TESTIMONY OF

THE HONORABLE GARY RIDLEY

SECRETARY OF TRANSPORTATION
STATE OF OKLAHOMA

REGARDING

"LEGISLATIVE ISSUES FOR TRANSPORTATION REAUTHORIZATION"

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

JULY 21, 2011

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

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

Today, I want to re-emphasize several points that have been paramount in our discussions from the beginning and that can be difference makers for the States under the reauthorization.

TESTIMONY

Efficient Delivery of the National Transportation Program

For practical purposes, there are only two external influences that have significantly impacted the delivery of federally funded transportation improvements in recent history. One is the consistency and availability of federal funding and the other influencing factor can be attributed to federal bureaucracy and regulatory actions. Transportation Departments across the country are hopeful that the Congress will make every effort to at least fund transportation at the historic levels. However, we understand the difficulties that are presented by the limitations of the Highway Trust Fund revenues. Therefore, we are greatly appreciative of the work to find ways to get more of the scarce transportation dollars to the core transportation infrastructure through reducing or eliminating bureaucracy and transportation funding diversions and increasing the efficiency of project delivery.

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

A focal point of the reauthorization discussion has been the consolidation of the maze of SAFETEA-LU Highway Trust Fund (HTF) authorizations. The consolidation of the authorizations is a good and noble concept and represents an opportunity to significantly reduce the administrative burden of the federal program. However, the consolidation of the HTF authorizations only represents half of the action needed. The effort to finalize a proposed bill should also consider the actions that will be necessary to minimize or eliminate any remaining bureaucracy associated with each consolidated authorization that could impede the progress of projects.

States should not be left to bear the financial burden of a national transportation system in decline alone and the solution lies in a consistent funding authorization with a reasonable term that can carry us beyond the reach of extension acts. The resolution of our national transportation funding crisis may not yet be entirely achievable, but at a minimum new, more effective project and program delivery protocols should be facilitated by the legislation through a renewed State and Federal partnership.

Private Sector Investments and Financing Options

Certainly, when properly vetted and administered, a variety of financing methodologies can be utilized to successfully deliver significant transportation improvements that might not be financially viable otherwise. The utilization of GARVEE, TIFIA, Public / Private Partnerships, Build American Bonds, infrastructure banks and other such methodologies have proven effective in financing certain, well defined transportation system needs. However, none of these financing opportunities provide new or additional funding. In addition, simple tolling can also be very effective and is the purest representation of a public / private partnership. Bond holders finance the initial transportation improvements and the public's use of the facilities provides for a reasonable return on their investment.

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

Federal Transportation Funding Reallocations

The core transportation infrastructure of this nation has an enormous backlog of unaddressed deficiencies that are commonly and consistently recognized. With each new infrastructure study, exposé or report, the state DOTs are saddled with trying to defend what we already know. This country's CORE infrastructure is in a deplorable condition and we have no fiscal solution for making wholesale improvements at the current funding levels and certainly no prospects under a flat or reduced funding scenario. Therefore, we support the ability for States to carefully scrutinize, prioritize and direct transportation funding that may be available for peripheral projects and programs.

Programs that mandate the commitment of dedicated transportation funding to recreational and fringe activities such as bicycle and pedestrian trails, complete streets, landscaping and historic preservation should be vigorously reviewed. If community livability projects and other similar programs are determined to be critically important to the viability and prosperity of the Nation, other funding mechanisms should be identified and the programs should be funded separately from core transportation infrastructure. If such activities are to remain eligible to receive transportation funding, each state should have the latitude to decide if the eligible activities warrant the commitment of scarce resources above all other transportation needs. Again, it will be of great assistance if the future funding of such programs is left to the discretion of the states alone and any currently mandated set asides are eliminated.

Issues Impacting Project Delivery

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

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

When such projects encompass or require the acquisition of new right of way to support the implementation of the proposed improvements, a reasonable consideration of potential social, environmental and cultural impacts is warranted. Therefore, if it is determined that private property is to be acquired for a permanent, public transportation use, it is always prudent to fully vet and carefully document the investigation, analysis and decision making process regardless of the applicability of NEPA.

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

Reducing environmental hurdles for projects that have no significant environmental impacts will be extremely beneficial. For example, using an estimated total project cost threshold of $5 million yields a consistent project and environmental model in Oklahoma. In the last three years (2009-2011), we let to contract almost two hundred routine projects that were less than $5 million in cost. Each of these projects required a NEPA approval that typically required from 30 days to 180 days to complete. Assuming that such projects would meet the criteria for an expedited process, then Oklahoma would have had the opportunity in many cases to shorten the project delivery on each project by a like amount.

The benefits of these simple actions are broad and far reaching. First, departments of transportation will be inherently encouraged to work within existing transportation facility footprints which will minimize additional impacts to private property or the environment. Second, the preparation efforts and time saved to deliver projects that meet defined criteria will translate as a cost savings to the agency and a direct "user benefit" to commerce and the traveling public

through an expedited improvement delivery. Also, the state and federal regulatory, resource and lead agencies will have the opportunity to focus more of their internal resources on progressing other larger scale proposed transportation improvements in a more timely and effective manner.

Undoubtedly, the government, the business community and the general public have all been a force in improving air and water quality in the United States under the provisions of the Clean Air and Clean Water Acts. However, we have a growing concern that the Environmental Protection Agency (EPA) and other Federal regulators are continually ratcheting up their expectations without regard for cost or compliance feasibility. Furthermore, it stands to reason that expanding the Federal regulatory footprint in tough budgetary times will certainly translate into even more delays for the States who already commit extraordinary resources in the interest of regulatory compliance.

Even though air quality steadily improved under the current EPA standard, several areas of the state including both the Tulsa and Oklahoma City metropolitan areas teeter on the verge of non-attainment under EPA's anticipated lower targets and more restrictive interpretations and measuring requirements. The impacts and costs of non-attainment are significant to both private industry and the transportation system. Non-attainment seriously restricts a state's ability to manage transportation improvements within the designated areas, requires a substantial investment in planning and conformity studies and analysis before implementing most transportation system improvements or capacity expansions and embattles the private sector against the government.

In addition, the EPA and the Corps of Engineers are seeking to expand their jurisdictional authority over new waters through the issuance of clarification guidelines. Such guidelines are greatly concerning as more and more regulation creeps into simple drainage ditches and minor tributaries that were long considered non-jurisdictional. In Oklahoma, Corps of Engineers issued permits and mitigation measure approval is becoming more difficult to obtain in a timely manner due to the resource strain of the existing jurisdictional assertion under the previously issued EPA / Corps guidance. This situation can only be exacerbated by any expanded jurisdictional authority under the new guidelines and perhaps all regulatory agencies should be reviewing their guidance with an eye to gaining operating efficiencies in a tightening budget scenario.

Regulatory agencies must establish guidelines that do not overstate the law and that are determined to be reasonable by state governments and by the private sector. It is critical that a balance is maintained that protects the environment yet does not restrict the delivery of critically needed improvements or the economic growth, competitiveness and development of our Nation.

Performance Measurement and Accountability

The return on transportation system investments must be a primary consideration of performance measurement and the results should be honestly and accurately communicated to the Congress, our state officials and our citizens. However, national performance measures presented in the context of a reduced or static federal transportation funding stream may prove to represent a bit of a challenge for the states. We do not anticipate that measuring the performance of a system in recognized decline during a time of stagnant investment will yield the intended results.

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

Conclusion

As we consider the full magnitude of the current inadequacies of our national transportation system, we must recognize the funding challenges as presented. The time has come to work together to maximize our return for the dollars invested and style the project delivery process to be more efficient and free from unnecessary bureaucracy, laws, rules, directives or redundant regulations.

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