Testimony on the

FINANCING OF FUTURE INVESTMENTS IN HIGHWAYS AND MASS TRANSIT

Before the

Committee on the Budget
U.S. House of Representatives

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I am Debra L. Miller, Secretary of the Kansas Department of Transportation. Today I am appearing on behalf of the American Association of State Highway and Transportation Officials (AASHTO).

As your committee begins its work on crafting a budget blueprint for the next ten years, I'm appreciative of this opportunity to describe for you the very significant challenges that we face in funding and financing our surface transportation system over both the short- and long-term. I understand that this year's Budget Resolution is particularly important because it will be the first document the House considers in making budget assumptions for the new surface transportation authorization bill.

While the upcoming authorization provides an excellent opportunity to reform and improve the national surface transportation network, several key obstacles remain in our way before we can get there.

First, Short-Term Highway Trust Fund Insolvency.

Spending from the Highway Trust Fund is exceeding the levels of revenues flowing into it. What was hoped for when SAFETEA-LU was enacted was that between trust fund reserves and current cash flow, that there would be sufficient revenue in the Highway Trust Fund to fund all of the commitments in highway and transit investments guaranteed in the bill. In September, 2008, when USDOT announced that insolvency of the highway program was imminent, Congress transferred $8 billion back into the Trust Fund from the General Fund to enable USDOT to honor the commitments made to states through October, 2009. That action kept the program solvent and enabled billions in highway investments to continue.

However, based on recent reports from USDOT, because revenues are coming in at a rate slower than expected and expenditures are occurring at a rate faster than anticipated, the $8 billion may not be sufficient to sustain the program all the way until September 30, 2009. Current revenue projections show that interim relief may be required to avert a cash flow crisis that could occur as early as July 2009.

A second facet of this short-term crisis is what happens in FY 2010. While we are committed to completing the next authorization on schedule, and commend House Transportation and Infrastructure Committee leadership for plans to compete House action by mid-summer, the possibility remains that additional time will be required for the House, Senate and the Administration to agree on a final bill. Interim funding should be provided in the second quarter of this year to assure that there is no interruption in the highway program in either FY 2009 or FY 2010.

Second, Need to Cancel $8.7 billion Rescission.
SAFETEA-LU contains a provision mandating a rescission of $8.7 billion of contract authority from the highway program on September 30, the last day of fiscal year 2009. In addition to a recent series of rescissions starting in 2002 that total almost $20 billion, the $8.7 billion rescission provision would result in the cancellation of vital projects in every region of the country by a similar amount. We were pleased that with widespread

support, Senate Finance Committee Chairman Max Baucus of Montana and Senator Kit Bond of Missouri had planned to include the cancellation of this rescission in the American Recovery and Reinvestment Act (ARRA). However, at the last minute, this did not prove possible. Cancellation of this $8.7 billion rescission must take place prior to September, 30, in order to preserve the balance of contract authority the States have on hand as guaranteed by SAFETEA-LU.

Third, Need to Sustain Highway and Transit Program Contract Authority.
The FY 2010 Budget outline released by the Obama Administration in February includes a proposed budget scorekeeping change that would eliminate contract authority for the transportation program. This would have a devastating impact on transportation financing, and consequently transportation investment. What distinguishes transportation trust fund financed programs from others is the linkage to dedicated user fees, first enacted in 1956 for highways and later extended to transit and aviation with the ability to use contract authority. The predictability that contract authority provides is essential for states and local governments to make long-term commitments to major transportation investment projects. In 1998 with the passage of the TEA 21 legislation, Congress recognized this unique budget situation and established funding guarantees tied to the trust funds. By subjecting transportation investment to the vagaries of the annual appropriations process, the proposed scorekeeping change strikes at the heart of the job creation goals of the economic recovery effort by undermining the ability to make multi-year commitments. Congress must reject this proposed change and preserve contract authority for the highway, transit, and aviation programs.

Fourth, Coordination with Climate Change Legislation.
Congress plans to act on Climate Change and Energy legislation on a schedule that coincides with that planned for transportation authorization. If a cap and trade or a carbon tax are applied to oil refineries to reduce greenhouse gas emissions, the result will be passed on to consumers through higher fuel prices, similar to what would happen if fuel taxes were increased. Three important recent studies have documented the important role fuel taxes are expected to play in supporting future federal highway and transit investment. A National Academy of Sciences Transportation Research Board (TRB) study reported in 2006, that the highway and transit programs could continue to rely on fuel taxes as their primary source of funding for the next 15 years. Both the National Surface Transportation Policy and Revenue Study Commission (2008) and the National Surface Transportation Infrastructure Finance Commission (2009) recommended that Congress increase funding for the Highway Trust Fund by raising fuel taxes, before transitioning program support to vehicle miles traveled (VMT) taxes between 2021 and 2025.

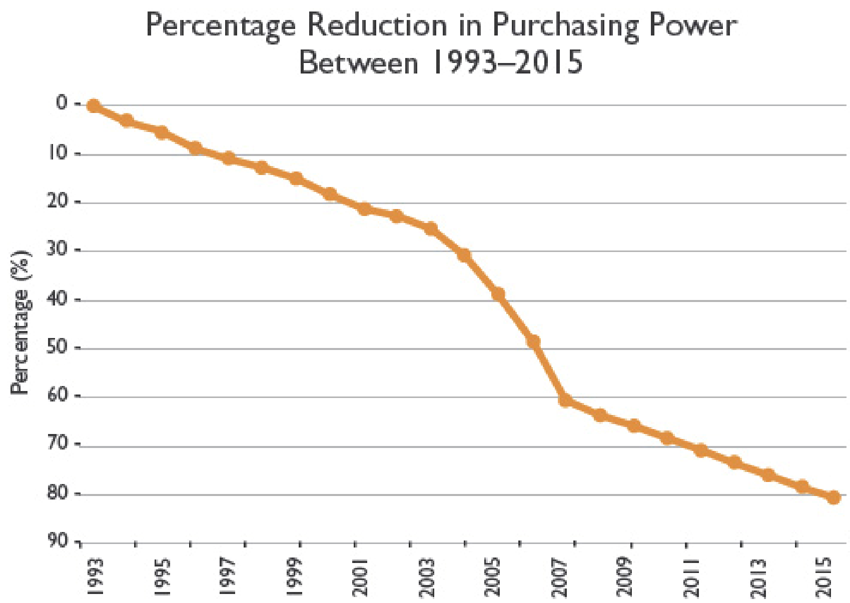
Finding viable ways to reduce transportation-related greenhouse gas emissions to the levels acceptable and viable ways to increase Highway Trust Fund revenues to the level needed are both important. Action on one must not inadvertently preclude action on the other. It is quite possible that action in one arena could complement what is needed in the other. Coordinated action will be important.

Documentation of Federal Highway and Transit Investment Needs by Two National Commissions.
Two of the best actions to taken by Congress in SAFETEA-LU were the appointment of two commissions to study the future of the highway and transit programs. The twelve-member National Surface Transportation Policy and Revenue Study Commission in its January, 2008 report stated that to meet future surface transportation investment requirements for highways, transit and rail that the nation needs to invest $225 billion per year through 2050. They found that the U.S. was currently investing at only 40% of this amount. The fifteen-member National Transportation Infrastructure Finance Commission in its February, 26, 2009 report stated that to meet future highway and transit investment requirements that the nation needs to invest at an rate of $200 billion per year. Those highly regarded commissions have clearly outlined for Congress the scale of the investment needed for the country's future.

Authorization Funding Needs, 2010-2015.
There are two challenges which will have to be addressed in the next surface transportation authorization bill.

A. *Sustaining Current Highway and Transit Programs.*
Revenues are flowing into the Highway Trust Fund at rate billions of dollars below the current rate of obligations for future spending. That means that come October 1, 2009 the first day of the next fiscal year, unless Congress provides sufficient revenues to close this gap, as is shown in the charts below, the highway program will face a cutback of $20 billion or more for FY 2010. The transit program will face similar drastic reductions on year later in FY, 2011, unless additional revenue is provided. What this means, is that just when the economic recovery program is in the midst of creating thousands of jobs through highway and transit investments, the bottom will drop out from under the core highway and transit programs and thousands of workers will have to be laid off. No matter what, it is vital at a minimum to sustain the current highway and transit programs at not less than their current levels of funding.

B. *Meeting Skyrocketing Construction Costs.*
In addition to years of steady growth in inflation, from 2004 to 2008 construction prices soared for steel, concrete, asphalt, and construction machinery. It is estimated that between 1993, the year in which federal fuel taxes were last adjusted, and 2015, the purchasing power of the federal transportation program will have declined by 80 percent. To restore the purchasing power to that of 1993, federal highway funding will have to be increased from $43 billion in 2009 to $75 billion by 2015, and federal transit funding would have to be increased from $10.3 billion in 2009 to $18.5 billion in 2015.



Scale of Six-Year Surface Transportation Investment Needed.
AASHTO believes that in addition to the core highway and transit programs, there are two additional funding priorities which need to be addressed in this authorization cycle.

A. Freight Funding Needed to Meet Capacity Crisis.
The nation is entering the early stages of a freight transportation capacity crisis. Truck volumes are expected to double by 2040 and rail freight to increase by 60 percent. Highways, railroads, ports, waterways, and airports all require investment well beyond current levels to maintain, much less improve, their performance. Investment is needed to fix freight bottlenecks, improve intermodal connections, build bridges to eliminate unsafe highway-rail crossings, and fund freight corridor improvements. AASHTO recommends that a freight program be funded at $42 billion per year, from resources outside the Highway Trust Fund.

B. Intercity Passenger Rail Network Overdue.
AASHTO believes we are overdue for the United States to provide a robust intercity passenger rail network that provides competitive, reliable, and frequent passenger service, comparable to world-class systems in other countries. Current service should be brought up to a good state of repair. Ultimately service should expand to include high-speed rail corridors, regional corridors, and long-distance service. Federal funding of $35 billion over six years is needed to begin the capital investment required.

$545 billion Funding Needed.
Based on these considerations, in order to sustain the federal highway and transit programs, restore their purchasing power, and begin needed investment in the national

freight system network and in intercity passenger rail, Congress should:

- Fund the federal highway program at $375 billion between 2010 and 2015, with the annual program funding level reaching $75 billion by 2015.
- Fund the federal transit program at $93 billion between 2010 and 2015, with the annual program funding level reaching $18.5 billion by 2015.
- Fund the freight program at $42 billion between 2010 and 2015, from resources outside the Highway Trust Fund.
- Fund the intercity passenger rail program at $35 billion between 2010 and 2015, from resources outside the Highway Trust Fund.

Funding Goals for Next Surface Transportation Authorization

Highways	$ 375 billion
Transit	$ 93 billion
Freight	$ 42 billion
Intercity Passenger Rail	$ 35 billion
Total	**$ 545 billion**

How to Provide the Revenues Needed.
To provide the revenues needed, Congress will need to utilize a diversified portfolio of revenue options. In order to reach the funding targets, Congress should consider a menu of options including, but not limited to:

- Indexing existing and new Highway Trust Fund sources of revenue
- Increasing the gas tax
- Increasing the diesel tax
- Discontinuing motor fuel tax exemptions that reduce Highway Trust Fund receipts (i.e., eliminate exemptions or reimburse them from the General Fund)
- Reinstituting collection of interest on Highway Trust Fund balances
- Increasing General Fund transfers for transit, and providing General Fund support for intercity passenger rail
- Issuing tax credit bonds to help fund major surface transportation project investments
- Allocating portions of any carbon tax or cap-and-trade auction proceeds that reflect transportation’s impact on greenhouse gas emissions
- Dedicating a share of customs revenues for transportation purposes
- Enacting a bill-of-lading charge for all highway and rail freight, to be dedicated for freight infrastructure improvements
- Authorizing container fees in support of freight needs
- Creating a dedicated source of revenue outside the Highway Trust Fund to support a freight program including investments in national and regional corridors

- Creating a dedicated funding source for intercity passenger rail
- Enacting fees based on annual highway miles traveled
- Providing authority for tolling where determined by states to be an appropriate funding solution

In addition, Congress should maintain at least the current federal share (45 percent) of total capital investment in the highway and transit portions of the national surface transportation system. At the same time, state and local governments must maintain their current transportation investment levels.

To the maximum extent practicable, Congress should eliminate earmarking. Funding levels for earmarks should be no more than the 1991 ISTEA levels (5 percent of the total program) and set-asides for narrowly defined programs should be reduced. In addition, all earmarked projects should be derived from a capital improvement program or a statewide transportation improvement program that has been adopted by the respective state department of transportation.

Given the magnitude and diversity of needs, Congress should grant states maximum access and flexibility to use a mix of funding and financing tools most appropriate for each state. 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. Where government policies, laws, and regulations impede private investment, acceptable alternatives for reducing these impediments should be developed. The best place to start would be expanding the existing inventory of innovative program delivery tools:

- Removing or increasing the national volume cap on the amount of Private Activity Bonds that can be issued for highway and intermodal transportation projects
- Enhancing and recapitalizing the State Infrastructure Banks
- Reforming the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation & Improvement Financing (RRIF) programs to broaden the availability and enhance the attractiveness of federal credit assistance
- Removing federal limitations on the ability of state and local governments to raise toll revenues and to apply such revenues to multimodal transportation projects and activities within the same corridor or region as the tolled facility

Also , we must adopt a long-range approach to funding the surface transportation system that gradually moves away from dependence on the current motor fuels tax to a distance-based direct user fee such as a fee on vehicle miles traveled. If a VMT fee is to be part of the long-term solution, Congress should direct the vehicle manufacturers to begin incorporating the necessary technology into the fleet so that a VMT fee can potentially be phased in over the 2016–2021 surface transportation authorization period. In the interim period, Congress should consider developing a simple highway user fee option based on self-reporting of annual vehicle miles traveled that could be collected along with annual vehicle registration fees. To expedite research and development, the next transportation bill should fund a proof of concept, multi-state tests of a VMT-based funding approach at $50 million per year for 2010, 2011, and 2012 with a report to Congress by 2013.

And finally, Congress should assure that any climate change legislation that creates a new revenue source, either through a carbon tax or cap-and-trade, provides substantial funding for transportation proportional to transportation's impact on greenhouse gas emissions, and dedicate a sufficient portion of these revenues to support intercity passenger rail, transit, highway operations, bicycle and pedestrian projects, and freight programs that reduce greenhouse gas emissions.

In conclusion, investing in transportation is unlike any other federal government spending. Transportation dollars are converted to physical assets that will last for 50 to 100 years to provide future generations with a modern mobility network. At the same time, such investments create and maintain well-paying "Made-in-America" jobs. In the short-term, ensuring stable funding for transportation infrastructure will be a critical component of the economic recovery effort. And for the long-term, increased transportation investment will not only help sustain economic recovery, but also keep the United States globally competitive, reduce congestion on our roadways, save lives, and improve the overall quality of life.

Mr. Chairman, members of the Committee, the subject you have under discussion today is of vital national importance. It is in the interest of us all to take on the challenge as vigorously and effectively as we can. On behalf of the Kansas Department of Transportation and of the AASHTO member states, I promise that we will continue to work with you in that effort.