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COMMITTEE ON WAYS AND MEANS
HEARING ON SURFACE TRANSPORTATION FINANCING
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Chairman Neal, Ranking Member Tiberi, and Members of the Subcommittee, thank you for the opportunity to participate in today's hearing on long-term financing options for the Highway Trust Fund. It is an important and timely topic. With the impending cash shortfall in the Highway Trust Fund, and the current surface transportation authorization act set to expire on September 30, 2009, we have critical decisions to make – decisions that will shape the future of surface transportation in the United States.

SURFACE TRANSPORTATION AUTHORIZATION ACT OF 2009

The Committee on Transportation and Infrastructure has developed a surface transportation authorization bill that will transform Federal surface transportation from an amalgamation of prescriptive programs to a performance-based framework for intermodal transportation investment. The bill is designed to achieve specific national objectives: reduce fatalities and injuries on our nation's highways; unlock the congestion that cripples major cities and the freight transportation network; provide transportation choices for commuters and travelers; limit the adverse effects of transportation on the environment; and promote public health and the livability of our communities.

Specifically, the Surface Transportation Authorization Act of 2009 redefines the Federal role and restructures Federal surface transportation by consolidating or terminating more than **75** programs. It consolidates the majority of highway funding into four core formula categories designed to bring our highway and bridge systems to a state of good repair; improve highway safety; develop new and improved capacity; and reduce congestion and greenhouse gas emissions and improve air quality. The bill creates a similar core category construct for transit and highway safety investment. The bill also establishes new initiatives to address the crippling congestion in major metropolitan regions, and eliminate bottlenecks in freight transportation. *See attachment 1.*

In addition, the Surface Transportation Authorization Act reforms the U.S. Department of Transportation (DOT) to require intermodal planning and decision-making; ensure that projects are planned and completed in a timely manner; and ensure that DOT programs advance the livability of communities. It improves the project delivery process by eliminating duplication in documentation and procedures.

The bill authorizes funding of $450 billion over six years – the minimum amount needed to stop the decline in our surface transportation system, begin to make improvements, and restore and enhance the nation's mobility and economic productivity.

The Surface Transportation Authorization Act:

- Provides $337.4 billion for highway construction investment, including at least $100 billion for Critical Asset Investment to begin to restore the National Highway System (NHS) (including the Interstate System) and the nation's bridges to a state of good repair;

- Provides $99.8 billion for public transit investment to restore the nation's public transit systems to a state of good repair, and provide access and transportation choices to all Americans from large cities to small towns; and

- Doubles investment for highway and motor carrier safety to $12.6 billion.

In addition to this $450 billion, the Act invests $50 billion over six years to develop 11 authorized high-speed rail corridors linking major metropolitan regions in the United States. The high-speed rail initiative will provide greater consideration for projects that: encourage intermodal connectivity; produce energy, environmental, and other public benefits; create new jobs; and leverage contributions from state and private sources.

Examples of critical investments under the Surface Transportation Authorization Act include:

- **State of Good Repair.** The bill makes the preservation of the nation's existing transportation assets a national priority. The newly-created Critical Asset Investment provides States with $100 billion to preserve and improve the condition of the nation's core highway and bridge network, the NHS (which includes the Interstate system). This legislation also streamlines Fixed Guideway Modernization to better assist public transit agencies in maintaining aging rail systems, including tracks, stations, and rolling stock. *See sections 1110 and 3021 of H.R. ____, the "Surface Transportation Authorization Act of 2009".*

- **New Capacity.** The bill includes a wide range of different programs that allow States, metropolitan regions, and public transit agencies to finance highway and transit capacity. The bill authorizes several core highway formula programs (e.g., the Surface Transportation Program) that finance highway and bridge capacity; authorizes bridge capacity under the newly-created Critical Asset Investment; and establishes a new Freight Improvement program that is expected to be very heavily focused on highway freight capacity investments. The bill establishes Metropolitan Mobility and Access, which includes investment in highway and transit capacity expansion projects as part of an area's metropolitan mobility plan. This legislation also dedicates $25 billion for Projects of National Significance (PNS), to finance high-cost projects, aimed at addressing chokepoints on the system through various strategies, including new highway and freight rail capacity. Finally, the legislation streamlines the transit New Starts and Small Starts program to speed the delivery of new transit capacity and eliminate costly delays. *See sections 1105, 1106, 1110, 1205, 1206, and 3008 of H.R. ____, the "Surface Transportation Authorization Act of 2009".*

- **Freight/Goods Movement.** Recognizing the important role of the Federal Government in supporting interstate commerce and the nation's freight transportation system, the bill targets investment in facilitating goods movement, economic development, and international competitiveness. The new Freight Improvement program provides States with a dedicated source of funding for freight-related highway projects and requires each State to develop a strategic, statewide, comprehensive freight plan. The bill also dedicates $25 billion for Projects of National Significance to invest in high-cost projects that address major bottlenecks, choke points, and delays on the freight network. The legislation creates an Office of Intermodalism, administered by the Under Secretary of Transportation for Intermodalism, which will be responsible for coordinating the various modal programs to provide an intermodal and efficient approach to meeting mobility and goods movement needs on the system. The Under Secretary will also be charged with developing a comprehensive, multimodal National Transportation Strategic Plan. This plan will provide a framework and vision for development of a surface transportation network to expand access and mobility of people and freight. *See sections 1105, 1201, 1206, and 1207 of* H.R. _____, *the "Surface Transportation Authorization Act of 2009".*

- **Metropolitan Mobility.** To improve passenger and freight mobility in our metropolitan areas, this legislation creates a $50 billion initiative for Metropolitan Mobility and Access. This program is designed to unlock the congestion that chokes major metropolitan regions through multimodal, targeted investments. This legislation also increases the existing population-based allocation of funding within States under the Surface Transportation Program to facilitate more local decision-making and enable large metropolitan regions to directly address their congestion and accessibility challenges. This legislation also streamlines the transit New Starts and Small Starts program and eliminates requirements designed to delay the approval of new transit lines. *See sections 1105, 1106, and 3008 of* H.R. _____, *the "Surface Transportation Authorization Act of 2009".*

- **Rural Roads.** The bill provides significant funding to improve transportation systems, access, and mobility in rural areas. Newly-established programs, such as the Critical Asset Investment and Freight Improvement programs, provide States with funding to preserve and improve the NHS. Over 70 percent of the NHS is located in rural areas. In addition, under Freight Improvement, States are authorized to use funds for projects on roads within an approved inventory of secondary freight routes, further expanding access and economic development in these areas. The legislation will also significantly improve rural road safety through the restructured Highway Safety Improvement program. States are required to focus investment on their most dangerous roadways, including rural roads (which account for an estimated 55 percent of all motor vehicle crash-related fatalities). Furthermore, the bill significantly increases funding for small urban and rural transit services, including designating 20 percent of all funding allocated to States under Coordinated Access and Mobility for improving transportation options and access to jobs for low-income and elderly residents in rural areas. *See sections 1105, 1108, and 3009 of* H.R. _____, *the "Surface Transportation Authorization Act of 2009".*

This $500 billion investment will be welcome news to the hard-hit construction industry. With 1.6 million construction workers out of work, enactment of the Surface Transportation Authorization Act will deliver good, family-wage jobs, while also improving the deteriorating infrastructure and laying the foundation for our future economic growth. The $500 billion investment of this bill will **create or sustain approximately six million family-wage jobs**.[1]

In sum, the Surface Transportation Authorization Act of 2009 transforms the nation's surface transportation framework and provides the necessary investment to carry out this vision. This increased investment is accompanied by greater transparency, accountability, oversight, and performance measures to ensure that taxpayer dollars are being spent effectively and in a manner that provides the maximum return on that investment.

However, we cannot carry out this transformation without your help. The Committee on Ways and Means must undertake the difficult task of identifying the revenue to finance this bill.

FINANCING SURFACE TRANSPORTATION

LEGACY OF SAFETEA-LU

We have reached the logical conclusion of the course set by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (P.L. 109-59), which was enacted in 2005. Unfortunately, the legacy that has been left for users is an over-extended Highway Trust Fund. Unless the funding and revenues for the Trust Fund are increased substantially, the Trust Fund will be unable to support even current investment levels for highway, highway safety, and public transit in fiscal year (FY) 2010 and the coming years.

SAFETEA-LU intentionally put the Highway Trust Fund on the path to a zero cash balance. Recent declines in vehicle miles travelled due to high fuel prices and the weak economy have merely exacerbated a pre-existing imbalance between Trust Fund revenues and expenditures that was created by SAFETEA-LU.

The previous Administration was not willing to make any hard choices to resolve this imbalance. This reluctance to face tough choices has left highway users with a legacy of uncertainty and potential funding cuts. The mainstay of surface transportation funding is the 18.3-cent-per-gallon gasoline user fee, which has not been increased since 1993, and produces progressively less revenue as the fuel efficiency of automobiles increases.

The current user fees, which have lost 33 percent of their purchasing power in the last 15 years, generate only enough revenue to finance $35.1 billion of Federal highway, highway safety, and public transit investments in FY 2010, which would be a 34 percent cut from this year's $53 billion funding level.

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[1] This estimate is based on 2007 Federal Highway Administration data on the correlation between highway infrastructure investment and employment and economic activity, and assumes a 20 percent state or local matching share of project costs. The Federal Highway Administration estimates that $1 billion of Federal investment creates or sustains 34,799 jobs.

Without additional revenues, a six-year surface transportation authorization bill could fund only \$236 billion in highway, highway safety, and transit investment – a **\$90.4 billion** cut from the current investment level (\$326 billion) over the next six years. *See attachment 2.* ***This cut would result in a loss of more than three million good, family-wage construction jobs.***

The previous Administration's unwillingness to make hard choices has left the 111th Congress, and particularly the Committee on Ways and Means and the Committee on Transportation and Infrastructure, with the unenviable task of finding a way to finance the existing program level, in addition to much-needed increases in investment. The current Administration is not ready to make choices, and proposes to defer a long-term authorization act for 18 months. Our Committee, however, is ready; we have done our homework and have a six-year bill ready for Floor action.

HIGHWAY TRUST FUND SHORT-TERM INFUSION

The Highway Account of the Trust Fund needs a short-term infusion of cash to finance existing commitments through the end of the fiscal year. ***The program needs a cash infusion, not an extension of the authorization act.***

According to DOT, the Highway Account of the Trust Fund is running out of cash as early as the beginning of September and may not have enough funding to reimburse States for their Federal highway investments. By September 4, 2009, the Highway Account will not have sufficient funds to reimburse States for highway projects (-\$435 million), and DOT will immediately begin rationing those reimbursements. This will create major cash flow problems for States and significant uncertainty for the future of the program.

By October 1, DOT estimates that, without action by Congress, the Highway Account balance will be -\$1.9 billion. Therefore, the Committee on Transportation and Infrastructure recommends that the Committee and Ways and Means transfer at least \$3 billion from the General Fund to the Highway Account of the Trust Fund. This transfer covers the shortfall and provides a \$1 billion cash balance to offset any additional shortfall if, during the August re-estimate, DOT finds that its estimates are in error.

LONG-TERM FINANCING OPTIONS

There are numerous options to finance the surface transportation framework set forth by the Committee on Transportation and Infrastructure. To finance the level of investment proposed by the Surface Transportation Authorization Act, Congress must provide additional funding and revenues of \$140.5 billion over the six-year authorization period for fiscal years 2010 through 2015. Of this amount, Congress must provide \$65.5 billion in revenues over six years simply to fund the existing surface transportation investment level (\$326 billion). To finance the \$450 billion of highway, highway safety, and public transit investment of the Surface Transportation Authorization Act, Congress must provide an additional \$75 billion over six years.

The core source of funding for the investment contained in the new authorization must continue to be a stable, reliable, and dedicated revenue stream, including user fees. This unique financing mechanism is one of the primary reasons for the success of the nation's surface transportation network since enactment of the Interstate Highway program 53 years ago.

Two commissions were established by Congress in the 2005 Act to examine the issue of surface transportation financing. Both the National Surface Transportation Policy and Revenue Study Commission (Policy Commission) and the National Surface Transportation Infrastructure Financing Commission (Financing Commission) recommended that the gasoline and diesel user fees be increased. We know this is an option that will work to provide a stable, reliable, and dedicated revenue stream for surface transportation programs.[2]

Although increasing and indexing the gasoline and diesel user fee is a viable financing mechanism that has been recommended by both Commissions, I do not believe that the user fee should be increased during the current recession. Any user fee increase should not take effect before the economy is fully recovering (e.g., two consecutive quarters of economic growth). This approach will ensure that any user fee increase will not increase the burden on American working families during this troubling time.

There are many other financing options that would provide the necessary funding for our bill without increasing the gas tax. A few examples:

1. **Restoring the Highway Trust Fund for Emergency Relief, Vehicle Safety Research, and Foregone Interest ($27.4 billion).** This option involves restoring amounts to the Highway Trust Fund owed to it for Emergency Relief ($6.8 billion), vehicle safety research ($635 million), and foregone interest ($20.0 billion). These transfers from the General Fund would provide an immediate infusion of cash to the Trust Fund.

   Over the past 20 years, $6.8 billion has been spent from the Highway Trust Fund to respond to emergencies, such as the September 11 attacks and natural disasters. Although the Federal-aid Highway program includes $100 million per year from the Highway Trust Fund for Emergency Relief, significant, unforeseen expenses from disasters are authorized to be appropriated from the General Fund. This option would immediately transfer $7.3 billion from the General Fund to the Trust Fund to repay the Trust Fund for past unauthorized Emergency Relief expenditures. *See attachment 3.*

   Similarly, $635 million could be repaid to the Trust Fund from the General Fund for amounts appropriated from the Highway Trust Fund and spent on vehicle safety research. The National Highway Traffic Safety Administration's highway safety activities are authorized to be funded from the Highway Trust Fund; its **vehicle safety** activities are not. The vehicle safety programs are authorized to be appropriated from the General Fund. In five of the past 12 years, vehicle safety activities have been funded from the Trust Fund. This option would immediately repay the Trust Fund for the $635 million in unauthorized appropriations from the Trust Fund for vehicle safety activities since 1998.

[2] Each one-cent-per-gallon increase in the gasoline and diesel user fee provides approximately $1.8 billion of additional revenue per year for surface transportation programs.

Foregone interest earnings also fall into this category. As part of the Transportation Equity Act for the 21st Century (P.L. 105-178), the Trust Fund stopped earning interest on its cash balances after September 30, 1998. Other trust funds (e.g., the Airport and Airway Trust Fund) continue to earn interest. To my knowledge, the Highway Trust Fund is the only trust fund of its type that does not earn interest. This option would reinstate an estimated $20 billion in interest that would have been earned from fiscal years 1999 through 2009 on the cash balance of the Highway Trust Fund if the Trust Fund had been permitted to continue earning interest. Of the $20 billion of foregone interest, the Committee estimates that approximately $15.2 billion would accrue to the Highway Account, and $4.8 billion would accrue to the Mass Transit Account.

In total, this option would provide $27.4 billion for the Highway Trust Fund.

2. **Issuing Treasury Bonds to Finance Increased Funding of Early Years ($60 billion).** Under this option, the Department of Treasury would issue $60 billion of 10-year Treasury bonds to finance the increases in funding provided during the first several years of the bill. The bonds would begin to be repaid in FY 2012 with revenue from the Highway Trust Fund and would be retired in 10 years. This option would enable Congress to increase investment in highway and transit infrastructure while recognizing that the revenues necessary to finance this investment will need to be provided after the economic recession. This option would provide $60 billion for the Highway Trust Fund. This amount would be repaid in subsequent years.

3. **Requiring Fuel Tax Exemptions to be Reimbursed by General Fund ($6 billion over six years).** Another option is to have the General Fund, rather than the Highway Trust Fund, support long-standing fuel tax exemptions. Current law exempts from taxation certain uses of fuel, such as use by state and local governments and non-profit educational organizations, even though such use imposes wear-and-tear on the roads and highways that are supported by the Highway Trust Fund. When fuel is purchased for these uses, the tax has already been imposed on the fuel, and the ultimate purchaser is entitled to a payment or refund of the taxes imposed on the fuel. The refund is paid by the General Fund, which is then reimbursed by the Highway Trust Fund. This option would end the reimbursements from the Highway Trust Fund to the General Fund. Full refund payments would continue to be made from the General Fund, but the Highway Trust Fund would no longer bear the cost of these refunds. In May 2009, Representative John Lewis introduced H.R. 2391, the "Highway Trust Fund Fairness Act of 2009", which addresses this issue.

   This option would provide an estimated $6 billion to the Highway Trust Fund over six years (FY 2010-FY 2015).

4. **Increasing the Per Barrel Fee on Crude Oil and Imported Gasoline and Diesel ($24 billion over six years).** In 1990, Congress established the Oil Spill Liability Trust Fund (OSLTF). The OSLTF is funded by an excise tax on each barrel of oil imported or produced domestically. The tax is currently eight cents per barrel of oil. This option increases the excise tax by $1 per barrel on crude oil and refined gasoline and diesel. It

exempts aviation, farm, and all other non-transportation uses. Subcommittee Chairman Peter A. DeFazio will discuss this option in more detail.

This option would provide an estimated $24 billion to the Highway Trust Fund over six years.

5. **Instituting a Transaction Tax on Speculative Trading of Crude Oil Futures ($190 billion over six years).** This option would institute a transaction tax of 0.2 percent on trading of crude oil futures. This option includes a protection for traders interested in legitimately hedging the cost of crude oil futures, such as airlines. It would deter crude oil speculation and provide significant revenue to finance this legislation. Subcommittee Chairman DeFazio has initiated this option and will discuss it in more detail.

   This option would provide an estimated $190 billion to the Highway Trust Fund over six years.

6. **Implementing Other User Fees.** The Policy Commission and the Financing Commission have recommended many other user fees for Congress' consideration.

For example, in addition to recommending an increase in the gasoline and diesel user fees, the Financing Commission recommended a variety of other user charges, including an increase in the **Heavy Vehicle Use Tax**. Currently, an annual tax is imposed on each truck with a Gross Vehicle Weight of 55,000 pounds or more. The operator of each such truck currently pays an annual tax of $100 plus $22 for each 1,000 pounds (or fraction thereof) in excess of 55,000 pounds (maximum tax of $550). This rate has not been increased since 1983. Studies conducted by the Federal Highway Administration have found that user fee revenues paid by trucks weighing more than 70,000 pounds do not fully account for the share of highway infrastructure costs attributable to such vehicles. The Financing Commission proposed to double the annual tax rate to $200 plus $44 for every 1,000 pounds the truck exceeds 55,000, and increase the maximum tax to $1,100 to restore the purchasing power of the tax. This option would provide an estimated $6.7 billion to the Highway Trust Fund over six years.

The Financing Commission also recommended consideration of **vehicle registration fees**. Currently, all States impose annual vehicle registration and related fees. According to the Commission, a national annual vehicle registration fee of $2.75 per car and $5.50 per truck would raise $6 billion over six years.

To help finance freight-related infrastructure improvements, the Financing Commission considered a **container fee** to be a "strong" option. Currently, there are more than 150 deep draft seaports located along the Atlantic, Pacific, Gulf, and Great Lakes coasts, as well as in Alaska, Hawaii, Puerto Rico, Guam, and the U.S. Virgin Islands. Deep draft ports accommodate ocean-going vessels, which move more than 99 percent of U.S. overseas trade by weight and 64 percent by value. The DOT projects that, compared to tonnages recorded in 2001, total freight moved through U.S. ports will increase by more than 50 percent by 2020, and the volume of international container traffic will more than double. According to the Financing Commission, a $10 fee on every Twenty-Foot Equivalent Unit (TEU) container moving through a U.S. port would raise roughly $3 billion over six years. Representative Ken Calvert will propose a similar, very attractive idea in his testimony today.

In addition, the Financing Commission recommended a **freight waybill tax**, which would be a sales tax on freight shipping costs. According to the Commission, a 0.1 percent tax on truck freight waybills would raise $620 million per year and a similar tax on waybills for all transportation modes would raise $740 million annually.

Finally, we need to begin the transition from the gasoline and diesel user fees to a **vehicle miles travelled (VMT) fee system** that charges users for each mile driven.

CONCLUSION

In summary, there are many options for financing the Surface Transportation Authorization Act of 2009. None will be popular. However, without new revenues, our highway, highway safety, and public transit programs face enormous cuts at a time when the nation's surface transportation network requires a substantial increase in investment just to maintain current standards. By making this investment, we will transform the future of surface transportation in the United States, and put Americans back to work in jobs that can never be outsourced.

The Committee on Transportation and Infrastructure stands ready to provide whatever assistance you may find helpful as you examine potential methods of financing surface transportation to provide sufficient, stable, reliable, and dedicated revenue for infrastructure investment.