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BUILDING AMERICAN TRANSPORTATION INFRASTRUCTURE THROUGH INNOVATIVE FUNDING

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

JULY 20, 2011

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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BUILDING AMERICAN TRANSPORTATION INFRASTRUCTURE THROUGH INNOVATIVE FUNDING

WEDNESDAY, JULY 20, 2011

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m. in room SR–253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV, U.S. SENATOR FROM WEST VIRGINIA

The CHAIRMAN. Good morning. This is one of those hearings which can have a lot to do with the future of the country. And I'm very pleased to see there are a lot of people here because, often, on infrastructure, people hear the word and they sort of chill, and yet it's probably about the most important word other than war and peace that we can be discussing right now. And I guess the debt ceiling would fit in that category, too.

Anyway, Americans rely on railways, they rely on highways, on airways, on waterways, and they do that so they can move goods efficiently and people can continue what they've been doing in even better ways. States like my home state of West Virginia need sound infrastructure desperately to boost economic development in rural communities and, in fact, throughout the state. That's true of any state. I think it's true of any state—Massachusetts, too, I suspect, particularly western Massachusetts, but all of Massachusetts—got a lot of crumbling bridges?

Senator KERRY. Yes.

The CHAIRMAN. Yes. Yet our transportation is showing signs of wear and tear, and, frankly, much of it is in disrepair. People don't notice that necessarily, or they think, "Well, it won't be me." But we're getting past the point.

Across the nation, we're driving on more than 90,000 miles of crumbling highways. Crumbling is like if you have a crumbled cookie, you can't eat it. So, if you have a crumbled highway, it's pretty hard to drive on it—and America has more than 70,000 structurally deficient bridges.

Traffic and congestion keep getting worse. Overall, our country's infrastructure receives a D-minus grade from a national rating group, even though mileage traveled by cars has increased by 94 percent in the last 25 years. Maybe we're making too many cars.

In 2009 alone, congestion cost consumers and businesses well over $115 billion in wasted time and fuel. So it's clear that we have to rebuild and invest in the infrastructure that so many American people depend on.

You're experts. Some in the House actually are adamant about the need to slash funding for transportation projects. That is a problem—hiding under the veil, I would say, of fiscal responsibility. Or maybe I wouldn't even say that. This is not an acceptable solution to a very real problem for every American. As I've said before, we need smart, targeted spending cuts with smart, targeted revenue increases. They both have to go.

Given the harsh realities we're facing, it's essential that we look at new ways, therefore, to stretch the federal dollars that do exist, which is what this hearing is about. That is why I introduced legislation to create—along with Senator Lautenberg, who's not here yet—a transportation infrastructure investment fund for some very interesting reasons, which I had not been fully aware of but which I now am and which we're going to discuss this morning, because they would leverage federal dollars and encourage private investment into our transportation network.

Private sector investors—and this is what struck me—have billions of dollars, billions of dollars ready to be put to work on infrastructure projects, and we should tap into this vast amount of capital. Now, PPP means, you know, we all do it together—partners. This will expand the level of funds dedicated to repairing, rebuilding, and expanding our transportation infrastructure. It's an investment that can create much needed construction jobs, manufacturing jobs, engineering and design jobs for out-of-work Americans and at the same time support American competitiveness.

I look forward to hearing from our witnesses today. You're a group of phenomenal experts, and I'm very proud that you're here.

The CHAIRMAN. And I would ask if the Ranking Member has comments.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Thank you, Mr. Chairman, I do. And I appreciate that you are having this hearing and also that we share a common interest in addressing the challenges facing our nation's aging transportation infrastructure.

We certainly need a new approach. The American Society of Civil Engineers' most recent estimate says that the U.S. needs to invest $2.2 trillion in order to keep pace with the national infrastructure needs. The Federal Highway Trust Fund is broke. It has been bailed out now three times at a cost of $34 billion. So, clearly, we need to be looking for other more innovative answers. More of the same is not going to work. Raising the gas tax is off the table, from my standpoint, and instituting a vehicle miles traveled tax is also a nonstarter, from my standpoint.

I think it is time to look for new solutions that don't involve higher taxes, and I am supporting an infrastructure bank that would foster private sector investment in the nation's large-scale infrastructure projects and ensure that the most cost-effective projects will generate the most growth. I am going to leave the synopsis of that to its major sponsor, Senator Kerry, who has done an incredible job of pushing this and gaining the support. And I certainly worked with Senator Kerry to assure that it was something that would be a major down payment but a revolving fund that would leverage the federal government money with private sector money and make it go farther.

I think our bill is the answer, and I really want to commend Senator Kerry for not only starting the ball rolling but also working with people who had concerns, as I did, to get a bill that I could support and do wholeheartedly support. And with that, I will let the senator who is the main co-sponsor of our bill give more of the detail.

And, Mr. Chairman, I would love for this committee to pass our bill, and I'll bet you probably want your bill to be passed. And so maybe we can work together or maybe we could report both of them.

The CHAIRMAN. Well, we usually work together.

Senator HUTCHISON. We do. We do.

The CHAIRMAN. Yes.

Senator HUTCHISON. And so Senator Kerry has really worked hard on it, and I know you're working hard with Senator Lautenberg. So maybe we can do something together, because if it's a revolving fund, I think it could really make a difference.

Thank you.

The CHAIRMAN. I know we've got a lot of witnesses—Barbara, do you want to say something?

STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Senator BOXER. Well, because I can't stay, I'd like to give you just a 2-minute report on what's happening in our committee, Environment and Public Works, with the transportation bill. I think it would be instructive. If I could have 2 minutes, that's all. And I appreciate it.

First of all, isn't it wonderful to see the bipartisanship behind the infrastructure bank? Count me in. I think it's a wonderful thing.

Also count me in on an enhanced TIFIA program, which we're going to do on a bipartisan basis. Even Chairman Mica supports it at a billion dollars. This is huge. It leverages a billion dollars—$30 billion—amazing—a billion dollars of federal funds, $30 billion of other funds matching it. So this is all terrific.

The one caution I want to throw out—and I want to say to Senators Rockefeller and Hutchison in a second—I want to throw out one caution in terms of the Highway Trust Fund. Full support for the ways to leverage our dollars—we have to do it, because we're so behind. And if I could have my full statement put in the record, it dictates how far behind we are.

But the Highway Trust Fund is the bread and butter of what we do here in America, and the states count on it. And to just walk away when it is short is short-sighted. That's what Chairman Mica, unfortunately, did. He's not thrilled about doing it, but he did it. It's a 36 percent cut in our basic program. That's a loss of 630,000 jobs.

So what we're trying to do in the Committee—and we have bipartisan support on a bipartisan bill, which actually freezes the current spending and says we need to find $6 billion a year for 2 years to keep it whole plus infrastructure bank plus TIFIA to get this country moving again and working again. It's very key.

And how do you do it? The Finance Committee is going to determine how we make that up. But just to put it into perspective and note, without any prejudice, whether we support it or not, we're spending $12 billion a month in Iraq and Afghanistan. That's what it's costing us. We're asking for $12 billion over 2 years. It's a small amount. We can figure this out one way or other. I don't support a gas tax increase, either. But there are other ways to do this and get this done.

So, Mr. Chairman, my full support goes to you and these wonderful members of this committee to get our country moving again. We've got to do it. We're the greatest nation on earth, but if we can't move people, we can't move goods, we're simply not going to be there in the future.

Thank you.

[The prepared statement of Senator Boxer follows:]

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

I am pleased that the Committee is holding this hearing to discuss the importance of investing in transportation infrastructure and innovative financing tools that can leverage resources in ways that are complementary to our transportation programs.

We are at a critical moment when it comes to our aging infrastructure, and the nation's long-term prosperity requires that we invest in our transportation systems now.

The unacceptable state of the nation's infrastructure is hurting our ability to be a world leader. Our transportation systems used to be the best in the world, but investments have not kept up with needs, and we are now falling behind.

According to the World Economic Forum, the United States ranks 23rd out of 139 countries on the overall quality of its infrastructure, putting the United States between Spain and Chile. In 1999, the United States ranked 7th.

As Chairman of the Environment and Public Works Committee, I have been working with my colleagues on a bipartisan transportation bill that will maintain current funding levels for critical transportation programs.

Our approach is a clear rejection of the House proposal to cut transportation funding by one third, which would result in 630,000 jobs being lost next year.

The current surface transportation bill expires on September 30, and we must choose which path to follow: protect jobs and our nation's long-term economic health, or damage our country's ability to remain competitive in the global marketplace while also throwing thousands of people out of work in a sector that has suffered enormously during the recession.

Our top priority must be to reauthorize the surface transportation programs at current funding levels or face massive lay-offs in every state in the country. We must also be creative with our limited resources and expand innovative financing options to leverage federal funds, and so I applaud the efforts of this Committee to examine methods to expand innovative financing tools.

Once the base transportation programs have been secured, new innovative financing tools should be considered as we look at ways to fund our nation's infrastructure needs.

The Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which is under the jurisdiction of the EPW Committee, has been proven to deliver extraordinary leveraging of federal funds for large-scale projects.

Our Senate transportation bill creates a new section called America Fast Forward, which strengthens the TIFIA program to stretch federal dollars further than they have been stretched before.

Along with America Fast Forward, we must consider new innovative financing programs to encourage even greater private sector investment in transportation infrastructure.

I look forward to this discussion on ways to do just that.

The CHAIRMAN. That's a pleasant thought.

Senator Kerry?

STATEMENT OF HON. JOHN F. KERRY, U.S. SENATOR FROM MASSACHUSETTS

Senator KERRY. Mr. Chairman, thank you. I wasn't planning to, but I want to incorporate some of what Senator Boxer has said, and I want to respond also to Senator Hutchison.

Let me begin by thanking you for having this hearing, for focusing on infrastructure, and also for your personal efforts with Senator Lautenberg to introduce a transportation-oriented infrastructure initiative. It's important. I'm confident we can find a way to work together. We need to. The most important thing is we need to get this done.

I want to thank Senator Hutchison, who stepped up early, worked diligently with us to fine-tune our proposal so that we could build the bipartisan support we now have. We have Senator Graham from South Carolina and Senator Warner on our side as original sponsors, and we have a lot more sponsors of this legislation and others on the Republican side who are very supportive and hopeful for it.

The bottom line is this—and this is why we have to get together. Every expert in the country will tell us that we have a $2.2 trillion infrastructure deficit in America. We would have to spend $250 billion a year for 40 years, which we're not about to do, just to bring our roads up to par. Up to par. China, meanwhile, is putting 9 percent of GDP into infrastructure. Europe puts 5 percent of GDP into infrastructure and has an infrastructure bank. The good old United States of America that we all love and have enjoyed the preeminence of puts less than 2 percent of GDP into infrastructure, and we are living off the infrastructure that our parents and grandparents invested in for us.

There are no great, enormous, challenging infrastructure projects. There are some small ones. There are a couple—the high-speed rail efforts out in California that are sort of starving and a couple of others. But the fact is we're just falling behind. We have a train that goes from Washington to New York that can go 150 miles an hour. It goes 150 miles an hour for 18 miles of the trip, because you can't go under the Baltimore Tunnel too fast because the vibrations—it may cave in; can't go over the bridges of the Chesapeake too fast because you may have a lot of passengers in the Chesapeake as a result. I mean, this is crazy. This is lunacy.

We can do better than this, you know. And particularly those of us who have had the privilege of traveling a little bit and going to China and riding on a 200-mile-an-hour train from Beijing to Tianjin or the Shanghai Maglev that goes 300 miles an hour from the airport to downtown or the TGV in Europe or the bullet train—I mean, just run around the world. And they're all making investments that we're not. This is the one way we are going to leverage private dollars to do what, unfortunately, too many people in Washington don't want to do, which is invest in the future of our country.

And so, by putting up a small amount of money, we can leverage money that will fund and create deals that will be attractive, that will bring sovereign funds, pension funds, private investment funds to the table for revenue-producing projects. And what Senator Hutchison and I have done here is try to focus on how we minimize the governmental component of this.

Therefore, we chose not to put it into a department. We'd keep it independent, completely outside, not for profit, no stock issued, unlike Fannie Mae, Freddie Mac, all these things. We learned the lessons of all of those things and put together what we think is a proposal that could fly. And we want to marry it with yours. We want to try to find a way to get everybody on the same page here, because this is too important for our country.

So that's enough said, Mr. Chairman. I want to thank you for focusing on this and for your own proposal. And I hope this is the one way we're going to get America building. I might just comment for a billion dollars of investment in infrastructure, you get 20,000 to 30,000 jobs. When you have 12 percent unemployment in Nevada and 10 percent in California and Rhode Island and other states, Florida, and people are screaming about wanting jobs, here are the jobs with minimal public tax expenditure. We'd be crazy not to do this. And I hope, Mr. Chairman, you and others will help create the critical energy here to get it done.

The CHAIRMAN. That was a superb statement, Senator Kerry. And I guarantee you that I will.

Senator Begich, if you want to put your statement in the record, you'll get a standing ovation. If you want to speak——

STATEMENT OF HON. MARK BEGICH,
U.S. SENATOR FROM ALASKA

Senator BEGICH. Mr. Chairman, I want to hear from these five. But also I'm going to be leaving in a few minutes, but I'm going to be back. But I'm looking forward to this—I like building stuff. So I like this committee.

Senator KERRY. Where's the standing O?

Senator BEGICH. That's it.

The CHAIRMAN. All right. Again, we're very privileged to have an incredible panel.

Oh, Senator Ayotte?

STATEMENT OF HON. KELLY AYOTTE,
U.S. SENATOR FROM NEW HAMPSHIRE

Senator AYOTTE. I will wait for the witnesses. How is that? And I look forward to hearing from them.

The CHAIRMAN. Can I put your statement in the record?

Senator AYOTTE. I would be happy to put my statement in the record. Thank you.

[The prepared statement of Senator Ayotte follows:]

PREPARED STATEMENT OF HON. KELLY AYOTTE,
U.S. SENATOR FROM NEW HAMPSHIRE

Thank you for being here. There is no question that we must address our nation's infrastructure needs. I am deeply concerned that over the past several years Congress has been unwilling to make tough choices about transportation funding, delaying full reauthorization of our nation's transportation programs at the taxpayer's expense. It is important that we reform our nation's critical infrastructure needs.

As we are looking at how to reform transportation policies, I am concerned that establishing a national infrastructure bank would increase federal involvement and decision-making when what we need to be doing is giving more control of spending decisions to the states. Especially given our fiscal limitations, states shouldn't be subjected to more federal red tape for local infrastructure projects.

States know how to best prioritize transportation funding. My state of New Hampshire is concerned about retaining transportation jobs while improving our infrastructure. Having the flexibility to make decisions at the state level based on local priorities is vital when faced with limited dollars.

I look forward to hearing your testimony today and discussing ways to improve transportation infrastructure, being mindful of our current fiscal reality, and focusing on each state's ability to prioritize funds according to their unique needs.

The CHAIRMAN. Thank you. Thank you very much. I apologize for not seeing you.

Ms. Polly Trottenberg, the Assistant Secretary of Transportation for Policy, which is sort of what we're talking about here—let's start out with you.

STATEMENT OF HON. POLLY TROTTENBERG, ASSISTANT SECRETARY FOR TRANSPORTATION POLICY, U.S. DEPARTMENT OF TRANSPORTATION

Ms. TROTTENBERG. Thank you, Chairman Rockefeller, Ranking Member Hutchison, members of the Committee. Thank you for inviting me to testify before you today at this very important hearing.

President Obama believes that to compete globally, the U.S. must innovate and invest in building and maintaining a world-class transportation system. Innovative finance is a key part of that effort and an important complement to a robust, long-term surface transportation program. Today I'll focus on what we're doing at DOT under the leadership of Secretary Ray LaHood to encourage that investment through our credit assistance and discretionary grant programs, and I'll discuss our infrastructure bank proposal.

DOT's credit assistance programs are now an essential ingredient in many of the innovative transportation public- private partnerships currently underway in the U.S. And given the country's current fiscal situation, our role in supporting these projects is likely to grow. The infrastructure bank is one of the most promising ideas for leveraging more private sector dollars into infrastructure.

President Obama has been a long-time supporter of the concept, as have many of the leaders here on this committee and throughout Congress. And the administration's Fiscal Year 2012 budget requests $30 billion over 6 years for a new national infrastructure bank. Under the president's proposal, the infrastructure bank will use a competitive, merit-based selection process to provide grants and loans to a range of passenger and freight transportation projects in urban, suburban, and rural areas.

The infrastructure bank will use rigorous benefit-cost analysis and performance metrics to select projects that will produce the greatest long-term public benefits and project outcomes at the lowest cost to the taxpayer. The infrastructure bank will seek projects that create good-paying jobs and support national economic goals, such as boosting U.S. manufacturing, facilitating goods movement, and doubling U.S. exports.

We propose to house the infrastructure bank within DOT so that it can build upon the expertise and experience that we've already developed through our existing programs, including TIFIA, TIGER, RRIF, private activity bonds. One of the Department's most successful programs has been TIFIA, as Senator Boxer mentioned. Since 1999, we've used $604 million of budget authority to provide $8.3 billion in credit assistance, and that, in turn, has leveraged a total of $31 billion in investment for transportation projects throughout the U.S.

In the last 2 years, demand for TIFIA has far outpaced existing budget authority, and the program has become increasingly competitive and has required us at DOT to get creative in combining TIFIA funding with other programs. At the moment, DOT is using TIGER and TIFIA to help fund a $1.7 billion rail line in Los Angeles, linking the transit system to the airport. Approximately $20 million in TIGER funds will support a $546 million TIFIA loan for that project.

TIFIA is leveraging $21.5 million into a $341 million loan for the $1.1 billion Port of Miami tunnel project. And through a P3, a private concessionaire is also providing $80 million of equity and $342 million of private bank debt.

To make the innovative Denver Union Station project possible, DOT got really creative and combined a TIFIA loan with federal highways and federal transit grant funding as well as a loan from our RRIF program, which provides credit assistance for rail projects. The $516 million project will create a regional transportation hub in downtown Denver, connecting commuter rail, light rail, bus rapid transit, and regular bus service.

While the Denver Union Station project had to work with each of these federal programs independently, and comply with each program's specific requirements and deadlines, they, nonetheless succeeded in assembling a viable financial plan. An infrastructure bank would allow USDOT to coordinate all this assistance through one program, which could save project sponsors substantial time and money and could be the difference in a project's feasibility.

Projects like those in L.A. and Miami and Denver do require significant capacity and sophistication on the part of the public entities involved. There is value for the public sector in innovative P3s, but there is also complexity and risk. As we consider increasing the role innovative finance and private investment play in our transportation system, we must ensure that applicants of all sizes and in all parts of the country have the guidance and technical assistance they need to succeed, and ensure that the public interest is protected. We already provide some of that guidance through our program experts at DOT, and in the future we do hope to better collaborate and tap into the expertise represented here today from the private sector, labor, and other transportation stakeholders.

I want to conclude by thanking the Committee for the opportunity to testify today. At DOT, we look forward to working with you, and I'll be happy to take any questions.

[The prepared statement of Ms. Trottenberg follows:]

PREPARED STATEMENT OF HON. POLLY TROTTENBERG, ASSISTANT SECRETARY FOR TRANSPORTATION POLICY, U.S. DEPARTMENT OF TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison and members of the Committee: thank you for the opportunity to appear before you today to discuss U.S. Department of Transportation (DOT) efforts to facilitate greater private sector investment in our nation's transportation systems.

President Obama believes that the federal government should encourage more private sector investment in transportation projects to complement the federal government's commitment to robust public investment in our nation's infrastructure. Visiting the Chamber of Commerce earlier this year, the President encouraged the private sector to "get in the game" and invest the $2 trillion sitting on its balance sheet in America's economic competitiveness; and the President has consistently made clear that infrastructure is a top priority area for investment of private capital.

Today I will focus on what we are doing at DOT, under the leadership of Secretary Ray LaHood, to utilize DOT's many innovative approaches to transportation investment, including some of DOT's credit assistance and discretionary grant programs, which are an important complement to a robust, long-term surface transportation program. I will also discuss the Administration's proposal for a National Infrastructure Bank, which will provide a needed proactive tool to bring private investors to the table.

Private Sector Investment in Transportation

According to *Infrastructure Investor*, the 30 largest infrastructure equity funds raised $180 billion of private capital for infrastructure investment over the last 5 years. These infrastructure equity funds include pension plans, private investment funds and infrastructure developers.

Private investment in transportation projects can take many forms. Much of the private capital that gets invested in transportation projects is supported by federal credit assistance programs like TIFIA and RRIF, which make it easier for the public sector to access capital markets financing. The federal government also provides for traditional tax-exempt debt issued by State and local governments and the Build America Bonds program that expired at the end of last year.

Private capital can be invested in transportation through public-private partnerships, which allow the private sector to take a much more robust role in the delivery, financing and management of transportation infrastructure. PPPs allow the private sector to incorporate innovations and efficiencies and to put capital at risk for a project in a way that traditional procurement structures do not.

PPPs can offer an innovative new delivery approach for some of our country's most complex and challenging projects when they are appropriately structured, when they provide better value as compared to traditional public sector delivery approaches, and when the underlying projects are well-aligned with public policy objectives. DOT's recent experience demonstrates that, when creatively utilized, the flexibility afforded by federal credit assistance can be a powerful catalyst for PPPs—including complex projects involving multiple public and private sector stakeholders.

In the last 5 years eight major PPPs have been completed in Florida, Texas, Virginia and Colorado with a total value representing approximately $13.5 billion of new investment in the transportation system. The pace has been accelerating lately with several new projects in active procurement or financing, including the replacement of the Goethals Bridge in New York and New Jersey and the Presidio Parkway in California.

Over the last few years, federal programs have proven to be a key component of most of the major new PPPs that have been entered into in the U.S. DOT believes that federal programs will continue to facilitate the majority of successful transportation PPPs in the U.S. It is therefore important to ensure that we maximize the value of the public investment and achieve national goals, such as economic competitiveness and environmental sustainability, through these projects.

TIFIA Program

One of the Department's most important and successful programs for facilitating private investment has been the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA) program, which provides credit assistance for major surface transportation projects. The program offers direct loans, loan guarantees or lines of credit for up to 33 percent of a project's eligible costs. TIFIA offers flexible and favorable repayment terms, which help fill market gaps in financing plans and encourage broader co-investment by the public and private sectors. These include interest rates that are equivalent to Treasury rates—on Monday the interest rate was 4.23 percent, opportunities to defer interest and principal payments in the early years of the loan, and final maturity dates as much as 35 years from completion of construction.

Eligibility is open to large-scale surface transportation projects—highway, transit, rail, intermodal freight, and port access—with eligible costs exceeding $50 million. TIFIA credit assistance is available for State and local governments, transit agencies, railroad companies, special authorities, special districts, and private entities.

Since its inception the TIFIA program has used $603.6 million of budget authority to support 22 direct loans and one loan guarantee totaling $8.3 billion in credit assistance (*i.e.,* the face value of the loans). This credit assistance facilitates transportation projects totaling $31 billion in public and private infrastructure investment.

The $1.1 billion Port of Miami Tunnel Project provides a good example of how TIFIA supports private investment through PPPs. The project, which is currently under construction, will improve access to and from the Port of Miami by providing a dedicated roadway connector linking the Port, located on an island in Biscayne Bay, with the MacArthur Causeway and I–395 on the mainland. A private company is responsible for design, construction, financing, operation and maintenance of the project for 30 years. A relatively small amount of budget authority, $21.5 million, supported a $341 million TIFIA loan and facilitated a $1.1 billion investment in a nationally-significant transportation project.

TIFIA is also increasingly used for transit projects, for which local taxes and/or other revenue streams related to transit-oriented development can be leveraged to repay project financing sources. For example, TIFIA provided a $171 million loan for the Transbay Transit Center, a major passenger transportation hub connecting San Francisco with other Bay Area communities. The loan will be repaid with the tax increment collected from State-owned parcels and passenger facility charges from AC Transit, the Center's initial primary tenant.

In the last 2 years, demand for TIFIA credit assistance has far outpaced the program's limited budget authority. The Administration's Fiscal Year 2012 budget proposed increases to TIFIA's annual funding by almost four times to $450 million. Senator Barbara Boxer, Chairman of the Senate Committee on Environment and Public Works, and Representative John Mica, Chairman of the House Transportation and Infrastructure Committee, support increasing TIFIA's annual budget authority to $1 billion.

TIGER Program

The Transportation Investments Generating Economic Recovery (TIGER) program represents a more proactive approach than TIFIA, being one of the Department's most ambitious efforts to date to leverage federal investments. The program catalyzes local, regional and national planning and facilitates substantial co-investment by the public and private sectors—the average dollar invested by the TIGER program is matched by more than three dollars of State, local or private funding. This far outperforms the leveraging we see in the formula programs.

Among the factors that make this program a success are its ability to fund a full range of surface transportation projects, not just particular modes, and its ability to provide funding to any government project sponsor, not just State DOTs and transit agencies. The program's flexibility has allowed it to fund an unprecedented number of innovative and creative projects that the federal government would otherwise find difficult if not impossible to fund.

The competitive nature of the TIGER program helps spur cooperation among a variety of project sponsors and brings new sponsors and their ideas to the table. Applicants understand that whether or not they secure grants depends, at least in part, on their ability to leverage as many sources of funding as they can and demonstrate that they can make federal dollars go further.

As an example, the TIGER program is investing in the Crescent Corridor freight rail project, a multi-billion dollar program centered on the continued development of Norfolk Southern's rail intermodal route from the Gulf Coast to the Mid-Atlantic. DOT provided a $105 million TIGER grant to support construction of two new intermodal facilities in Memphis and Birmingham, and this investment is being matched with $72 million of the railroad's private funds. Connecting the 2,500-mile Crescent Corridor network of rail lines and regional intermodal freight distribution centers will strengthen domestic and international freight distribution in the Southeast, Gulf Coast and Mid-Atlantic markets. This will help the railroad and also achieve key public objectives—increased freight rail capacity and efficiency, reduced emissions and fuel consumption, and has the potential to reduce highway congestion for drivers on neighboring roads, as well as reducing highway maintenance costs.

The TIGER program also provided $98 million for the National Gateway Freight Rail Corridor Project, which will allow CSX to increase freight rail capacity and carry double stacked containers in Ohio, West Virginia, Pennsylvania and Maryland, from East Coast ports to the Midwest. Similarly, the CREATE Program, a multi-billion dollar package of 78 projects that address nationally-significant freight rail congestion in the Chicago area, received a $100 million TIGER grant to help complete a handful of its highest priority projects, which will be matched by $62 million of other private and public funds.

DOT also uses TIGER funds to support TIFIA financing. In one case, DOT is funding an intermodal project linking the transit system to the aviation system. Up to $20 million in TIGER funds will support a $546 million TIFIA loan for the Crenshaw/LAX Transit Corridor Project in Los Angeles, a new 8.5-mile light rail line connecting the Exposition Line at Exposition/Crenshaw Station and the Metro Green Line. The project will include six to eight new stations and will directly connect to Los Angeles Airport. The TIFIA loan will cover approximately one-third of the total project cost of $1.7 billion. The project is a key piece of the City's 30/10 initiative, an effort to accelerate 12 major transit projects in just 10 years, rather than 30 years, using innovative financing backed by the voter approved Measure R sales tax.

TIGER can also support a more entrepreneurial and experimental approach to credit assistance. DOT provided four TIGER applicants with "TIFIA Challenge Grants," a $10 million grant, or the opportunity to use the $10 million as budget authority to support a larger investment in the form of a TIFIA loan. This gave the project sponsors a unique opportunity to catalyze an innovative financing strategy that had not previously been considered, or thought feasible, and enabled DOT to work proactively with project sponsors to get the best possible return out of its federal investments.

The first project to successfully leverage a TIFIA Challenge Grant is the U.S. 36 Managed Lanes/Bus Rapid Transit Project in Colorado. The project will accommodate bus rapid transit, bikeways and congestion-reducing managed lanes northwest of Denver. Colorado plans to use the $10 million TIFIA Challenge Grant to support a $55 million TIFIA loan which helped galvanize a $300 million financing package that includes a robust mix of State, local and federal funds. Not only did the TIFIA Challenge Grant help facilitate a more robust TIGER project than could have been achieved with a $10 million grant, but it may also create momentum for Colorado's procurement of the next phase of the project, extending the lanes an additional eight miles to Boulder. The TIGER-funded portion of the project is being procured as a design-build project and the next phase may be structured as a PPP with more private sector investment.

However, not all of the recipients of the TIGER program's TIFIA Challenge Grants were successful in catalyzing a more robust financing package. DOT worked with the South Carolina DOT to turn a $10 million grant for a portion of the overall I–73 construction project west of Myrtle Beach into a TIFIA loan, but the SCDOT determined that this portion of the project in a fairly rural area would not generate sufficient toll revenue to support financing without the completion of the much larger link from I–95 to Myrtle Beach.

RRIF Program

The Railroad Rehabilitation and Improvement Financing (RRIF) program provides direct loans and loan guarantees to acquire, improve, or rehabilitate intermodal or rail equipment or facilities, including track, components of track, bridges, yards, buildings and shops and develop or establish new intermodal or railroad facilities. Under this program the Federal Railroad Administrator is authorized to provide direct loans and loan guarantees up to $35 billion. Up to $7 billion is reserved for projects benefiting freight railroads other than Class I carriers. The Federal Railroad Administration has made 30 loans totaling $1.6 billion.

Eligible borrowers include railroads, State and local governments, government-sponsored authorities and corporations, joint ventures that include at least one railroad, and limited option freight shippers who intend to construct a new rail connection. The loans can fund up to 100 percent of a railroad project, with repayment periods of up to 35 years and interest rates equal to the rate on Treasury securities of a similar term.

At the end of June, the Department announced a $562.9 million loan to Amtrak under the RRIF program that will finance the purchase of 70 high-performance, electric locomotives from Siemens Industry USA. The locomotives will be built by American workers in Norwood, OH, and Alpharetta, GA, with final assembly in Sacramento, CA, helping create hundreds of manufacturing jobs and spurring the domestic manufacturing sector. These locomotives are more energy-efficient and will enable Amtrak to improve frequency, performance and reliability for regional and intercity routes along the Northeast and Keystone Corridors. While the Amtrak loan is the largest loan issued through the RRIF program to date, recent interest in the program suggests that RRIF could increasingly be used for major railroad investments, including freight rail investments that leverage substantial investments by private freight railroads, among others. At the same time, we recognize DOT's responsibility to ensure that these loans serve meaningful public policy ends and are not unduly risky—as well as to consider whether these investments would be made without federal support.

Significantly, RRIF assistance was also recently combined with TIFIA assistance to make a unique and innovative financial plan feasible. The $516 million Denver Union Station Project is a public-private development venture located on approximately 50 acres in lower downtown Denver, which includes the historic Denver Union Station building, rail lines, vacant parcels, street rights-of-way, and offsite trackage rights. The Project comprises the redevelopment of the site as an intermodal transit district surrounded by transit-oriented development, including a mix of residential, retail, and office space. The transit district will serve as a regional multimodal hub connecting commuter rail, light rail and bus rapid transit, regularly scheduled bus service, and other related transportation services. The federal government is providing a TIFIA loan of $145.6 million, a RRIF loan of $155.0 million, an FHWA grant of $45.3 million, an FTA grant of $9.5 million, and a Recovery Act grant of $28.4 million.

While the Denver Union Station Project had to approach each of these federal programs independently, and comply with each program's specific requirements and timelines, they were ultimately able to assemble a viable financial plan. A national infrastructure bank would allow DOT to coordinate most or all of this assistance—senior debt, subordinated debt and grants—through one institution, which would save substantial time and money for all of the relevant parties, and could be the difference in a project's feasibility.

Private Activity Bonds

The Private Activity Bond (PAB) program allows for the issuance of tax-exempt debt to support private development and financing of public infrastructure. One active project estimates that PABs could save close to 9 percent of the total project cost. The bonds are issued by a public sector conduit and purchased by private investors, but the private entity developing the project is solely responsible for repayment of the bonds. SAFETEA–LU amended the Internal Revenue Code to add highway and freight transfer facilities to the types of private projects for which PABs may be issued, and PABs are now being incorporated in the financing plans of several major PPPs.

PABs can be used for surface transportation projects which receive federal assistance through certain programs, including highways, transit, passenger rail, and freight transfer facilities. The law limits the total amount of such bonds that may be issued to $15 billion and directs the Secretary of Transportation to allocate this amount among qualified facilities. Providing private developers and operators with access to tax-exempt interest rates lowers the cost of capital, enhancing investment prospects. To date, the DOT has approved almost $6 billion of PAB allocations for eight projects, of which over $2 billion of PABs have been issued for five projects. Increasingly, PABs and TIFIA credit assistance are being used together to support multi-billion dollar projects.

One recent example is the I–635 Managed Lanes Project, which will relieve congestion north of Dallas on 13 miles of Interstate highway. The total project cost is $2.6 billion, and the project is being developed as a PPP. The private concessionaire will be responsible for design, construction, financing, operation and maintenance of the project for 52 years and is committing $672 million in equity, which includes an equity commitment from the Dallas Police and Fire Pension System. DOT played a key role in the financing and helped facilitate the PPP structure by providing an $850 million TIFIA loan and authorizing $606 million in PABs.

The I–635 Managed Lanes Project highlights a new element in financing PPPs, which is the successful incorporation of a direct pension fund investment in the financial plan. While the involvement of pension funds as direct investors in public transportation projects is still rare, this project demonstrates that pension funds are interested in infrastructure investments through PPPs. Sharing PPP revenue with public pension systems presents additional potential for the public sector to realize value from transportation PPPs.

The TIFIA program and PABs demonstrate the extent to which tolling and pricing can facilitate partnerships with the private sector to supplement current transportation funding and increase overall investment in transportation infrastructure. Tolls present a dedicated source of revenue which can be forecasted and used to repay long-term debt and equity investments. However, just because tolls make a project commercially viable does not necessarily mean the project is well-aligned with national, regional or local public policy considerations.

As with any PPP, a toll road needs to be examined through the lens of public policy considerations. For example, there are important ongoing discussions about whether existing Interstate highways should be tolled or only new capacity; what should be done with excess revenue generated by tolling; what type of pricing mechanisms are appropriate for managing demand and changing driver behavior; and whether congested urban areas might need greater tolling flexibility to address their needs.

Where a tolling structure makes sense there are increasing opportunities to implement variable or congestion pricing mechanisms that not only generate revenue to pay for the facility, but also help manage demand for the facility by encouraging more use of off- peak capacity, shared rides and transit use. In addition to generating funds, pricing can reduce the overall need for investment in new transportation facilities.

The Capital Beltway High Occupancy Toll (HOT) Lanes project is a partnership between the Virginia DOT and a private concessionaire to deliver new lanes and over 50 bridges and overpasses on one of the busiest stretches of Interstate in the country. The $1.9 billion project is deploying innovative managed lanes to provide real-time congestion mitigation options for transit vehicles and drivers paying tolls from the Springfield Interchange to the Dulles Toll Road. The private concessionaire will be responsible for design, construction, financing, operation and maintenance of the project for 85 years. In addition to public funds, the private partner is committing $350 million in equity. DOT played a key role in the financing by providing a $589 million TIFIA loan and authorizing $589 million in PABs.

Infrastructure Bank

The infrastructure bank is one of the most promising ideas for leveraging more private sector dollars into infrastructure and has generated support from leaders here in Congress, including the Chair and Ranking Member of this Committee, Senators Lautenberg, Warner and Kerry and Representatives DeLauro and Ellison. President Obama has been a long-time supporter and the Administration's budget for Fiscal Year 2012 requests $5 billion for a new national infrastructure bank. This is the first year of a six-year plan to capitalize the bank with $30 billion.

The infrastructure bank, which would provide grants, loans, loan guarantees or a combination thereof to the full range of passenger and freight transportation projects in urban, suburban and rural areas, marks an important departure from the federal government's traditional way of spending on infrastructure through mode-specific grants and loans. By using a competitive, merit-based selection process, and coordinating or consolidating many of DOT's existing infrastructure finance programs, the infrastructure bank would have the ability to spur economic growth and job creation for years to come.

Rigorous benefit-cost analysis would focus funding on those projects that produce the greatest long-term public benefits at the lowest cost to the taxpayer. This is achieved, in part, by encouraging private sector participation in projects in order for them to be competitive. Other important selection criteria would encourage accelerated project delivery and risk mitigation.

The increased capacity and coordination of federal infrastructure finance programs in the infrastructure bank will allow for greater investment in those projects that have the largest and most immediate impact on the economy. Many of these projects of national and regional significance are currently underfunded due to the dispersed nature of federal investment and lending. The national infrastructure bank would be able to address this issue in a systemic fashion, partnering with the private sector as well as State and local governments to address the most pressing challenges facing our transportation networks. We expect that an infrastructure bank would be well-positioned to better align investment decisions with important national economic goals, such as increasing exports. This would amplify job creation and economic growth.

The emphasis placed at the federal level on competitive, merit-based selection will also serve as a model to State and local governments who will continue to make the bulk of infrastructure decisions. In Chairman Mica's recent transportation reauthorization proposal, he focuses on providing incentives for States to create and capitalize State infrastructure banks. A national infrastructure bank could leverage State investments through their own infrastructure banks.

The national infrastructure bank would build on the best practices developed through DOT's existing credit assistance and discretionary programs to provide a more robust and effective mechanism for investing federal funds and attracting substantial private sector co-investment to our most challenging and complex transportation projects.

Conclusion

The federal government has many programs that facilitate and encourage private investment in transportation projects. Of particular note are the TIFIA, TIGER and RRIF programs, PAB and the proposed national infrastructure bank. These programs reflect an acknowledgement that the federal government needs to take a more active role in supporting major transportation projects with targeted grants and credit assistance. The Department's experience is that competitive national programs facilitate creative and innovative approaches at the State and local level to leverage substantial revenue for major transportation investments.

I think it is also important for the federal government, in close collaboration with the private companies engaged in PPPs, to do a better job of educating and supporting all of the relevant public entities that are considering PPPs. There is value for the public sector in innovative P3s, but there is also complexity and risk.

As we consider increasing the role innovative finance and private investment play in our transportation system, we must insure that applicants of all sizes and in all parts of the country have the guidance and technical assistance they need to succeed.

We already provide that through our program experts at DOT and in the future we hope to better tap into the expertise represented here today from the private sector, labor and other transportation stakeholders.

Thank you again for the opportunity to discuss these important programs and DOT's efforts to increase private sector investment in transportation infrastructure. On behalf of the Administration and the Secretary, I can underscore that we look forward to working with this Committee and other Members of Congress to consider innovative ways to utilize private sector capital and expertise to improve our nation's transportation infrastructure. I would be pleased to answer any questions you may have.

The CHAIRMAN. Thank you.

Mr. Robert Dove is the Managing Director of Carlyle Infrastructure Partners, the Carlyle Group. That's a hefty position.

And you nodded your head when I said all those billions are available. So I want to hear what you have to say.

STATEMENT OF ROBERT DOVE, MANAGING DIRECTOR, THE CARLYLE GROUP

Mr. DOVE. Thank you. Mr. Chairman, Senator Hutchison, and members of the Committee, thank you very much for the opportunity to testify. And I commend you and the Committee for holding today's hearing on such an important issue.

The Carlyle Group is a global alternative asset manager with approximately $150 billion in assets under management. I am the co-head of the Carlyle Infrastructure Fund, Carlyle Infrastructure Partners, a $1.2 billion fund that was raised specifically to invest in infrastructure projects here in the United States.

I would like to highlight for the Committee a recent investment by our fund that involved a partnership with the state of Connecticut. In this case, we formed a 35-year public-private partnership with the state of Connecticut to finance the redevelopment and operations of 23 highway service areas. We created a project that all sides of the political landscape, including labor, supported. Carlyle and our partners will invest approximately $180 million in improvements and upgrades over the next 5 years, investments that we estimate will create 375 additional jobs. In total, the state is expected to receive nearly $500 million in economic benefit from the redevelopment effort.

Our partnership with the state of Connecticut is a good example of the benefits of innovative financing and project delivery. The completion risks, cost-overrun risks, have all been shifted to Carlyle and its partners, while there is an ongoing revenue-sharing agreement with the state of Connecticut. In that context, I would recommend to the Committee three general points.

First, innovative financing, particularly direct private investment, is essential to reforming our nation's infrastructure funding policy. This shift from how much to fund to how to create more funding is an important opportunity for this Congress. By making programmatic and regulatory changes in the federal law, Congress can encourage state and local governments to develop innovative financing models. It is important to note that advocating for this kind of financing does not mean wanting to sell off America's public infrastructure to private investors. The assumption that critical infrastructure projects must either be publicly financed or privatized is a false assumption.

Second, the establishment of a national infrastructure bank is a means to develop innovative financing and to aid the delivery of infrastructure project improvements. A national infrastructure bank can accelerate large capital projects by leveraging direct private investment into projects that are critical to the nation's infrastructure.

Mr. Chairman, although I have lived in the United States for 30 years, as you can tell from my accent, I was not born in the United States. Being from the United Kingdom, I have the opportunity to directly observe and work with an infrastructure bank in Europe, and I believe we can all learn from their experience.

The European Investment Bank, which Senator Kerry referred to, provides loans and guarantees. These loans and guarantees are expected to be repaid. The EIB lends money for long periods of time, sometimes as much as 40 years, at a very low interest rate and in doing so provides capital that allows for participants, both commercial banks and private sector equity investors like myself, to participate in a project that would otherwise struggle to obtain financing.

Importantly, the lending policy of the EIB is driven by government. But the actual credit decisions on specific loans and guarantee proposals presented to the bank are determined by a professional staff operating independently within the bank.

Like the EIB, in a U.S. infrastructure bank, the policy should be determined by Congress and other federal officials. You, Senators, decide what infrastructure is to be built—roads, bridges, high-speed rail, alternative energy, water treatment facilities, or whatever. The bank's function is only to determine which projects that are submitted for a loan or a guarantee are creditworthy. Its function is to make sure the projects are a consequence of the policies you have set and are financially strong.

The last point I wish to make is for the national infrastructure bank to be successful, Congress must provide additional reforms to our transportation public policy. The creation of a national infrastructure bank should be a manifestation of a deeper, more profound change to our national transportation policy. Specifically, outcome-based performance standards should be established by Congress.

For example, life-cycle costs should be an established criterion when evaluating a major capital project. Without it, a true comparison of the benefits of private investment versus public debt financing is not possible, and a flawed cost of capital analysis of the private investment option is likely.

Mr. Chairman and members of the Committee, the need for investment in our infrastructure is significantly larger than any one revenue source. There is a need to design policies to access different funding sources while being a good steward of the nation's infrastructure. A national infrastructure bank is one method by which private investment can serve as one of those sources of capital.

Thank you once again for the opportunity to testify, and I would welcome your questions.

[The prepared statement of Mr. Dove follows:]

PREPARED STATEMENT OF ROBERT DOVE, MANAGING DIRECTOR, THE CARLYLE GROUP

Mr. Chairman, Senator Hutchison, and members of the Committee:

Thank you very much for the opportunity to testify on the need for innovative financing—such as a national infrastructure bank—as we work to improve America's transportation infrastructure. This subject is important to our nation's future, and I commend the Committee for holding today's hearing.

The Carlyle Group is a global alternative asset manager with approximately $150 billion in assets under management. Carlyle invests in small, medium and large companies, real estate, infrastructure projects and financial services firms. Whether an investment is in a small, growing company, a large infrastructure project, or a real estate asset, our strategy is the same: we seek to build long-term value in a company or asset through investments, improvements in management, and efficiency enhancements. Today, we have investments in approximately 80 companies based in the United States, 77 percent of which are small or medium-size businesses (fewer than 2,500 employees), as well as about 125 real estate projects, which include commercial, residential, and health care or data centers. Combined, these companies employ more than 216,000 people in the United States in all 50 states.

I am the co-head of Carlyle's infrastructure group, which has raised $1.2 billion specifically to invest in infrastructure projects with its primary focus on the United States. And we are quite proud that public and private pension funds contributed over forty percent of the fund that we manage and invest on their behalf.[1]

Carlyle Infrastructure Partners invests in companies that contract with state and local governments throughout the United States to provide services, such as treatment of biosolids at the end of the wastewater treatment process, school bus transportation, and other infrastructure-based services. I would like to highlight our recent innovative partnership with the State of Connecticut to redevelop, operate, and maintain Connecticut's 23 highway service areas across the state.

In this case, our fund formed a 35-year public-private partnership with the State of Connecticut to finance the redevelopment and operations of highway service areas at a time when the Connecticut state budget was under great stress. We were able to create a project that garnered support from all sides of the political landscape, as well as important stakeholders in the business community, organized labor, local communities, law enforcement, and environmental groups. Carlyle and our partners plan to invest approximately $180 million in improvements and upgrades to the service areas over the next 5 years, investments that we estimate will create approximately 375 additional permanent and construction-related jobs—a 50 percent increase above the 750 jobs that supported the service areas before we started our project. In total, the state is expected to receive nearly $500 million in economic benefit from the redevelopment effort.

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[1] The actual amount that fund investors contribute to a particular transaction frequently varies from the level of commitment those fund investors have made to a particular fund. This differential stems from a number of factors, including the investments made by a management team or co-investors.

Our partnership with the state of Connecticut is a good example of the benefits of innovative financing and project delivery. State and federal entities benefit when the best attributes of publicly-owned infrastructure are combined with private sector capital and expertise to create genuine partnerships. Creating innovative funding models—including a national infrastructure bank—would help develop projects along the lines of Connecticut.

In that context, I will focus on three general points this morning:

1.The need for innovative financing in critical infrastructure, and the opportunity it presents for genuine partnerships between the public and private sectors;

2.The establishment of an infrastructure bank as a means to develop innovative financing and to aid the delivery of infrastructure improvements;

3.The need for transportation policy reforms that must accompany innovative financial practices in order to maximize private investment.

1. Innovative financing—particularly direct private investment—is essential to reforming our nation's transportation funding public policy.

The condition of our national infrastructure and the reliance of our nation's economic security on increasing the capacity of our national transportation system are well-documented.[2] Furthermore, this Committee is keenly aware of the shrinking Federal, state, and local resources available to address these needs.

As former Secretary of Transportation Norman Y. Mineta said in a speech last April:

> "What traditionally has been a quantitative funding issue for our nation's infrastructure has now become a qualitative policy issue. In other words, fighting the perennial battle of getting more money from traditional sources won't suffice. The needs are great—and getting greater—and more money isn't coming." [3]

This shift from "how much to fund" to "how to create more funding" as described by Secretary Mineta is an important opportunity for this Congress. Financial experts estimate that the amount of available private sector equity capital raised to invest in global infrastructure assets is $38 billion.[4] Several major financial institutions and a growing number of private equity firms have formed infrastructure funds to invest in various infrastructure assets. In addition, several pension funds representing public and private sector employees have identified the benefits of infrastructure investments: the potential to receive increased returns over government-issued securities, at lower risk than traditional equity investments. Recently, Richard Trumpka, the president of the AFL-CIO announced that organized labor would invest more than $10 billion in U.S. infrastructure.[5]

By making programmatic and regulatory changes in federal law, Congress can encourage state and local governments to develop innovative financing models that access this available private capital. It is important to note that advocating well-crafted funding models that access direct private investment does not mean selling off America's public infrastructure to private interests as some have asserted.

The assumption that critical infrastructure projects must be either publicly-financed or privatized is a false choice. State and local officials responsible for infrastructure project delivery do not have to be limited to a set of binary decisions if they want to consider leveraging private investment: organized labor vs. a non-union work force; existing permitting procedures vs. relaxed environmental standards; or using public debt vs. surrendering public control to private interests. Innovative funding models can provide a third way for designing, building, operating, maintaining, and financing our capital projects.

At Carlyle, we believe these goals can be accomplished by developing genuine partnerships with public officials and other key stakeholders. As I outlined in describing the characteristics of our Connecticut project, innovative planning, stakeholder involvement, and a commitment to taking the best elements from the public and the private sides can create a project that accesses new sources of capital in a way that supports new infrastructure development.

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[2] See studies, *2009 Report Card for American Infrastructure*, American Society of Civil Engineers, March 25, 2009; *Well Within Reach: America's New Transportation Agenda*, the Miller Center of Public Affairs at the University of Virginia, October 4, 2010.

[3] *"Should there be a National Infrastructure Bank?"* Norman Y. Mineta, Speech before the U.S. Chamber of Commerce, April 12, 2010.

[4] *"Road Map to an American Partnership,"* The Combined Infrastructure Working Group, June 2009.

[5] *"AFL–CIO Announces Major Commitment to Action on Infrastructure Investment and Training,"* AFL–CIO press release, June 29, 2010

2. The establishment of an infrastructure bank as a means to develop innovative financing and to aid the delivery of infrastructure improvements.

A national infrastructure bank can accelerate large capital projects by leveraging direct private investment into projects that are critical to the nation's infrastructure.

Several international entities have implemented infrastructure banks, and we can learn from their experiences. The European Investment Bank (EIB) is one and there are others. Giving states and regions the opportunity to access this funding with U.S. Government backing would be critical and should not threaten Congressional prerogatives. The EIB provides loans and makes guarantees. The loans and guarantees are expected to be repaid or extinguished.

The EIB lends money for very long terms (*e.g.,* 40 years) at a low interest rate and, in doing so, provides for a level of subordinated capital that allows other participants, both banks and private sector investors, to participate in a project that would otherwise struggle to obtain financing. The lending policy of the EIB is driven by the government, but the actual credit decisions on specific loans and guarantee proposals presented to the bank are determined by a professional staff operating independently within the bank.

This process achieves an important policy goal. Congress and other federal decisionmakers would still determine the appropriate policy goals: identifying the targets for infrastructure investment; prioritizing modes of transportation; deciding where to increase capacity; testing new infrastructure technologies; and determining other critical policy questions. The bank's expertise can help assess the creditworthiness of a certain class of projects and determine whether these projects can gain investment funding, or if they should be viewed in a different category of projects that merit funding from the federal government and other state and local sources.

Congress should look at the infrastructure bank as a true bank that must make difficult credit decisions. The institution's primary purpose is to lend to large projects with long-term maturities at a small margin over its borrowing cost. The bank would provide a project with a base of capital that could then attract, either at the same time or later, outside private investment that we need to support our nation's infrastructure. The bank should cover its costs, but not operate as a profit-making venture. The purpose of the bank should be to utilize its expertise to attract additional investment from the private sector for public infrastructure priorities, rather than replacing existing funding from government institutions.

3. For innovative financing practices like the infrastructure bank to be successful, Congress must provide additional reforms to our current transportation public policy.

The creation of an infrastructure bank should be a manifestation of deeper, more profound changes to our national transportation policy; otherwise the bank and other innovative practices risk contributing to existing shortcomings in our transportation financing policies. Specifically, outcome-based performance standards should be encouraged at the baseline policy level. Clear, transparent, and concrete performance metrics are needed to measure the success and benefits of major transportation projects.

Life-cycle costs should be an established criterion when evaluating a major capital project. Without it, an "apples-to-apples" comparison of the benefits of private investment vs. public debt financing is not possible and a flawed "cost of capital" analysis of the private investment option is likely. Additionally, requiring rigorous standards for analysis of expected users of a project, such as traffic studies, should be implemented so that accurate projections that affect costs and benefits are possible.

Congress should establish measurable performance metrics on the economic benefits of a major project, or the environmental benefits a infrastructure project will provide.[6] Such standards will provide financing entities like the infrastructure bank with the ability to provide more extensive and more accurate data to better assess the impact and worth of an infrastructure project.

Having innovative financing models—including an infrastructure bank—that attract private capital directly to critical infrastructure projects will bring other benefits with respect to how projects are completed. These benefits include increased accountability and a shifting of financial risk from taxpayers to investors; unlike funding received from public debt financing, the private investment partner assumes the risk of success or failure. The private partner works with the public partner

[6] *"Transitioning to a Performance-Based Federal Surface Transportation Policy,"* The Bipartisan Policy Center, June 23, 2010.

throughout the entire spectrum of the project—the design, construction, operation, and the maintenance. Therefore, the private partner has a different role, and risk equation, than a bondholder because the private partner is accountable for the project being completed on time and on budget.

Mr. Chairman and members of the Committee, the need for investment in our nation's infrastructure is significantly larger than any one revenue source, and there is a need to design policies to access different revenue sources while being good stewards of the nation's infrastructure and meeting the challenges its current condition presents. A national infrastructure bank is one method by which private investment can serve as one of those revenue sources. Coupled with genuine reform, the bank could provide needed funding for our national infrastructure.

Thank you once again for the opportunity to testify.

The CHAIRMAN. Mr. Dove, that was an excellent statement, and I thank you very, very much.

Mr. DOVE. Thank you.

The CHAIRMAN. Mr. Perry Offutt, who is the Managing Director, Head of Infrastructure Investment Banking for the Americas, from a company called Morgan Stanley.

STATEMENT OF J. PERRY OFFUTT, MANAGING DIRECTOR, INVESTMENT BANKING DIVISION, MORGAN STANLEY & CO. LLC

Mr. OFFUTT. Good morning.

The CHAIRMAN. Good morning.

Mr. OFFUTT. Good morning, Mr. Chairman, Senator Hutchison, and members of the Committee. It's my pleasure to be here this morning.

My group at Morgan Stanley focuses on innovative transaction structures to utilize private capital to invest in infrastructure projects. As a financial advisor focused on public-private partnerships, or P3s, I appreciate the opportunity to share my perspective on how federal funds can be used to leverage and partner with private investment.

Morgan Stanley estimates that over $300 billion of private capital has been raised to invest in infrastructure projects. This capital is attracted to these investment opportunities, given the potential to achieve long-term, stable cash-flows and attractive risk-adjusted returns. Many of these funds, typically pension or infrastructure funds, have the ability to invest in various geographies around the world. However, they tend to focus on jurisdictions with stable economic and regulatory environments such as OECD countries and can invest in various infrastructure verticals such as transportation, regulated utilities, and energy.

Attracting the private sector as a partner can leverage public funds and deliver a superior outcome for the project. For example, the private sector can often build a project more quickly and at a lower cost as well as drive efficiencies over time by introducing technology solutions. Given that private capital can focus on a variety of areas outside U.S. transportation infrastructure, it is important to demonstrate that a project is commercially and financially viable and has political support.

Because of certain return expectations and the desire for stable cash-flows, some projects might not typically lend themselves to P3s, such as many transit projects. However, they could be strong P3 candidates if the project is secured by some form of availability payment to protect against the risk of recurring operating losses.

Another challenge facing U.S. P3s is convincing the private sector that there is political will to complete the P3. Given the high due diligence costs to reach a binding bid, private capital focuses early on regulatory and political approval processes. Leadership from the federal government, as has been done in Canada, Australia, and the U.K., can help attract significantly more private capital to a greater number of key infrastructure projects.

While many states and local governments are focusing on these matters, top-down leadership is also needed to supply a vision for the country and common P3 principles. Currently, no standard or government entity exists to share best practices across states and localities. The creation of a nonpartisan infrastructure commission could help address that.

In addition, states and municipalities are in the need of capital to support critical projects. A national infrastructure bank could supplement the existing TIFIA, RRIF, TIGER, and private activity bond programs. In order for the nation to finance a wide variety of projects, sponsors need to have access to a large variety of public and private financing alternatives. That could include grants, loans, and loan guarantees, all of which I think are very important.

In summary, the P3 programs developed in Canada, Australia, and the U.K. have been very successful. They've helped demystify and depoliticize the use of P3s as a financing alternative. If the U.S. institutes similar programs at the federal level, I believe P3s can be more widely accepted as a viable financing alternative relative to traditional financing sources such as tax-exempt financing.

Thank you very much for the opportunity to testify here this morning on this very important topic, and I'll be glad to answer any questions you may have as well.

[The prepared statement of Mr. Offutt follows:]

PREPARED STATEMENT OF J. PERRY OFFUTT, MANAGING DIRECTOR, INVESTMENT BANKING DIVISION, MORGAN STANLEY & CO. LLC

Good morning, Mr. Chairman, Senator Hutchison and members of the Committee. It is my pleasure to be here this morning.

My name is Perry Offutt. I am a Managing Director in the Investment Banking Division of Morgan Stanley and am the Head of Infrastructure Investment Banking for the Americas. My group focuses on innovative transaction structures to utilize private capital to invest in infrastructure projects. Many of the transportation projects on which I work are structured as public-private partnerships (defined below). I work with both public and private sector clients. For example, I recently advised on the following transactions:

1. OHL Concesiones/Morgan Stanley Infrastructure Partners on their bid for the concession of Puerto Rico's PR–22 and PR–5 toll roads (public-private partnership bid submitted in May 2011)
2. City of Indianapolis on concession of City metered parking system (public-private partnership closed in 2010)
3. City of Pittsburgh on $452 million proposal for concession of City parking system (public-private partnership suspended after a city council vote in 2010)
4. Citizens Energy Group on $1.9 billion acquisition of Indianapolis water and wastewater system (approved by regulators and scheduled to close in Q3 2011)
5. Morgan Stanley Infrastructure Partners on its acquisition of NStar's district energy operations (closed in 2010)

As a financial advisor focused on public-private partnerships, I appreciate the opportunity to share my perspective on how federal funds can be used to leverage and partner with private investment to supplement current transportation funding and increase overall investment into transportation infrastructure projects.

Public-Private Partnerships

A Public-Private Partnership ("P3") involves a long-term lease (not a sale) of municipal assets (the "Concession"). The specific terms regarding how the asset is operated and maintained are included in a contract between the public agency/government and a private sector entity (the "Concession Agreement"). The government retains ownership with a right to reclaim the assets if the private operator does not meet certain standards. Under such an arrangement, some degree of risk and responsibility is transferred from the public to the private entity.

Due to the many safety and security concerns associated with transportation assets, it is essential that all potential private partners undergo an extensive evaluation of their qualifications. Such an evaluation is typical in P3 processes. Traditionally, the procuring government entity will issue a Request for Qualifications ("RFQ") that requires private operators to submit a response listing their qualifications in the areas of design, construction, operations and maintenance, as well as describing their ability to finance construction and improvements as necessary. In order to be considered as a bidder for a P3, a private party needs to pass all criteria in this qualifications phase. Consequently, the government can screen which private bidding groups are able to submit a final bid for a P3 project.

Private Capital Available for P3s

Morgan Stanley estimates that over $300 billion of private capital has been raised to invest in infrastructure projects. This capital is attracted to these investment opportunities given the potential to achieve long-term stable cash-flows and attractive risk-adjusted returns for the project. Many of these funds (typically pension or infrastructure funds) have the ability to invest in various geographies around the world and across various infrastructure verticals (*e.g.,* transportation, regulated utilities and energy). In order to mitigate some of the macro risks, investors tend to focus on jurisdictions with stable economic and regulatory environments.

Attracting the private sector as a partner can both leverage public funds and deliver a superior outcome for the project. For example, the private sector can often build a project more quickly and at a lower cost; drive efficiencies over time by introducing technology solutions; and develop incremental revenue sources by delivering additional services.

Given that private capital can focus on a variety of areas outside U.S. transportation infrastructure, it is important to demonstrate that a project is commercially/financially viable and has political support. Because of certain return expectations and the desire for stable cash-flows, some projects do not lend themselves to P3s. For example, a typical transit project is only a strong P3 candidate if it is secured by some form of "availability payment." The following is an example of a P3 transaction that utilized an availability payment structure:

> In October 2009, the Florida Department of Transportation ("FDOT"), in conjunction with the City of Miami and U.S. DOT, reached financial close for the Port of Miami Tunnel and Access Improvement Project. This P3 project involves the construction of a tunnel under the Port of Miami at an estimated project cost of approximately $900 million (financed with public and private capital). The winning bidder (Meridiam and Bouygues) proposed providing $80 million in equity upfront plus helped arrange $342 million of senior financing with project finance banks. Other funding was provided by a TIFIA loan. In addition, FDOT pledged to make "milestone" payments throughout the construction process, followed by availability payments following completion. These payments from FDOT helped provide the winning bidder with comfort that, despite uncertainty around the total traffic in the tunnel, the government was willing to serve as a "buffer" for future traffic risks. Depending on the specific projected cash-flows of the project, this may or may not be needed.

Another challenge facing some U.S. P3s is convincing the private sector that there is political will to complete the P3. Given the high costs to reach a binding bid (*i.e.,* significant due diligence costs), private capital focuses early on the regulatory/political approval process. Any additional federal support (both monetary and political) would be very helpful to minimize this risk.

Current Need for Significant Infrastructure Investment

In 2009, the American Society of Civil Engineers (ASCE) reported that $2.2 trillion would be needed over the next 5 years to raise America's infrastructure from its current "poor" rating to a "good" rating, which is required to ensure reliable transportation, energy and water/wastewater systems. For example, approximately $930 billion would need to be spent on bridges and roads alone, and the ASCE estimates that only 40 percent of this amount will be deployed. Such projected shortfalls are quite troubling. No one wants another bridge to collapse, as did the I–35W Mississippi River Bridge, so the time for federal leadership on this topic is now.

When you compare the percentage of GDP that the U.S. is spending on infrastructure relative to emerging markets, the ASCE's conclusion is not surprising. For example, between 2000 and 2006, the total public spending on infrastructure in the U.S. was less than 2.5 percent of GDP versus China, which spent almost 10 percent.

Unfortunately, the current proposed infrastructure initiatives do not address the magnitude or the immediate urgency of this problem. Leadership from the federal government (as has been done in Canada, Australia and the U.K.) could help attract significantly more private capital to a greater number of key infrastructure projects.

While many states and local governments are focusing on these matters, top-down leadership is also needed that includes a vision for the country and common P3 principles. Currently, no standard or government entity exists to share best practices across states and localities. In addition, states and municipalities need capital to support critical projects. Unfortunately, given: (1) ongoing stresses on the global banking system; (2) large budget deficits projected for states and municipalities; and (3) limited additional debt capacity at state and local levels given current debt loads and large pension liabilities, the federal government's presence is critical to support essential projects.

Ideas to Consider

Various types of infrastructure projects need to be funded, ranging from improvements of high cash generating "brownfield" projects (*i.e.,* existing operating assets) to investments in social services that are not focused on profitability (*e.g.,* public transit). In order for the nation to finance such a wide range of projects, sponsors need to have access to a large variety of public and/or private financing alternatives. Therefore, I personally see the benefits of providing a greater number of grants and low-cost loans (*e.g.,* TIFIA and RRIF loans) as well as taking steps to promote competitive capital market alternatives (*e.g.,* a healthy tax-exempt bond market). In many cases, public capital from Federal, state and/or local sources can be leveraged with additional capital from the private sector.

While states and local governments are pursuing initiatives to address the U.S. infrastructure crisis such as implementing P3 legislation, the federal government should develop a long-term plan for development and maintenance of the country's infrastructure as has been done successfully by other countries. A National Infrastructure Bank would be a key part of such a plan. However, other ways exist by which the federal government can facilitate project development of national significance and help ensure that projects do not get stalled or terminated due to local issues. From the private market's perspective, ensuring political will is just as important as ensuring access to capital for a project; a project will not succeed without both of these critical components.

Various parties at Morgan Stanley have discussed the concept of creating a non-partisan infrastructure commission to serve as a repository of best practices and help inform and empower local governments to utilize all available tools, including private capital. While there are several non-partisan groups acting as "think tanks" on this topic, no "national infrastructure commission" exists. Sadek Wahba, Global Head and Chief Investment Officer for Morgan Stanley Infrastructure Partners, has written on this topic. He calls for a National Infrastructure Commission similar to Infrastructure Australia, a statutory body established in 2008 to advise governments and investors.

Examples in Other Countries

Canada, Australia and the U.K. took strong steps to promote public-private partnerships and have seen the benefits of their efforts. For example, the Building Canada program, which began in 2007, and the U.K.'s National Infrastructure Plan announced in October 2010 both focus on public policy and decision-making initiatives. Britain's plan calls for creating "the optimum environment for investment," improving the "quality of data to inform decision-taking," "efficient and effective funding models," and "addressing regulatory failures." Most importantly, it calls for delivering "transformational, large-scale projects that are part of a clear, long-term strategy."

The Building Canada program is also a comprehensive plan that aims to assist municipalities in addressing their needs. It complements PPP Canada, a program created to serve as a center of excellence for P3s. PPP Canada has increased visibility of P3s as a procurement solution and is consistent with efforts done at the provincial level such as British Columbia's Partnerships BC. Programs such as PPP Canada help demystify and depoliticize the use of P3s as a financing alternative. The absence of this in the U.S. is a key reason that it is taking longer for P3s to be widely accepted as a viable financing alternative relative to traditional sources such as tax-exempt debt.

Thank you very much for the opportunity to testify here this morning on this very important topic. I would be glad to answer any questions that you may have.

The CHAIRMAN. Thank you, Mr. Offutt, very much for that very hopeful statement.

Mr. Steve Bruno is the Vice President, Brotherhood of Locomotive Engineers and Trainmen.

STATEMENT OF STEPHEN J. BRUNO, VICE PRESIDENT, BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

Mr. BRUNO. Good morning, Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee.

As Senator Rockefeller stated, my name is Steve Bruno. I'm Vice President of the Brotherhood of Locomotive Engineers and Trainmen, which is a division of the Rail Conference of the Teamsters. My comments have been submitted for the record, and I'll give you a brief outline of what they say here today.

Everyone acknowledges that our nation's infrastructure is in dire need of repair and expansion. The safety of the traveling public and the jobs created by funding the expansion and maintenance of our infrastructure are a win-win for everyone affected and the nation as a whole.

The United States, as Senator Kerry referred to earlier, is falling behind the rest of the world in infrastructure investment. And according to The Economist, total public spending on infrastructure in the U.S. now stands at 2.4 percent of GDP, and by contrast, Europe invests twice as much at 5 percent of GDP, and China invests 9 percent or three times as much as the United States relative to GDP.

America badly needs the economic boost infrastructure investment provides. Private investment dollars sit idle on the sidelines while unemployment stubbornly remains near record levels. Infrastructure investment is a proven economic stimulator and a job creator, and it's an investment in the future of America.

Infrastructure investment creates jobs and grows the economy, but we need to finance it. And for that, some would overly rely on the private sector. We believe there's a role for private capital in infrastructure financing, but strong conditions must be attached and an appropriate balance must be achieved.

Private funding must be used to supplement, not replace, current sources of funds, and certain questions must be answered before private funding sources are included, such as: Who maintains control of the infrastructure? Who is liable if private entities encounter financial difficulty or withdraw if the rate of return is lower than they expected? What are the long-term costs to the government? And when does the public's need supersede the private investor's agenda? And where will the resources be applied?

The leaders of our country certainly recognize that some projects are never going to produce a profit. Bridges, highways, passenger rail, and public transportation facilities are intended to provide for the public good, not corporate profit. The people of the United States should be the primary beneficiaries of any infrastructure legislation, not the corporate shareholders.

A prime example of a right way and a wrong way to pursue private funding exists in the competing Northeast Corridor plans put forth by Amtrak and Representatives Mica and Shuster. As Amtrak President, Joseph Boardman, has previously testified, Amtrak has issued a request for proposals for an implementable business and financial plan for high-speed rail on the Northeast Corridor as part of their long-term vision. It has been fully vetted, peer reviewed, and properly balances private capital investment with public benefits.

Conversely, the recent proposal by Representatives Mica and Shuster is the wrong way to go. This plan would, in short, saddle Amtrak with all its debt while removing the Northeast Corridor, its greatest asset. This would endanger passenger and commuter rail throughout the country, and it would cause significant job losses among Amtrak employees. It places corporate shareholders' interest ahead of the interest of the general public. I liken that to locusts, corporate locusts. They swarm in, they acquire all the profitable asset, and leave nothing but the husk to rot, which is what you would find if the Mica-Shuster proposal were successful.

Cost-benefit analyses cannot be the only determinant for infrastructure investment. Safety and other public benefits must carry greater weight. Frankly, we are concerned that when private investment is the exclusive or even a predominant source of financing, profitability will become the deciding factor.

Inevitably, safety will be compromised with the end result being that important safety improvements or projects will be deferred due to a lack of profitability. Projects with the highest profitability will be pursued while other less profitable but nonetheless essential projects, such as those that service poor or rural communities, will languish.

The public good must always outweigh profitability in any infrastructure project which uses taxpayer money. And you must ensure this for the working men and women that I represent and the American people.

So thank you for your time, and I will be happy to try to answer any questions that you may have.

[The prepared statement of Mr. Bruno follows:]

PREPARED STATEMENT OF STEPHEN J. BRUNO, VICE PRESIDENT, BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

Good morning, Chairman Rockefeller, Ranking Member Hutchison and members of the Committee. My name is Stephen Bruno and I am a Vice President of the Brotherhood of Locomotive Engineers and Trainmen, which is a Division of the Teamsters Rail Conference.

I am here today to provide you with our perspective regarding infrastructure financing, and particularly using federal funding to leverage private investment in public infrastructure.

I would first like to take the opportunity to compliment the Chairman on his legislation, S. 936, which would finance large scale projects of state, regional or national scope. We especially applaud the provision that grants increased flexibility to states for the types of projects they may fund with their Federal Highway Administration Surface Transportation program funds, by adding passenger and freight rail projects to the list of eligible projects.

At the same time, I would also like to encourage the Chairman to complete the labor protections of working men and women to include compliance with other laws that that Davis-Bacon does not cover. Projects initiated pursuant to this legislation must be deemed railroad projects so that upon completion the operating entity clearly understands their legal responsibility to comply with provisions of the Railway Labor Act, Railroad Retirement Act, and other statutes covering railroad workers.

Everyone acknowledges that our nation's infrastructure is in dire need of repair and expansion. The safety of the traveling public and the jobs created by funding the expansion and maintenance of our infrastructure, and from the resulting revenue created by increasing employment and productivity are a win-win for every entity affected or involved and for the nation as a whole.

Our rail corridors are clogged and our highways are even more congested. Time is money, sitting in traffic is wasteful and these delays unjustifiably increase the cost of moving goods throughout our country. This cost is an increasing burden to the shippers and carriers and is passed along to the consumer. Our truck drivers are more stressed than ever, having to make split second decisions to avoid collisions because of the traffic volume. Nearly half of the bridges in the United States are more than 40 years old, and one of every four bridges in the U.S. is structurally deficient or functionally obsolete, as we were reminded when 13 people were killed and 145 were injured in the tragic 2007 bridge collapse in Minnesota. (National Bridge Inventory 2008, Federal Highway Administration).

We are way behind our global competitors in investing in our infrastructure. Our transportation network is crumbling while countries like China spend hundreds of billions of dollars to improve their infrastructure and reduce the transportation cost for their goods. According to the Economist, total public spending on transport and water infrastructure in the U.S. now stands at 2.4 percent of GDP. Europe, by contrast, invests 5 percent of GDP in its infrastructure, while China invests 9 percent ("Life in the Slow Lane," The Economist, April 28, 2011.) If we are to remain competitive in the global marketplace, then we have to make a commitment to invest in our ports, rail and highway network.

The economic benefits of infrastructure spending are indisputable. Countless studies have shown that investment in infrastructure delivers jobs and economic growth, as many statistics amply prove. At the present time:

- According to the U.S. Department of Transportation, roughly 47,000 jobs are supported for 1 year by each billion dollars of annual spending on public transportation.
- U.S. companies and individuals derive over $788 billion a year in direct economic benefits from using highways and public transportation to conduct business and commute to and from work.
- Businesses gain $314.7 billion a year in economic benefits from their use of the nation's surface transportation system, mainly through lower costs and higher productivity.
- Individual Americans obtain $473.7 billion in direct economic benefits from their use of highways and public transportation, in the time they save commuting to work and the additional income they can earn by working further from home.

Increased investment in highways and public transportation systems would increase the benefits derived by both businesses and individuals (APTA, *Healthy Returns: The Economic Impact of Public Investment in Surface Transportation*, March 2005).

America badly needs an economic boost, as unemployment stubbornly remains near record levels, while private investment dollars sit idle on the sidelines. Infrastructure financing and investment is a proven job creator and economic stimulator and it is an investment in the future of America. The jobs directly created through rail infrastructure investment—employing those who build, maintain and utilize the infrastructure, such as the men and women the Teamsters Rail Conference represents—are exactly the types of jobs this country desperately needs. They pay a living wage, have good health benefits and provide the security that comes from representation by a labor organization. And just as importantly, infrastructure jobs cannot be outsourced and the Americans who secure these jobs cannot have their middle class wages and benefits cut out from under them unless other Americans allow it to happen which is why the types of labor protections we urged above are vital to the long-term success of this nation.

The political climate of this country has shifted the debate over financing such projects from the public sector to the private sector, while ignoring the evolution of the private sector corporations into multi-national entities who are responsible to their shareholders and not the American people. Cash-strapped states and localities can barely meet their current transportation needs, much less address those of the future. Given these challenges, we do believe there is a role for private capital in infrastructure financing to bridge that gap, but we also believe that strong conditions must be attached.

First and foremost, private funding must be used to supplement, not replace, the current sources of funds. Moreover, Americans—including labor—must continue to have the same protections they are entitled to and have fought so hard to acquire.

Certain questions must be answered before private funding sources are allowed, including: Who maintains control of the infrastructure? What are long-term costs to government? Who is liable if private entities encounter financial difficulty, or withdraw when the rate of return is lower than expected? There are numerous examples of rail projects around the world, in which for-profit entities often fail to maintain the same level of service or encounter financial difficulties, and leave the government and the taxpayers holding the proverbial bag for the costs of the project. A similar outcome here would be unacceptable. The leaders of our country must recognize that some projects are never going to produce a profit. Bridges, highways and public transportation facilities are intended to provide for the public good—not corporate profit. Now is the time to place the American citizens' interests as the primary purpose of legislation not corporate enticements. The people of the United States should be the primary beneficiaries of this legislation, not corporate shareholders.

For this reason, cost-benefit analytics cannot be the only determinant for new starts or improvement projects; safety and other public benefits must also be weighed. Frankly, we are concerned that when private investment is the exclusive source—or even a predominant source—of financing, profitability will become the reason for decisionmaking. Inevitably, safety will be compromised, with the end result being that important safety improvements or projects could be deferred due to lack of profitability. Similarly, projects with the highest profitability will be pursued, while other more vital, but less profitable, projects—such as those that service poor or rural communities—languish. You cannot allow this to happen.

Additionally, while the jobs created by infrastructure development and funding cannot be off-shored, the profits could be sent overseas if significant foreign investment is allowed. Accordingly, Buy America protocols, currently in use in infrastructure projects, must be maintained. The federal funds contributed by American taxpayers that leverage private investment should be used for the good of the American public, and circulate in the American economy; they should not be sent overseas.

We believe there is a right way and a wrong way to privately finance infrastructure, and while examples of both abound, I am going to use the circumstances of one piece of infrastructure that I am very familiar with to illustrate this—Amtrak's Northeast Corridor. As you know, Amtrak was founded 40 years ago when the freight railroads won a 15-year battle to cut and run from their common carrier obligation to operate unprofitable passenger service. At that time, Congress acknowledged the need to continue running passenger rail as a public service and created the private entity that is the National Passenger Rail Corporation.

One of the assets this creation brought to the company was the Northeast Corridor, which is one of the few pieces of infrastructure solely owned by Amtrak. Amtrak makes an operating profit in the Northeast Corridor; that profit offsets operating losses on Amtrak's other routes and acts to reduce the federal subsidy required for off-Corridor operations. Amtrak also uses those revenues to help finance and maintain its rolling stock, as well as more than 500 stations, mechanical and equipment shops, and other facilities it owns or operates in 46 states. The Northeast Corridor is also the backbone of several commuter agencies that provide service to millions of American citizens weekly. It is easily Amtrak's most valuable asset, and one of the most valuable pieces of real estate in the Nation. As such, it has attracted the attention of both Members of Congress and investors who are now salivating over its profit potential. Once privatized, those profits will never be reinvested in other less profitable routes or facilities to the detriment of America.

The Northeast Corridor also represents one of the best opportunities for the development of true high speed rail in this country. To accomplish this goal, Amtrak has created an in-depth business plan that will maximize the opportunity for private investment to finance the construction of infrastructure and the acquisition of equipment required to provide the next generation of high speed rail (220 m.p.h.) in this country. And the railroad is going about this process in the right way—a way that will not be detrimental to the public or its workers by maintaining the spirit of public service that was the reason behind the founding of Amtrak.

In April, Amtrak issued a request for proposals for an implementable business and financial plan. Amtrak will be the primary developer and operator of the system, and will identify and develop both public and private funding to reach its goals. This plan, part of the long term vision for high speed rail in the Northeast Corridor has been fully vetted, peer reviewed and properly balances private capital investments with public benefits.

Conversely, the proposal for the Northeast Corridor recently unveiled by Representatives Mica and Shuster is severely out of balance—placing corporate profits ahead of the public's interest. The proposal would transfer Amtrak's crown jewel—the Northeast Corridor—to the Department of Transportation and a new Northeast Corridor Executive Committee. After transferring Amtrak's assets to their corporate friends, the proposal leaves Amtrak with all its current debts and liabilities. Their proposal allows corporate locusts to swarm in, acquire and leverage the profitable assets and leave a rotting husk.

Under that scenario, Amtrak would have to discontinue services to many Americans and could not continue operating across the United States. The proposal would also take the rest of Amtrak—its long-distance and state-supported routes, which are operated on private, freight rail lines—and bid it out to the private sector who long ago determined it's not profitable—delivering a death knell to Amtrak. Let me be clear, the Mica/Shuster proposal is a plan designed to put America's national railroad out of existence.

In addition to the impact on the public, the consequences to the workers from the Mica/Schuster corporate scheme are horrendous. While its sponsors have repeatedly claimed the proposal would protect Amtrak workers and maintain current labor standards, the truth is far different. Basic rights and protections that cover current Amtrak workers would be eliminated or significantly curtailed once the conversion to private operation of Amtrak's Northeast Corridor or off-corridor services occurs. Additionally, because the bill dictates that the private entities providing rail service are considered rail carriers "only for purposes of title 49, United States Code," other important laws and protections that cover rail workers would be inapplicable and unenforceable because they are not in Title 49 but elsewhere in the law. Private providers of passenger rail service, unlike Amtrak and freight railroads, would not be covered by the Railroad Retirement Act, the Railroad Unemployment Insurance Act, the Railway Labor Act and numerous other statutes that apply to all rail carriers and their employees under the Mica/Shuster proposal.

This proposal starkly contrasts with Amtrak's plans, and is a model for what *not* to do when planning public/private partnerships. Not only is the traveling public jeopardized by the Mica/Shuster legislation, but it would cause 20,000 additional workers to go onto our nation's unemployment rolls at a time when infrastructure investment should create jobs—not eliminate them. It also would jeopardize the future viability of the Railroad Retirement system.

In closing, I want to reiterate that we believe infrastructure investment is an invaluable means of economic development, and that there is a role for private investment. However, the infusion of private funds must be done in a way that minimizes impact on taxpayers, the public good and railroad workers. We must always remember that *public* transportation—whether ports, roads or railroads—is just that: a service to the *public,* whose interests must remain foremost.

Thank you again for the opportunity to appear before you and I will be happy to answer any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Bruno, for that.

And, finally, Mr. Peter Ruane, who is President and CEO of American Road and Transportation Builders' Association. I assume you have no point of view on this matter.

STATEMENT OF T. PETER RUANE, PRESIDENT AND CEO, AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION

Mr. RUANE. Yes, sir. I do.

Good morning, Chairman Rockefeller, Senator Hutchison, members of the Committee. Thank you for inviting me to participate in this important discussion about employing innovative methods to help meet the nation's transportation infrastructure needs.

The pending surface transportation bill is commonly referred to as a jobs bill. While that is certainly true, this characterization, frankly, undersells the value of this critical legislation. Certainly, federal transportation investments create jobs in the construction sector and throughout our economy. But even though our industry's interest coincides with the public interest, it is not the federal government's responsibility to support my industry.

However, it is the federal government's responsibility to ensure that efficient movement of commerce occurs among the states. In today's global economy, a country's transportation infrastructure capabilities are either a competitive advantage or a stumbling block. And it's something that our economic rivals, as already pointed out by several of the senators here this morning, already recognize.

Furthermore, every manufacturing plant in the U.S., every retail store, every service worker, and nearly 80 million total American jobs are dependent on our highways, our airports, and our railroads for inputs to deliver products and services. The efficiency of the nation's surface transportation network directly, directly, impacts the health of these dependent industries.

Given the nation's vast transportation needs, we must utilize every available potential solution, and that includes the private sector. For over 20 years, over 20 years, our organization has advocated for support for transportation public-private partnerships. Through our P3 division, we continue, we continue to push for specific reforms, as detailed in our written testimony, that would further incentivize private sector investment in transportation improvements.

The potential contribution of the private sector is enormous, but it must be considered in its proper context. First and foremost, private sector involvement requires the opportunity to earn a return. Ironically, in today's Washington Post, front page of the Metro Section, is a story of the hotlane project in this region—which, unfortunately, the private company is going to withdraw from part of that because of their concern about its economic viability.

Second, the private sector will engage in transportation improvements based on their business objectives and not by some formula or some preconceived mechanism. Finally, one of the biggest impediments to increasing private sector involvement in transportation improvements is the lack of legal authority in approximately half of the states to conduct actual public-private partnership projects.

Congress should certainly pursue innovative methods of delivering transportation improvements and attempt to leverage public sector resources with private sector resources through proven programs like TIFIA, Build America Bonds, and concepts such as an infrastructure bank. We should also be realistic about the potential in this area and recognize that innovative financing is a supplement, a supplement to core public sector involvement.

As pointed out in our written testimony, the reality is there are not, there are not an abundance at the moment of viable PPP transportation projects. In fact, the national forecast is some two to four projects a year, 5 percent of the market. And I urge you to take a look at the study we commissioned—it's attached to our statement—that's looked at this sector over the last 22 years and has identified the scope, some 54 billion projects, 94, but only in half of our states.

This should, however, not—this should, however, not deter establishment of an infrastructure bank. While not a panacea, bank projects could, in fact, be game changers. These projects could be the catalyst to major productivity and efficiency gains for our national economy.

Mr. Chairman, it's no secret that the biggest obstacle to moving the current multiyear reauthorization bill on surface transportation is the Highway Trust Fund's financial outlook. The trust fund can no longer maintain current investments. In fact, investments in these programs has already been pointed out by Chairman Boxer. If the Senate or the House does nothing, we will see a 35 percent cut in investments.

There is no doubt that increased involvement of the private sector in addressing our nation's transportation challenges can help when projects are viable. Make no mistake about it, that we believe the Congress must supplement Highway Trust Fund receipts or thousands of jobs will be lost in every single state.

We recognize this is a difficult assignment. It is not easy to write this legislation. But, frankly, the nation's long-term economic productivity as well as our jobs are at stake. In a little more than a month, we'll be 2 months away from the end of our eighth extension. It's time to get on—it's time to get on with enacting a multiyear transportation reauthorization bill in a bipartisan way, as Chairman Boxer and Senator Inhofe are trying to accomplish—- a bipartisan bill. The most important thing that Congress can do is to pass legislation and move this process forward.

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

[The prepared statement of Mr. Ruane follows:]

PREPARED STATEMENT OF T. PETER RUANE, PRESIDENT AND CEO, AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION

Chairman Rockefeller, Senator Hutchison, and members of the Committee, my name is Pete Ruane and I am the President and CEO of the American Road and Transportation Builders Association (ARTBA).

ARTBA, which celebrated its 100th anniversary in 2002, has over 5,000 member firms and member public agencies from across the Nation. They belong to ARTBA because they support strong federal investment in transportation improvement programs to meet the needs and demands of the American public and business community. The industry we represent generates more than $380 billion annually in U.S. economic activity and sustains 3.4 million American jobs.[1]

We commend the Committee for convening today's hearing and appreciate you allowing us to take part in this important discussion on how to help meet the nation's transportation infrastructure needs.

The Time to Act is Now

One of the most attractive benefits of major public investments in transportation infrastructure is they create tangible capital assets that are long-lived. In addition to creating jobs and generating tax revenues throughout the economy during the construction cycle, these investments provide infrastructure improvements that foster and facilitate continuing economic growth over many years beyond the initial investment.

The greatest long-term economic returns can often be found in strategic investments that facilitate business activity, especially in industries that depend on the transportation network. Infrastructure investments aimed at reducing traffic con-

[1] ARTBA, "U.S. Transportation Construction Industry Profile," *http://www.artba.org/economics__research/studies__analyses/*.

gestion or providing faster point-to-point travel, for example, can increase productivity by reducing travel time.

Given the recent economic recession and the challenges our country continues to face in terms of unemployment, particularly in the construction sector, passing a robust federal surface transportation bill will help sustain and create jobs and support future economic growth.

Current transportation infrastructure investments generate over $380 billion in annual economic activity for the nation—which is nearly 3 percent of U.S. Gross Domestic Product. This activity supports nearly 3.4 million jobs throughout the U.S. economy with a payroll of over $159.3 billion. This includes approximately 1.7 million direct jobs for transportation construction workers and supplier firms. As those 1.7 million people spend their wages by going out to restaurants, buying cars or trucks, purchasing groceries or consuming housing, their spending supports an additional 1.7 million jobs in other sectors of the U.S. economy.

Unfortunately, the politicization of the American Recovery & Reinvestment Act (ARRA) has led some to question the job creation/sustaining benefits of federal transportation investment. While there have been a great deal of flawed claims that the ARRA's transportation investments did not work, the simple fact is that transportation is virtually the only construction activity that did not suffer a downturn during the recent recession—almost solely because of the Recovery Act. The measure provided a critical one-time injection of federal investment into transportation improvements. In so doing, it preserved thousands of jobs that would otherwise have disappeared and the improvements resulting from the 14,000 Recovery Act construction projects will benefit communities and businesses for years to come. But the full potential of the Act was undermined by the collapse of private sector construction activity and cuts in state and local transportation construction investment over the last 2 years. In fact, a recent U.S. Government Accountability Office publication references a preliminary U.S. Department of Transportation report that found 21 states did not meet the ARRA's maintenance of effort requirement and reduced dedicated revenues for transportation at the same time the Recovery Act boosted federal transportation investment.

But direct employment is only the tip of the iceberg. Even more important are the jobs and economic activity that could not exist without our nation's modern transportation infrastructure. Every manufacturing plant in the U.S., every retail store, every plumber and service worker, every trucker and millions of other jobs depend on highways, airports and railroads for inputs and to deliver products to customers. If we let our transportation system decay, American workers across the economy will be hurt. There are approximately 78.6 million American jobs in just tourism, manufacturing, transportation and warehousing, agriculture, general construction, mining, retailing and wholesaling alone that are dependent on the work done by the U.S. transportation construction industry. These dependent industries provide a total payroll in excess of $2.8 trillion.

The U.S. is experiencing intense competition from emerging economies around the world. Our transportation infrastructure is critical to our competitiveness. We have started with a great advantage—the investment America made in the Interstate Highways. But we are losing that advantage as China, India and Europe are all investing more in new capacity than we are because they recognize the importance of transportation infrastructure to their economic competitiveness.

In China, infrastructure spending has increased an average of 20 percent each year over the last two decades. China, which is roughly the same size as the continental U.S., has built over 30,000 miles of new expressways in the last 10 years. Their highway system is expected to extend over 53,000 miles by 2020, surpassing the current 47,000 miles of Interstate in the United States.[2]

One of the most powerful things Congress can do to support existing jobs, create new jobs and strengthen the foundation of U.S. economic competitiveness is to pass a robust multi-year reauthorization of the federal highway and transit programs in 2011.

Investment vs. Spending

The financial requirements to rebuild and improve the nation's highway, bridge and public transportation systems are well documented. In 2008, the congressionally-mandated National Surface Transportation Policy and Revenue Study Commission estimated total unmet annual surface transportation needs were in the range of $225 to $340 billion. When compared with current revenue projections for the Highway Trust Fund, the gap between needs and current resources is staggering. Much of the current climate and debate that exists in Washington, D.C., and state

[2] *Wall Street Journal,* "China Bets Highway Will Drive Its Growth," November 11, 2008.

legislatures across the country fails to differentiate the benefits between types of public spending.

Mr. Chairman, firms in the transportation construction industry that I represent secure their work largely through a low bid competition. As such, they are keenly aware of the bottom line and the need to control costs. At the same time, they also know that without strategic investments in capital and personnel, their companies will not grow or be prepared to respond to future market conditions.

That simple, but incredibly important, truth seems to be overlooked in many of the discussions about the need to cut federal spending. Notwithstanding the political rhetoric on both sides, there is a difference between investment and spending in the business world and this is certainly true about the federal transportation programs. Daunting needs and revenue assessments should not mask the reality that we cannot have a growing economy with a failing surface transportation infrastructure. Furthermore, the longer the status quo persists, the further performance of our highway and public transportation facilities will deteriorate and the more expensive they will become to fix.

To that end, the most important thing Members of Congress can do at this stage is to jumpstart the surface transportation reauthorization debate as soon as possible with tangible legislation. As this process moves forward, we urge all parties to focus on achieving clearly defined national transportation goals and to keep an open mind about the investment levels necessary to meet long-term objectives.

While increased investment from all levels of government is necessary to help boost the performance of the nation's surface transportation network, there are also substantial opportunities to deliver transportation improvements through greater utilization of public-private partnerships and federal policy reforms.

Capturing the Value of Innovation

The federal highway and public transportation programs have been incredibly successful. In fact, the Brookings Institution cites the U.S.'s highway system as one of the top 10 accomplishments of the federal government. This impressive achievement notwithstanding, past success cannot serve as a rationalization for the status quo. As is the case in the business world, elected officials should constantly be looking for new and innovative opportunities to deliver services.

The increasing involvement of the private sector in project financing and delivery over the last 20 years has been a welcome and much-needed addition to the overall effort to improve the nation's surface transportation network. Public-private partnerships (P3s) offer not only a source of supplementary resources for transportation facilities, but also the entrepreneurial power of the private sector to improve efficiency in managing these endeavors.

ARTBA members have decades of experience across the broad range of transportation P3s. In fact, the ARTBA P3 Division has been on the cutting edge in promoting these types of opportunities since its inception more than 20 years ago. ARTBA remains an ardent supporter of P3s and federal policy reforms to increase their role in supplementing core public sector transportation investments. However, the potential contribution of P3s to the nation's overall surface transportation challenges must be considered in the proper context.

According to a report ARTBA commissioned from "Public Works Financing" Editor William Reinhardt, 24 states have used innovative procurement methods and/or public-private financing mechanisms since 1989 to build at least 96 transportation projects valued at more than $54 billion. Sixty-five percent of these projects have come in eight states: Florida, California, Texas, Colorado, Virginia, Minnesota, North Carolina and South Carolina.

Unfortunately, 26 states have not yet taken advantage of a P3 process for transportation improvements. In fact, almost half of the states have not yet approved P3 enabling legislation and, therefore, are not able to take advantage of these opportunities.

Mr. Chairman, I would like to request Mr. Reinhardt's full paper be included in today's hearing record.

P3 projects are certainly a key component of the total solution to the nation's transportation infrastructure challenge, but they also currently have limited applications which vary by state. To further encourage the use of transportation P3s and leverage private sector resources in the next surface transportation reauthorization bill, ARTBA recommends that Congress:

- *Enhance TIFIA*—The Transportation Infrastructure Finance & Innovation Act (TIFIA) has leveraged $7.9 billion of federal credit assistance to support $29 billion of total project investment by all parties. This is a return of more than three-to-one and even greater progress could be made by increasing the resources allocated to the TIFIA program.

- *Expand PABs*—Private Activity Bonds (PABs) to support highway and intermodal activities have generated great interest and activity since this eligibility was established in 2005. The current authorization expires once the $15 billion cap is reached and this authorization should be extended to allow further use of PABs to support infrastructure improvements.
- *Restore Build America Bonds*—The successful Build America Bonds (BAB) program has lapsed. The continuing state budget difficulties and the record of BAB support for transportation improvements make a compelling case for renewal.
- *Eliminate Restrictions on Tolling*—States should be given maximum flexibility to impose tolls to generate revenues from new and existing roadways, including the Interstate Highway System, to support needed infrastructure improvements. Expanded opportunities to utilize tolling, however, should include a specific prohibition against using the generated revenues for non-transportation activities.
- *Educate Public Officials*—The reauthorization bill should include enhanced strategies to encourage state and local officials to take advantage of opportunities to utilize P3s to advance transportation projects. They could range from technical assistance on individual projects to enacting state P3 enabling legislation.

Like a number of members of this Committee, ARTBA also supports the concept of a national infrastructure bank to help fund large, national or regionally significant transportation projects. Such a mechanism would fill a clear void in federal transportation policy as these types of endeavors typically fall outside the scope of existing programs.

While an infrastructure bank can clearly be an additive tool to complement the core surface transportation programs, there are a number of issues still to be resolved. While an infrastructure bank is frequently discussed in the context of the surface transportation reauthorization bill, a number of infrastructure bank proposals are broad-based and would extend far beyond the areas of transportation.

I am not suggesting the merits of this concept would not apply to other types of infrastructure development, but rather that the application of the bank to transportation should be clear. State departments of transportation and the industry I represent rely on the predictability of federal surface transportation investments. While a broad-based infrastructure bank may be critically important, the fact is that transportation may or may not benefit from such a construct and that should be clear up front.

Attracting private investment is frequently cited as a reason to establish a national infrastructure bank. Certainly, there is a significant role for private investment to play in supplementing federal investment. However, we caution against thinking the private sector alone is a solution to the nation's infrastructure deficit.

As mentioned earlier, a large number of states do not allow for public-private partnerships. About half of all states have P3 enabling legislation and within that population, there are varying levels of flexibility to use P3s—some allow for broad infrastructure investment while others are limited to consideration of P3s for a single project. ARTBA is working with the National Conference of State Legislatures (NCSL) to provide informational resources to interested state legislatures to advance the use of P3s nationwide. For more detail on various state P3 enabling laws, I would refer you to a report we partnered to create with the NCSL, available at *http://www.ncsl.org/default.aspx?tabid=20321*.

When considering a national infrastructure bank, there are also several specific organizational issues to address. For instance, how would an infrastructure bank be distinguished from other federal programs that offer loans and credit assistance to transportation infrastructure programs, such as the successful Transportation Infrastructure Finance and Innovation Act (TIFIA) program? The TIFIA program supports regional and nationally significant projects, most of which have a revenue stream to pay back the financial assistance.

Addressing the nation's transportation challenges will not get easier over time and it is incumbent on all parties to explore traditional and innovative approaches to fulfill this core function of the federal government. The infrastructure bank is a creative proposal that may very well help advance certain types of needed transportation improvements. My comments about the infrastructure bank are in no way intended to be critical, but an attempt to ensure that all involved stakeholders have reasonable expectations about such a mechanism. We will work closely with members of this Committee as you move forward.

Surface Transportation Reauthorization

Mr. Chairman, as important as increased federal transportation investment is to strengthening the nation's economy and overcoming our job creation challenges, we must acknowledge that investments in this area are at a crossroads. The failure to generate increased revenues to support the 2005 surface transportation reauthorization bill created a situation where Highway Trust Fund spending significantly exceeded incoming revenues. The combination of this unsustainable approach with the 2008 recession put the trust fund on the brink of insolvency. While the fund was able to meet its obligations through a series of general fund transfers to recoup previously foregone revenue, existing levels of highway, public transportation and transportation safety investment can no longer be maintained.

The House of Representatives has received significant notoriety in recent days for plans to cut surface transportation by as much as 35 percent. All should be clear that this approach is not the result of hostility toward these investments, but a reflection of the Highway Trust Fund's financial outlook. The hard truth is that we can no longer bypass the need to generate new revenues to support surface transportation investment without seeing adverse effects.

In contrast, the bipartisan leaders of the Senate Environment and Public Works Committee are developing a two-year surface transportation reauthorization bill that would maintain FY 2009 levels of highway investment plus inflation. If all committees of jurisdiction pursue similar parameters, we understand the total level of investment in such a multi-year surface transportation bill would be $109 billion, which would require $12 billion in new revenues.

I am well aware of the political environment and the challenge of generating new resources for any area of discretionary spending. I am also aware that Members of Congress on both sides of the aisle are claiming we must protect jobs and generate new ones. I am also aware that many elected officials feel like they were elected to cut spending, but have yet to see one proclaim they were elected to cut jobs.

Certainly, increased involvement from the private sector in addressing the nation's transportation challenges can help in the areas where such projects are viable. Make no mistake about it, however, if Congress fails to generate or provide revenues to complement incoming Highway Trust Fund receipts, jobs will be lost in every state.

Conclusion

Mr. Chairman, members of the Committee, again I commend you for convening today's hearing and thank you for inviting the American Road & Transportation Builders Association to participate.

The nation's economic recovery is fragile and its surface transportation network is at a crossroads. We certainly recognize writing and enacting a multi-year reauthorization bill will not be easy, but this legislation has the potential to not only create jobs, but generate long-term economic productivity—two of the key challenges currently plaguing our nation's economy.

The most important thing Congress can do at this stage, however, is to produce legislation and move forward. To that end, I urge all members of this panel to work to produce a bipartisan reauthorization bill and support generating the necessary revenues to, at minimum, maintain current levels of surface transportation investment. Delaying action will only exacerbate the problem.

I would be happy to answer any questions.

The CHAIRMAN. Thank you, sir, very much.

Senator Lautenberg has joined us. And since he is the Chairman of the Subcommittee—Frank, we have two choices. One is you can say something now, or I'll give you an extra 3 minutes in your Q&A.

Senator LAUTENBERG. I'll take the extra three. Thank you.

The CHAIRMAN. OK.

Number one, I'm—and, frankly, I feel a little naïve. But I'm stunned by the fact that I think—I know it's true in the case of the Commerce Committee—it may be that Senator Boxer has had hearings on this. But we have never had a hearing on the public-private partnership approach. We've just never had a hearing. And then all of a sudden I'm reading about hundreds of billions of dollars available, and eagerly available.

And I'm looking at the schedule of people who are testifying, and you get Managing Director, Carlyle Infrastructure Partners—that's meant to say something, isn't it—and Managing Director, Head of Infrastructure Investment Bank for Morgan Stanley. That sort of says a lot. So I'm not sure where we've been, but I can't worry about the past. I have to worry about the future.

It seems to me an extraordinary opportunity. There may be two different bills. Actually, a number of other people have also offered bills on this subject. But I think it's imperative that we come together to make common cause on this, and I think it'll happen. It'll happen because it has to.

You know, bridges aren't made to last more than 50 years, are they, Mr. Bruno?

Mr. BRUNO. Correct.

The CHAIRMAN. Yes.

Mr. RUANE. Some do. But today, most of our bridges are over 50 years and in this country.

The CHAIRMAN. I know. Believe me, I know that.

Mr. RUANE. The major ones on the interstate system.

The CHAIRMAN. Believe me, I know that. OK. Let me give you a hypothetical. And this is not being parochial about my state. But it's sort of a complex problem. Would you help me understand how you look at what you do? You and Mr. Ruane indicated that you can't do everything, maybe two to four projects a year or more or whatever. But you can't do everything.

I have been suffering for 40 years watching the building of something called Corridor H. Corridor H would connect to I–66, go right into the heart of West Virginia, and would probably transform the area in time—but already property values are increasing in neighboring counties, not just the counties where the road is built. There's only 50 miles left to build. And it would transform the future of West Virginia. I can't help but be interested in that.

And so my question of you—and whoever wants to—maybe, Mr. Offutt, you or Mr. Dove could answer. Things have to be paid back. So in a sense, there's a prospective nature to this. On the one hand, nothing will happen if we don't have this road completed, and it's almost done. We've spent 40 years building it. It cost $25 a mile now.

And on the other hand, if it is built, the world is going to open up in West Virginia. And that's not a casual statement, because industries are moving at a rather rapid pace from the congestion of the Washington, D.C., area into the eastern part of our state, which is where this would have the greatest impact.

And so I'm interested—how would you evaluate a project like that, which isn't like New York to Boston. Right? But it's Washington to a state wide open for development when businesses are wishing to get out of the traffic congestion here. What are your thoughts?

Mr. OFFUTT. I'll start, Mr. Chairman. First of all, the way we would define a successful infrastructure project is one which strikes the right balance between social benefits and economic benefits. And I think a project such as the one you just outlined clearly, over the long run, should generate a lot of significant economic benefits as well. Then the question is how does the private sector get involved, and, potentially, how does that turn into an opportunity maybe to get a return on the type of investment you've made.

There are a host of things that can happen once you end up connecting, let's say, areas that are more rural to areas that are more densely populated. If it's real estate development or other kind of tangential revenue streams or investment opportunities that maybe don't relate directly to the actual road, that can develop a whole bunch of either jobs or other types of, again, economic benefits.

So what's always very difficult when we see projects like that is always to very narrowly focus and say, "This road can generate this amount of tolls and, therefore, it's a good project." I think you have to look much much broader, and if it can generate economic benefits for the state and create jobs and other things that have lots of other inherent benefits, then, therefore, we would define it as a very successful infrastructure project.

The CHAIRMAN. And you have ways of figuring out how large that growth and development might be. You can't do that out of the top of your hat.

Mr. OFFUTT. That's right. And, you know, professionals at Morgan Stanley can be helpful for a piece of that. But, inevitably, there are people who specialize, obviously, in terms of trying to think about—trying to quantify economic benefits, and I think those professionals can be really helpful to try to put a project like that in perspective.

The CHAIRMAN. Mr. Dove, I've overrun my time. I'll be back.

Senator Hutchison?

Senator HUTCHISON. Thank you, Mr. Chairman.

I would like to ask both Mr. Offutt and Mr. Dove—the differences in the two bills that have been introduced are basically that there's a grant program in one, and the other is a bank that would be more of a revolving loan fund, and it would require a revenue stream. And my question to either of you is if that would make a difference in the kind of projects that would be put forward. And also would it attract more private sector funding if you have the bank concept with the revenue stream as opposed to grants being involved? Or do you think that there can be cases where grants can be an enhancement?

Mr. DOVE. Senator, that's a good question. I think that the important thing to understand, as you have heard from many people on the panel and, indeed, some of your colleagues, there is a need to generate different sources of funding for infrastructure. And the infrastructure bank, which I propose around the sort of EIB model, is a bank which makes loans and guarantees and seeks repayments. That's not to say that grants can't continue—TIGER grants—there are other very good federal programs which my colleagues here have discussed.

But I think the idea of an infrastructure bank, which could be used to supplement the chairman's particular project in West Virginia, is the way of providing a level of capital which will attract people like me, as an equity provider, and commercial banks to come in on top of that to fund a project which could not otherwise be funded. So I think that you should see the infrastructure bank as an additional source of capital for infrastructure.

Mr. OFFUTT. I guess what I would just add to that, too, is I do see a benefit of having grants in some form, either as part of the infrastructure bank or separately through the TIGER grant program, because some projects do, I think, require a piece of the project to be subsidized or supported with grants. And then once the project is built, then the project can support itself. It's a matter of, in a lot of cases—and, you know, high-speed rail has been one area that's been discussed—where the costs are such where you really need to have a portion of it supported with grants to be able to overcome the overall capital requirements.

Senator HUTCHISON. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Hutchison.

Senator Kerry?

Senator KERRY. Thank you very much, Mr. Chairman. Let me build on that a little bit, because I think it's a key distinction here and a key identifier of differences. But one thing I want to emphasize—and I didn't do it in my opening and I think it's really important—is that Senator Hutchison and myself, Senator Graham, Senator Warner do not envision or want or believe that there will be any encroachment onto TIFIA or TIGER grants or any of it. This is a completely above and beyond effort. And given the infrastructure demands of the country—$2.2 trillion deficit—even with the infrastructure bank, we won't get close to doing what we need to do in America.

So grants will be needed. And TIGER and TIFIA and the transportation—surface transportation—will all be absolutely necessary. And, in fact, our bank is structured so as to really be above and beyond that. There's a $100 million break—limit, if you will, for the projects—the project has to be $100 million or more. So that's a specific kind of project. Those are big. Those are big projects that attract capital.

There's also a set-aside for rural states and rural communities, where you go down to a $25 million level, because they may not have, obviously, the same kind of projects. And we want rural to be able to participate as much as other parts of the country.

So there's a mix there. And I think it's important for that to be clear in people's minds. There's no competition with the grant program. But given the political mood and climate of Washington, there was a powerful feeling on both sides of the aisle, bipartisanly, that there was not a lot of stomach here to create an entity within a political department, where politics may conceivably govern it, or where, for example, there may be different administrations with different attitudes about how it's done.

The theory was make it freestanding with its own set of rules, performing like a bank, professionally, without the possibility of the politics getting in the way. And that, I think, gives greater comfort to the investor. And I wanted to ask both Mr. Dove and Mr. Offutt if you would address that question.

I heard you particularly put emphasis on the word, Mr. Dove, independent. And I'm wondering if that is something that is of value to you as you, as a private sector investor, think about where to take your capital.

Mr. DOVE. Absolutely, Senator. I think it's very important that the institution that's set up should first of all be seen as something which supplements the capital which is needed for infrastructure programs. So grants, TIFIA, whatever they are, are another form of coming into the project.

But the basic capital structure from the national infrastructure bank, which, as I said, would be very long- term debt—so I'm talking 40-year debt or even longer—issued at a very low rate of interest, maybe 25 basis points over where the Treasury can issue money. So it's basically very long-term money. But that makes it very attractive for me, as a private sector investor, to know that I can get commercial banks in there on a project financing basis and other equity people to come in to a project which otherwise would not be feasible.

How those projects are determined has to be done, in my strong belief, by an independent organization. So this is an organization which is set up by Congress. The appointments are agreed by Congress, where they then sit and look at all the applications which come in for the particular projects, whether it's a road in West Virginia or a road in California or a road in Texas, and they can evaluate it from an independent perspective and say, "This is the project which deserves to be given this opportunity to take 50-year money at Treasury plus 25 basis points."

Senator KERRY. And the other point I just emphasized is that, as currently constructed, we embrace water and energy. So it's energy, water, transportation, across the board.

Mr. DOVE. The infrastructure needs, if I may, are broader than transportation. It includes telecommunications, energy, water, and in water, particularly, I think, in levees. All these things are potential. But, again, where the bank puts its money has to be determined by Congress. Congress decides the policy of what to be put before the bank. But the individual project—the sponsors will come with the projects which fit the criteria set down by Congress. And then the independent bank will then decide which ones are creditworthy and, therefore, receive the loans, which have to be repaid.

Senator KERRY. Correct. And the judgments about those deals are made based on the economic viability of the revenue stream and the flow of the project—capacity to repay. Correct?

Mr. DOVE. Correct. And that doesn't necessarily mean, if I may continue, tolls. There is the opportunity of some sort of availability payment, which is being used in Florida for the Miami port tunnel and for the ring road around Jacksonville in Florida. So there are different structures. It doesn't always mean user fee tolls. It could be some sort of other structure which would be put in place and one which I would think be appropriate for the West Virginia project you were referring to.

Senator KERRY. Thank you very much, sir.

The CHAIRMAN. Thank you, Senator Kerry.

Senator Ayotte?

Senator AYOTTE. Thank you, Mr. Chairman. I want to thank the witnesses for coming here today.

I believe that we do need to take up a reauthorization of the transportation bill and that we need to make some hard choices so that people can plan on infrastructure across this country. And I also believe that we need to get back to some basics in making those hard choices. With respect to this fund, I do have a question of Ms. Trottenberg.

In speaking of the national infrastructure bank representing a public-private partnership, I can tell you that I think the people of this country are very tired of bailouts. And one issue that really leaps to my mind in hearing about this that I think we need to have a very good answer to before we would establish it is how can we be assured that the infrastructure bank would not leave the taxpayer on the hook for bad investments? What would happen if the project fails? What would happen, I suppose, if it overextends this bank? Obviously, there would have to—what metrics would we use to measure success? And how can we assure taxpayers that this doesn't just become another government entity, that we end up bailing out bad projects and that we end up privatizing the profits while socializing the losses?

Ms. TROTTENBERG. That's a very good question. I think it gets a little bit in part of the debate that, obviously, you all are having and we've had within the administration about whether you're locating it within a federal agency, you're making it separate, how independent its financial authorities are. The way it works with our credit programs at DOT is, essentially, Congress grants us budget authority, and the Treasury determines for a given project what the possible risk is.

Let's say if we're going to give a $100 million loan, we may say that the credit risk premium is 10 percent. We will take $10 million and, basically, the Treasury holds onto it. And the Treasury builds up a reserve, and that covers the cost of any projects defaulting. So, we do a very careful financial analysis and make sure we have the right reserves.

I think one of the things that has sometimes frustrated our private sector partners is it takes us a long time to do due diligence, because we are the public sector, and we want to make sure that the taxpayer dollars are protected. Thus far with the federal programs, we've had a very, very good track record. But you're right. You have to design it carefully so that there is no risk to the taxpayer.

Senator AYOTTE. And one of the things I'm—I think this is probably a good question for Mr. Offutt or Mr. Dove. When I think about a project, for example, of high-speed rail—why would the private sector invest in that? I mean, if you look at projects around the world and the return on investment—I mean, can you help me with a project like that, why that would be a project you would want to invest in?

Mr. OFFUTT. Sure. I can start. When the Florida high-speed rail project was being considered, we had many conversations with construction companies, private equity sources, and others who were very much interested in being part of that project. But the assumption was that, ultimately, it would be structured in such a way that when the project is first introduced, ridership may not cover the operating cost, but ultimately, over time, it probably would. Therefore, there would need to be some bridge to make sure that there were not operating losses that would need to be basically covered by the private sector over that period.

And there are examples—and Mr. Dove highlighted a few—where availability payments have been used to try to smooth that development out. And if it's structured appropriately, high-speed rail is an example where it could work. But it is definitely a more difficult type project, because you need high density areas where you're trying to move enough people.

Senator AYOTTE. If I'm remembering correctly in having looked at this, there's really only one place in the world where you've actually been able to break even with the passenger fare in rail. So this is an area where I'd be concerned—we're investing—if we're going to invest and we're going to have the private sector join in, that we would be on the hook for something that—and it's one of my concerns with—in terms of getting back to basics in our transportation funding of roads and bridges, because in New Hampshire, I can tell you there are roads and bridges that need to be fixed before we start allocating money elsewhere.

So this, to me, is—in terms of how we would decide where the money is allocated, this is a very important issue, I would think, for the private sector on return on investment.

Mr. OFFUTT. That is right. Specifically, in my testimony, I highlighted transit because it is very difficult for some transit projects to be able to demonstrate that the revenues from the fares does cover the operating costs and be able to ensure that safety is not jeopardized. That's true.

Senator AYOTTE. And one final question to Ms. Trottenberg, which is about—you know, in our state, and I'm sure in many other states, local officials spend a tremendous amount of time coming up with a transportation infrastructure plan based on local priorities, state priorities. And if we create another national—this would be done through the bank in the DOT—how do we preserve that local feedback in terms of—in my—I think the people in New Hampshire make better decisions on where to put the funding than someone in Washington, and that's a concern that I have. So I wanted you to address that.

Ms. TROTTENBERG. I'll say a couple of things. First of all, to reiterate, these types of programs that we're talking about—these are to supplement regular highway and transit formula funds, the bulk of which go to the states and transit agencies and are spent as the states and local jurisdictions want to spend them. So this is not to replace that.

But I'll just give you the example of the TIGER program, which is somewhat of a hybrid of grants and loans. One thing we did in TIGER that had never been done before was instead of just having state DOTs and transit agencies apply, we opened it up to all communities across the country. We actually got a flood of creative applications at the really local level, and over half the TIGER grants that we gave were to local jurisdictions.

So one nice thing that an infrastructure bank can do is open the door to all kinds of communities and different entities to apply. It can open the door to more local creativity, and the ideas are going to come from the local level. But it is true, the models we're discussing—there is decisionmaking happening here in Washington. And, again, that's why—I don't think it's in any way to supplant the bulk of the formula funds that are going to the states.

Senator AYOTTE. And one concern I just have overall—I understand that this would be a supplement. But how do we know that it won't be Washington's priorities versus the absolute needs within that state as you're making these decisions. Can you comment on that?

Ms. TROTTENBERG. Yes. I think that's part of the—hopefully, the negotiations we'll be having here on Capitol Hill and within the Administration. These are federal dollars, and federal dollars do tend to come with the priorities of Congress, and sometimes those priorities are in line with what local communities want. Sometimes they can be frustrating. And it's usually a negotiation.

I think in transportation, we've done a pretty good job of having a lot of decentralization of our programs. States and localities and transit agencies have a decent amount of autonomy in project selection and priorities. But we are going to have to find that right balance.

Senator AYOTTE. I want to thank all the witnesses for being here. Thank you.

The CHAIRMAN. Thank you, Senator Ayotte, for your excellent questioning.

Now, Senator Lautenberg.

STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thanks, Mr. Chairman.

And thank all of you for your presentations here today. It does open up the subject of the public-private partnerships, and it appears that there are few other routes we are willing to take here now that will get us going on our infrastructure problem. America's roads, railways, runways keep our economy moving, but much of the infrastructure is now so deficient, you know. And we look at a situation that escapes attention, in my view, and that is that in 30 years, our population grew by 100 million people, and it's expected that the next 100 million is going to happen in shorter time. And the infrastructure wasn't built for the present population, and you wonder how we're going to resolve it in the future without spending hours on the road that otherwise should take 15 minutes.

Across the country, one-third of our roads are in poor condition, more than a quarter of our bridges deficient, our aviation transit systems outdated. In my home state of New Jersey—we can confirm the experience around the country. More than three-quarters of our major roads are in poor or mediocre condition. And one-third of the bridges are in need of immediate repair.

A failing transportation network impairs job creation, and economic development, productivity, and businesses can't succeed when the employees or customers are stuck in traffic or when delivery delays prevent them from putting products in the hands of customers. Investing in transportation infrastructure is, I think, the primary hope for people to get back to work immediately. And make no mistake—there is plenty of work do to.

And that's why Chairman Rockefeller and I have proposed creating a national infrastructure investment fund that focuses on much needed large-scale transportation projects. They're hard to get financed. This fund will offer loans as well as loan guarantees that complement existing grant programs. It'll help our country leverage public funding by encouraging private investment. And it will give us, I think, a much bigger bang for our federal dollar.

The infrastructure investment fund will be a new vehicle to invest in America's future and make sure that we remain competitive in the global economy. I spent a lot of time in business. But an early lesson that I learned—if you want to be successful tomorrow, you'd better start laying the foundation today or repairing the business infrastructure now to take care of growth and expansion.

The same principles apply here. If we want to leave our children and grandchildren a better country, a better functioning country, we've got to make smart investments on their behalf now. So I thank the witnesses for their suggestions on how we can finance these decisions to move our infrastructure repair and rehabilitation in a much better fashion.

Amtrak has proposed building a new gateway tunnel under the Hudson River between New York and New Jersey to increase high-speed rail and commuter rail service. And this question is for Ms. Trottenberg. This project will create thousands of construction jobs and expand access to good-paying opportunities throughout the region. Can an infrastructure fund that combines grants and loans be used effectively to support the development of these regionally significant projects?

Ms. TROTTENBERG. Yes, Senator Lautenberg. I think, clearly, that it can, and that's a project, obviously, we have been hearing from Amtrak about and talking with the delegations about. It's a very exciting project with a big price tag, and it's going to take a lot of creative ideas on how to capture the monetary value of, clearly, the incredible economic opportunity and efficiency gains that project would bring and bring that project to fruition. I think an infrastructure bank could play a very big part of that, and there could potentially be a loan piece to it and a grant piece as well.

Senator LAUTENBERG. Mr. Bruno or Mr. Ruane, our friends on the other side of the Capitol have proposed slashing funds for surface transportation programs by 35 percent. What's the effect on progress, on job creation, and our economy if the House Republicans have their way?

Mr. BRUNO. Senator Lautenberg, I have never studied economics and I don't have a degree in economics. But one of the things that I know, that I've learned over the course of my experience in life, is that there's one basic principle in economics, and that's the supply and demand principle. And what I see is that there's a significant supply of labor out there for which there is no demand. And this particular bill presents an opportunity to satisfy that and to put that supply and demand back into balance.

I think that as a principle, eliminating or declining to utilize this opportunity is a bad idea for the American economy, and I think it would be hurtful to ignore an opportunity such as this. Infrastructure investment is a proven job creator. We relied upon it back in the 1950s and after World War II to develop the interstate highway system, and I think it worked very well in putting people to work and jump-starting the economy at that time. I think this is an opportunity, albeit not as grand a scale as that, to start that project or to start the economy once again in that direction.

Senator LAUTENBERG. Mr. Ruane?

Mr. RUANE. Senator, obviously, if there is no action in this Congress, both in the House and the Senate, we are looking at a major, major dislocation in the construction industry in every segment. The number, 600-plus thousand jobs, has been cited by several senators here this morning. Those are legitimate numbers. Those are potential losses that could occur in the coming years if there's no action.

But it's not just a House proposal. And I do not believe, by the way, that they're making such proposals out of hostility toward investing in transportation. They are playing, as they say, the cards they were dealt. But, nonetheless, the same thing can happen if the Senate is unable to move legislation here in the coming days.

The construction industry has a 16.3 percent unemployment rate right now, as compared to a 9.2 nationally for the whole country. As mentioned by my colleague here, there's excess labor out there. There are opportunities to do more projects because of that. And so the imperative here is to get timely action on this bill, because the consequence—given the flow of money, by the way, into the Highway Trust Fund, we're going to see cuts if the Congress does not find a way to come up with additional resources to keep that program steady. It's inevitable.

Senator LAUTENBERG. Well, in my state, our governor chose to decline $6 billion worth of support to build a tunnel that would have created 44,000 jobs immediately, get 22,000 cars off the road every day and he, very shortsightedly, decided to cancel it because of the possibility of overruns, which could have been taken care of through other programs, low-cost loan programs, et cetera.

So these people are sitting on their hands, waiting to go to work immediately and to relieve the citizens in our area, the commuters, of excess pollution, of cost of driving, of delayed schedules. So there is a lot of shortsightedness going around. We have to get busy.

Thank you all very much.

And thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Lautenberg, very much. You've put more time and energy into transportation than anybody.

Senator LAUTENBERG. Thank you.

The CHAIRMAN. Senator Blunt?

STATEMENT OF HON. ROY BLUNT, U.S. SENATOR FROM MISSOURI

Senator BLUNT. Thank you, Chairman.

Ms. Trottenberg, you said, of course, this would supplement the bulk of the formula funds. I may have missed this in the testimony or the analysis of the bills. But what size infrastructure bank are we talking about here?

Ms. TROTTENBERG. The administration's proposal that we had in our Fiscal Year 2012 budget was $5 billion a year over 6 years, so a total of $30 billion. Admittedly, that was based on proposing a very large 6-year reauthorization proposal in the area of $550 billion. Current negotiations in Congress—it's not clear we'll get to a number that big. But I think that gives you a sense of the——

Senator BLUNT. Was that your anticipated shortfall between what the Highway Trust Fund would produce and the needs out there now? How did you come up with that?

Ms. TROTTENBERG. We came up with that number by taking a look at the pipeline of projects based on our own experience through our TIGER and TIFIA and RRIF programs. That was a number we thought captured the pipeline and that could reasonably be run through a program and handled through the personnel at DOT.

Senator BLUNT. And, Mr. Offutt, the states just don't have the capacity to do this through state bonding authority, or the difference in the percentage they would pay would be—explain that to me a little bit.

Mr. OFFUTT. Sure. The states are dealing with their own budget deficits, and the projections for the next fiscal year are about the same as the deficits they have had to deal with over the last fiscal year. They're still very much focused on trying to close that gap, and as a result, the ability for them to issue traditional bonds is quite limited these days.

Senator BLUNT. Now, why would that be? I mean, I don't quite understand why, if they could retire these bonds, they couldn't retire bonds they issued——

Mr. OFFUTT. I was thinking more in terms of net issuance of new bonds to support new projects and what that might mean in terms of potential credit pressure from the rating agencies.

Senator BLUNT. But they wouldn't have that same credit pressure from the rating agencies if they committed to pay back these bonds?

Mr. OFFUTT. It depends on how it's structured. But the way I always thought it would be just like private activity bonds, where the government entity could be the conduit, but when it comes down to the repayment obligation, it's really the private sector that's responsible for that.

Senator BLUNT. And then that other term you mentioned, availability payments—was that—would you define that for me again?

Mr. OFFUTT. Sure. For example, the Florida Department of Transportation used it to fund a couple of their projects. The idea would be they would be making certain annual payments that would make up for an estimated shortfall between the revenue of the project and what the operating costs would be. And there are ways that that could be phased out over time. But it's a way in which there is more predictable cash-flows, and, therefore, it's easier to finance, not only in terms of accessing funds like TIFIA, but also traditional bank loans from infrastructure—commercial banks around the world.

Senator BLUNT. It sounds like to me in that situation, the Florida Transportation Authority would be a lot more than just an intermediary between the people paying the bonds off and the people getting the money.

Mr. OFFUTT. Exactly. In that case, it is an obligation for them. So that is definitely the case of how that deal was—or those deals were structured.

Senator BLUNT. Are there other examples besides that one that you or Mr. Dove either one—have I—I understand tolls and how that might pay for a bridge or pay for something. But I'm not sure I quite get this availability payment concept.

Mr. OFFUTT. Sure. I'll give one example that's outside of transportation. The Long Beach Courthouse was a project, obviously, in California built with the idea that the private sector could build it at a lower cost and operate it at a lower cost, but in return for building the courthouse and operating it and being responsible for all of those ongoing liabilities—it kind of shifted the risk to the private sector. The private sector would be able to get certain guaranteed payments backed by the credit of the City of Long Beach.

And so, yes, that's an obligation for the city ongoing. But those payments are less of an obligation than it would have been if they were to build it, finance it on their own, and then cover the operating costs. So everyone's viewed that, as other deals that have been done outside of the U.S., specifically Canada, as an example where it's a win-win, something getting built that wouldn't be built otherwise and having efficiencies that may not have been generated otherwise.

Senator BLUNT. All right. Are there examples in Canada of somebody building a transportation system? I understand the depreciation and all that that—I think that's actually—there's some real merit to that, whether it's a college campus dorm or a courthouse or anything else. But I don't quite see how that transitions to a non-toll bridge or expressway of some kind.

And I guess I'm out of time, Mr. Chairman, but I think I might have gotten my question in within my time.

Either one of you want to explain that a little better to me, how a nonrevenue producing asset really helps this situation any?

Mr. DOVE. Senator, I used this structure in London for the London Underground, the metro system in London, where there was a decision made by the U.K. government to hand over the capital project—so that's the upgrade of the signals, the lines, new trains, refurbishing of stations—to the private sector, and in return, the government would make these availability payments on a fixed and regular basis. So, so long as the private sector complied with the concession documents, which was to deliver the upgrades in time, to refurbish the station, to provide an environment for the traveling public which met standards of the contract, then the government would make these availability payments.

And what the private sector took on was the risk of actually delivering those projects on time and on budget, because if there was a cost overrun, that was taken by the private sector. If it wasn't delivered in time, then the availability payment would not be made. So that's the sort of structure, and what it's really doing is shifting a risk from the public sector to the private sector in partnership with the public sector. And the partnership is key to making it work.

Senator BLUNT. Thank you.

The CHAIRMAN. Thank you, Senator Blunt, and that was an excellent question.

Senator Begich, you have returned.

Senator BEGICH. Thank you very much, Mr. Chairman. I'll be very quick here.

First, Ms. Trottenberg, I know Senator Kerry talked about his infrastructure proposal and kind of the rural impact. Can you tell me from the administration's standpoint—how you treat rural?

Ms. TROTTENBERG. That's a good question.

Senator BEGICH. Because, just to be very frank with you, from my perspective from Alaska, you know, we have small projects that can't compete against these large projects, and we will lose every time.

Ms. TROTTENBERG. And I think that's part of the reason, Senator—and, again, it's some lessons we learned from running the TIGER program—why in our infrastructure bank proposal, we propose doing both loans and grants, because we do think—and this is true in rural areas and other areas—that there are certain projects that clearly have social benefits that make them worth investing in, but they're not going to generate a revenue stream. And that's particularly true in rural areas where you have small populations where collecting tolls may not be feasible.

One other thing I would just say we discovered in the course of our TIGER program—I know there has been a lot of concern in rural areas—is this going to help us? We wound up investing a lot of TIGER funds in rural freight projects. There's a big need in a lot of rural parts of the country to get agricultural projects, energy projects, other things to ports and to population centers. And there is huge economic value to be unlocked there by investing in freight projects.

So I think something like an infrastructure bank—it can have a lot of value in rural areas. In West Virginia, speaking of roads, we did a Highway 10 project. That was a project that had tremendous safety benefits. You're not going to get toll payers on a road like that. Not enough people use it. But that is also the kind of project that we think with grants, an infrastructure bank could also invest in.

Senator BEGICH. And just to make sure, is your style of infrastructure bank or grant program development—if you'll use that as an example, the West Virginia project—would that have to compete in this bigger pile with all these larger projects? In other words, my concern is not that you would have some for rural. It's when a rural project has to compete against a very intense urban project, when you do the cost-benefit analysis of how many people will be served and all that, we lose.

Ms. TROTTENBERG. We require in our infrastructure bank that there be a geographic balance, and we also have a lower dollar threshold for rural areas. I know in some of the proposals that are out there, there is a rural set-aside. We have that now in TIGER, and I have to say we've found that it has been very useful and has helped us find some terrific rural projects around the country. I think that's a decision for you all. There are a few ways you can design it so that you're sure that rural projects will compete.

Senator BEGICH. OK. Let me ask, if I can, Mr. Dove—if I can ask you some general questions. I come from the background of being a former mayor. We built more roads, more infrastructure than in the last two decades in our city. Everything from vertical to horizontal, you name it, we built it. We loved building stuff. I liked driving to work every day and seeing cones on the road blocking off streets, because that told me there was something happening.

And because of that, that infrastructure we built prepared the city for this great recession we went into. And it was Business Week that rated the city that I was mayor of, Anchorage, as probably one of the most likely cities to recover the quickest. And Forbes just rated it as one of the cities that has the best opportunity for jobs because of the infrastructure investment.

It's a two-part question. One, first, is in the process of private financing and partnerships, how will you handle that?—I mean, in a lot of cases—I'll take our city that I was mayor of—solid rating, solid everything, platinum client to any finance. How do you determine to make sure that the fee structures are fair for a client of that nature when you're doing these large projects, because they're good money on your end? And so how do you manage that, in other words, to ensure that at the end of the day, there's not this pile of fees on these private projects?

Mr. DOVE. Well, first of all——

Senator BEGICH. I'm just being very blunt with you.

Mr. DOVE. No, no, and I'll be very——

Senator BEGICH. Because here's how I operated as mayor. When people came to see me, and they were from the finance end, we loved doing business with them. We sold more bonds, but we were the platinum client and we wanted the best deal.

Mr. DOVE. Well, first of all, I wouldn't expect you just to negotiate a deal with me alone. You would run a competitive process.

Senator BEGICH. Right.

Mr. DOVE. And in running that competitive process, that would ensure you that you were getting the best market-available terms to your particular project. I think what I'm sort of emphasizing is that maybe as a bigger project where the user fees or the tolls or the availability payment is not sufficient on a standalone basis——

Senator BEGICH. I got you.

Mr. DOVE.—to make that work. So maybe this bridge or development of the airport or whatever it could be needs a level of capital that could make that project work or make it more attractive to Carlyle Infrastructure to invest in. And that's why I'm enthusiastic about the national infrastructure bank as a provider of that level of capital for whatever the project is. But at the end of the day, it will be a competitive process, and everybody recognizes that.

Senator BEGICH. Very good. And the last question—and I'll end on this—and that is in saying all that about good credit, based on the situation we're facing here in the federal government, can you just give me 2 seconds on—if we're unable to resolve this in a meaningful way—the debt crisis and the deficit—how will that affect the markets that you have to tap into in order to then partner with the government sector who wants to build infrastructure? And I'll leave it at that.

Mr. DOVE. Everything is priced off Treasuries. So it'll be determinant on where the market feels the risk is for U.S. Treasuries at that point in time and the rate. And there would be expected to be a small premium over treasuries for any funding by a national infrastructure bank. I hope that answers your question.

Senator BEGICH. Thank you.

The CHAIRMAN. Thank you.
Senator Thune?

STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Mr. Chairman, and I appreciate today's hearing. This is a critically important subject for the entire country.

Maintaining a transportation infrastructure is just critical to our nation's commerce. We've got a $2.2 trillion backlog out there of infrastructure projects, and a $12 billion projected shortfall in gas tax revenues versus current spending levels over the next 2 years. So our transportation infrastructure is in desperate need of a facelift. And I appreciate the opportunity to get at some of these issues and appreciate your sharing all your thoughts on this, because at the heart of the problem is the lack of a long-term funding source that we can make available to pay for a lot of these needed transportation infrastructure improvements.

There are a couple of questions I want to ask, if I could, to Assistant Secretary Trottenberg. It wasn't that long ago in front of the Budget Committee we had Secretary LaHood, and I asked him about any thoughts he had on long-term funding plans. And at the time, he didn't have anything specific that he mentioned in terms of ideas about how the administration intended to raise revenue to fund our transportation infrastructure improvements. And I guess my question is since that hearing, has the administration developed any specific ideas or plans on how we might raise the revenue that's necessary to finance some of these infrastructure improvements?

Ms. TROTTENBERG. Certainly, there has been a lot of debate and discussion within the administration. I will also say I think at this point that discussion is caught up, obviously, in the larger debate that's happening here right now about the debt ceiling and dealing with all the issues we have there. We're hopeful in the course of those discussions that we'll be able to put some of these ideas on the table, obviously working with Congress, both the House and the Senate, and find some bipartisan solutions.

Senator THUNE. So there's still not really anything specific?

Ms. TROTTENBERG. Not that I'm going to put on the table today.

Senator THUNE. Let me ask you if you—could you give us an assurance that some of those ideas that are on the table but not, obviously, evidently ready to be made public that generate revenue for transportation infrastructure projects will be used exclusively for that? One of the concerns that some of us have had with proposals that were used during the stimulus was that they weren't used more for infrastructure and got involved in financing all kinds of other types of projects. So some of these ideas, which I assume may include mechanisms that are similar to some that have been discussed today—that they would be used exclusively to finance infrastructure projects as opposed to being used for other purposes.

Ms. TROTTENBERG. I want to be cautious about prognosticating, I think, collectively how the administration and Congress will tackle a lot of the spending and debt issues we have. I think we understand very much the desire that we have dedicated sources of revenue for transportation and that those aren't used for other things and that we put them toward solving, I think, what we all agree is the very, very big needs—infrastructure needs in the country.

Senator THUNE. Let me express a concern I have about the proposed creation of a national infrastructure bank. I'm obviously concerned that that type of fund would primarily benefit larger, metropolitan areas while ignoring the needs of rural states. In my own state of South Dakota, we have residents that frequently travel significant distances on roadways as part of their daily livelihoods. As such, they would be looking at paying a significantly large amount in toll fees or other dedicated revenue sources so as to help repay the national infrastructure bank loan.

I'd ask you this question—and then perhaps maybe Mr. Offutt and Mr. Dove could comment—on what your thoughts are on a national infrastructure bank and how it might impact rural states. And what, if anything, can Congress do to ensure that rural states are not penalized due to their smaller population size?

Ms. TROTTENBERG. As I was saying to Senator Begich, we did have that very much in mind when we were designing our infrastructure bank. And it's part of the reason we chose to do both grants and loans, because we do particularly think there are certain types of projects—and the ones you referenced would be the case—that have a lot of public benefits. But you're not going to be able to generate toll revenue and maybe not even availability payments to cover the cost of the project. But there are still projects that we need to do.

As I was also saying, I think there's another category of projects, rural projects, that would do very, very well in an infrastructure bank, and that's freight projects. Under TIGER grants, we discovered when we looked for projects all over the country that there were freight projects that scored extremely well, including projects in South Dakota and all throughout the Plains States. As you all know, you have a lot of agricultural and energy products, and lowering the cost of getting those goods to the ports and to population centers can have a tremendous economic impact in rural America.

So I think a lot of those projects actually will compete well and can be monetized and the private sector can help work on those. And then, certainly, I think for rural safety and economic development projects, some of those—yes, you're probably going to want to use grants.

And you can design an infrastructure bank in a variety of different ways. You can have a rural set-aside or a rural minimum or lower the requirements on what the match might be. I think there are a bunch of different proposals on the table to ensure that rural states and rural areas can compete and benefit from an infrastructure bank.

Senator THUNE. And I see my time has expired, Mr. Chairman. But if either of you would care to comment on that——

Mr. DOVE. I think the importance of having a rural set-aside—so if we say that the proposals are $100 million minimum requirements for a national infrastructure bank loan, having something a lot smaller than that for rural is the right way to approach that problem. But each project should stand on its own and should be self- sufficient on its own, and the loan to that project should be repaid by the funds generated by that project.

Senator THUNE. Thank you, Mr. Chairman.

Thank you all.

The CHAIRMAN. Thank you, Senator Thune.

Senator McCaskill?

STATEMENT OF HON. CLAIRE MCCASKILL, U.S. SENATOR FROM MISSOURI

Senator MCCASKILL. Thank you.

Let me step back from this and look at this from a bird's eye view. It appears to me that it's in the government's interest to do an infrastructure bank for one of two reasons, either to shift risk, or to access capital. Would anybody disagree with those two reasons that we would want to do this in the first place? OK. Is there another reason I'm missing besides access to capital or risk shifting?

Ms. TROTTENBERG. I would actually add one more. It gives us an opportunity to do a really rigorous competition and project analysis and use benefit-cost analysis and the type of tools that Senator Rockefeller was noting that in other countries they've been using these for a long time. We've been doing less of it in the U.S. in part because, I think, we've had a Highway Trust Fund that until recently was pretty adequately funded.

But this gives us a chance at the federal and the state and the local level to really improve our analytic skills and do a better job of project selection and finding projects that are going to get the most value for the money. I think an infrastructure bank can really help with that.

Mr. RUANE. Senator, I would echo that, because the expertise of the private sector in the past projects has been—they have been especially helpful in the very large complex projects. Bringing in, particularly, the financial sector to the table has been of great assistance to the state DOTs in these projects.

Senator MCCASKILL. Well, I'm a little worried about that answer, because it seems to imply that bringing in other people's capital allows us to have a more rigorous analytical process as to how we decide what projects to build. What is there currently that would keep us from having that kind of analytical process? Why wouldn't we be doing that with all the money we spend on our infrastructure?

Ms. TROTTENBERG. Well, I mean, our traditional formula funds—that money is just basically allocated by formula to states and transit agencies for the most part.

Senator MCCASKILL. But aren't they going through an—I mean, I know the analytical thing in my state is incredibly intense. And we have required hearings, we have required input, we have all kinds of bid processes, we have all kinds of—I mean, it's not as if the states that are making the decision on this money are doing it by some formula. They're doing it based on priorities and cost-benefit analysis.

Ms. TROTTENBERG. I have to say, Senator, it varies greatly from state to state. And some states are really leaders and on the forefront of this. Some states are not so far ahead on this. They've been used to getting a lot of formula funds and not doing some of the rigorous analytics that would really benefit at the state level as well. So it's not to say we aren't doing it, but I think an infrastructure bank gives us a chance to do it better.

And I can just say that USDOT running the TIGER grant program—we require benefit-cost analysis for all the applications. And I would say that the state-of-the-art was all over the map. I mean, we got some applicants who had done a phenomenal job and really made a great case and some that barely knew how to do it at all. And, you know, we've been working with them and helping them get up to speed. But it's sort of an ongoing national learning process right now.

Senator MCCASKILL. Well, if there's something that we can do as we begin to debate and consider this infrastructure bank, which I'm not saying in any way that I'm not supportive of. All the things you're talking about is what we should be doing anyway.

Ms. TROTTENBERG. Absolutely.

Senator MCCASKILL. I mean, there's nothing about an infrastructure bank that should bring about a requirement for a highly analytical competitive process and prioritization of projects with public dollars. I mean, all of that—whatever we need to be doing—if it's all over the map and if it's just the TIGER grants that are causing this discipline, maybe we need to make that requirement on all the money.

Ms. TROTTENBERG. I think that's absolutely right. And, certainly, in the reauthorization proposals that we're looking at, we are trying to help the states and transit agencies do more of that, provide technical assistance embedded in their planning process. But it is a—I think there is a real learning curve going on. And, again, some parts of the country are further along than others.

But I do think now, as we find ourselves with a Highway Trust Fund that's running short and we're taking a harder look at how we spend our dollars, it's definitely true that states and transit agencies around the country are going to need to improve their game even more. And we certainly, from DOT's point of view, want to help with that.

Senator MCCASKILL. OK. So from the government's standpoint, you think it will help tighten the analytical and selection process, plus risk shift and capital. From the private sector, there's only one reason to do this, and that's profit. Correct?

Mr. OFFUTT. Correct.

Senator MCCASKILL. Correct. So——

Mr. DOVE. I have to make a return for my investors who give——

Senator MCCASKILL. Absolutely. I mean, there's nothing evil about that. I just wanted to get it out on the table that the reason the private sector is interested in this is not because they want to become part of government but because they see an opportunity to return value to the investors in the form of profit.

Mr. DOVE. Correct, yes.

Senator MCCASKILL. So as I step back and look at this, that means that the way they make profit is going to be either off of the governments that hire them to do this, or it's going to be off the taxpayers that access the projects. Correct?

Mr. DOVE. If I may, I would also suggest that maybe there is an opportunity for a partnership between the private sector and the government side or the public sector, generally, to address an infrastructure problem in a different way, whereby the capital is spent and deployed and the risk of that spending is shifted in return for a sharing of revenues going forward.

Senator MCCASKILL. I don't quarrel that the government gets something out of this, and I don't quarrel that there is something to the partnership. But I'm trying to get at the profit. The profit can only come from one or two places. Right? It is only either going to come through payments from the government, or it's going to—and the fact that the project is managed well so that there is a profit margin based on what you expect in payments from the government, or it's going to be revenue generating from the people that are using whatever the project is that's built.

Mr. DOVE. Yes.

Senator MCCASKILL. OK. That's what I wanted to make sure I understood. And that's why I think it's really important for us to keep that in mind, because taxpayers are going to be paying one way or another. They're either going to be paying through the money we pay to these companies, or they're going to be paying by tolls. And I think that sometimes we get caught up in this new idea, which is great, but I don't want us to get away from the bottom line—the folks out there are going to pay for this one way or another. They're going to pay for it.

This isn't going to be a magic bullet that's going to all of a sudden take away the need for the public to pay for infrastructure. It's just going to shift how they pay for it in a nontraditional way. And I just want to make sure that we all examine that carefully as we move forward.

Thank you, Mr. Chairman.

Thank you all very much.

The CHAIRMAN. Point made.

Senator Klobuchar?

STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA

Senator KLOBUCHAR. Thank you very much, Mr. Chairman. Thank you. All of us—as you know, we care a lot about infrastructure. In our state, that was really brought home to us when we had our bridge collapse, I–35W bridge. But whether it's a big thing like that or a little rail spur in Wadena, Minnesota, these things matter. And so I wanted to thank you for focusing on this today.

First of all, I want to thank you, Ms. Trottenberg, for coming to Minnesota and speaking to our transportation alliance last month. I heard it was a good conversation. So thank you for that.

One of the goals, of course, for the national infrastructure bank is to give state and localities resources for projects that meet merit-based national and regional economic objectives. And I share some of the concerns of my colleagues about how mega projects could dominate over smaller projects. And how do we ensure equity of funding projects of different types and sizes across the country while still showing that the return ultimately goes to our national economy?

Ms. TROTTENBERG. Again, it's very, very important that you do achieve geographic and urban and rural balance in a program like this. Obviously, you all here in Congress will want to make sure that as you craft—if you're going to collectively ultimately craft legislation—that you get that balance right.

Again, as we've discovered through the TIGER program, and also through RRIF, our railroad credit assistance program, we have made some very big loans, and we have made some incredibly small loans, and we've made some very small grants, too. I think you can do both, and there are sort of slightly competing visions on an infrastructure bank. One is that it is funding tremendously large projects of national significance, and we need those, like a CREATE—the big freight rail projects we have that span many states and would be very, very hard for individual states to ever make happen through existing formula funds.

But we also think there are great ideas and very local needs. We funded through TIGER and through RRIF some very small local short——

Senator KLOBUCHAR. You mentioned TIGER, and I think that was a very popular part of AARA. And I just wondered if you could say—and I know there are efforts to permanently authorize those grants. Are there ways that TIGER can be improved as we look at permanently authorizing the program?

Ms. TROTTENBERG. Just going on our experience at DOT and some of the feedback we've gotten around the country and from Members of Congress, I think clarifying and sharpening in a consensual way what the goals of the TIGER program are—and it gets at exactly what you're saying—how much is geographic balance; how much is economic return; how much is achieving social benefits; how much we want to do in grants; how much we want to do in TIFIA loans. And we've run the program now for two years. We're starting the third. We are trying to refine all the processes, make them more transparent. But I think that's another area. We would like to work with Congress and make sure we get it right.

Senator KLOBUCHAR. Very good. You know, the Twin Cities area in Minnesota is considered to be one of the most livable places in the U.S. Now that Begich is gone, I can say that, now that he's done touting Anchorage. And I believe part of that is that we've placed a big importance on multimodal transportation, everything from the way we run the bus system to the bike paths around all the lakes. And it's really kind of incredible the way it all works together.

Could you talk about how a national infrastructure bank could fit into the overall goal of consolidating and streamlining the numerous federal funding silos that currently exist?

Ms. TROTTENBERG. Right. That's a good question. One of the examples I talked about was the Denver Union Station project, which is a transportation, livability project that had all kinds of different elements to it and wound up drawing from four different pots at USDOT, from TIFIA, from RRIF, from federal highway funding, and federal transit funding. It was complicated and time-consuming.

In our vision of an infrastructure bank, you could encompass all those different elements. The applicant would have one point of contact, and we could structure the best possible deal and, hopefully, in the process do a lot of streamlining and cut down on the time and money that it takes for an applicant to successfully compete.

Senator KLOBUCHAR. Because otherwise we'd run the risk of just adding a new program——

Ms. TROTTENBERG. No, no, in——

Senator KLOBUCHAR.—that they would then add funding to, if that were to——

Ms. TROTTENBERG. In DOT's vision, we would be, over time, merging some of our existing programs into the infrastructure bank. The goal would be some streamlining and making it easier for states and communities out there that wanted to come to us and apply.

Senator KLOBUCHAR. OK. Very good. Thank you very much. Thank you, all of you, and I'll talk to you about the rail spur later.

The CHAIRMAN. Senator Klobuchar——

Ms. TROTTENBERG. I look forward to it, Senator.

The CHAIRMAN.—you've got 20 seconds more to say——

Senator KLOBUCHAR. See, I was brief, Chairman Rockefeller.

The CHAIRMAN.—three very good things about Minnesota.

Senator KLOBUCHAR. I was brief. And I have another hearing to go to, too.

The CHAIRMAN. Oh, OK.

Senator KLOBUCHAR. Thank you.

The CHAIRMAN. All right. Thank you, Senator Klobuchar. And I was teasing.

I think this has been an amazing hearing. It may not appear that way to you, because you deal with these things all the time. We have not—and, you know, I was the Governor of my state for 8 years and dealt with wretched transportation problems during 1982 and 1983 when there wasn't any money for anything and during 1976 through 1980 when there was quite a lot of money available—you know, laying off 10,000 highway workers because we didn't have projects to pay them for.

And all of a sudden, you know, in you walk, to my embarrassment—I mean, not that you walked in, but the fact that we hadn't called you three or four or five years ago or 10 years ago to talk about the interest of the private sector to participate in this, and that it's something that you've actually done. The underground railroad in London—that's a rather large statement. If that was a PPP thing with you heavily involved in that, that's an extraordinary statement.

So to me, this has been a very heartening, embracing hearing. And we've got, you know, a number of bills. I don't see why they can't be worked out and put together, because the cost of not doing it is not passing a bill, and I don't see anything that would prevent us from passing a bill on something which, obviously, people care—we had a very large turnout. We ordinarily don't have that many, so that—people came in because of various committee meetings at different times, but they really care about what you're talking about and so do I.

Let me just ask one final question. And Senator Ayotte raised it, and that is the fact of having a group inside the Department of

Transportation, as opposed to, quote, “independent and outside.” The department—the group inside would not necessarily have to be made up of all government people. But there was the hint in her question—and I think it was very fair—that having that would open it up to politics. And that’s a very rapidly spreading concept that people don’t like.

And then on the other hand, if it was done on the outside, and there weren’t, let’s say, a lot of government people, but people who were doing this, I mean, wonderfully for the good of the country but also to make sure there was a return—what is my question? My question is sometimes some projects are more important than others, and they may be cost-effective. That means, for example, in your projects that you’ve all done, you’ve always finished on time, and you’ve always finished on budget. That’s my general impression. I mean, it has been a very effective process.

On the other hand, you want to make sure that you get the projects that are in the relative form of priority, the national needs. And so if you just for a moment discuss inside the department and the politicalization or, on the other hand, inside the department and then having this kind of nationwide look at what needs to be done next—obviously, people apply to the Department of Transportation. That doesn’t necessarily make it political. It means that they care. Now, they could do the same with an independent group outside.

And I’m asking this question just because I want to know your views. I’ll ask the three of you your views.

And I’ve got to apologize to you, Mr. Bruno. I have a question just exactly for you, but I’m not going to get time to ask it, so I apologize to you.

What is that? Is that a bit of a scare tactic, the politics? Or does it have truth to it, in your judgment? And if you were independent, would you be inclined to look at things that might make a return on investment—and be very, very careful about that, because you’d have to be—and, therefore, maybe come up with projects that are very good, because any project is very good for somebody somewhere but not necessarily in the order of, you know, a national priority list. And I think we’re dealing here with that kind of discipline simply because of the lack of money even with you participating. So maybe the three of you could——

Ms. TROTTENBERG. Maybe I’ll start, because we had a very genuine debate about this within the administration. I think there were people really on both sides about whether it made more sense to have a separate independent entity or house it within USDOT. And so I think we’re open to different solutions. We’re not dogmatic about it.

A couple of things in our thinking—one is can you create that truly independent entity that is somehow completely detached from all political and geographic considerations? I think it’s a question mark if you look at the history of some of our efforts to do that. Some have worked better than others.

I think for us, also, there was a pragmatic consideration which is—in USDOT we’ve been running the TIFIA program since 1999. We do have a number of career experts and financial experts and project delivery experts and experts in all our offices around the country. And, we thought just in terms of technical capacity in getting the program up and running, it really made sense to house it in an agency that has a lot of expertise and a lot of people on the ground to help do the analysis.

I think it doesn't mean maybe at some point you wouldn't—and we structured it in such a way we have actually members on our council from other cabinet agencies with the notion that perhaps we would ultimately expand it to other types of infrastructure and maybe even spin it off at some point. But I think, pragmatically speaking, we thought it made sense to start it within DOT to get it up and running, and I think—I hope—we feel that we have done a good job in picking projects and not being overtly political. That's obviously a judgment that, you know, all the members here will have to make as to whether we've done right or not in that regard.

Mr. OFFUTT. Just to add on my thoughts, I think the key thing is that the process of determining which projects are chosen is very transparent. There's a view that it either is because the project fulfills a national—is viewed as critical from a national infrastructure perspective, or it fits in specifically in a bucket to say that certain projects, you know, allocated to rural areas—that this would qualify, so that there's no questioning of why this project was chosen.

And to be able to take the politics away from those ultimate decisions and so that people can feel very good that it was very much merit-based is going to be, I think, very important, because, inevitably, there will be more projects that are interested in using resources from a national infrastructure bank than there will be funds going to those projects. So it's just a matter of, again, making this transparent and taking politics as much out of that equation as possible.

Mr. DOVE. Mr. Chairman, I don't think you'll be surprised to hear that I think it should be independent. I think it should be independent because it gives much more credibility to the private sector, my investors, who are going to make the actual equity investment in the transaction, to know that this is an independent organization that has looked at the loan and determined that this is a creditworthy loan and will, therefore, grant a long-term, low interest rate loan. And so I, as an equity investor, are, therefore, more attracted to it.

I would say, however, that it is important that any national infrastructure bank does have some sort of Congressional oversight, inasmuch as it would have to be reporting to a committee on an annual basis about what sort of loans it has done to establish this idea that it is sort of going across the country. But it is also critical to understand that this is a supplement to other forms of financing. This is not replacing grants. This is a supplement to. And certain projects will not pass the creditworthiness test, but maybe they would be ones which other departments within the government and the federal agencies would determine merit-worthy of a grant.

The CHAIRMAN. Mr. Bruno, Mr. Ruane?

Mr. BRUNO. I don't really have an opinion, to tell you the truth, either way. I'm not an expert in this field. I would just, if I have an opportunity here, Senator Rockefeller—just to remind everyone that I've heard significant comments today about the risk of the money that's associated with this project. But there are other risks that are involved here, in particular, the human risks and the safety issues that are associated with these projects.

And I would ask the senator to assure that the legislation, in whatever type of investment situation we eventually settle upon, maintains that that's the primary interest of the American people and the responsibility of the government—is to ensure that the people that use these projects, when they're eventually completed, do not suffer the consequences of cost cutting because profit is threatened.

We've seen this in Great Britain with their project, where cost overruns caused the private entity to cut back on some of the maintenance and caused a significant safety problem. Any time that occurs, it's a failure of the government, in my opinion, to not properly protect the people that they represent. And I would urge you to consider that and keep that foremost in your mind during the final development of this piece of legislation.

The CHAIRMAN. Thank you, sir.

Mr. Ruane?

Mr. RUANE. Mr. Chairman, I would echo the need for absolute transparency, no matter which vehicle is chosen to house the bank. I think that is crucial to the success of this, because I have heard——

The CHAIRMAN. What you're saying is that OMB should not be doing this.

Mr. RUANE. Absolutely. They'd have to be involved, but I think the—to the outside world, you're going to have to—and this applies to the actual contracts that are reached between the entities. All that has to be out in the open. The problems that have been experienced around the country is where people have not had access to the details, and a lot of rumors take place, et cetera, as to what the real deal and what the margins are and the returns and all that. But if it's transparent, open to the public, I think you can solve a lot of that.

And I would like to add a footnote to the discussion that Senator McCaskill initiated there a moment ago, and you started touching on it. One of the other benefits that I see from an infrastructure bank that has come out of the whole PPP experience in the last 20 years is there has been a tremendous amount of innovation in the project management, the delivery systems, on—as you were referring to—on budget, on time.

And I see the freight intermodal connecter type projects being ripe for these kind of funding situations from the bank. And so I think that'll be an additional benefit besides, you know, the profit and the access to capital that the nation would gain by doing this whole idea.

The CHAIRMAN. All right. I cannot thank you enough. Again, I'm shocked that we didn't have this 10 years ago, but can't help that. You have introduced a fundamentally important concept into additional ways to deal with our national infrastructure.

One of my observations about the Congress as a whole is that in spite of sort of theological statements, people—since people back home really care about infrastructure, and they're really aware—I mean, I'm thinking in my own mind of when I drive to our farm in West Virginia of all the one-lane bridges 30 years ago as opposed to none now and what that means, and that had to be paid for by somebody. And you magnify that by large projects and small projects throughout the country. You've made a very, very important contribution in this, our first ever hearing on this subject. So I thank you. And this hearing is adjourned.

[Whereupon, at 12:02 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHINSON TO HON. POLLY TROTTENBERG

Question 1. DOT administers several loan programs, including Railroad Rehabilitation and Investment Financing (RRIF) loans. With respect to RRIF loans, many applicants have complained about long wait times for the approval of applications, over a year in some cases. What is DOT doing to improve the administration of the RRIF program?

Answer. SAFETEA–LU established a 90-day clock for the Federal Railroad Administration (FRA) to act on RRIF loan applications. The 90-day clock does not start until an application is complete.

In order for an application to be complete:

- The NEPA process must be completed and the relevant NEPA document signed.
- An independent Financial Advisor (IFA) must be hired and the IFA must state that they have all the materials from the applicant needed to complete their required financial analysis.

The United States Department of Transportation (USDOT) and FRA are working to help applicants develop and submit complete applications and to improve the transparency of the application process. This is being done through a working group composed of industry representatives and consultants who help potential borrowers prepare applications for RRIF loans. We are also conducting an outreach effort with presentations by USDOT and FRA, brochures and articles.

Question 2. DOT recently solicited proposals for a third round of Transportation Investment Generating Economic Recovery (TIGER) grant projects. What lessons has DOT learned from the first two rounds of TIGER grants that will help ensure a fair and transparent selection process?

Answer. USDOT learned that it is important to establish clear selection criteria for the TIGER program and to communicate these criteria to prospective applicants. The Department also learned that it is important to work with prospective applicants to make sure they know how to submit a competitive application. The Department has done this through a variety of outreach mechanisms, including public seminars and webinars. These sessions also provide USDOT with a valuable opportunity to hear from prospective applicants about the program itself and how it can be improved.

USDOT also learned that it is important to document the discretionary grant award process. In their formal review of the program GAO, found that USDOT generally did a good job of following applicable guidance and procedures for discretionary grant programs in administering the TIGER program. The report recommended that the Department consider better documentation of certain elements of our grant making process. We have taken steps to improve in this area.

In addition, USDOT learned that both the TIGER program and its stakeholders benefit from USDOT personnel taking time to debrief unsuccessful applicants on the strengths and weaknesses of their applications. Over the last 2 years, we have conducted hundreds of debriefings for unsuccessful applicants. As a result, several of these applicants substantially revised their applications and were awarded funds in a subsequent round of TIGER.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO HON. POLLY TROTTENBERG

Question 1. Is the Administration supportive of an Infrastructure bank being created separate from the Transportation reauthorization bill?

Answer. The Administration and USDOT are flexible with respect to the legislative vehicle that would be used to create a national infrastructure bank. However, we believe it is very important that a national infrastructure bank be considered as a supplement to the reauthorization of surface transportation programs, and not a replacement for these programs. These programs play a critical role in building and maintaining our nation's transportation infrastructure, which a national infrastructure bank could not replace.

USDOT believes it is important for a national infrastructure bank to have the certainty of multi-year funding authorizations. This would allow credit assistance provided by a national infrastructure bank to be aligned with the project schedules, many of which would likely have multi-year development and financing plans.

One benefit of creating a national infrastructure bank in the context of reauthorization would be to give state and local governments and other transportation entities a comprehensive view of the resources available from the federal government both through the national infrastructure bank and through traditional highway trust fund formulas.

Question 2. While the Administration has been discussing funding mechanisms for transportation projects how much have you considered transportation infrastructure in rural areas and their importance to the country's commerce?

Answer. USDOT believes that rural transportation infrastructure is vitally important for the nation's commerce, safety, and livability. Substantial funding has been provided for rural transportation projects through our competitive discretionary programs. For example, through the TIGER I and TIGER II Discretionary Grant programs, USDOT provided 24 grants of about $241 million for projects in rural areas. The total cost of these projects amounted to about $438 million. The TIGER program is now set up to devote over one quarter of available funding for projects in rural areas, while about 17 percent of the population lives in rural areas. We found that rural freight projects and rural safety projects in particular were very well aligned with several of the Department's strategic goals, including economic competitiveness, safety, state of good repair, and livability.

- Examples of rural freight projects funded through TIGER include:
  - Reconstruction of the Mitchell-Rapid City Rail (MRC) line in South Dakota (TIGER grant of $16 million).

    Project Description: The MRC line project will rebuild a state-owned branch line from Mitchell to Chamberlain, South Dakota. The reconstructed rail line will increase the capacity and efficiency of the line principally used for transportation of agricultural commodities. The existing branch line is in poor condition, limiting the amount of freight shipped over the railway.
  - The Aroostook Rail Preservation project in Maine ($10.5 million).

    Project Description: The Aroostook rail preservation project will restore the rail routes serving Northern Maine by replacing railroad ties and rail sections, and by clearing drainage ditches. The project will rehabilitate 230 miles of rail in Northern Maine constructed more than 100 years ago, which was allowed to fall into disrepair by a previous rail owner-operator.
  - Northwest Tennessee Port at Cates Landing ($13 million).

    Project Description: Tiger II dollars will be used to build a port and harbor facility on the Mississippi River, at Cates Landing in Tennessee. Dock facilities will be constructed and additional, necessary, on-site improvements will be made to create a connection between barge traffic at the port and truck freight movement.
- Examples of rural safety projects funded through TIGER include:
  - Improvements to US–18 in Oglala and Pine Ridge, South Dakota ($10 million).

    Project Description: The project will reconstruct and surface a deteriorating 15.6- mile segment of US–18 in Oglala and Pine Ridge, SD. Shoulders with rumble strips will be constructed, and other measures will be taken to improve safety and diminish the high incidence of fatal road crashes. Additional improvements include adding sidewalks with lighting and improving access to transit. Curbs, gutters and storm sewers will also be constructed.
  - US 491 Safety Improvements through the Navajo Nation in New Mexico ($31 million).

    Project Description: US–491 is the primary north-south highway in this extremely rural area of northwest New Mexico. The road connects the local Navajo Nation to other parts of New Mexico, Colorado, and the Four Corners area. It is a major trucking route with increasingly high volumes of commercial traffic. The full project will expand the width of US–491 over a corridor length of approximately 69 miles, constructing two new lanes adjacent to the two existing lanes. Additional safety improvements include constructing turn lanes for acceleration and deceleration in commercial and high-traffic areas, and improving intersections, signage, markings and drainage facilities.

- Route 10 Safety Improvements in West Virginia ($17 million).

  Project Description: This project will convert 12.84 miles of West Virginia Route 10, a narrow, two-lane road with speeds limited between 25–45 mph, into a four-lane limited-access divided highway. The new construction will increase safe highway speeds to 65 mph, reduce the grade of hills and straighten out dangerous curves. The project will also include a 10 foot wide median with a concrete barrier to separate directions of traffic and enhance safety.

- Examples of rural livability projects funded through TIGER include:
  - State University Drive Complete Streets in Fort Valley, Georgia ($1.49 million).

    Project Description: This project will construct streetscape improvements and widen approximately one quarter mile of State University Drive in the vicinity of Fort Valley State University, in Fort Valley, Georgia. Currently, only a portion of State University Drive has a 2-lane, center turn lane configuration with sidewalks. This project will widen a portion of this roadway, creating a 2-lane, center turn lane configuration to match the other section of the roadway.

  - Moscow Intermodal Center in Moscow, Idaho ($1.5 million).

    Project Description: The Moscow Intermodal project will construct a 6,800 square foot transit facility featuring exterior covered structures with a 5,500 square foot passenger loading zone and secure parking for buses and bicycles. The new facility provides 34 vehicle and 10 bus stalls to link services provided by Moscow Valley Transit, the University of Idaho's Vandal Shuttle and intercity bus service from Northwest Trailways and Wheatland Express. The facility will also provide access for taxis, vanpools and carpools, and will expand pedestrian and bicyclist accessibility

Question 3. Do you foresee an infrastructure bank providing more or less funding, compared to the current formula fund distribution, for rural states.

Answer. USDOT sees grants and loans provided through a national infrastructure bank as supplementing traditional formula funding for rural states, not replacing it.

We believe that rural areas would compete well for funds under a national infrastructure bank, as they have under the TIGER Discretionary Grant program, where rural areas have received funding for large and small projects.

The Administration's proposal for a National Infrastructure bank would provide assistance for projects in rural areas with eligible project costs of at least $10 million, compared with a figure of $50 million for projects not in rural areas.

Question 4. I'm concerned that creating any new loan program, instead of using existing programs such as the Highway Transportation Fund, would create additional bureaucracy and not get funding right away to much needed transportation projects. New loan programs that require new organizations and new rules take a long time to establish, even before loan applications are submitted and processed. As such, authorized and appropriated money would sit idle while bureaucracy was being created.

Answer. USDOT has substantial, relevant experience establishing new programs quickly, obligating funds and building much needed transportation projects. The Department gained valuable experience in standing up the TIGER Discretionary Grant program and the High-Speed Rail program under the American Recovery and Reinvestment Act of 2009. Both of these programs, which were new programs that the Department had to create from scratch, met all statutory deadlines for announcing and obligating funds.

USDOT also has considerable experience with administering transportation infrastructure credit assistance programs such as the TIFIA program and the RRIF program. A national infrastructure bank housed in the Department would draw on this experience and the expertise we have acquired to manage these programs effectively.

The time needed to effectively implement a national infrastructure bank would depend on the bank requirements established in the authorizing legislation. However, our experience with administering the programs above gives USDOT confidence that a national infrastructure bank could be stood up in a timely and efficient manner, while ensuring protections for the taxpayer.

Question 5. With the creation of a new loan program like an infrastructure bank, how quickly could the money be put to work?

Answer. USDOT believes that grant and loan funding from a national infrastructure bank could be put to work expeditiously, particularly with a bank housed in the Department. A bank housed in the Department would be able to draw on the experiences, resources and success of existing programs like the TIGER Discretionary Grant program, TIFIA and RRIF. The time necessary to implement a national infrastructure bank would, of course, depend on the complexity of the program and the requirements for personnel and setup specified in the authorizing legislation.

Question 6. What sort of administrative requirements (organizational structure, rules, staffing) would be required before loan applications could be accepted and processed?

Answer. USDOT believes that the administrative requirements required to stand up a national infrastructure bank could be limited, to the extent the national infrastructure bank was housed within USDOT. By housing the bank within the Department, the bank could draw on the experiences, resources and success of existing programs like the TIGER Discretionary Grant program, TIFIA and RRIF. The administrative requirements necessary to implement a national infrastructure bank would depend on the size, scope and complexity of the program.

Question 7. If a new loan program was created, what would the administrative costs be?

Answer. The President's Budget requested $70 million for administering a national infrastructure bank in FY 2012.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARK PRYOR TO ROBERT DOVE

Question. Mr. Dove, I have had several constituents contact me about proposals to remove the ban on commercialized rest areas. These constituents point out that businesses that have been built up along the exits rely on motorists leaving the interstate for food and fuel, and have expressed concern about changing the law after businesses have been built on the premise that motorists must leave the interstate. If rest stops are commercialized, what would be financial impact on businesses at the exit interchanges?

Also, with a decrease of traffic and business to exit interchanges, what would be the effect on the tax base of these cities, towns, and counties in which those businesses are located?

Answer. If rest stops add commercial services, the financial impact on existing business located in the region is difficult to quantify without knowing the specifics of a particular area. In some locations it may attract more traffic as a result of an increase in food and fuel options for the drivers. In other instances owners of existing businesses—many who own large franchises in the area—may be offered to expand those franchises to the rest stops that are being developed.

With respect to the second part of your question—the impact on the communities—I'm not certain one can assume a decrease in traffic to a particular business would occur as a result of commercial rest stops. Again without knowing the specific context of a particular area, it would be hard to quantify the impact. For example, it may be that the additional employment opportunities (new jobs) created as a result of these new projects would effect the local tax base. Additionally, potential increases in sales may occur which would impact a local jurisdiction's tax base to the extent that it may find little change or even additional revenues if more customers stop at these locations.

One possible way to obtain useful data on the questions being asked would be to examine data in areas where existing rest stops are being virtually rebuilt and expanded into new facilities. In many instances these service plazas are run down and offer few options to the traveler, and many travelers opt for other choices. Some are even dangerous with child trafficking, prostitution, and cargo theft a problem—traits, incidentally, shared by some non-commercial rest areas. As these areas are rebuilt, services and customer options are being expanded; environmental improvements are being installed that provide cleaner air, safer traffic patterns, less noise, and a more attractive environment. In some instances increased participation by state troopers at small substations are being added. Reviewing the impact of these projects on businesses similar to what you describe as well as the rest of the local community, the tax base, etc., may be helpful. It also may be helpful to review how the balance of residents in the local community view the project.

Additionally, there are currently Governors in several states who want to add commercial rest stops in order to their states to benefit from increased economic growth; providing more services to their constituents; increasing revenue from out-of-state visitors; and using the additional revenues for the operation and maintenance of their existing non-commercial rest stops. They would welcome the opportunity to add commercial rest stops to their interstates. The Congress may want to consider developing a set of pilot programs in some willing states that would create data that would also provide additional information the Senator is seeking.

Thank you for the opportunity to answer your question.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO ROBERT DOVE

Question 1. Do you foresee an infrastructure bank providing more or less funding compared to the current formula fund distribution for rural states?

Answer. More funding. Rural America has significant infrastructure needs that can benefit from direct private investment outside of current formula funding, and an infrastructure bank can assist in that investment. Water systems in rural America need significant capital investment and management partnerships. And, as I mentioned in an earlier response, South Dakota and other states can benefit greatly with the rebuilding of their levees to protect against flooding; and refurbishing our the locks and dams in our inland waterways to help ship products from rural America. There is an opportunity for innovative mayors and other state and local officials in rural areas to take advantage of the potential for private investment in the infrastructure they are responsible for. Nevertheless, although the establishment of the bank would assist them, they shouldn't wait for a bank to be created. Economic models can be created that do not replace federal formula funding to rural areas but instead can provide additional resources. I would be pleased to work with you, Senator Thune, and your staff to provide additional information on this important issue as I know it is one of your chief concerns.

Question 2. I'm concerned that creating any new loan program, instead of using existing programs such as the Highway Transportation Fund, would create additional bureaucracy and not get funding right away to much needed transportation projects. New loan programs that require new organizations and new rules take a long time to establish, even before loan applications are submitted and processed. As such, authorized and appropriated money would sit idle while bureaucracy was being created.

Answer. Currently, one of the major problems currently is that existing programs take too long in getting funding to infrastructure projects. And when they are sped up, safeguards like solid due diligence, transparency and other important practices become casualties of the bureaucratic process. An infrastructure bank can be established that would evaluate important criteria like performance metrics, apply creditworthiness data, and process funding requests faster than any existing structure at the Department of Transportation or Environmental Protection Agency—and still maintain appropriate safeguards with respect to fund distribution. Respectfully, the objective is not creating another government bureaucracy. The goal is to design a funding process that allows new sources of capital speedily inserted into the infrastructure market in an innovative way and which would attract additional capital.

Question 3. With the creation of a new loan program like an infrastructure bank, how quickly could the money be put to work?

Answer. Again, one of the glaring weaknesses of the current project is the long horizon of any infrastructure project from the time it is approved to the time construction is completed. Most of that is time taken up in permit approvals, design changes and other issues that private investment in infrastructure can not sustain the way that much of the current process allows for. The issue is more fundamental than whether an infrastructure bank is established, but a bank that encourages private sector participation will encourage the horizon of these projects to be shortened. An infrastructure bank will encourage projects that include "design-build-finance," (and in some instances "operate and maintain") qualities that traditionally have much shorter horizons—and often much higher efficiencies.

Question 4. What sort of administrative requirements (organizational structure, rules, staffing) would be required before loan applications could be accepted and processed?

Answer. There are different models currently in other parts of the world—I mentioned the European Infrastructure Bank earlier in my testimony. I would be pleased to work with the Senator and this Committee to identify the structure and methods that would be most efficient and provide the most value to the bank's operation. I also believe it is critical for the bank to regularly report to the Congress on its performance.

Question 5. If a new loan program was created, what would the administrative costs be?

Answer. If the bank is set up and managed appropriately the bank would—and should—pay for itself. Also, it may be helpful for the Committee to review the current administrative costs of existing federal funding programs in the federal agencies, particularly programs designed to distribute funds for infrastructure projects. I am confident that a side-by-side comparison with these infrastructure federal agency funding programs would show that dollar for dollar, a bank's operation would be more efficient and more expedient in getting funds invested in projects. I would be pleased to work with the Senator and the Committee to determine what the administrative costs would be.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO J. PERRY OFFUTT

Question 1. Do you foresee an infrastructure bank providing more or less funding, compared to the current formula fund distribution, for rural states.

Answer. As part of the formation of a National Infrastructure Bank (the "Bank") a methodology by which it will deploy any funds needs to be determined. While certain formula funding programs currently aim to alleviate specific issues that are primarily urban in nature (*i.e.,* improve aging infrastructure, address congestion), the Bank can also adopt as a core value the funding of new infrastructure development in locations where an adequate transportation alternative does not currently exist. Such a formalized approach will help ensure that funding provided by the Bank is allocated appropriately to all regions. Therefore, there could be more funding for infrastructure projects in rural states.

Question 2. I'm concerned that creating any new loan program, instead of using existing programs such as the Highway Transportation Fund, would create additional bureaucracy and not get funding right away to much needed transportation projects. New loan programs that require new organizations and new rules take a long time to establish, even before loan applications are submitted and processed. As such, authorized and appropriated money would sit idle while bureaucracy was being created.

Answer. Given the country's great infrastructure funding needs, it is very important that the Bank accelerates rather than slows potential project development. To accomplish this, the bureaucracy associated with the Bank should be kept to a minimum. Instead, there should be clear standards and criteria for the deployment of funds, such that assuming that the project meets certain criteria, such as achieving some or all of certain Bank objectives and also fully incorporating other funding sources. Such standards will reduce the need for a qualitative review of all applications and, consequently, the requirement for extensive bureaucracy. In summary, the Bank should be an additional resource, not another "bureaucratic hurdle" that could impede a project.

Question 3. With the creation of a new loan program like an infrastructure bank, how quickly could the money be put to work?

Answer. The ability to move quickly and nimbly should be a core objective of the Bank. As mentioned during my testimony, infrastructure needs in the U.S. top more than $2.2 trillion. Part of the issue is the time required to bring projects from initial development to realization given the time requirements of environmental and technical permitting and, in particular, financing. By providing funding early in a project's lifecycle, assuming it meets certain general criteria and ultimately contingent on securing required permitting, Bank loans could help take significant uncertainty off the table for projects and, consequently, improve the speed with which they reach fruition. Identifying the right group of people to administer the Bank's objectives will be a critical next step.

Question 4. What sort of administrative requirements (organizational structure, rules, staffing) would be required before loan applications could be accepted and processed?

Answer. As discussed, the Bank should have a relatively flat/non-bureaucratic structure and clear objectives regarding the qualification and deployment of capital.

For example, the Bank could limit the amount of capital that it deploys in any single sector to ensure that a large number of projects of all types receive funding.

Question 5. If a new loan program was created, what would the administrative costs be?

Answer. The Bank would require an appropriate level of staffing to review applications, provide oversight regarding the appropriate dissemination of funds and ensure coordination with other federal funding programs such as TIFIA and RRIF. However, to limit ongoing administrative costs, the requirements and mission of the National Infrastructure Bank could be closely linked with the goals of a potential Congressional National Infrastructure Commission (the "Commission"). Through it's specific focus on national infrastructure objectives, the Commission could also drive the funding criteria for the National Infrastructure Bank.

AMERICAN SUBCONTRACTORS ASSOCIATION, INC.
Alexandria, VA, July 21, 2011

Hon. JAY ROCKEFELLER IV, Chairman, U.S. Senate Committee on Commerce, Science, and Transportation, Washington, DC.	Hon. KAY BAILEY HUTCHINSON, Ranking Member, U.S. Senate Committee on Commerce, Science, and Transportation, Washington, DC.

RE: HEARING ON "INNOVATIVE FUNDING FOR TRANSPORTATION INFRASTRUCTURE"

Dear Mr. Chairman and Ranking Member:

The American Subcontractors Association, Inc. (ASA) is a national trade association representing more than 5,000 construction subcontractors, specialty contractors and suppliers in the construction Industry. Please include this letter in the record of the Committee's hearing on "Innovative Funding for Transportation Infrastructure."

ASA members work in virtually all of the construction trades and on virtually every type of horizontal and vertical construction. They have a significant interest in assuring that such construction is adequately funded and thus how federal funds can be used to leverage and partner with private sector capital to supplement existing transportation funding and increase overall investment into transportation projects."

ASA asks the Committee to assure that any such public-private funding programs include a requirement to assure payment to construction subcontractors and suppliers on the funded projects. Specifically, ASA recommends that Congress extend the requirements of the Miller Act (40 U.S.C.Section 3131 to 3134) to projects financed by public-private partnerships.

Construction subcontractors and suppliers extend large amounts of credit on construction projects. Indeed, they pay most of the laborers, vendors, and taxes even *before* submitting an invoice for their work to the prime contractors or construction owners. All 50 states have adopted mechanic's lien laws that allow a subcontractor to secure payment on private construction by asserting a claim for the amount it is owed to the property it is improving. The federal government and all 50 states also have adopted laws (*i.e.,* Federal Miller Act, state "little" Miller Acts) that require a prime contractor on public construction to provide a payment bond to assure payment to subcontractors and suppliers on such projects.

But, depending on how a project funded by *both* public *and* private funding is structured, such projects may be exempt from *both* mechanic's liens *and* payment bond requirements, and thus provide no payment assurance to the subcontractors and suppliers that extend credit to the project. Further, subcontractors and suppliers may not have access to the information that would allow them to determine the extent of payment protections or whether there even is payment assurance until they already have extended credit. Construction subcontractors and suppliers that have doubt about the adequacy of project funding or assurance of payment for work performed will charge higher prices in an attempt to account for their higher risk. However, higher prices alone cannot protect a construction subcontractor or supplier from business failure when they are not paid for work performed.

In summary, failure to assure payment to construction subcontractors and suppliers on construction projects financed with innovative methods could both increase the costs of such projects and put at risk small businesses that pay taxes, provide jobs and otherwise support the economic well-being of the Nation. The best solution to providing payment assurance to these businesses is to extend the Federal Miller Act to such projects.

Please do not hesitate to contact me if you have any questions or require more information. I can be reached at (703) 684–3450, Ext. 1317.

Sincerely,

FRANKLIN L. DAVIS,
Director of Government Relations,
American Subcontractors Association, Inc.