

TESTIMONY OF

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ON BEHALF OF

THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

REGARDING

Legislative Issues for Transportation Reauthorization

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

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Madam Chair Boxer and Members of the Committee, thank you for the opportunity to share our views on the multi-year surface transportation bill which you released last week. My name is Susan Martinovich. I am Director of the Nevada Department of Transportation and President of the American Association of Highway and Transportation Officials (AASHTO). I am testifying on behalf of AASHTO which represents the state departments of transportation (DOTs) of all 50 states, Washington, D.C. and Puerto Rico.

First, I would like to thank you Madam Chair along with Senators Baucus, Inhofe and Vitter for advancing a bipartisan reauthorization measure that sustains federal assistance at current levels for the next two years. We recognize that in this time of economic and fiscal distress, that producing a bipartisan bill requireds tremendous cooperation on all sides and we applaud your efforts. Without a bipartisan agreement, we simply do not see how it will possible to achieve the goal of getting a reauthorization bill enacted this year. Thank you, Senators, Baucus, Inhofe and Vitter for your leadership and commitment.

Your proposal, ***Moving Ahead for Progress in the 21st Century*** or MAP-21, merits our strong support. If it succeeds, over 500,000 jobs will be saved and hundreds of projects vital to America's competitiveness will be made possible.

Today, I would like to focus my testimony on three points:

1. We understand that in order to maintain current funding levels, a revenue gap of approximately $6 billion per year must be filled. We urge the Senate Finance Committee working with your Committee to find the offsets and revenues to fill that gap. The ability to maintain current funding levels is essential to sustaining existing transportation capital program and projects as well as more than 500,000 jobs.
2. The state DOTs have a critical and immediate need for the program stability and certainty that will come from a multi-year surface transportation reauthorization measure. While the States would prefer a six-year reauthorization bill, two years of stability is a vast improvement over what we have had with six extensions over the past two years.
3. The state DOTs have been advocating policy reforms similar to those proposed in your legislation. We recognize that the provisions in MAP-21 reflect many compromises from all viewpoints. We look forward to working with you and your staff on the detailed provisions to ensure the most effective, practical and workable approaches to ensure success of these reforms. And I want to reiterate the need for a bipartisan agreement in order to move forward with this bill.

Transportation investment at current levels will sustain 500,000 jobs and leave behind long lasting transportation assets.

Overall unemployment remains above 9%, and unemployment in the construction industry continues above 16%. Transportation investment is essential to meeting today's key national priorities: sustaining an export-led economic recovery, growing private sector jobs, reducing the deficit and national debt, and keeping jobs in America.

Madame Chair, simply put, we need to at least maintain current funding levels in order to sustain over 500,000 jobs while we leave behind transportation assets that will be critical to the long term economic competitiveness of our country. We thank you and the leaders of your Committee for remaining committed to this goal.

Transportation investment creates and sustains good paying direct construction jobs and leaves behind long lasting transportation assets; it boosts the competitiveness of all economic sectors – for example, manufacturing, travel and tourism and services, and agriculture; and it represents almost 9 percent of our GDP. While the nation has a severe fiscal deficit, we also have an infrastructure deficit that should not be exacerbated with further disinvestment in our nation's transportation infrastructure.

The Federal Government and the States are struggling with unprecedented fiscal challenges. The Congress and the Administration are now engaged in critical deliberations over strategies to address the budget deficit and corresponding negotiations over raising the $14.3 trillion debt ceiling. The States, most of which are required to have a balanced budget every year, have coped with falling revenues by spending reductions and increases in fees and taxes. Emergency funding provided through the American Recovery and Reinvestment Act of 2009 (ARRA) helped States avoid even more draconian cuts, but these funds have largely been spent. The outlook for economic recovery in the States, which historically lags behind any national economic recovery, remains uncertain at best.

Clearly the nation has a severe fiscal deficit, but we also have an infrastructure deficit that should not be made even worse with further disinvestment in our nation's transportation infrastructure. Two Congressionally appointed commissions determined that the U.S. is currently investing at 40% of the level needed. Investment in our transportation infrastructure is more than just a discretionary expenditure – rather, it is an investment in the long term capital assets that are the foundation supporting all sectors of our economy.

Over the short term, transportation investment can be an important contributor to sustaining economic recovery and creating or preserving good-paying construction jobs while leaving behind infrastructure improvements that bring long-lasting benefits to the economy.

Madame Chair, the FY 2012 Budget Resolution approved by the House of Representatives this past spring would lead to a 36 percent cut in federal-aid highway and transit funding. This would have a devastating effect on many state transportation programs.

In Nevada, this would result in a $122 million cut in funding next year with major impacts. For example, we are currently scheduled to begin construction in 2013 on "Project Neon", a $1.7 billion major reconstruction project on Interstate 15 in downtown Las Vegas. A $124 million cut in our program next year would force us to delay our scheduled 2013 start date. Cuts of this magnitude would also restrict our bonding capability, causing delays and major cutbacks to our capital program.

While we need stability now, over the longer term, we must confront the infrastructure deficit and address the respective roles that all levels of government and the private sector must and can play in ensuring a modern and well performing transportation system as the underpinning of our

economy. We believe it is essential that the federal government maintain its level of capital investment in our highway and transit systems. Currently, the federal government contributes approximately 45% of the capital investment in highways and transit, and 27% of overall investment. Over the longer term we need to find the path to sustain that level of contribution. Over the shorter term, we need at least to maintain current funding.

However, we clearly understand that in order to maintain current funding levels, a revenue gap of approximately $6 billion per year must be filled. We urge you to find the offsets and revenues to fill that gap so your bill can maintain current funding levels.

We must have a stable and predictable surface transportation reauthorization bill

Established in 1956 to fund the Interstate Highway System, the Highway Trust Fund is the principal source of funding for Federal investment in surface transportation infrastructure. Supported by a dedicated stream of user revenue, the Trust Fund allows Congress to finance surface transportation programs through the use of contract authority, which allows for commitments to be made in advance of appropriations. This provides the stability and predictability that are essential to the success of long-term capital programs. States and local governments are then able to execute long-term planning and multi-year construction contracts based on that stability and predictability.

In order to effectively plan, develop, and construct transportation projects, funding for highway and transit programs must be predictable over time. The multiyear approach to funding transportation improvements is necessary because of the length of time it takes to build capital projects. Simple capital improvements generally take one to two years to complete from the time initial plans are prepared, through project development, to the end of construction. Complex projects take longer, sometimes many years, to complete.

Without predictable and stable funding, State departments of transportation will have to avoid risk by deferring investments in major, multi-year projects. Simply put, states will not advance the first phase of a project in a particular year if the funding required to complete the project will not be available in subsequent years. With major projects deferred, construction companies will not make material and equipment purchases and will be forced to further contract their work force. The economic consequences are both short-term as economic recovery stalls and longer term as we fail to modernize our transportation infrastructure. Therefore, a two-year bill provides the opportunity to advance toward that long-term outcome.

While the States would prefer the more typical six-year reauthorization bill, two years of stability at current funding levels is a vast improvement over what we have had with six extensions over the past two years. This provides the opportunity to make a down payment on the long-term bill the States need. We thank you for your recognition of the need for long-term stability while addressing the need for maintaining current funding levels over the short-term.

Principles for Well-Funded Multi-Year Reauthorization of Federal-Aid Surface Transportation Programs

A modern, well-performing surface transportation infrastructure that is responsive to changing demographics and economic conditions is critical to enabling virtually every sector of the U.S. economy to operate, grow and compete successfully in today's global marketplace. Ultimately, a multi-year surface transportation program must be delivered in partnership with state and local governments, be designed to focus investments on national priorities, and be sufficiently funded to ensure that the U.S. surface transportation network meets the demands of a growing population and economy.

In order to achieve this vision, some key policy reforms are necessary – program consolidation, establishment of performance measures, expansion of innovative finance, and further streamlining to accelerate project delivery. We recognize that the provisions in your bill reflect many compromises from all viewpoints. We look forward to working with you and your staff on the detailed provisions to ensure the most effective, practical and workable approaches to ensure success of these reforms.

We believe the following components, which we believe should be contained in the reauthorization bill to help achieve policy reform, are consistent with many of the provisions contained in your bill –

❖ **Program Consolidation and Flexibility**

Since 1956 when President Eisenhower launched the construction of the Interstate Highway System, each successive reauthorization bill brought incremental changes to the federal-aid highway program steadily adding new apportioned and discretionary programs. In addition, the number of project earmarks grew exponentially over the last three reauthorization measures. The result has been that less of the total available dollars are distributed by formula to the states, the plethora of program categories limits state discretion in how funds are directed, and fewer dollars are inefficiently spread across approximately 125 program categories. In essence, the overabundance of priorities as expressed by the number of program categories dilutes a national focus and limits state flexibility.

If federal funding for highway programs is at levels substantially below what is needed just to keep pace with the loss of purchasing power since the last motor fuel tax increase in 1993, then –

- Core apportioned programs should be consolidated to achieve greater efficiency and flexibility in the use of funds
- National discretionary programs should be consolidated and funding levels should be consistent with the overall goal of distributing at least 90% by formula through core highway programs.
- A consolidated program structure should expand eligibility and provide greater flexibility to the states to determine how best to invest the limited resources.

- With fewer federal resources, federal regulations and mandates should be reduced, not expanded.

These recommendations are consistent with what has been outlined in the summary of MAP-21 which we understand was prepared with the approval of Senators Baucus, Inhofe and Vitter.

❖ **Innovative Finance**

If we are to have a national transportation system, it is imperative that the Federal government play a strong role. Over the last decade the federal share of highway and transit capital investment has averaged at around 45 percent. There have been a series of authoritative studies which have documented how much the U.S. needs to be spending on surface transportation overall.

The National Surface Transportation Policy and Revenue Study Commission was authorized in SAFETEA-LU, appointed in 2006, and delivered its report in 2008. It found that the U.S. needs to be investing $225 billion annually in highways, transit and rail over the next twenty years but is investing at only 40% of that amount. In 2009, AASHTO published its Bottom Line Report which determined that to improve the highway system the U.S. needs to invest $166 billion per year compared to the $80 billion we are currently investing; to improve the transit system the country needs to invest at $59 billion per year compared to current capital spending of around $15 billion. The latest Conditions and Performance Report for Highways and Transit published by U.S. DOT in January, 2010, based on 2008 data, made the following determinations: to improve the system highway investment needs to increase to $174.6 billion annually; to improve the transit system $21.1 billion needs to be invested annually.

While it is helpful for these reports to document what is needed, it is not realistic that in these economically distressed times to expect that Congress will find it possible to substantially increase the federal investment in highways and transit. The states are faced with the same set of economic circumstances. In the last few years, only a very few states have increased funding for transportation. Therefore, the needs-investment gap is growing. Programs such as the TIFIA program and other Federal credit programs can add additional financing to supplement the traditional funding mechanism, but they are not sufficient to close the dramatic funding gap between current investment and needs. We will need new revenue in addition to expansion of the innovative finance programs.

As a way to stretch all available dollars, AASHTO recommends that the states be given maximum access and flexibility to use a mix of funding and financing tools most appropriate for each state to advance transportation programs. This includes use of public-private partnership opportunities that combine the management efficiency and innovation of the private sector with public sector social responsibility and job generation concerns. In addition we recommend reform and expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program to broaden the availability and enhance the attractiveness of TIFIA credit assistance. This includes increasing funding for the TIFIA program and expanding the portion of project cost that can be supported by TIFIA from 33 to 50 percent. We also recommend removing

federal limitations on the ability of state and local governments to raise toll revenues and to apply such revenue to multimodal transportation projects and activities within the same corridor or region as the tolled facility.

Madame Chair, these recommendations are consistent with the description of proposed enhancements and expansions to innovative finance described in the summary of MAP-21.

❖ Performance

The next multi-year federal surface transportation program reauthorization must transition to a performance-based program, designed to achieve focused national objectives and demonstrate value and accountability, with these features:

- Objectives of genuine national interest, including preservation and renewal, reducing congestion, improving safety, facilitating domestic and international freight movements, enhanced mobility and accessibility in urban and rural areas, protecting the environment.
- U.S. DOT *in partnership* with the states, regional agencies and local governments undertake a process to determine performance goals and measures, performance measure data collection and reporting;
- States in partnership with their MPOs and transit operators set performance targets, plan and select projects based on a performance management process aligned with national objectives, and track and report progress.

Based on what you have outlined in your bill summary, we believe that the performance-related provisions contained in your bill will advance the state of the practice and more broadly institutionalize performance measurement and performance-based investment decisions. We hope to work with you to ensure a workable, practical and effective performance approach.

❖ Balance

The next multi-year federal surface transportation program reauthorization must define a comprehensive and balanced strategy to confront national surface transportation needs and include:

- Highest possible federal investment in both highway and public transportation improvements;
- Flexibility to address transportation challenges unique to metropolitan, suburban and rural areas; and
- Support for system preservation and needed capacity for all transportation modes.

We urge that in finalizing the details of your proposed surface transportation bill that you will seek to achieve an appropriate balance among modes, among geographic areas and between system preservation and new capacity needs.

❖ **Project Delivery**

The environmental review process has been – and continues to be – a major contributor to the delay in moving projects from conception to completion. The Federal Highway Administration estimated the average time required to complete Environmental Impact Statements (EIS) between 1999 and 2010 as ranging between 63 and 83 months; approximately 5 to 7 years.

Streamlining measures in SAFETEA-LU have yielded measurable benefits, but the project delivery process is still far too complex, costly, and lengthy. There is much more progress to be made: additional efforts are needed to further streamline project delivery.

AASHTO has recommended that streamlining measures in the surface transportation reauthorization bill (1) improve on the streamlining measures enacted in SAFETEA-LU and (2) include additional measures that will further streamline project delivery.

Areas where we believe we can make gains in accelerating project delivery include, for example:

- Expand the SAFETEA LU Pilot Delegation Program to all states and create a new pilot program that will allow State DOTs totake on an increased role in the NEPA process (e.g., document preparation, agency coordination, and public involvement) without taking over USDOT's authority to issue NEPA decisions.
- Further clarify and update NEPA implementation by, for example, allowing planning level analyses and decisions to be used in the NEPA process; allowing a combined Final EIS and Record of Decision document; clarifying the role of the lead agency; allowing for the creation of a categorical exclusion for projects constructed solely within the existing right-of-way and establishing decision deadlines.
- Authorize and encourage the use of federal funds for programmatic mitigation measures, rather than determining mitigation on a project-by-project basis.
- Allow the use of federal funds for acquisition of right-of-way acquisition prior to NEPA completion with appropriate limitations to ensure the integrity of the NEPA process.
- Allow greater flexibility for using proprietary products in Federal-aid contracts when no equally suitable alternative products are available.
- "Defederalize" very small projects by allowing projects that do not exceed a set total dollar cost or project cost percentage threshold to be administered under state procedures rather requiring them to meet all federal title 23 requirements.

I also want to stress that federal funding for transportation at current levels or even decreased levels in terms of real values should not be accompanied by increased regulation and additional mandates. We strongly believe that at constant or reduced funding levels, Congress should be even more aggressive in removing regulatory burdens and providing the states with even greater flexibility.

Based on the summary of your bipartisan bill, we applaud the cooperative efforts that we believe you and your colleagues have made toward accomplishing the goal of further accelerating project delivery.

❖ **Governance**

The concept of a federally-assisted, state-administered program has served us well and should remain as the focus for the next reauthorization.

The federal interest in transportation is broad-based, reflecting the need to integrate transportation goals with broader national economic, environment and social considerations. The federal role should be to define these broad national goals that are transformed, together with sufficient funding, into a transportation programmatic structure which is implemented and administered at the state and local level.

The current partnership among the federal, and state, and local governments should remain in place to ensure that state and local transportation decisions are made by parties closest to the transportation users of the system and will best reflect the unique needs of the particular states and communities.

We are hopeful that the detailed provisions of your bipartisan bill will be consistent with principles of federalism and the reflect the need for a strong federal-state-local partnership in delivering a national surface transportation program

Conclusion

Madame Chair and Committee Members, we applaud your leadership along with your colleagues, Senators Baucus, Inhofe and Vitter, in advancing a bipartisan surface transportation reauthorization bill. Based on the summary you have shared with us, we believe that you and your Committee leadership have cooperated in developing an excellent foundation for the negotiations which lie ahead. We look forward to assisting you in your efforts. Thank you and I look forward to answering any questions you may have.