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Testimony of Jack Schenendorf
Vice Chair, National Surface Transportation Policy and Revenue Study Commission
Before The
Full Committee on Environment and Public Works
United States Senate
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Thank you, Mr. Chairman.

I am Jack Schenendorf. I am Of Counsel with Covington & Burling LLP in Washington, D.C. Prior to joining Covington, I served on the Republican staff of the House Transportation and Infrastructure Committee for 25 years. I also served on the Bush/Cheney Transition where I was Chief of the Transition Policy Team for the U.S. Department of Transportation and was responsible for reviewing all transportation policies and issues for the incoming Administration.

In 2006, Speaker Hastert appointed me to the National Surface Transportation Policy and Revenue Commission. I was subsequently elected Vice Chair by my fellow Commissioners. It is in that capacity that I am testifying before you today.

In the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU), Congress established the National Surface Transportation Policy and Revenue Study Commission to undertake a thorough review of the Nation's transportation assets, policies, programs, and revenue mechanisms, and to prepare a conceptual plan that would harmonize these elements and outline a coherent, long-term transportation vision that would serve the needs of the Nation and its citizens.

This Commission has worked diligently to fulfill this charge, meeting and holding public hearings across the country during the intensive 20-month study period. On behalf of all of the Commissioners, I would like to thank our Chair, Secretary Mary Peters, who did an outstanding job in guiding us through this effort. She presided over the Commission with graciousness, wisdom, and a great deal of patience. And I would be remiss if I did not also thank all of the Department of Transportation staff assigned to the Commission—especially Chris Bonanti, Lydia Conrad, Ross Crichton, Eric Gabler, James March, David Marks, Mary Moehring, and Darren Timothy. Their professionalism, expertise and dedication were instrumental in our success. And a special thanks goes to our Executive Director, Susan Binder, for her hard work and for the sound guidance and advice she provided during our effort. We would not be here today were it not for her and her team.

Our findings and recommendations—calling for bold changes in policies, programs and institutions—are contained in our report, Transportation for Tomorrow. Our recommendations are the product of a bipartisan consensus of a diverse group of Commissioners—5 appointed by Republican officeholders and 4 appointed by Democratic officeholders; from both ends of the political spectrum and everywhere in between; from all regions of the country; a CEO of a company that relies on transportation services; a CEO of a trucking company; a CEO of a rail company; a state transportation official; and a local transportation official. But despite our different perspectives, we were able to coalesce around the findings and recommendations in the Commission's report.

My testimony today will focus on our vision and our four key recommendations.

Background

But first a few key findings:

- Conditions on America's surface transportation systems — our roads, bridges and highways, our passenger and freight rail facilities, our public transit networks — are deteriorating. The physical infrastructure itself is showing the signs of age. In almost all cases, the operational efficiency of our key transportation assets is slipping.

- In figures compiled by the Texas Transportation Institute, congestion cost the American economy an estimated $78 billion in 2005, measured in terms of wasted fuel and workers' lost hours. Congestion causes the average peak-period traveler to spend an extra 38 hours of travel time and consume an additional 26 gallons of fuel.

- Over the next 50 years, the population of the United States will grow by some 120 million people, greatly intensifying the demand for transportation services by private individuals and by businesses. Most of that growth will occur in metropolitan areas. Congestion will increase and spread beyond the traditional morning and evening rush hours to affect ever-lengthening periods of each day.

- If, as expected, the world economy grows and becomes more globally integrated during the next half-century, the U.S. will experience higher trade volumes and greater pressures on its international gateways and domestic freight distribution network. Economic forecasts indicate that freight volumes will be 70 percent higher in 2020 than they were in 1998. Without improvements to key goods-movement networks, freight transportation will become increasingly inefficient and unreliable, hampering the ability of American businesses to compete in the global marketplace.

- Travel on the nation's surface transportation system is far too dangerous. In 2006, over 42,000 people lost their lives on American highways, and almost 2.6 million were injured.

- Overly onerous and procedure-bound environmental review processes can often serve to delay the speedy and cost-conscious delivery of important transportation improvements. Major highway projects take about 13 years from project initiation to completion, according to the Federal Highway Administration, and Federal Transit Administration figures indicate that the average project-development period for New Starts projects is in excess of 10 years.

Our Vision

Just as it helps to know your destination before starting off on a trip, our Commission believed at the outset that it is important to have in mind a vision of what the national surface transportation system might look like — or at least how we'd like it to function — in the middle of the 21st century.

We decided to aim high. We agreed among ourselves that our fundamental motivation should be to help the United States to **"create and sustain the pre-eminent surface transportation in the world."** That pledge has in the end allowed us to reach agreement on a surprisingly wide range of sweeping policy proposals.

Four Key Recommendations

The Commission respectfully makes the following key recommendations:

First, to keep America competitive, we are recommending a significant increase in investment in our national surface transportation system.

Any effort to address the future transportation needs of the United States must come to grips with the sobering financial reality of such an undertaking. We estimate that the U.S. needs to invest at least $225 billion annually for the next 50 years to upgrade our existing transportation network to a good state of repair and to build the more advanced facilities we will require to remain competitive. We are spending less than 40 percent of this amount today.

The existence of an enormous investment gap is indisputable. It has been documented by study after study, including most recently the Urban Land Institute's Infrastructure 2007 Report, DOT's own Conditions and Needs Report, and various state studies. It has been documented by our Commission's analyses. It has been documented by the many witnesses we heard from in our hearings. And it is being documented every day by the

American people as they sit in congestion on crumbling roads or ride on crowded and aging buses and trains.

The implications of this underinvestment, which has been going on for decades, are ominous. We saw with Katrina what happens when there is a pattern of underinvestment in infrastructure. Unless we close this investment gap soon, our surface transportation systems will face the same fate as New Orleans' levees. We must not let this happen.

To close this investment gap, we will need increased public funding. We will also need increased private investment. More tolling will need to be implemented and new and innovative ways of funding our future system will need to be employed. And we will need to price for the use of our system, which will help reduce investment needs.

Second, we are recommending that the federal government be a full partner—with states, local governments and the private sector—in addressing this looming transportation crisis.

The problem is simply too big for the states and local governments to handle by themselves, even with the help of the private sector. We believe that the federal government must continue to be part of the solution, both in terms of providing leadership and in terms of providing a fair share of the resources.

And it's not just that the problem is big. The federal government has a strong interest in our national transportation system. The system is of vital importance to our economy, our national defense and our emergency preparedness. Our transportation network is critical to the interstate and regional movement of people and goods, economic growth, global competitiveness, environmental sustainability, safety and our overall quality of life.

Third, we are recommending fundamental and wide-ranging reform of the federal transportation program. We are recommending that the program be transformed into one that is performance-driven, outcome-based, generally mode-neutral, and refocused to pursue objectives of genuine national interest.

In addition to putting more money into the system, the federal transportation program must be reformed. We do not believe that the federal program should be reauthorized in its current form. Instead, we are calling for A NEW BEGINNING.

No more restrictive categories. No more planning silos. Generally no more modal silos. And no more earmarks.

There are three key elements to this recommendation.

Element One: We believe that a mission or sense of purpose must be restored to the federal program. Since completion of the Interstate System, the program has had no clear

mission. It is now essentially a block grant model, with little or no accountability for specific outcomes. We believe that this must change.

We are recommending that the program be transformed into one that is performance-driven, outcome-based, free of earmarking, generally mode-neutral, and refocused to pursue objectives of genuine national interest. More specifically, we are recommending that the 108 existing surface transportation programs in SAFETEA-LU and related laws should be replaced with the following new federal programs:

- A program designed to bring our existing highways, bridges and transit systems into a state-of-good-repair;
- A freight program designed to enhance U.S. global competitiveness;
- A program designed to reduce congestion in our largest metropolitan areas (population greater than one million) (e.g., reduction of 20 percent by 2025);
- A program designed to improve access and mobility in smaller cities and rural areas;
- A program designed to improve safety by cutting fatalities (e.g., by 50 percent by 2025);
- A program designed to provide high speed passenger rail service in the nation's high-growth corridors (300-500 miles);
- A program designed for environmental stewardship;
- An energy security program designed to hasten the development of replacement fuels;
- A federal lands program; and
- A coherent national research and development program.

These programs would give rise to a national surface transportation strategic plan that would guide federal investment.

US DOT, state and regional officials, and other stakeholders would establish performance standards in the federal program areas outlined above and develop detailed plans to achieve those standards. Detailed cost estimates would also be developed. These plans would then be assembled into a national surface transportation strategic plan.

Federal investment would be directed by the national surface transportation strategic plan. Only projects called for in the plans would be eligible for federal funding. And all

levels of government would be accountable to the public for achieving the results promised.

The Commission acknowledges that this element of the recommendation represents a major departure from current law. Developing performance standards and integrating them into a performance-driven regimen will be challenging but we believe the rewards will be worth the effort. In addition to making better use of public monies to accomplish critical national objectives, the Commission's recommended approach of performance standards and economic justification would do much to restore public confidence in the transportation decision-making process. In such an environment, we believe Congress and the public would be more amenable to funding the nation's transportation investment needs.

Element Two: The project delivery process must be reformed by retaining all current environmental safeguards, but significantly shortening the time it takes to complete reviews and obtain permits. Projects must be designed, approved and built as quickly as possible if we are to meet the transportation challenges of the 21st Century. This will save both time and money.

Element Three: We are recommending that Congress establish an independent National Surface Transportation Commission (NASTRAC), modeled after aspects of the Postal Regulatory Commission, the Base Closure and Realignment Commission, and state public utility commissions. The new federal commission would perform two principal planning and financial functions:

- The NASTRAC would oversee various aspects of the development of the performance-based performance standards in the federal program areas outlined above and the detailed plans to achieve those standards, and it would approve the national transportation strategic plan.

- Once the national strategic plan has been approved, the NASTRAC would establish a federal share to finance the plan and recommend an increase in the federal fuel tax to fund that share, subject to congressional veto.

And fourth, to close the investment gap, we are recommending a wide range of revenue enhancements.

Unfortunately, there is no free lunch when it comes to infrastructure investment. Policy changes, though necessary, will not be enough on their own to produce the transportation system the nation needs in the 21st century. Significant new funding also will be needed.

We are recommending significant changes in the way the program is financed. In the long-term, we envision transitioning from motor fuel taxes to a VMT tax; we include in our recommendations a number of provisions to hasten that transition. And in the interim, we would no longer rely almost exclusively on motor fuel taxes; instead, we would rely on a broad range of user-related fees and charges.

Here are our major revenue recommendations:

General Revenue Recommendations: We are making the following general revenue recommendations:

- It is imperative that all levels of government and the private sector contribute their appropriate shares if the United States is to have the pre-eminent surface transportation system in the world.

- We strongly support the principle of user financing that has been at the core of the nation's transportation funding system for half a century.

- We are recommending continuation of the budgetary protections for the Highway Trust Fund, so that user fees benefit the people and industries that pay them.

Immediate Revenue Recommendations: We recommend that legislation be passed in 2008 to keep the Highway Account of the Highway Trust Fund solvent and prevent highway investment from falling below the levels guaranteed in SAFETEA-LU.

Mid-Term Revenue Recommendations: We are making the following specific recommendations with respect to transportation funding in the period between 2010 and 2025:

- The annual investment requirement to improve the condition and performance of all modes of surface transportation – highway, bridge, public transit, freight rail and intercity passenger rail – ranges between $225-340 billion. The range depends upon the extent of peak- hour pricing implemented on congested urban highways in lieu of physical capacity expansion. To address this investment target by providing the traditional federal share of 40 percent of total transportation capital funding, the federal fuel tax needs to be raised by 25-40 cents per gallon. This increase should be phased in over a period of 5 years (5 to 8 cents per gallon per year). This rate increase should be indexed to the construction cost index.

- We are also recommending other federal user-based fees to help address the funding shortfall, such as a freight fee for goods movement projects, dedication of a portion of existing customs duties, and ticket taxes for passenger rail improvements. Tax and regulatory policy also can play an incentivizing role in expanding freight and intermodal networks.

- In addition, we are recommending that Congress remove certain barriers to tolling and congestion pricing, under conditions that protect the public interest. This will give states and local governments that wish to make greater use of tolling and pricing the flexibility to do so. More specifically, we are recommending that

Congress modify the current federal prohibition against tolling on the Interstate System to allow:

- tolling to fund new capacity on the Interstate System, as well as the flexibility to price the new capacity to manage its performance; and

- congestion pricing on the Interstate System (both new and existing capacity) in metropolitan areas with populations greater than 1 million.

- We are recommending that Congress encourage the use of public-private partnerships, including concessions, for highways and other surface transportation modes. Public-private partnerships can serve as a means of attracting additional private investment to the surface transportation system, provided that conditions are included to protect the public interest and the movement of interstate commerce.

- State and local governments have many different types of revenues to draw upon for their share of new investment. The Commission expects that state and local governments will have to raise motor fuel, motor vehicle, and other related user fees. In addition, many may take advantage of the expanded opportunities in tolling, congestion pricing and public-private partnerships that our recommendations propose.

Long-Term Revenue Recommendations: We are making the following specific recommendations for transportation funding in the post-2025 era:

- The motor fuel tax continues to be a viable revenue source for surface transportation at least through 2025. Thereafter, the most promising alternative revenue measure appears to be a vehicle miles traveled (VMT) fee, provided that substantial privacy and collection cost issues can be addressed. The next surface transportation authorization act should require a major national study to develop the specific mechanisms and strategies for transitioning to the VMT fee or another alternative to the motor fuel tax to fund surface transportation programs.

A Failure To Act Would Be Devastating

The surface transportation system of the United States is at a crossroads. The future of our nation's well being, vitality and global economic leadership is at stake. We must take significant, decisive action now to create and sustain the pre-eminent surface transportation system in the world.

But some will question whether it is realistic to think that Congress will raise the gas tax by 25 to 40 cents per gallon over 5 years, given the current anti-tax increase sentiment in some quarters. The Commission's recommendation is based on our best judgment on

what needs to be done to address our investment shortfall, without factoring in the political feasibility.

But it doesn't seem unreasonable to think that the public would be willing to support an increase of this magnitude to finance a reformed program that has a clear mission and is focused on projects in the national interest. In year five, the cost to the average motorist would be 41 cents to 66 cents per day—less than the price of a candy bar or about 1/5 the cost of a cafe latte. This seems like a bargain when you consider that he or she will get for it: substantially reduced fatalities, highway and transit systems in a state of good repair, reduced congestion, a transportation system that can support a strong economy and job growth, and access for all Americans to all parts of our nation. Moreover, forty-one or sixty-six cents a day also seems quite reasonable when you compare it to the projected $5 to 6 dollar average per trip cost of using a 14-mile stretch of the Capital Beltway during rush hour—a project which some have called a "national model."

But even more compelling is that a failure to act—that is, a failure to raise sufficient revenue to close the investment gap—would be devastating.

The United States would be unable to compete effectively in the global marketplace. Our status as an economic superpower would be jeopardized. Jobs would be lost. And as U.S. businesses are squeezed by foreign competitors, those jobs that remain would likely be lower paying.

Moreover, our quality of life would suffer substantially. We would have fewer travel options. We would spend more time in congestion. We would have to leave our families earlier in the morning and arrive home later at night. Going to and from the doctor would be more difficult as congestion extends to more and more roads and for longer and longer periods of time. Other errands and trips to school would be similarly affected. And as gridlock became common even in rural areas, vacations would become a nightmare. And the cost of maintaining our vehicles would increase as they are damaged by our crumbling infrastructure.

Eventually we would reach the point of catastrophic failures. Road closures. Bridge collapses. Long detours. Tragedies like the I-35 Bridge collapse in Minnesota would become all too common.

Fatalities and injuries would continue increasing and could reach alarming rates.

We cannot let this happen. We must find the political leadership and the political will to make the necessary reforms and the necessary investment. Raising revenues will not be easy. But we must do it, and we must do it soon.

A Call To Action

President Dwight D. Eisenhower had the foresight to understand how a system of interstate highways would transform the nation. If there was ever a time to take a similarly daring look at a broadened surface transportation network, it is now. The nation faces challenges similar to those of the Eisenhower era. However, the imperative for change due to the global economy is even stronger.

The good news is that we can do it. We believe that our recommendations, if enacted as a package, will give the American people the transportation system they need and deserve. We cannot just reform our way out of the transportation crisis; nor can we get the job done by sending lots more money coursing through a broken project delivery system. We need both reform AND increased investment

We cannot sit back and wait for the next generation to address these ever-increasing needs. It will be too late. The crisis is now and we have a responsibility and obligation to create a safer, more secure, and ever more productive system. We need to create and sustain the pre-eminent surface transportation system in the world. Now.