

**Statement of the**  
**Associated General Contractors of America**  
**Presented by Max Kuney**  
**Chairman, AGC Highway and Transportation Division**  
**To the**  
**Senate Committee on Environment and Public Works**  
**Supporting**  
**Timely Reauthorization of the**  
**Fixing America's Surface Transportation (FAST) Act**

**July 10, 2019**



The Associated General Contractors of America (AGC) is the leading association in the construction industry representing more than 26,500 firms, including America's leading general contractors and specialty-contracting firms. Many of the nation's service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation's commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, levees, locks, dams, water conservation projects, defense facilities, multi-family housing projects, and more.

2300 Wilson Boulevard, Suite 300 • Arlington, VA 22201 • Phone: (703) 548-3118



Chairman Barrasso, Ranking Member Carper, and Members of the Committee:

Thank you for inviting me here today. My name is Max Kuney. I am a highway and bridge builder from Spokane, Washington and currently serve as the Highway and Transportation Division Chairman of the Associated General Contractors of America (AGC). AGC is a national organization representing 26,500 businesses involved in every aspect of construction activity in all 50 states, Puerto Rico and Washington, D.C. AGC members build highways, bridges, airports, transit systems, rail facilities and other transportation projects that keep America running.

In my testimony, I will stress the following themes:

- The time for infrastructure investment is now;
- Failure to reauthorize the FAST Act before it expires will negatively impact addressing our national transportation needs and put the U.S. further behind;
- The U.S. transportation infrastructure system's needs cannot sustain a status quo approach to investment;
- FAST Act reauthorization should provide sustainable, long-term solution to funding the Highway Trust Fund;
- The economic benefits of transportation infrastructure investment are well-documented;
- Continued federal, state and local partnership is critical to the success of our national transportation system;
- A broad infrastructure package must include a sustainable, long-term solution to funding the Highway Trust Fund; and
- Further improving the environmental review and permitting process is necessary.

None of these themes are new. In fact, AGC presented testimony to this committee in November 2018 that addressed these very issues. What has changed since then is that time has gotten shorter and it is unclear if the resolve to address our nation's transportation infrastructure needs is still a top priority.

### **The Time for Infrastructure Investment is NOW**

America's transportation system impacts the daily lives of every American, whether they live in rural communities or in great urban meccas. It affects everything from our ability to get to work to the cost and availability of the products we rely on both in our personal lives and in our businesses. The capacity of U.S. businesses to compete globally starts with a well-functioning transportation network and leads to a strong national economy. Public opinion clearly suggests that infrastructure spending is broadly popular. Recent Gallup polling shows that Americans support substantial infrastructure spending: more than six in ten Americans (64 percent) in March 2017 agreed with the president's statements supporting a \$1 trillion program to improve U.S. infrastructure, including roads, bridges and tunnels.<sup>1</sup> A March 2019 Mellman Group/Public Opinion Strategies national survey indicates that 81 percent of likely voters in the 2020 election say infrastructure should be a top policy priority

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<sup>1</sup> <https://news.gallup.com/poll/226961/news-public-backs-infrastructure-spending.aspx>

for the president and Congress.<sup>2</sup> In addition to winning broad national support, transportation infrastructure renewal sparked majority support from both major parties last year.

As such, investing in our nation's transportation infrastructure has traditionally enjoyed bipartisan support. As you all know, President Trump made infrastructure investment a key issue during his campaign for the White House and congressional leaders have highlighted investing in infrastructure as a top priority. While a broad infrastructure package continues to remain elusive, reauthorization of the FAST Act before its expiration in 2020 would address many of the issues impacting our nation's surface transportation network.

AGC appreciates that the Chairman and Ranking Member have made FAST Act reauthorization a top priority this Congress. With your leadership, this committee has gotten an early start to meeting this deadline. And, we are thankful for all the work you have already done to make a revitalized surface transportation bill reality.

### **FAST Act Reauthorization Delay Will Negatively Impact Addressing National Transportation Needs and Put the U.S. Further Behind**

As previously stated, an important goal of this Congress should be to complete action on FAST Act reauthorization before it expires on September 30, 2020. Because federal-aid highway funding has historically been critical to state-level capital investment in highways and bridges, it is important that this funding continue unimpeded. On average, states use 52 percent of their annual federal-aid allocation for capital investment projects, with that number significantly higher in states with lower population.

Unfortunately, the recent legislative history of passing federal surface transportation bills is one of Congress waiting until the funding authorization has expired and kicking the can down the road with countless short-term extensions. In the past, this uncertainty in the flow of federal-aid funding caused project delays and cancellations, resulting in higher costs and slowed transportation improvements affecting safety, efficiency, and economic development. Uncertainty about long term funding can also cause contractors to defer decisions on hiring and training new employees and investing in new equipment. The longer the uncertainty the more impact on the contracting community.

Prior to FAST Act passage in 2015, 15 state transportation agencies delayed or seriously considered cancelling payments on contracts for transportation improvement projects worth over \$1 billion when reimbursements from the Highway Trust Fund were slowed.<sup>3</sup> With a more than \$800 billion backlog of surface transportation investment needs across the country, states can ill afford further delays and unnecessary cost increases.<sup>4</sup> Delays only cause the backlog to grow. Assurance that transportation funding will continue and be distributed unimpeded among existing FAST Act programs will have a positive impact on our transportation infrastructure network allowing each state to address their unique transportation needs while contributing to our economy.

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<sup>2</sup> <http://americanmanufacturing.org/research/entry/americans-want-action-on-infrastructure>; [http://s3-us-west-2.amazonaws.com/aamweb/2019\\_Slide\\_Deck\\_-\\_Infrastructure\\_and\\_Buy\\_America.pdf](http://s3-us-west-2.amazonaws.com/aamweb/2019_Slide_Deck_-_Infrastructure_and_Buy_America.pdf)

<sup>3</sup> <https://www.enr.com/articles/7103-state-dots-plan-ways-to-cope-with-uncertain-federal-funds>

<sup>4</sup> <https://www.infrastructurereportcard.org/cat-item/roads/>

Uncertainty about long term funding can also cause contractors to defer decisions on hiring and training new employees and investing in new equipment. The longer the uncertainty the more impact on the contracting community.

### **The U.S. Transportation Infrastructure System's Needs Cannot Sustain a Status Quo Approach to Investment**

Americans' reliance upon our transportation systems underscores the necessity to adequately invest in a timely manner. The Road Information Program (TRIP) reports that increases in vehicle travel since 2000 have resulted in a significant increase in wear and tear on the nation's roads.<sup>5</sup> Vehicle travel growth, which slowed significantly because of the Great Recession and subsequent slow economic recovery, has since returned to pre-recession growth rates. From 2000 to 2018, vehicle travel in the U.S. increased by 19 percent<sup>6</sup>. The rate of growth in vehicle miles traveled has accelerated since 2013, increasing by eight percent between 2013 and 2018.<sup>7</sup> Travel by large commercial trucks, which place greater stress on paved road and highway surfaces than do cars, continues to increase at a rate approximately double the rate for all vehicles, and is anticipated to continue to grow at a significant rate through 2030. Travel by large commercial trucks in the U.S. increased by 29 percent from 2000 to 2016. The level of heavy truck travel nationally is anticipated to increase by approximately 56 percent from 2018 to 2045, putting additional stress on the nation's roadways.

From coast to coast, major streets and freeways are showing significant signs of distress. Reports provided by the Federal Highway Administration (FHWA) based on data submitted annually by state departments of transportation on the condition of major state and locally maintained roads and highways uncover a litany of troublesome facts, including:<sup>8</sup>

- Forty-four percent of the U.S.' major roads are in poor or mediocre condition.
- One-third of the nation's major urban roadways—highways and major streets that are the main routes for commuters and commerce—are in poor condition. These critical links in the nation's transportation system carry 70 percent of the approximately 3.2 trillion miles driven annually in the U.S.
- Forty-five percent of the U.S' major urban interstates experience congestion during peak hours. Traffic congestion costs American motorists \$170 billion a year in wasted time and fuel costs.
- The nation's population grew by 15 percent from 2000 to 2017 while new road mileage increased by only five percent.
- Driving on roads in need of repair costs U.S. motorists \$130 billion a year in extra vehicle repairs and operating costs – \$599 per motorist.

With these worrisome facts in mind, we must remember that our transportation infrastructure needs do not discriminate between rural and urban America. Many of the transportation challenges facing rural America are similar to those in urbanized areas. However, rural residents tend to be more

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<sup>5</sup> [http://www.tripnet.org/docs/Urban\\_Roads\\_TRIP\\_Report\\_October\\_2018.pdf](http://www.tripnet.org/docs/Urban_Roads_TRIP_Report_October_2018.pdf)

<sup>6</sup> [https://www.fhwa.dot.gov/policyinformation/travel\\_monitoring/19aprtvt/](https://www.fhwa.dot.gov/policyinformation/travel_monitoring/19aprtvt/)

<sup>7</sup> <https://afdc.energy.gov/data/10315>

<sup>8</sup> [http://www.tripnet.org/docs/Fact\\_Sheet\\_National.pdf](http://www.tripnet.org/docs/Fact_Sheet_National.pdf)

heavily reliant on their limited transportation network—primarily rural roads and highways—than their counterparts in more urban areas. Residents of rural areas often must travel longer distances to access education, employment, retail locations, social opportunities, and health services. As the Department of Transportation (USDOT) reported:<sup>9</sup>

- In 2015, 15 percent of the nation’s major rural roads (arterials and collectors) were rated in poor condition 21 percent were rated in mediocre condition, 16 percent were rated in fair condition and 48 percent were rated in good condition.
- In 2016, 10 percent of the nation’s rural bridges were rated as structurally deficient.

Furthermore, a concern in the rural areas of our country is motorist safety. As TRIP points out, “[t]he higher traffic fatality rate found on rural, non-Interstate routes is a result of multiple factors, including a lack of desirable roadway safety features, longer emergency vehicle response times, and the higher speeds traveled on rural roads compared to urban roads.” Many of the safety deficiencies on rural roads can be fixed. These include narrow lanes, limited shoulders, sharp curves, exposed hazards, pavement drop-offs, steep slopes and limited clear zones along roadsides.

Despite the importance of transportation investment to the U.S. economy, there is much need for improvement and growth. For example, the 2015 American Association of State Highway and Transportation Officials (AASHTO) Transportation Bottom Line Report found that annual investment in the nation’s roads, highways and bridges needs to increase from \$88 billion to \$120 billion and from \$17 billion to \$43 billion for the nation’s public transit systems to improve conditions and meet the nation’s mobility needs.<sup>10</sup> The investment backlog for transportation infrastructure continues to increase, reaching \$836 billion for highways and bridges and \$122 billion for transit according to the U.S. Department of Transportation. The American Society of Civil Engineers (ASCE) has identified a \$1.1 trillion funding gap for surface transportation between 2016 and 2025.<sup>11</sup>

As articulated above, the needs of our nation’s transportation infrastructure system are great and extensively catalogued. Nonetheless, so too are the tremendous benefits of sufficiently investing in this system.

### **FAST Act Reauthorization Should Provide Sustainable, Long-term Solution to Funding the Highway Trust Fund**

Reauthorization of the FAST Act must provide the necessary investment needed to begin a steady reduction in our transportation deficit. To do this, priority should be given to providing the revenue necessary to achieve the long-term solvency and stability of the Highway Trust Fund (HTF). While the FAST Act was a welcome reprieve from the uncertainty created by the many delays and short-term reauthorization extensions that led up to its passage, it still left a great deal of uncertainty about future surface transportation investments. The FAST Act temporarily stabilized federal highway and public transportation investment by transferring \$70 billion from the General Fund of the U.S.

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<sup>9</sup> [http://www.tripnet.org/docs/Rural\\_Roads\\_TRIP\\_Report\\_2017.pdf](http://www.tripnet.org/docs/Rural_Roads_TRIP_Report_2017.pdf)

<sup>10</sup> <http://bottomline.transportation.org/Documents/Bottom%20Line%202015%20Executive%20Version%20FINAL.pdf>

<sup>11</sup> <https://www.infrastructurereportcard.org/cat-item/roads/>

Treasury to supplement an estimated \$208 billion in HTF revenue from existing sources over the five-year duration of the bill. But that stability is soon to be gone.

Shortly after the FAST Act expires, additional revenue in the amount of \$18 -billion per year will be needed just to maintain current funding levels plus inflation. Without action, the Congressional Budget Office projects that the HTF will become insolvent by 2021.<sup>12</sup> And that is a no real growth scenario. Failing to address the HTF's ongoing revenue shortfall leaves open the possibility of disruptive uncertainty for states and the construction industry leading up to and after the expiration of the bill, just as happened in 2015. Without an extension and new revenue stream, AASHTO estimates that states will see about a 40 percent reduction in highway funding from FY 2020 to the following year and \$46 billion to \$28 billion in FY 2021.<sup>13</sup>

AGC appreciates this committee for acting sooner rather than later on this matter. And, we again emphasize the need to get a reauthorization bill across the finish line before the FAST Act expires. We learned the hard way in 2015 that the consequences of failing to meet the deadline were grave, resulting in project delays and cancellations and higher costs. Five years later, with a booming economy, America simply can't afford delays to projects that improve the safety and efficiency of our transportation network and continue to bolster our growing economy.

### **Federal Motor Fuels and Diesel User Fees**

With the hope that reauthorization legislation will not just keep the country treading water but will instead provide the kind of investment needed to propel our economy into the future, AGC urges you to provide real, reliable, dedicated and sustainable revenue sources derived from the users and beneficiaries of the system for the HTF that supports increased federal surface transportation investments. Additionally, any new revenue should be dedicated solely to surface transportation improvements and preferably distributed through the current federal highway and transit programs.

AGC's preferred method to address the solvency of the HTF is an increase in the federal motor fuels tax—something that has not been done since 1993—of 25 cents for both gasoline and diesel. Recognizing the growing number of electric and hybrid vehicles, we also recommend Congress consider fees or charges that would ensure these vehicles pay into the system they use. For example, consideration should be given to imposing an annual registration fee for electric and hybrid vehicles.

### **Vehicle Miles Traveled or Mileage Based User Fees**

In 2009, the National Surface Transportation Infrastructure Commission concluded that the U.S. needs a new approach to transportation infrastructure financing. The commission specifically notes that “direct user charges are the most viable and sustainable long-term, user pay option for the Federal government.” There, the commission recommended moving to a vehicle miles traveled (VMT) fee or mileage-based user fee (MBUF). The VMT is a user charge based on miles driven in a specific vehicle as opposed to the current excise tax on fuel consumed. At its simplest, the fee would be cents per mile. A VMT would ensure that all users are paying their "fair share" to keep roads and bridges in a state of good repair regardless of the type of vehicle they drive.

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<sup>12</sup> <https://www.cbo.gov/system/files?file=2019-01/51300-2019-01-highwaytrustfund.pdf>

<sup>13</sup> <https://policy.transportation.org/wp/uploads/sites/59/2018/11/AASHTO-FAST-Act-Reauth-Working-Group-White-Papers-2018-11-05-FINAL.pdf>

To make it work on a national scale, a VMT system needs to be tested, piloted, and refined at the state and local level. In the FAST Act, Congress provided some \$95 million to states to undertake pilot programs to look at implementation of a VMT fee. Thus far, 11 states have been awarded funds to enter into pilots, with many more states exploring VMTs. Many lessons are being learned from these pilots including privacy protection, equity by income, geography, and vehicle type, cost of administration, and complexity of implementation. Advancement of a VMT system in the U.S. must include adequate system development, promotion of national awareness and improvement of public opinion, combining state and federal efforts into a unified national concept, demonstration of national leadership, and resolution of the key issues learned from the initial pilot programs.

### **Public Private Partnerships**

Public Private Partnerships (P3s) have been given much emphasis in the past few years. Clearly, there is a place for P3s in addressing current and future transportation needs. P3s bring additional financing to the table to address transportation needs – financing that may well not be there without federal encouragement. In addition, P3s shift risk away from state DOTs and bring new players into the operations and maintenance mix. However, P3s are not the one and only answer to the funding shortfall. Only certain types of projects may attract P3 development. These are primarily revenue generating projects based in dense urban areas. While encouragement for P3s should continue, it must be understood that they are an enhancement and not the solution to the funding shortfall.

### **The Economic Benefits of Transportation Infrastructure Investment are Well-Documented**

The positive relationship between transportation capital investment, economic output, and private sector productivity has been well documented for decades by business analysts, economists, and the research community. A safe, reliable, and efficient transportation network helps businesses increase access to labor and materials, increase market share, expand customer base, reduce production costs, access global markets, and foster innovation. A 2017 study performed for NAIOP—the Commercial Real Estate Development Association—by Professor Stephen Fuller of George Mason University found the \$1.16 trillion in construction spending in 2016:

- Contributed \$3.4 trillion to U.S. GDP.
- Generated \$1.1 trillion in new personal earnings.
- Supported a total of 23.8 million jobs throughout the U.S. economy

Transportation investment also drives technology advancement. Advances made in autonomous vehicle technology is driven by transportation needs and, once available commercially, will rely on a good transportation network to operate safely and efficiently. There has been a technology boom in transportation construction that is increasing productivity and enhancing quality.

Contractors are making widespread use of drones, estimating and project management software, automated machine guidance systems on equipment, 3D modeling, paperless projects, e-construction, precast-slide in bridges and the list goes on. Most of this technology is developed and manufactured in the United States. New materials and treatments are being developed to lengthen

the life of the infrastructure once put in place. Enhancing critical transportation assets will boost the economy in the short-term by creating jobs in construction and related fields.

In the longer-term these improvements will enhance economic competitiveness and improve quality of life by reducing travel delays and transportation costs, improving access and mobility, improving safety, and stimulating sustained job growth.

### **Continued Federal, State and Local Partnership is Critical to the Success of our National Transportation System**

The partnership between federal, state and local governments is essential to our transportation infrastructure. This partnership is as important as ever and must be continued for our country to meet the transportation needs of our growing economy. As such, state and local governments have taken it upon themselves to raise revenue to supplement their respective programs in the absence of new federal investment.

According to the USDOT's *2015 Conditions and Performance* report, state and local governments provided 80 percent of \$217 billion invested in state and local road-related programs and 74 percent of \$43 billion invested in transit-related programs compared to 20 percent and 26 percent, respectively, contributed by the federal government.<sup>14</sup> States continue to make significant commitments to invest in transportation infrastructure as evidenced by successful enactment of transportation revenue packages in 33 states since 2012. Unfortunately, the federal government has not kept up its end of the bargain by failing to adjust the user fees that provide funding for much of our federal surface transportation investments.

Federal leadership and commitment is crucial to ensuring the continued success of this long-standing partnership. The certainty of federal investments allows state DOTs to make needed investments in the major freight corridors that drive national and regional economic growth. The one million miles of roadways eligible for the federal aid highway program account for 25 percent of total miles but carry 84 percent of all traffic. The 48,000 miles of the Interstate Highway System, which is the backbone of the U.S. economy, carries 25 percent of all traffic, including over half of the miles driven by freight trucks delivering goods across the country. Federal investment also accounts for 82 percent of rural and 64 percent of urban transit agency capital outlays, in infrastructure and rolling stock. Federal-aid funding remains critical to state-level capital investment in highways and bridges, averaging 52 percent of that state investment in recent years.<sup>15</sup>

Highway accessibility was ranked the number one site selection factor in a 2017 survey of corporate executives by Area Development Magazine. Labor costs and the availability of skilled labor, which are both impacted by a site's level of accessibility, were rated second and third, respectively. Seventy-three percent of the \$27.7 trillion worth of commodities shipped to and from sites in the U.S. is transported by trucks on the nation's highways. An additional 14 percent is delivered by rail, water, parcel, U.S. Postal Service or courier, which use multiple modes, including highways.

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<sup>14</sup> <https://www.fhwa.dot.gov/policy/2015cpr/>

<sup>15</sup> <https://www.fhwa.dot.gov/policy/2015cpr/>

## **Further Improving the Environmental Review and Permitting Process**

AGC is very appreciative for the work this committee has undertaken in helping enact bipartisan environmental reforms in MAP-21 and the FAST Act. But more work can be done and improvements upon those enacted reforms can be made.

AGC members have pointed to a host of technical and procedural problems that government agencies face, in general, during document preparation and interagency reviews: they inevitably lead to inconsistencies in the environmental approval process, schedule delays and costs overruns. Such uncertainty spurs legal challenges, which can ultimately threaten the viability of the project. AGC has worked closely with the current Administration, as we did with prior Administrations, and supports efforts to further improve the environmental review and permitting process. Additionally, we have shared our extensive environmental recommendations to the House and Senate in testimony or statements for the record<sup>1</sup>.

In general, what AGC seeks is a prompter environmental review process. We feel strongly that this can be achieved while protecting the environment.

More specifically, three of reforms that we support that would have substantial positive impacts are:

1. Require a merger of the National Environmental Policy Act and Clean Water Act 404 permitting processes with the U.S. Army Corps of Engineers issuing permits at the end of the process, using the NEPA-generated information;
2. Allow the monitoring, mitigation and other environmental planning work performed during the NEPA process, and included the final Environmental Impact Statement / Record of Decision, to satisfy federal environmental permitting requirements, unless there is a material change in the project; and
3. Develop a reasonable and measured approach to citizen suit reform to prevent misuse of environmental laws.

### **AGC Policy Recommendations**

AGC has produced a list of program improvements that can produce a more efficient and better performing federal-aid highway program. Attached to this written statement are the recommendations from AGC for program improvement. We look forward to working with the committee on including these recommendations in the next surface transportation legislation.

### **Conclusion**

Mr. Chairman, thank you again for convening today's hearing, for your leadership, and for allowing AGC to participate. The role of our national transportation system in supporting U.S. competitiveness and our quality of life cannot be understated. Transportation impacts the daily lives of citizens and businesses in every state in the union. The American public recognizes the need to improve our system and bring it back to world class status.

While there is much we disagree on in the political realm, fixing our nation's infrastructure must not be a partisan issue. I urge this committee to take advantage of the opportunity it has to make an important first step in investing in future of our transportation system by fixing the Highway Trust Fund. Providing a reliable, dedicated, and sustainable revenue source derived from the users and beneficiaries of the system will not only address the annual funding shortage but will allow for robust future investments. We are excited at the progress this committee has made this Congress and we urge you to continue acting on this issue in an expedient manner. As we have well learned, the longer we wait, the more difficult the solution becomes. Again, thank you for your time and consideration.