, and indexing these rates to inflation.

The federal excise on gasoline is currently 18.4 cents per gallon. Reflecting the political difficulty of raising taxes, it has been raised only five times since 1956 and it has not been raised in a transportation reauthorization since 1982 when President Reagan signed the Surface Transportation Assistance Act

AGC Recommendations

Highway user fees in the form of motor fuel taxes have been the primary source of funding for construction, maintenance, and rebuilding of our nation's road system at the state and federal level for the past 80 years. The Highway Trust Fund has been a model for efficient transportation investment that enjoys significant public support. Eventually the method for charging the user fee will need to be changed but for the successor to SAFETEA–LU the existing funding system should be maintained and enhanced.

AGC recommends that Congress shore up this successful funding method until a better system can realistically be put in place. We also recommend raising the federal gasoline tax by 18 cents to address the effects of inflation since the fee was last increased.

In order to keep pace with growing transportation costs, inflation in construction material prices and reduced income, regular increases in the cents per gallon tax will also be necessary. However, increasing the motor fuels tax is not always politically feasible. To take this decision out of the political arena, AGC proposes establishing a federal Highway User Rate Commission to determine biennially the federal motor fuels tax rate to avoid the instability in the annual amount of revenue collected. The Commission would annually index the motor fuels tax to inflation, preferably to the Producer Price Index for construction inputs. The Commission's decision would be final unless overturned by a "Super" majority of Congress.

In the long term, Congress should consider changing the user fee collection model to a Vehicle Miles (VMT) tax. A VMT tax would be charged to all vehicles using transportation infrastructure that is eligible for federal funds. Mileage could be electronically recorded and collected at the gas pump when vehicles are fueled or through a monthly invoice.

Tolling/Public Private Partnerships (PPP)

Together, tolls and private capital contribute about 4.5 percent annually to the total revenue pool currently available for U.S. highway program investments. Much of this revenue is used for debt service. While there is potential to expand the application of tolling in the U.S. and to attract even more private capital to highway investments, objective research suggests these methods alone cannot realistically be anticipated to raise the amount of revenue necessary to close substantially the existing highway capital investment gap. As such, while they should be promoted and encouraged, they should not be overemphasized as solutions to meeting future funding needs.

States should be granted the option to use tolls on all existing and future interstate and National Highway System (NHS) routes. Should a state choose to toll existing or future routes built with federal revenue, its federal apportionment should be adjusted to reflect only non-tolled lane miles in the state.

In addition, states should be granted authority to partner with the private sector to improve and operate interstate and NHS routes. It is also imperative that revenues realized by public entities through the sale of concessions be reinvested only in transportation infrastructure programs.

Bonding/National Infrastructure Bank

A new bonding vehicle should be created to allow the Federal Government to borrow funds for an immediate boost in federal infrastructure investment, such as the "Build America Bonds" proposal put forth by Senators Ron Wyden (D–OR) and John Thune (R–SD). Build America Bonds were authorized in the Recovery Act and have been successfully received by public agencies and investors. Bonding, however, can only be a supplement to the motor fuels tax, excise taxes, and other existing pay-as-you-go funding sources. This infusion of additional funds from bonds will provide a revenue source to help states catch up with some of their huge backlog of needs that have resulted for past underinvestment. These funds will also be important in helping states build mega-projects that are vitally needed but can absorb all of a state's funding for many years and, therefore, undermine efforts to address other transportation needs. The creation of a National Infrastructure Bank could also serve this purpose and supplement infrastructure investment at all levels of government.

However, there is a real concern that extensive borrowing of funds now is mortgaging our transportation future. It is important that bonding remain a limited portion of total transportation funding mix. It is also important to create a dedicated funding source to create the revenue stream to pay the interest on the bonds and ultimately repay the principle.

Customs Fees

A portion of U.S. Customs revenue should be dedicated to paying bond interest or to intermodal or trade corridor routes. Since freight movement is an important national objective, and since the needs here are so great, it is important that an additional funding source directly related to international commerce be created. There should be a direct link between imported products and freight movement. Use of custom fee revenue will create this linkage. AGC recommends that 5 percent of current customs port access fees be directed to the Highway Trust Fund.

Conclusion

The United States has been under investing in our transportation systems for far too long and the impact is now being felt in every state and in most towns. With the interstate system beyond capacity and design life, this underinvestment is costing U.S. businesses and individual's time and money.

Providing continued support for traditional funding mechanisms and finding new financing options is necessary to address this dire situation. Again, AGC believes the traditional motor fuels tax is the most efficient mechanism for increasing revenue for surface transportation in the short-term and should be adjusted regularly to account for inflation and growing investment needs. Increasing the gasoline tax by 18 cents per gallon with an additional 5 percent of customs fees dedicated to the Highway Trust Fund will generate an additional $37.7 billion per year in revenue. This increase in revenue will allow the U.S. to invest in our highway and transit systems at a level that will significantly close the funding gap that the American Association of State Highway and Transportation Officials (AASHTO) identify in their recently released "Bottom Line" report. Creation of a Highway User Rate Commission to regularly adjust the user rate level will keep us from falling behind on investment needs in the future. In addition, AGC believes financing methods such as bonding, Public Private Partnerships, and tolling should be used to supplement Highway Trust Fund financing.

AGC encourages the Committee to consider all options as it looks to providing Congress with the background to make the tough choices that will be necessary.

Thank you for allowing AGC to testify at today's hearing.

Chairman NEAL. Thank you. Ms. Kavinoky, the Chamber has been an early and consistent advocate for increasing the gas tax, and I think that the first time that we met was at the Jefferson Building at the Library of Congress. I was pleased with the courage that you demonstrated personally and the Chamber's willingness to step forward. As you have heard today, there is some disagreement here, however, at least at this time. Is there strong support within your membership on increasing the gas tax, and have you tested that support at various levels of involvement for a gas tax increase?

Ms. KAVINOKY. Yes, Mr. Chairman, the position that the Chamber has taken was voted on by our entire board of directors last November. It represents a broad array of business interests in different industries and both large and small businesses. I am sure you would find some within our ranks who would disagree, but that is what happens when you have an organization of three million.

We have been around the country talking to Chambers of Commerce, everywhere, from California to Georgia, I think. Business recognizes that if we do not keep investing in our transportation systems, both highways and public transit, their productivity is going to suffer and their costs are going to go up.

Chairman NEAL. Would you have a number that you would like to peg this to?

Ms. KAVINOKY. A number in terms of the overall increase?

Chairman NEAL. A nickel, a dime?

Ms. KAVINOKY. From what we understand, it is going to take at least 10 cents just to maintain current services. And we know there are more resources that are needed. I think given the array of numbers we have heard today and differences of opinion between Congress and the Administration, if I could humbly suggest it would be an excellent question to ask the Congressional Budget Office, to ask exactly what it would take——

Chairman NEAL. We are not on good terms these days.

[Laughter.]

Ms. KAVINOKY. I am sorry. All right, then we will do some number crunching. Tom Donahue has said publicly several times, we know we think about 10 cents for current services, and then we would phase in some additional increases.

Chairman NEAL. Thank you. Secretary Biehler, we have heard some grim news today about the shortfall of revenue. Can you tell us how the states are preparing for this potential loss of support for ongoing construction projects?

Mr. BIEHLER. Well, first, we are praying. And then after we do that, seriously, obviously we are waiting, we are hoping that the short-term problem is solved, and we are waiting to see if Congress takes action. If Congress does not take action, we will start taking a series of actions. And then very honestly, as I mentioned in my comments, it will become a guessing game for us because the guessing game is will we have a short-term solution, meaning one to simply deal with federal fiscal 2009, or will we have solution that goes farther? And we will then have to take action commensurate with that kind of a time frame.

In the short term, a number of our states are living very close to hand to mouth, which means we will start having to curtail our construction contracts, contracts that are already in place, which then you get into ridiculous situations where you start paying penalty fees to contractors, you demobilize, you spend money on things that just do not lead to good infrastructure investment.

If it continues into next year, the situation is calamitous. We will have to shut down our systems. Potentially, if we do not plug the hole, there will be 86 percent less federal money for our systems. In Pennsylvania, of all of our programs, of our typical base program, about 50 percent of our program is financed with state funds and the other 50 percent federal. This particular year because we ramped up for stimulus, as I mentioned, in Pennsylvania, we would have to take our program next year and reduce it by 70 percent, our construction program. I am not sure what the numbers will be statewide or nationwide. We can get that kind of information pretty quickly if that is useful to the committee, but the bottom line is we will have severe cuts throughout our whole industry.

Chairman NEAL. Mr. Wytkind, you testified that public/private partnerships are not appropriate for most transportation projects. Where do you believe that the best work and what federal guidelines would be needed for their success?

Mr. WYTKIND. Thank you, Mr. Chairman, for that question. I grudgingly became a blogger on transportation issues recently, and I said in a blog about this issue that public/private partnerships obviously play a viable role in the transportation industry. The private sector has always played an important role in the transportation industry. The private sector employs many of our members. The real issue is whether public/private partnerships end up becoming a distraction from the underlying challenge we have, which is to fund a huge under investment problem in our surface transportation program.

And if you are going to go forward with public/private partnerships, I think the most important thing would be to make sure that the public interest is protected, that the impacts on employees on the ground are adequately dealt with so that these kinds of initiatives do not allow basically the wholesale displacement of workers that are currently performing important functions, whether they be public sector employees or other types of workers. We need to do the kind of analysis to make sure that we are not pursuing a public/private partnership simply because of ideological reasons but because it actually will solve a transportation challenge, will hopefully make a lot of people gainfully employed, and will serve the people in those communities better than the current system that is currently in place. I think that is the debate that probably has not been adequately held in some of these local debates over PPPs.

Chairman NEAL. Mr. Whitty, you have offered some pretty interesting alternatives for the current reliance on the gas tax or fuel taxes. And your suggestion of an implementation of a mileage fee really could be a decade away. What do you suggest that we do in the interim, and what is the status of the Oregon pilot project, and is it feasible to become permanent for the nation at this particular time?

Mr. WHITTY. Mr. Chairman, the time from now until adoption of a viable mileage fee is really dependent largely on political will and process. The technology probably could be implemented in four or 5 years nationally. So it is a matter of figuring out the system you want to design, and the policies around it, and then starting that process.

There are ways to implementation a little quicker than what we have outlined. And there is a NCHRP paper coming out, I think in the fall, that will outline some of those quicker ways. But still we are limited by political will. That is what really stops us from getting this done fairly quickly.

The Oregon pilot stopped actually was only a year test. We wanted to prove concept, and it was not intended to go further. But we have a second pilot that we think will resolve some of the issues from first pilot, that we have designed and for which we are looking for funding. When I talk about an "open system," this second pilot will test that. This open system is something that will have a greater capacity for expansion and growth with changes in technology and have a better chance for public acceptance. So we are going to enter phase two as soon as we can.

Chairman NEAL. Mr. Tiberi is recognized to inquire.

Mr. TIBERI. Thank you, Mr. Chairman. Thank you all for coming to testify. Mr. Wytkind, would your organization support an effort to move—oh, he is back. I am going to ask it anyway. Would you support a proposal, it is going to be tougher for you to answer now, to move bike trails, walking trails, beautification projects, sidewalks out of the Trust Fund and into the general revenue fund to free up more dollars for other transportation projects?

Mr. WYTKIND. I think I would answer that question the same way regardless of who is in the hearing room.

Mr. TIBERI. Okay.

Mr. WYTKIND. My view is that the decisions that Congress made a very long time ago, I would have to go back into the previous authorizations to find out the exact date of inception, those kinds of initiatives are always going to be a part of the highway transit reauthorization. I fully expect, knowing the leadership of the committee on the House side, and the level of support that those initiatives have, that they will remain a viable part of this program. We would not take a position to try to remove them. It is not something that any of our member unions have ever sought or have taken a formal position on.

Mr. TIBERI. Thank you. Mr. Weaver, the vehicle mileage tax, I think you were here when you heard that discussed, has your organization taken a position on that?

Mr. WEAVER. We think it is going to be a viable future option. We do not know that this next 6 year bill, that there is any way to get it in there, but we think with the mileage going up on the cars, and I am in a rural state, we have to drive a long way to get places, the rate of it will have to be—I do not know if it will be balanced out between rural and urban.

Mr. TIBERI. Right. How about the proposals from Mr. DeFazio, were you here for those?

Mr. WEAVER. Yes.

Mr. TIBERI. Has your organization taken a position on those?

Mr. WEAVER. We do not have a position personally on the oil speculative trade. I can just see that going to London, in New York you can trade oil on multiple—personally, I think we would be shooting ourselves in the foot because I think it would just be traded overseas, and we would not get any money out of it.

Mr. TIBERI. Thank you. Ms. Kavinoky, you mentioned the gas tax issue, and we talked about the CBO. Our staff has done a preliminary review of how much it would cost in terms of a gas tax increase if the Majority put in the Trust Fund the $50 billion for high-speed rail and the figure comes to 33 cents, a 33 cent increase. Would the Chamber support something that high or how high would you be willing to go?

Ms. KAVINOKY. First of all, I do not believe that the Chamber would support putting high-speed rail in the Highway Trust Fund.

Mr. TIBERI. Okay.

Ms. KAVINOKY. I will tell you it is not something we have had a specific discussion about but knowing our members, I suspect that would be problematic.

Mr. TIBERI. Okay.

Ms. KAVINOKY. I would have to discuss with our chief economist how he saw the economy absorbing increases in gasoline and diesel taxes. I think we would balance all of that though against the danger of continuing to have the cost from congestion, safety and environmental costs that it might offset.

Mr. TIBERI. How about the two other proposals, the DeFazio proposals and the Mica proposal or the Mica thought on a VMT?

Ms. KAVINOKY. We would oppose Mr. DeFazio's oil speculation and tax on barrels of oil. As far as VMT is concerned, we have said we want to see a ground work laid for a future system. I think a lot of the questions about that system come from not knowing some of the good answers, and so we support an aggressive pilot program to expand or to look at that.

Mr. TIBERI. Thank you. Mr. Whitty, on that note, on the VMT, have you had any experience on issues of privacy being—concerns with privacy being expressed to you and how have you dealt with that?

Mr. WHITTY. Perhaps more than anyone else, I think I have. Concern about privacy largely comes from a lack of understanding, although I do not begrudge the legitimacy of the issue whatsoever. For the Oregon pilot, we used a passive device that could pick up satellite signals. This passive device did not have any signal going out from it so that anybody could follow it around, there was no way for this device to allow vehicle monitoring—it was unlike a navigation unit in that respect. And then we eliminated the GPS map of a navigation unit so there is no way to identify specific roadways. All the device did was count miles within coordinates that were predefined. So the privacy issue seems to be something where there is a suspicion rather than actual complaint about the system used in the Oregon pilot. But still, concern about privacy should be something that if you are designing a new pilot program for the nation, you have got to take that into consideration.

I think that if the motorists can choose the device from a number of options, its capability, its level of privacy protection, that we may be able to get public acceptance because choosing a device means you choose its capability. And we did not do that in the first pilot. We said "You have got to take this device or nothing," and I think a choice could get us to public acceptance on the technology.

Mr. TIBERI. Thank you. Mr. Chairman, can I ask one final question of Mr. Biehler?

Chairman NEAL. You sure can.

Mr. TIBERI. Mr. Biehler, I am from Ohio. I drive into Pennsylvania, and your roads are great, by the way, at least the ones I drive. You are a donor state like Ohio. Any concerns that we are not addressing in a T&I bill, the donor/donee state issue for states like ours, when we are asking our constituents to maybe pay more and continue to get less?

Mr. BIEHLER. It is going to be a struggle certainly. As part of an organization, a nationwide organization, our members have that same concern. I think we need to set up a structure that would decide what the structure is that is going to properly fund whatever it is we agree to over the next 6 years. And then we will certainly face the donor/donee issue. I am hoping that when we get into things like performance measures and so on, that some of that discussion gets wrapped into those kind of questions, what do we want to do, are we going to do special initiatives for special corridors? Are there nationwide goals that we need to achieve? And then you can perhaps make sense out of the donor/donee issue. It is a tough issue for all of us, but the bottom line I would certainly advocate for additional money no matter whether you were a donee or donor.

Mr. TIBERI. Thank you. Thank you, Mr. Chairman, for the additional time.

Chairman NEAL. Thank you, Mr. Tiberi. Mr. Blumenauer is recognized to inquire.

Mr. BLUMENAUER. Thank you, Mr. Chairman. And I did not mean to come back and inhibit the cross-section from my friend from Ohio, but I must say that I do think Mr. Wytkind's analysis of the leadership of the Transportation and Infrastructure Committee, notwithstanding that it is very unlikely that there will be any change, I would be prepared to argue that it would be not a very good idea. We have a rather spectacular story that we can tell about cycling in our community that has actually increased dramatically the use of cycling to the point where it is making a demonstrable impact on some of our congested corridors, 8 percent mode split, and it all costs less than one mile of freeway. Those projects are very labor intensive when you are talking about things like bike paths and completing street networks, it will put a lot more people to work than just throwing down a freeway mile, and they make the system work better. But just dealing with the notion that the number one cyclist in Congress chairs the committee and his subcommittee chair is the only former bike mechanic in Congress, I suspect that that framework is probably going to stay there.

I do want to explore just a moment though this notion about donor/donee, which hung us up to a large measure in the last cycle. If we do not adequately fund the program, then we will be fighting over table scraps. Is it not true, Mr. Biehler, that the ebb and flow of transportation funding in some not insignificant measure is a result of where there are major projects that may be in a community at any given time, and that these can change over time?

Mr. BIEHLER. Absolutely, sure. Again, I will relate it to the Pennsylvania experience. But absolutely, we have gone through quite a change in our approach to our business. But you are absolutely right. We may have huge projects, then those get completed, and then we are back to dealing with maintaining our system or in our case, because of the lack of dollars, we have severely cut the amount of money we are spending on any kind of capacity improvements, from 20 percent 4 years ago to 5 percent today. And only because we have got such a horrible backlog of preservation needs, not because we do not want to make rifle strike investments in capacity.

Mr. BLUMENAUER. And I do appreciate that the four of our witnesses that are representing major transportation stakeholders have all developed policy frameworks that talk about the big picture, that if we have a national plan that is right-sized, that is meeting transportation needs, then these over time are going to even out if we are thinking comprehensively and doing the job right. And it would be a mistake to take a snapshot for a year or even 6 years when we are talking about infrastructure that is going to serve our country for a half century.

One of the concerns though that I have is that there are dramatic inequities between—and often these occur within states—between metropolitan areas. You talk about donor/donee, the much greater disparities are not so much between states as they are between metropolitan areas. Metropolitan Dallas, where Texas kind of hung us up last time, Dallas got 78 cents on the dollar. There are huge metropolitan areas that are generators of jobs and where lots of work could be done who are systematically short-changed. Do any of our witnesses on the panel have any thoughts about having some guaranteed resources that go back to the areas where most of the congestion, most of the jobs, most of the economic opportunities are?

Mr. BIEHLER. Perhaps I can start that conversation. In Pennsylvania, as we update our 4 year transportation improvement program, we deal with all of our MPOs. Pennsylvania has also over time filled in all of the gaps of rural areas. We now have either rural planning organizations or metropolitan planning organizations in every one of our 67 counties. And what we do, what we have done, Mr. Blumenauer, is we have met with that group and reached a consensus on how to divide the pie because what we do is we throw our state capital dollars into the pie along with the federal dollars and basically distribute the whole slug of dollars. And we have sat down, we have said, "All right, what are the right factors to use?" It is pretty tough sledding to try to get a consensus in a group, but we have been successful. We have now done it, and each time we have to take the TAP, we go and revisit that. And so we have talked about what is the population of the area, what is the VMT in the area, what is the mileage of roads, what is the status of your bridge system, and on and on and on. I am not sure it is perfect, but for us it was a way to deal with that very troubling issue, are we putting the fair shares in the right place?

Mr. BLUMENAUER. Mr. Chairman, I see my time has expired, but I would invite any of our witnesses that have some thoughts about making sure that in the reauthorization and the funding, that we guarantee that there is some intra-state equity so that we do not have "hot spots" or problems with the flow of the federal dollars, maybe some who have not quite done the job that Pennsylvania has.

And I would, Mr. Chairman, just thank my friend, Mr. Whitty, for being here, for being an extraordinarily valuable resource as we think about how we deal with funding in the future and look forward to finding ways to answer the questions people have about an equitable, thoughtful, effective way of being able to provide finance as we go forward.

Thank you, sir.

Chairman NEAL. Thank you, Mr. Blumenauer. I want to thank our panelists today for their testimony. I thought it was very helpful on this important topic. You may receive some written follow-up questions from members, and I hope you will respond promptly so that they may be included in the record.

If there are no further comments, then this hearing stands adjourned.

[Whereupon, at 1:45 p.m., the subcommittee was adjourned.]

[Submissions for the Record follow:]

Statement of Kurt J. Nagle, President and CEO

Thank you for the opportunity to submit this statement for the hearing record. The American Association of Port Authorities (AAPA) and its member seaports appreciate the time and attention that the House Ways And Means Subcommittee on Select Revenue Measures is giving to this important issue. Surface transportation authorization is a critical issue which cannot move forward without the due diligence of this committee.

As part of AAPA's guiding principles for surface transportation authorization, our members believe that a combination of funding mechanisms will be necessary to address freight mobility needs in the United States. When developing our list of acceptable funding mechanisms for AAPA's policy position, we focused on ensuring that the chosen mechanisms will not disadvantage U.S. exports nor hinder ports in their ability to remain competitive.

Supported funding mechanisms include:

- A share of revenue from customs duties devoted to funding freight mobility infrastructure improvements
- An increase in the gas tax and a future indexing mechanism as recommended by the National Surface Transportation Policy and Revenue Study Commission with a percentage of the new proceeds dedicated to funding freight mobility infrastructure improvements
- An increase in the diesel tax, and a future indexing mechanism with a majority of the new proceeds dedicated to freight mobility infrastructure improvements
- A portion of any carbon tax or climate change program revenues be made eligible for investments made by freight transportation to reduce its carbon footprint
- Public-Private Partnerships (PPP) where each sector pays in proportion to the benefits they derive from the capacity generated by the infrastructure

AAPA applauds Congressman Oberstar's proposed "Surface Transportation Act of 2009" as it addresses goods movement challenges in ways that will help alleviate freight congestion on America's roads, rails and waterways. While surface transportation authorization is complex and challenging, it is vital that we keep the momentum and focus of Capitol Hill on this important issue. Our current system falls woefully short in supporting current freight transportation demand, and delaying these long-overdue investments will put our country's goods movement network further in jeopardy while eroding our ability to optimally engage the global marketplace. Moving this process forward as quickly as possible is a national priority that should not be postponed.

The Role of Port Authorities and the Importance of Seaports

Founded in 1912, AAPA is an alliance of the leading public ports in the Western Hemisphere. Our testimony today reflects the views of our U.S. members, which are state and local public agencies located along the Atlantic, Pacific, and Gulf coasts, the Great Lakes, and in Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands.

Port authorities develop, manage and promote the flow of waterborne commerce and also act as catalysts for economic growth in their state, county or city. Public ports own, develop and maintain terminal facilities, some of which are leased to private terminal operators. Ports play a crucial role in our national defense. In addition, U.S. ports handle 99% of this nation's overseas cargo by volume.

America's seaports are a critical link for access to the global marketplace. In 2007, U.S. seaports and marine cargo operations generated nearly $3.2 trillion of total economic activity and $212.4 billion of total federal, state and local taxes. U.S. seaports handle more than 2 billion tons of domestic, import and export cargo annually, including food, clothing, medicine, fuel, and building materials, as well as consumer electronics and toys.

On average, each of our 50 states relies on 13 to 15 ports to handle its imports and exports, which total more than $1.3 billion worth of goods moving in and out of U.S. ports every day. The volume of cargo shipped by water is expected to dramatically increase by 2020 and the number of passengers traveling through our seaports will continue to grow. To meet these demands, the American Association of Port Authorities and its members are committed to keeping seaports navigable, secure and sustainable.

Surface Transportation Legislation

This year's surface transportation authorization legislation presents an unprecedented challenge and opportunity for America. Our transportation infrastructure investment needs are vast while the traditional sources for funding our system become less sustainable every day. Our freight goods movement system is no exception. The total cost of congestion to the economy, the environment, and the quality of life of all Americans is incalculable.

Seaports are the gateways that facilitate American economic prosperity. Ports are doing their share to ensure that U.S. farmers, manufacturers, businesses and retailers have the transportation infrastructure that they need for global market connectivity and competitiveness by investing more than $2 billion annually in capital improvement projects on their terminals. Despite these massive investments by ports, inadequate infrastructure connecting ports to land-side transportation networks and water-side ocean shipping lanes often creates bottlenecks in and around seaports resulting in congestion, productivity losses, and a global economic disadvantage for America.

Public port authorities are dependent on the nation's surface transportation infrastructure for the landside movement of goods and military cargo and the facilitation of cruise passengers. Faced with an inevitable long term projected growth in international trade, a robust cruise industry and the needs of the U.S. military, public port authorities will become increasingly dependent on the nation's surface transportation infrastructure and policies that help facilitate the movement of people and goods to and through U.S. ports and harbors.

It is essential that Congress recognize the importance of addressing goods movement and port access in its deliberations regarding surface transportation authorization legislation. To this end, the American Association of Port Authorities submits the following principles representing the collective view of U.S. public port authorities. We feel that these principles reflect a prudent way forward toward addressing freight mobility infrastructure needs in the United States.

Additionally, attached to this testimony is the joint platform of the Freight Stakeholders Coalition, which AAPA co-chairs, which calls for a national freight program and stronger federal role. The platform represents the joint recommendations of 17 major shippers and public and private transportation providers working together to support policies to promote freight mobility in the United States.

National Freight Program

It is critical that Congress place an emphasis on alleviating freight congestion and provide a mechanism for future investments by implementing a national freight program as part of the surface transportation authorization legislation. AAPA supports the creation of a national freight program that includes funding for projects and corridors of national and regional economic significance. Project awards should be based on cost/benefit analysis which considers externalities (including environmental impact) and encompasses all modes. Existing identified and newly proposed corridors should be eligible for funding through this program.

AAPA supports the American Association of State & Highway Transportation Officials (AASHTO) recommended State Freight Transportation Program and National Freight Corridors Investment Fund with the stipulation that port authorities are a key part in the planning process in both the federal and state level programs. Port Authorities should be eligible to apply directly for project funds through these programs.

Funding for Intermodal Freight Connectors

Funding for intermodal freight connectors (highway, maritime, rail) is vital to port efficiency and cargo mobility. On the landside, the shortcomings of "first mile" connectors to the National Highway System (NHS) and main-line rail networks have not been adequately addressed in the traditional planning and funding processes of states and local planning organizations. Ports are areas where roads and rail converge, often at the same grade, causing congestion and delays as trucks wait for freight trains to clear intersections. Delays and idling trucks then exacerbate negative air quality impacts on the surrounding communities. Many of these roads are in disrepair, have inadequate turning radii, and are generally not fit for the volume of freight traffic they must endure. For these reasons, connector roads and highway access infrastructure around ports are often the weak link in the goods movement network and must be addressed through programs specifically directed at these issues. Expertise in freight planning at the state/metropolitan planning organization (MPO) level is the key to the success of these programs at the execution level. AAPA calls for dedicated freight offices with coordinators, programs, and funds that support what is devolved down from the federal level.

Investments in Freight Rail

Investments in freight rail will make the system safer and more efficient, improve environmental sustainability and encourage competitive rail access to seaports. The federal surface transportation program should provide tax credit incentives for main line and short line railroads to invest in port access. Legislation should also include a grant program with a cost-share (federal/railroad) for projects with both public and private benefits. In addition, the national freight program should define freight corridors of national significance that are eligible for rail investment. In order to execute these investments effectively, an increased expertise in state departments of transportation and MPOs on rail access issues is imperative.

Development of Marine Highways

The improvement and new development of marine highways will alleviate highway congestion and improve environmental sustainability. A number of steps will be required to effectively catalyze the development of a system of marine highways. Harbor Maintenance Tax exemptions for certain U.S. port-to-port cargo must be enacted by Congress. Federal funding support for establishing short sea shipping services and incentives for shippers using "greener" modes of transportation would serve as public and private sector economic incentives to help jump-start marine highways. Establishing a new program similar to the ferry boat discretionary program and encouraging more utilization of current federal programs such as Congestion Mitigation and the Air Quality (CMAQ) Improvement Program" to fund projects for short sea shipping services, would also have a catalyzing effect. Marine highway development could also benefit from a reassessment of federal shipbuilding programs with a focus on how they could support marine highway development. An understanding and expertise at the state/MPO level on marine highway alternatives and benefits is a necessary component in effectively executing programs and projects in this area.

Program Reform

With regard to program reform, AAPA supports a performance-based approach which consolidates the existing 108 surface transportation programs into 10 programs (one of which should focus on freight transportation) as recommended by the National Surface Transportation Policy and Revenue Study Commission and AASHTO. AAPA also supports establishment of a multi-modal freight office that reports to the Office of the Secretary at the United States Department of Transportation.

AAPA supports improving project delivery by addressing environment review inefficiencies and National Environmental Policy (NEPA) redundancies that cause project delays and cost overruns, including delegating NEPA responsibilities to appropriate state agencies.

Freight Trust Fund

AAPA believes that if a freight trust fund is created under this surface transportation authorization, it should be fully spent on freight transportation and not used for deficit reduction. Appropriate projects that are freight-related should still be eligible to compete for other federal funding sources.

While AAPA does not endorse a port cargo fee for freight movement, if Congress decides to adopt such a fee to pay for freight projects, it must be levied equitably over all types of cargo including imports and exports and should be structured as noted below. AAPA is strongly opposed to a fee based solely on containerized cargo, because it is inherently inequitable. Containers are only one type of conveyance that utilize transportation infrastructure. Containerized cargo only represents a small segment of transportation infrastructure users, even in the freight realm. By singling out this conveyance for a tax, a disproportionate burden is placed on certain commodity types and shippers. Non-containerized cargoes, many of which cause more wear and tear on infrastructure due to heavier weights and larger wheelbases, would not be required to pay their fair share under this scenario. For these reasons, AAPA believes that a tax solely based on containerized cargo is not equitable.

If a broader port cargo fee is adopted by Congress, the structure of the fee should reflect the following recommendations:

- for port authority cargo, all revenues collected should be returned to the port authority where the fee was collected to be used for projects directly benefiting freight mobility;
- be levied equitably over all types of cargo, including both imports and exports;
- assessed at all international ports of entry (air, land and sea);
- provide ports the discretion to "opt-out" from the fee program, and
- The fee should not negatively affect the nation's bulk or break bulk export products (e.g., grain, coal, paper products), making these commodities uncompetitive in international markets.

Conclusion

Ensuring congestion-free port access and adequate capacity is critical to maintaining America's status as a luminary in the global economy. AAPA applauds the work of this committee towards finding the right mix of mechanisms to fund and finance the surface transportation programs in this authorization bill. Seaports have many immediate needs that can be addressed through a timely passage of surface transportation authorization. In addition to the obvious long-term global competitiveness benefits, funded projects will create jobs and have a positive economic effect in the immediate term as America navigates its way back to prosperity. Thank you for the opportunity to include this testimony as part of the written record of this hearing.

FREIGHT STAKEHOLDERS COALITION

2009 Surface Transportation Reauthorization Platform

The Freight Stakeholders Coalition represents shippers and public and private transportation providers working together to support policies to promote freight mobility in the United States. The Coalition believes that the next surface transportation authorization bill must maintain a strong federal role and provide for the creation of a national freight program.

We are unified in our conviction that substantial investment in the nation's freight transportation system must be given a high priority in the next authorization. Without such investment, the performance of all modes of goods movement will continue to deteriorate and our country will pay a high price in terms of domestic prosperity and international competitiveness.

The Federal Government must continue to play a strong and focused role in shaping the future of our nation's surface transportation policy. The Federal Government should lead in furthering America's competitive advantage by developing projects of regional and national significance which reduce congestion, enhance goods movement, improve the environment, and create and maintain jobs. In addition, freight mobility should be a key factor in any performance standards established by Congress or the Department of Transportation.

We are committed to working together, with the Congress, the Administration and other important interests, to develop the public-private consensus necessary to develop a freight transportation policy and program that will meet the needs of the nation. The Freight Stakeholders Coalition has agreed to the following principles for the upcoming surface transportation authorization legislation:

1. Mandate the development of a National Multimodal Freight Strategic Plan. The next surface transportation authorization should mandate the development of a National Multimodal Freight Strategic Plan. The development of this plan should be led by the U.S. Department of Transportation, in partnership with state DOTs, cities, counties, MPOS and regional planning organizations, ports, freight shippers, freight carriers, and other stakeholders.

2. Provide dedicated funds for freight mobility/goods movement. The legislation should provide dedicated funds for freight mobility/goods movement. Dedicated funds should be provided to support capital investment in critical freight transportation infrastructure to produce major public benefits including higher productivity, enhanced global competitiveness and a higher standard of living for our nation. High priority should be given to investment in efficient goods movement on the most significant freight corridors, including investment in intermodal connectors into freight terminals and projects that support national and regional connectivity.

3. Authorize a state-administered freight transportation program. Congress should authorize a state-administered freight transportation program as a new core element of the federal highway program apportioned to states.

4. If a new freight trust fund is created, it should be firewalled, with the funds fully spent on projects that facilitate freight transportation and not used for any other purpose. Priority should be given to nationally and regionally significant infrastructure, with funds distributed through a competitive grant process using objective, merit-based criteria. Appropriate projects that are freight-related should still be eligible to compete for other federal funding sources.

5. Establish a multi-modal freight office within the Office of the Secretary. Freight mobility should be a key priority within USDOT. The Secretary's office should have staff with freight expertise who can focus on nationally and regionally significant infrastructure.

6. Form a national freight industry advisory group pursuant to the Federal Advisory Committee Act to provide industry input to USDOT, working in conjunction with the new multi-modal freight office. The advisory group should be funded and staffed, and it should consist of freight transportation providers from all modes as well as shippers and state and local planning organizations. Despite the best efforts of the agency to function as "One DOT," there is still not enough of a focused voice for freight. An Advisory Group would meet the need for regular and professional interaction between USDOT and the diverse freight industry, and could help identify critical freight chokepoints in the national freight transportation system.

7. Fund multi-state freight corridor planning organizations. Given that goods often move across state lines and involve multiple modes of transportation, Congress should fund multi-state, multi-modal planning organizations that will make it possible to plan and invest in projects where costs are concentrated in a single state but benefits are distributed among multiple states.

8. Build on the success of existing freight programs. There are numerous existing transportation programs that facilitate freight mobility and are demonstrably valuable. A new national freight policy should continue and strengthen these core programs or build on their principles and successes to guide freight program development if DOT is restructured and/or program areas are consolidated. Examples of these successful core freight programs are the Projects of Regional and National Significance, National Corridor Infrastructure Improvement Program; Freight Planning Capacity Building Program; Transportation Infrastructure Finance and Innovation Act, National Cooperative Freight Transportation Research Program; Coordinated Border Infrastructure Program; Private Activity Bonds for Intermodal Facilities; Capital Grants for Rail Line Relocation Projects; Rail Rehabilitation and Improvement Financing (RRIF); Congestion Mitigation and Air Quality Program, Truck Parking Pilot Program, and Rail-Highway Crossings. Funding for discretionary programs should be awarded through a competitive grant process.

9. Expand freight planning expertise at the state and local levels. Given the importance of freight mobility to the national economy, States and MPOs should be provided additional funds for expert staff positions dedicated to freight issues (commensurate to the volumes of freight moving in and through their areas). All states should have a freight plan as a tool for planning investments and for linking to the national freight system.

10. Foster operational and environmental efficiencies in goods movement. As in other aspects of transportation, improvements designed to achieve long term sustainability in goods movement are desirable to meet both commercial objectives—economy and efficiency—and public objectives—energy security and reduced environmental impact. Federal policy should employ positive approaches to enhance freight system efficiency and throughput with the goal of reducing energy consumption and green house gas emissions.

American Association of Port Authorities

Susan Monteverde

American Association of State Highway and Transportation Officials

Leo Penne

American Trucking Associations

Darrin Roth

Association of American Railroads
Jennifer Macdonald

Coalition for America's Gateways and Trade Corridors
Leslie Blakey

Council of Supply Chain Management Professionals
Rick Blasgen

Inland Rivers Ports and Terminals Inc.
Deidre McGowan

Intermodal Association of North America
Joni Casey

National Association of Manufacturers
Robyn Boerstling

National Association of Regional Councils
Fred Abousleman

National Association of Waterfront Employers
Paul Bea

National Industrial Transportation League
Bruce Carlton

National Retail Federation
Jonathan Gold

Retail Industry Leaders Association
Kelly Kolb

U.S. Chamber of Commerce
Janet F. Kavinoky

Waterfront Coalition
Robin Lanier

World Shipping Council
Anne Kappel

Statement of Leif Wathne, P.E.

Honorable Committee Members,

The American Concrete Pavement Association, founded in 1964, represents more than 450 member companies involved in the construction and maintenance of our highway infrastructure—including paving contractors, cement companies, ready-mixed concrete producers, and suppliers of capital equipment, machines, materials, value-added products, and services that are used in the construction of concrete pavement. On behalf of this vital American industry, we encourage you to act swiftly to develop a funding source for the multi-year authorization of the surface transportation programs. Such an effort represents a bipartisan opportunity to improve transportation infrastructure, increase productivity, and create jobs throughout our economy without adding to our national debt.

Our industry recognizes the importance the surface transportation system has played (and continues to play) in making America the great nation it is today—our highway infrastructure is the backbone of our economy and our way of life. It is absolutely critical that we reinvest robustly in this transportation system to deliver a 21st Century transportation solution that not only strengthens the U.S. economy, provides stable and well-paying jobs and enhances the quality of life for all Americans, but also protects our natural environment.

Furthermore, it is essential to recognize that a failure to authorize a multi-year reauthorization bill with robust highway transportation investment at this time, will compromise and possibly negate the significant gains made in job-creation and economic stimulus by the recently enacted ARRA of 2009.

Finally, it is important to acknowledge that we already know the answer to the most pressing funding questions. Numerous commissions, committees and expert panels charged with exploring this issue have all concluded the same thing: The only equitable way to generate adequate funding in the short-to-medium term is to increase and index the federal motor fuel user-fee! While no one enjoys the thought of increasing fuel user-fees, properly adjusted and administered fuel user fees represent a responsible solution that the driving public understands. It has integrity. Further, we plainly cannot afford to endure the pervasive traffic congestion, the rampant loss of life on our highways and the reduced competitiveness of American business in the global marketplace! Our future quite simply depends on it.

We encourage the Committee to embrace this opportunity to deliver a responsible revenue source for America's next transportation program!

Statement of Andrew Maybee, P.E.

Honorable Committee Members,

As a State Association executive who is affiliated with national organizational members of the Transportation Construction Coalition, I wanted to take this opportunity to encourage you to act quickly to develop much-needed funding sources for surface transportation. Our nation's states are in need of infrastructure funding for roads and bridges, and moving forward with a new funding bill, in lieu of an extension of current funding levels, will meet our nation's needs, provide job growth, and serve the citizens of the United States.

As funding solutions will be the topic of discussion for some time, it is clear that the only way to raise adequate funding will be to assess user-based fees and increase the federal motor fuel tax. While no citizen enjoys the thought of higher gas taxes, our industry understands that in these difficult economic times, job growth is critical. It has been debated, but proven time and time again that funding of infrastructure and road-building projects puts Americans to work!

Providing critical infrastructure construction and maintenance services for our state and national highway system is the key business for our supplier and contractor membership. Without federal funding, it is a certainty that highway construction and maintenance in Tennessee and many other states would grind to a halt. This would have a negative impact by resulting in additional job loss, negating any positive impact in the highway sector from the ARRA funding. It would additionally put our nation further behind in our long stretch of underfunding our nation's highways.

The Concrete Paving Association of TN is made up of cement and concrete industry, concrete highway paving contractors, and industry suppliers. The cement and concrete industry provide nearly 60,000 jobs and over $580M in revenue for the State of Tennessee. In our state, our industry contributes over $100M in annual payroll across multiple sectors of the highway construction industry. Thank you for your interest in this issue on infrastructure investment. Our nation's roads and bridges are critically important to the future economic growth and success of our country. Our industry, our nation and our citizens are depending on your action.

For information on how concrete pavements can meet our nation's road-building needs please visit www.pavements4life.org.

Statement of Gigi B. Sohn, President, Public Knowledge

Chairman Levin, Ranking member Brady and Members of the Subcommittee, thank you for giving me the opportunity to submit this statement into the record in this hearing on behalf of Public Knowledge and the Electronic Frontier Foundation (EFF). Public Knowledge is an advocacy organization that seeks to ensure that copyright and communications policies promote citizens' access to and participation in culture and knowledge. Electronic Frontier Foundation (EFF) is a member based digital rights organization that focuses on defending free speech, privacy, innovation, and consumer rights. To achieve these goals, the public's voice should be present in the formulation of intellectual property laws and policies both domestically and internationally. We limit this testimony to the intellectual property aspects of trade agreements and the process by which they are negotiated.

Introduction

Increasingly, international obligations are influencing U.S. intellectual property (IP) law and policies. IP chapters of many international trade agreements adopt unsettled interpretations of U.S. law to the benefit of rights owners and ignore the policy decisions made in our domestic laws, which promote learning and culture by striking a balance between rights of owners and citizens generally. While U.S. IP industries such as the pharmaceutical industry, the motion picture industry, and the recording industry have considerable influence in the formulation of these agreements, the American public has very little input in the process. In order to correct this imbalance and ensure that IP aspects of trade agreements reflect the interests of all Americans, Congress should facilitate greater public interest input into the process by which trade agreements are formulated. To this end, Congress should:

1. Clarify that the "fair balance" requirement of the Federal Administrative Committees Act (FACA) requires that ITAC 15[1], or any future IP-related ITACs, represent the interests of *everyone* affected by the IP aspects of trade agreements, including non-business interests.
2. Amend the Trade Act to ensure that the USTR's power to close meetings and documents to the public does not result in all such meetings and documents relating to intellectual property negotiations being closed by default.

These changes would ensure that trade agreements will represent not only the interests of intellectual property owners but also American citizens generally.

1. Congress should clarify that the "fair balance" requirement of the FACA means that tier 3 industry trade advisory committees should represent interests of all affected, including non-business interests.

The USTR and executive agencies charged with administering industry trade advisory committees (ITACs) currently follow the policy of excluding non-business interests from representation on tier 3 committees.[2] As a result, ITAC 15, which deals with intellectual property issues, overwhelmingly represents the interests of IP owners.[3]

Perhaps because of this, intellectual property chapters of many U.S. trade agreements have tended to ignore the interests of the public and assume international obligations that are harmful to them. For example, the U.S.-Australia Free Trade Agreement (FTA) requires the U.S. and Australia to grant to copyright owners the exclusive right "to authorize or prohibit all reproductions, in any manner or form, permanent or temporary (including temporary storage in material form) . . . .".[4] The U.S. Copyright Act does not extend protection to temporary instances of a work that are of a transitory nature, and U.S. courts are divided as to how non-transitory reproductions must be to implicate the rights of copyright owners.[5] If temporary or transitory reproduction were considered a right granted to copyright owners, Internet Service Providers (ISPs), internet based services such as webcasters and online music stores, and consumers would all be exposed to liability for copyright infringement during the course of routine activities.

Like the U.S.-Australia FTA, the proposed Anti-Counterfeiting Trade Agreement (ACTA) raises the specter of eroding consumer rights and subjecting ISPs to unjustified burdens in order to prevent copyright infringement. The USTR has announced its intention to negotiate, as part of ACTA, provisions to counter Internet-based infringements of copyrights. In public comments filed with the USTR, content industry groups such as the Motion Picture Association of America (MPAA) and the Recording Industry Association of America (RIAA) have called for ACTA to contain measures that would require ISPs to reveal information of customers accused of copyright infringement, suspend Internet accounts of customers accused of repeat infringement, and require ISPs to filter their networks for infringement.[6] These measures rely on ISPs and copyright owners making infringement determinations without judicial intervention and thus threaten consumers' privacy and due process

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[1] ITAC 15 is the tier 3 Industry Trade Advisory Committee that deals with IP issues.

[2] GAO, *International Trade: Advisory System Should be Updated to Better Serve U.S. Policy Needs,* GAO–02–876, p. 63 (Washington, D.C.: September 24, 2002),("GAO Report, 2002"); ITA International Trade Administration, Dept. of Commerce, *Become a Trade Advisor,* http://www.ita.doc.gov/itac//become_an_advisor/becomeanadvisor.asp.

[3] With the exception of one public health representative, *all* of the members of ITAC 15 represent IP holders.

[4] U.S. "Australia Free Trade Agreement," Article 17.4, January 1, 2005, *available at:* http://www.ustr.gov/trade-agreements/free-trade-agreements/australian-fta/final-text.

[5] *Compare MAI Systems Corp.* v. *Peak Computer Inc.,* 991 F.2d 511 (9th Cir. 1993); and *Advanced Computer Services of Michigan, Inc.* v. *MAI Systems Corp.,* 845 F.Supp. 356, 362–364 (E.D. Va. 1994) *with Cartoon Network LP.* v. *CSC Holdings,* 536 F.3d 121, 127–131 (2d. Cir, 2008); *CoStar Group Inc.* v. *Loopnet, Inc.* 373 F. 3d 544, 551 (4th Cir. 2004).

[6] Greg Frazier, Motion Picture Association of America, Re: Request For Public Comment on The Anti-Counterfeiting Trade Agreement (ACTA), March 20, 2008, *available at:* http://www.publicknowledge.org/pdf/acta/mpaa-20080320.pdf; Neil Turkewitz, Recording Indsutry Association of America, Anti-Counterfeiting Trade Agreement: Request for Public Comment, March 17, 2008, *available at:* http://www.publicknowledge.org/pdf/acta/riaa-20080317.pdf.

rights. While representatives of the MPAA and the RIAA, as members of ITAC 15, have the ability to influence the design of these provisions, consumers do not.

In order to ensure balance in the views expressed by ITAC 15, consumer and public interest advocates should be included in its makeup. The law does not explicitly exclude public interest perspectives from the committee, and the legislative history of the Trade Act and the FACA, both of which govern ITAC 15, actually support their inclusion. In enacting FACA, which applies its "fair balance" requirement to trade advisory committees,[7] Congress intended to end industry domination of advisory committees.[8] Similarly, in enacting certain amendments to the Trade Act in 1979, Congress expressed its intention to broaden the interests represented on tier 2 and tier 3 committees to include, among others, public interest representation.[9]

Although Congressional intent is clear, the language of the Trade Act does not provide sufficient guidance about how the "fair balance" requirement should be applied. Consequently, as the GAO report noted,[10] judicial decisions on this issue do not establish conclusively that FACA's "fair balance" requirement applies to tier 3 trade advisory committees.[11]

In the absence of clear direction in the Trade Act, the USTR[12] and the Department of Commerce, which are responsible for administering certain ITACs, contend that tier 3 committees "are not generally open to non-business interests."[13] In order to give effect to its intention and to promote public interest, Congress should clarify that FACA's "fair balance" requirement extends to all tier 3 advisory committees. Such clarification would facilitate appointment of public interest representatives on the tier 3 ITAC that deals with intellectual property issues a euro;" ITAC 15.

Public interest representation at the tier 3 level is essential in addition to public interest representation on the tier 1 and tier 2 committees. As the 2002 GAO report noted, the tier 1 committee may not have any influence on the tier 2 and tier 3 committees.[14] Furthermore, tier 2 committees have been less active than tier 3 committees.[15] Also, tier 1 and tier 2 committees are general policy committees that will not be able to provide focused public interest perspective on specialized areas such as intellectual property. Therefore, a significant public interest presence on ITAC 15 is essential to ensure that the USTR promotes IP policy that is beneficial to all Americans.

In order to be effective, public interest representatives should not be relegated to a small minority whose views are ignored by the committee.[16] While the USTR cannot be expected to adopt the views of public interest representatives and has discretion in appointing members of tier 3 committees, Congress should seek to avoid extreme imbalances in committee composition by providing adequate direction to the USTR. Further, there would be greater accountability within ITAC–15 discussions if the USTR adopted the practice of responding to all written suggestions, as well as requiring that more written consultations occur within the consultation process.[17]

Public interest participation would not cause many of the harms that detractors claim it would. For instance, many industry representatives on tier 3 committees claim that non-business representation would prevent Members of the Committees from providing candid advice for fear that non-business representatives would re-

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[7] Federal Advisory Committee Act (5 U.S.C. App. § 5(b)(2)) (1994).

[8] *Northwest Ecosystem Alliance* v. *Office of the United States Trade Representative,* 1999 U.S. Dist. Lexis 21689, 20 (W.D.Wash.1999).

[9] GAO Report, 2002, *supra* note 2, at 60.

[10] GAO Report 2002, *supra* note 2, at 3.

[11] *Compare Northwest Ecosystem, supra* note 8 (finding that the "fair balance" applied to a tier 3 committee and ordering appointment of members representing non-business interests) *with Center for Policy Analysis on Trade and Health* v. *Office of the United States Trade Representative,* 540 F. 3d 940 (9th Cir. 2008)(holding that the "fair balance" requirement is not justiciable because it is not clearly defined).

[12] ITA International Trade Administration, Dept. of Commerce, *Become a Trade Advisor,* http://www.ita.doc.gov/itac//become_an_advisor/becomeanadvisor.asp.

[13] 2002 GAO Report, *supra* note 2, at. 63.

[14] GAO report, 2002, *supra* note 2, at. 7 (noting that the trade act does not establish any formal relationship among tier 1, tier 2 and tier 3 committees and does not authorize the first tier to exercise any control over the other two); *Id,* at. 25 (noting that although the Trade Act and FACA do not forbid it, the USTR and the Dept. of Commerce do not routinely consult a cross-section of committees concerned with a particular issue.)

[15] GAO, *International Trade: An Analysis of Free Trade Agreements and Congressional and Private Sector Consultations under Trade Promotion Authority,* GAO–08–59, p. 55 (Washington, D.C.: November 7, 2007)("GAO Report, 2007").

[16] GAO Report, 2002, *supra* note 2, at 41.

[17] *Id.* at 28, (noting that many advisory committee chairs complain that written suggestions from their committees do not elicit a response. Also noting that predominance of oral advice causes problems in tracking and distributing committee advice).

lease sensitive information to the public.[18] This argument either overlooks the fact that all members of tier 3 committees are bound to keep committee information secret, or suggests that the advisory committee process should be based on an assumption that non-business representatives are somehow less trustworthy than their commercial counterparts. Industry representatives also claim that too many differences of opinions within a committee would prevent the committee from providing clear advice to the USTR.[19] While clarity is essential, it is not necessarily compromised by presentation of nuanced views that account for interests of all concerned, including the public.

2. The Trade Act should clarify that the USTR's discretion to close documents to the public should not result in a default rule of secrecy.

IP aspects of some trade agreements, including the ongoing ACTA negotiations, are shrouded in excessive secrecy. Members of the public have no access to information concerning the need for the agreement, how it would benefit or harm them, and the specific proposals that are under negotiation. Although the USTR has made available to the public a summary of the ACTA negotiations, this summary does not shed any light on the actual nature of the agreement. Furthermore, it undermines the credibility of USTR's stated intention to seek greater public input.

The USTR has offered several justifications for this excessive secrecy. First, the agency claims that secrecy is an accepted policy in trade agreements. Second, it claims that secrecy allows exchange of views in confidence and facilitates the negotiation and compromise that is necessary to reach agreement on complex issues. Neither of these reasons justify excluding the public from discussion of issues that could have harmful consequences for them.

That secrecy is accepted policy does not, in itself, mean that it is also in the public interest. Further, it is not the policy in many multilateral intellectual property negotiations. For instance, the U.S. negotiated the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty in the open. While secrecy may permit ease of negotiation, it does not necessarily facilitate the best outcome. While revealing certain information, such as U.S. negotiating positions before they are tabled before the negotiating partner, may in certain situations be counterproductive, the same concern does not extend to all information.

Intellectual property issues do not fit neatly within trade agreements. Yet chapters on intellectual property have been part of trade agreements since the GATT negotiations. The justifications for secrecy that may apply to traditional trade aspects such as tariffs do not apply to intellectual property issues. Opacity in formulating IP aspects of trade agreements can only harm the interests of consumers.

The USTR should release information such as meeting dates, times and agendas; industry studies or other presentations made available to the USTR urging adoption of certain provisions in agreements; and draft negotiating texts after they are tabled before negotiating partners. These examples are not exhaustive and merely suggest certain steps towards greater transparency. Release of such information would allow the USTR to benefit from the expertise of members of the public. Further, it would be in accordance with provisions of the Trade Act that require the USTR to seek input from members of the public.[20] Ultimately it would lead to adoption of negotiating positions that reflect the interests of all Americans.

Lifting the veil of secrecy over IP aspects of trade agreements will become increasingly important if, as the parties to this testimony expect, the IP industries abandon multilateral IP forums like WIPO for agreements such as ACTA. While we believe that the proper forum for an agreement like ACTA is WIPO or a similar multilateral forum, if ACTA is to proceed as a trade agreement, it should be subject to the kind of transparency and public input that would attach to a multilateral IP treaty.

Conclusion

We urge Congress to implement the recommendations made above.

Thank you for giving Public Knowledge an opportunity to submit this testimony. We remain at your disposal to answer any questions.

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[18] GAO Report, 2002, *supra* note 2, at. 43; *Hearing on the Trade Advisory Committee System, Before the Subcommittee on Trade of the House Committee on Ways and Means,* 111th Congress, (June 21, 2009) (Testimony of Brian T. Petty, Chairman, ITAC 2).

[19] *Hearing on the Trade Advisory Committee System, Before the Subcommittee on Trade of the House Committee on Ways and Means,* 111th Congress, (June 21, 2009) (Testimony of Timothy Hoelter, Vice President, Government Affairs, Harley-Davidson Motor Company).

[20] *See* 19 U.S.C.A. § 2155 (2006).

SUPPLEMENTAL SHEET

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Statement of the National Transportation Policy Project (NTPP)

Mr. CHAIRMAN. and Members of the Subcommittee,

We are pleased to have the opportunity to submit this statement of the Bipartisan Policy Center's National Transportation Policy Project (NTPP). As the co-chairs of NTPP, we recently completed a 2-year effort with a wide range of business, academic and civic leaders, calling for U.S. transportation policy to be more performance driven, more directly linked to a set of clearly articulated goals, and more accountable for results. Our principle message to this committee is that achieving critical national goals will require not only a comprehensive consolidation and restructuring of current programs based on clear performance metrics, but also a fundamental new approach to funding. Our report *-Performance Driven: A New Vision for U.S. Transportation Policy* concludes that revenue issues in the upcoming legislation to extend and reform the nation's surface transportation system will involve more than just identifying revenue sources to fund programs. Financing mechanisms play a central role in the performance and outcomes of our nation's transportation system. The NTPP report calls for the adoption of better national user-based financing mechanisms, echoing the conclusions and recommendations of a number of reports, studies, and Commissions. The evidence is clear that the extent to which system costs are transparent to system users has direct effects on both performance of the system and the level of investment required.

This statement highlights two important elements of our NTPP report germane to you as the revenue raising committee:

(1) Recommended funding principles
(2) Immediate actions on funding mechanisms

A recurring theme of both elements is that revenue needs to be linked to system performance, and thus solutions should favor direct, user-based fees. While we did not make recommendations for specific revenue measures, we identified a number of areas where immediate action is needed" largely by the revenue-raising committees of Congress. These include moving towards user-pay financing mechanisms, as well as research and planning to enable a smooth transition of our nation's present transportation financing system to one that is supported by national user-pay funding mechanisms.

BACKGROUND*:*

For many years the motor vehicle fuel tax provided a stable and growing source of funding for federal transportation investments. This federal tax, however, has not kept up with growth in road use, construction costs, and system needs. As a result, resources available in the Highway Trust Fund are increasingly falling short, which in turn has triggered transfers from the general fund. This situation is clearly unsustainable. Overall gasoline consumption is down due first to high oil prices earlier this decade and now because of the economic recession. A combination of increased vehicle fuel-economy standards, the introduction of electric and plug-in hybrid vehicles, and mandated expansion of biofuels can be expected continually to reduce oil demand. This is obviously beneficial for many reasons, but it also leads to declining receipts from fuel taxes, assuming the level of those taxes is unchanged. All of these developments combined expose flaws not only in the stability of the gas motor vehicle fuel tax as a funding source, but also in its long-term sustainability.

The current fuel tax is also inadequate in the sense that it does not charge users anything close to the full costs associated with their use of the transportation system. It does not accurately reflect the full environmental, health, energy, security, and congestion costs of individual transportation choices. If such costs were accurately priced they would affect users' decisions about a range of relevant issues, from where to live, when to commute, and what type of vehicle to drive. The failure to send accurate price signals leads to inefficient levels of consumption if prices are too low, the result will be excess demand.[1] For example, diesel and heavy vehicle tax levels that fail to approximate the relative damage and costs imposed by heavy commercial vehicles will contribute to deteriorating road conditions by under pricing the full costs of their use and thus prompting more truck travel. Oregon's pilot mileage-based pricing program demonstrated that as drivers became more aware of the true costs of using the roads they reduced their travel even when incurring no additional costs.[2]

Another problem with current funding mechanisms is that they impede the distribution of funds on a mode-neutral basis because most of the revenue is generated from road vehicles via fuel taxes and other vehicle fees. This is a problem for metropolitan programs because, despite some funding flexibility, projects are forced into either "highway" or "transit" categories even though highway and transit systems work best in concert. This is an even more severe constraint for freight projects, which are unlikely to be funded absent an unbiased assessment that considers all mode choices and gives the ability to partner across modes.

Present financing mechanisms to support the nation's highway and transit programs are unsustainable and in need of significant reform. The problem is not just a growing funding shortfall resulting from the fact that the current fuel tax and other taxes that support the highway and transit trust funds have not been increased or pegged to inflation. Rather, the central flaw of existing financing mechanisms is that they provide a poor signal to users about the costs they impose on the system (and the benefits they receive). In other words, *how* we raise money for transportation is itself an extremely important policy decision quite distinct from the decision about how much money needs to be raised. Thus, reform of current financing mechanisms should be central to any effort aimed at making effective U.S. transportation policy that is more performance-based.

RECOMMENDED FUNDING PRINCIPLES

The question of how to raise revenue was not the primary focus of NTPP's efforts. We were primarily concerned with spending it effectively. However, we recognized the critical importance of the funding issue because how revenue is raised relates directly to system performance. NTPP recommends that future efforts to address the need for new transportation revenue-raising mechanisms be guided by the following core principles: [3]

- Revenue currently collected is insufficient to maintain, much less improve, system performance
- Public revenue collection can enhance the performance of the system when users understand and more directly bear the full costs of the infrastructure they use

Allow us to amplify these central principles:

Revenue is Insufficient to Maintain or Improve Performance

Adequate and sustainable funding is an essential dimension of putting in place a true performance-based transportation system. Obscuring the true costs of maintaining, operating and updating our transportation network is not in the national interest.[4] As a new national program is defined, the primary roles and responsibilities of different levels of government in maintaining, operating and improving the performance of our infrastructure must become more transparent. This will solidify the federal role in funding programs that further specific national interests.

Proposals to increase revenues are frequently opposed as "double taxation" or resisted with complaints that users have "already paid". Bold political leadership is needed to bring the reality to light in this area. Federal highway spending (and taxation) per mile travelled has actually *fallen by nearly 50 percent* since the Highway Trust Fund was established in the late 1950s. Moreover, because the fuel tax is not indexed to inflation, its purchasing power has declined by 33 percent since it was last increased in 1993. As population has grown and trade has expanded, basic infrastructure has deteriorated. At the same time, the lack of transparent user-based

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[1] Sorenson, Paul, et al. "Moving Los Angeles" Short Term Options for Improving Transportation." RAND Corporation. 2008.

[2] Oregon Department of Transportation. "Oregon's Mileage Fee Concept and Road User Fee Pilot Program Final Report." 2007.

[3] We note that our recommendations in this regard align closely with conclusions reached by both the National Transportation Policy and Revenue Study Commission and the National Surface Transportation Infrastructure Financing Commission.

[4] "Using Pricing to Reduce Congestion", 2009, http://cbo.gov/doc.cfm?index=9750.

financing perpetuates individual and commercial decisions that do not take into account the full public costs imposed by each transportation choice.

A wide variety of circumstances have combined continually to weaken the link between transportation funding (primarily via the gas tax) and the costs imposed and benefits received by system users. The failure to "price" economic, environmental, and social externalities of travel has contributed to unsustainable development patterns and a lack of awareness of, or concern for, energy consumption, emissions, and congestion impacts.

Favor Direct, User-Based Fees

Taxes and fees are currently the two primary means used to raise revenue for federal transportation infrastructure. While the motor vehicle fuel tax generates significant revenues at low administrative cost, its reliability as a proxy for transportation-system use has decreased dramatically. In an age of increasing fuel efficiency, growing numbers of hybrid-electric vehicles, and increased use of alternative fuels, payment of that tax bears a diminishing relationship to actual use of the system. In contrast, where users pay directly for their infrastructure use, they receive more timely and accurate signals about the full range of costs they impose and the benefits they receive. Ideally, user fees should capture diverse elements of use including miles traveled, time and place of travel, vehicle weight or number of axles, vehicle fuel efficiency, contribution to congestion, and emissions.[5]

Raising federal transportation revenue from a more complete and accurate national system of user fees can advance a range of national interests and benefits including:

- enhancing equity across all users;
- promoting consistency with energy and environmental goals by ensuring that transportation users bear the true cost of energy and environmental impacts;
- reducing congestion and increasing the reliability of travel times;
- promoting more accurate user-based signals with respect to investment priorities; and
- reducing capital needs as users internalize cost impacts and rationalize their use of the system.

A robust user-pay system would free up alternative resources to allow state or metropolitan programs investment in modes or specific user groups for which 100 percent direct user-pay funding is not feasible and to advance specified social and environmental goals. The user-pay principle should be at the core of any short-term increases in existing taxes and/or fees, as well as in the development and structure of any new revenue sources and mechanisms put in place for the long term.

RECOMMENDATION FOR IMMEDIATE ACTION ON FUNDING MECHANISMS

While we recognized that our call for a comprehensive restructuring of all federal programs will take years to achieve, several critical revenue-related principles could and should be applied in the near term. These include the following:

Set a high bar for any use of general funds for transportation infrastructure

The first and most obvious reason to set a high bar for any use of general funds for transportation infrastructure is that every dollar of additional spending out of general funds at this time represents additional borrowing and thus exacerbates the already extreme deficit problems and fiscal challenges the nation is now and will continue to confront in coming years. Second, even before it is feasible to transition fully to a user-pay system, numerous opportunities exist to raise revenue for near-term transportation needs in ways that make system costs more transparent, send more accurate price signals to users, and thus promote more efficient use of the system. Examples are system fees and road tolls. Relying on general funds obscures the true cost of the transportation system to users and does nothing to either promote efficient use of the system or to advance critical societal objectives.

[5] Transportation Research Board. "Fuel Tax and Alternatives, Special Report 285. 2006. www.TRB.org/publ/sr/sr285.pdf.

Minimize departures from user financing

Until new and long-term sustainable revenue mechanisms in the form of user-based fees can be implemented, short-term revenue-enhancing measures are likely to be put forward to cover the costs of increased federal support for transportation even to maintain levels set in SAFETEA–LU.

NTPP recommends that any action by Congress to generate additional revenue for transportation:

- advance the user-pay principle
- be targeted toward rewarding performance on system preservation and expansion projects

Be transparent in establishing new financing mechanisms

Issuing new federal bonds or establishing a national infrastructure bank both need to be recognized as forms of borrowing. The use of general taxpayer funds should be limited to programs which demonstrably generate nationally significant and broadly based public benefits. The operations of any new financing entity need to be clear, specific, and transparent regarding actual revenue sources and beneficiaries. Such an entity should also apply rigorous quantitative performance metrics covering the range of national interests that need to be balanced, and strive to align funding sources with the beneficiaries of federal investments. Finally, establishing a new financing entity must not be seen as a substitute for moving aggressively toward transportation infrastructure supported to the maximum extent possible by well-designed user-based fees.

Implement a mode-neutral freight fee

A well-targeted program to address critical freight bottlenecks and improve transport efficiency along critical freight corridors, networks, and connectors is vital. The soundest basis for infrastructure investments that improve the performance of the entirely private existing freight system is a user-based freight fee. The fee structure should reflect the range of the freightnetwork and the burden each mode imposes on public infrastructure, as well as the relative fuel efficiency and/or greenhouse gas emissions of different modes of freight transport. Revenues from the fee should be applied to projects that have clear benefits for freight transport, including transport on the privately owned system.

Charge transportation users the costs of their carbon emissions and recycle those funds into transportation investments

Effective pricing of transportation-related carbon emissions is needed to complement other transportation-related policies on energy and the environment, such as fuel efficiency standards and alternative fuel programs. Further analysis is needed to ensure that the right incentives are in place to motivate users to reduce carbon emissions from transportation. This is particularly urgent given evidence that the transportation sector has been one of the fastest growing contributors to overall carbon emissions. While a petroleum based tax may not be an adequate proxy for road use, it is an appropriate proxy for pricing the externalities associated with carbon emissions and energy security.

Just as transportation needs to bear an appropriate share of the cost of controlling and reducing greenhouse gas emissions at a national level, an appropriateshare of revenues generated through a carbon pricing should go toward transportation infrastructure investment and operations that produce carbon reduction benefits.

Help states and local governments develop sustainable funding sources

While NTPP supports a well defined federal focus on nationally significant infrastructure, there is also a national interest in supporting and incentivizing state and local governments to develop sustainable funding sources for locally significant infrastructure investments. It is clear that achieving national performance goals for the transportation system will require states and local governments to have the ability substantially to increase revenues needed for infrastructure investments.

Accordingly, the Federal Government should help ensure state and local capacity to develop sustainable, equitable, and performance-enhancing revenue streams. States and localities have a wide range of transportation investment and revenue-raising options at their disposal. While the Federal Government should not be in the business of prescribing specific state and local strategies,[6] it can remove impediments and support efforts to use creative financing tools at state and local levels.[7] Three concrete steps the Federal Government can take in this regard are:

Reduce restrictions on road pricing. Performance and environmental goals are likely to be most cost-effectively achieved with greater use of variable pricing on congested roadways. The Federal Government should removerestrictions to instituting such policies on the nation's roadways, with appropriate limitations.

Support efforts by states to implement direct user charges. Direct user-fees, such as a mileage-based charge, can improve system performance and represents a critical tool for states and metropolitan areas to supplement or eventually replace traditional revenue sources. Support should be provided to states or groups of states piloting new comprehensive user-based fees.

Expand TIFIA credit support. With the removal of restrictions on pricing, the TIFIA program should be expanded to allow for loans that are paid back with variable pricing tolls on national highways. TIFIA should adopt performance metrics proposed in the NTPP report to aid in the assessment of projects.

Lay the Groundwork for a Sustainable Funding Source

Transitioning to a performance-based surface transportation system that is equipped to address 21st century challenges requires a timely and evidence-based transition to a user-pay funding mechanisms. This means research must begin methodically to test, evaluate and resolve various issues that are likely to arise in the course of such a transition.[8] Concepts must be considered and encouraged that would establish a system, which at the earliest possible date, can become the backbone of national revenue collection.

For instance a funding system that uses in-vehicle, on-board GPS units could charge differentially for mileage in high congestion zones or for travel during more congested times of day. The system could also apply different fees based on vehicle fuel economy and emissions. Such a tailored alignment of fees to distinct costs will send proper price signals to users, thereby reducing congestion, emissions, and fuel consumption. This is important because, while there is a growing support for a "mileage-based" system or VMT fee such a fee will only provide accurate cost signals if it is adjusted for vehicle fuel economy. Similarly, a mileage-based fee would have to account for the fact that not all miles are equal. Mileage-based fees that vary based on congestion provide incentives for drivers to shift to off-peak periods, consolidate trips, use less congested routes, use alternative modes, or telecommute. They also can be tailored to avoid penalizing rural drivers who travel long distances on relatively empty roads. A corollary benefit of increasing the transparency of costs is that capital investment decisions will be guided by quantitative signals of increased demand for physical capacity.

Over a longer time horizon, a vehicle-based revenue system may offer additional efficiencies and dramatic new safety benefits if it is integrated with developing proposals for integrating "smart road-smart car" technologies. The platform of on-board GPS technology is already being applied to advanced innovations with automatic crash prevention. Other applications are being adapted to provide diverse consumer services including routing, vehicle optimization, and payment of a range of services such as parking, registration and weight, or emissions-related fees.

Because a vehicle-based fee would likely be collected from individual drivers, however, the implementation of such a system presents numerous transition and operational challenges. For example, efficiently linking a nation-wide user fee system with state and local revenue collection, publicly tolled facilities, and private operators, will require that a host of issues be addressed. The most commonly cited concern is the privacy protection of users. These specific challenges will require time to work through, which is why the NTPP calls for immediate action to begin laying groundwork for a future system.

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[6] Government Accountability Office. "Highway Public-Private Partnerships: More Rigorous Up-Front Analysis Could Better Secure Potential Benefits and Protect the Public Interest." Sep. 2008. GAO–08–1149R.

[7] Government Accountability Office. "Highway Finance: States' Expanding Use of Tolling Illustrates Diverse Challenges and Strategies." June 2006. GAO–06–554.

[8] National Surface Transportation Policy Study and Revenue Commission. "Transportation for Tomorrow." 2007. Back up and technical papers: http://transportationfortomorrow.org/final_report/technical_issue_papers.aspx; See in particular papers 5A–06 re container charge; 5A–15 re PPPs; 5B–03 re financing options for freight and intermodal facilities; 5B–05 re phasing in new fees.

Concluding Remarks

This is a period of extraordinary opportunity for revitalizing America's surface transportation system. Existing systems are dated, in many cases strained to or beyond capacity, and increasingly fall short of delivering transportation services at the level of quality, performance, and efficiency the American public demands. Current funding mechanisms and revenue sources are not sufficient to maintain existing infrastructure, let alone provide the investments needed to expand and modernize our transportation systems. Available resources are typically distributed without any sense of national priorities. Bold federal leadership and immediate action is needed to develop, test, and implement new, more direct and more complete ways of linking revenue collection to system use and impacts.

As the NTPP report outlines and as we have discussed in this testimony, transportation investments should not be funded using general funds, assistance must be offered to states and local governments to enable them to establish sustainable funding sources for transportation projects, and our nation's transportation system should be funded by user-based fees that are sustainable and tied to system use. The way in which transportation revenue is raised and the extent to which system costs are transparent have direct effects on both the performance of the system and the level of total investment needed.

Thank you for considering this statement. We welcome future opportunities to support the work of House Ways and Means Select Revenue Measures Subcommittee, and ask that you draw upon the work of the National Transportation Policy Project as you develop legislation that ensures adequate funding of our nation's transportation infrastructure.