



SURFACE TRANSPORTATION AUTHORIZATION: A CHANCE TO REBUILD THE NATION

This year, Congress will consider surface transportation authorization legislation against a backdrop of dire investment needs and severe economic circumstances. This legislation presents Congress and the President an opportunity to reverse years of severe underinvestment in our decaying transportation infrastructure and to create and sustain millions of good jobs.

The American Society of Civil Engineers estimates it will cost \$2.2 trillion over five years to bring our infrastructure into "good" condition only, to complete the necessary upgrades and repairs to the infrastructure. Our political leaders must move beyond strong rhetoric and finally put America on a path to rebuilding and expanding the lifeline of our national economy: our national transportation system and infrastructure.

Financing

One of the most difficult challenges facing members of Congress and the new Administration as they consider the next surface transportation bill will be how to pay for needed investments, especially as states face record budget shortfalls and struggle to fulfill basic services and needs.

In the last reauthorization bill, Congress created the bipartisan National Surface Transportation Policy and Revenue Study Commission to evaluate the current and future needs of our surface transportation system and to offer realistic recommendations. Nine of the 12 members of the Commission supported a report recognizing that the current methods of funding the Highway Trust Fund were inadequate. These members called for an increase in the gas tax from between 25 and 40 cents over five years as part of the solution to a severe transportation funding shortfall. Since that report was issued, business groups (including the U.S. Chamber of Commerce), transportation advocacy organizations and unions have come out in support of some form of a gas tax. TTD joins this call for an increase in the gas tax to fund needed improvements to our surface transportation system.

We understand the skepticism that some policy makers and others have to an increase in the gas tax especially in the current economic environment. Our members not only work in the transportation system, but they are also consumers who will have to pay any tax increase approved in this reauthorization. But we also understand that the current funding model is unsustainable and must be reformed. Last year, the Highway Trust Fund teetered on insolvency and had to be infused with \$8 billion from the general fund. The gas tax has not been raised in 16 years. During that time, construction and maintenance costs have risen, and the mobility needs of the nation in terms of freight and passenger traffic have dramatically accelerated. Because of increases in the cost of living and inflation, the gas tax lost one-third of its purchasing power since it was last adjusted in 1993. And as we move to more fuel efficient cars, the amount of fuel consumed will drop and thus the tax revenues collected will not keep pace with the current and growing needs of the surface transportation system.

If we fail to increase revenue for surface transportation, the results are predictable: congestion, which already costs the economy \$78 billion per year, will increase, mass transit systems will suffer amidst rising demand, bridges and roads will fail, safety improvements on our nation's highways will be stalled and freight chokepoints will stunt the nation's economic growth.

We understand that other methods of increasing transportation revenues are being considered. The vehicle miles traveled (VMT) fee, for example, which would tax drivers on miles driven, has been offered as a possible alternative to the gas tax. While the feasibility and overall merits of a VMT fee remain unclear, even its strongest proponents concede that it is not an immediate replacement for the gas tax and will take a number of years and careful planning to implement. Specifically, driver privacy concerns, collection issues and enforcement will need to be worked out. In addition, a VMT fee, if implemented, should exclude or discount charges to mass transit and over-the-road buses to lower overhead costs for vehicles that decrease traffic congestion.

Public Private Partnership (PPP) arrangements have also been promoted as a method to fund transportation projects. We recognize that PPPs, when the public interest is properly protected, will play a role in future transportation financing. But we must remember that only a small fraction of transportation projects are even candidates for this funding mechanism – typically some form of dedicated revenue and potential profit are needed to induce the private sector to participate. We cannot build and maintain a national, intermodal surface transportation system that is overly reliant on for-profit PPPs. This is a fact the Bush Administration never understood in its zeal to make the private sector the answer to every funding debate concerning our publicly financed transportation network.

When PPPs are used, we will insist that 13(c), Davis-Bacon and other protections for affected rail and public sector employees are fully applied. In addition, PPPs must be in the public interest and taxpayers must be protected from one-sided agreements that provide long-term benefits to investors without improving service or infrastructure. To meet this objective, a rigorous initial cost-benefit analysis should be utilized and there should be clear accountability for the cost and quality of the work performed.

We also recognize that innovative finance mechanisms, from bonding mechanisms to already familiar state infrastructure banks, will be considered again by Congress. In fact, during his campaign President Obama expressed strong support for a national infrastructure bank to develop nationally significant infrastructure projects that would rely on innovative financing at least to some degree. Again, we can support these types of proposals as a supplement, not a replacement, for direct federal investment. The recent and ongoing disruption in the financial markets should remind us that private capital and a willingness to invest is not always a foregone conclusion. Our transportation system needs a steady and reliable source of funds that only the federal government, through a trust fund, can provide. And of course, existing worker protections and new protections (as described below) for any displaced public employees must apply to projects funded in whole or in part with innovative financing created by the federal government.

It is important that no privatization mandates or incentives be established as a condition for receiving federal funds. States, local governments, Metropolitan Planning Organizations (MPO) and transit grant recipients should be allowed to develop their own conditions for private sector participation within a federal framework. Moreover, to ensure that the needs of workers are addressed in this process, labor representatives must have a voice and a vote in MPOs.

Protecting Employees

Regardless of the funding mechanism used by Congress, the appropriate labor protections must apply. For eight decades, sound transportation policy and fair labor policy have gone hand in hand. Worker protections are essential to the efficient and safe operation of our national transportation network. Members of Congress should continue the longstanding policy of ensuring the application of 13(c) transit worker protections and Davis-Bacon requirements. Section 13(c) protects over 350,000 urban, suburban and rural transit employees by guaranteeing the continuation of the rights and benefits provided in existing collective bargaining agreements. Federal mass transit funding programs, including any new federal transit programs, grants or innovative finance initiatives, should continue to honor the 13(c) bargaining protections for public transit workers. Davis-Bacon prevailing wage requirements should also be applied to federal infrastructure programs, grants and innovative finance measures.

As conventional and high-speed passenger rail expand with federal funds, it must be assured that workers are treated fairly in any transition to new service. Specifically, current rail laws, including the Railway Labor Act, the Railroad Retirement Act, the Railroad Unemployment Insurance Act and the nation's federal rail safety laws, to name a few, must continue to protect rail workers. Davis-Bacon prevailing wage laws should apply to rail construction work. We have already seen attempts to turn over passenger rail service to private entities that seek to avoid operating as a rail carrier and thus circumventing, for example, their obligations to participate in the railroad retirement system. It makes no sense to allow private or state operators to provide service but to hold them to different standards than Amtrak operates under today.

We also support protections for employees that may be adversely affected due to the introduction of a PPP. Protective rights have been provided to public and private transit workers for decades under the 13(c) program.

State departments of transportation must maintain appropriate staffing levels to ensure appropriate oversight of transportation projects. Staffing levels at the state level are currently inadequate, particularly in the areas of internal design, engineering and inspection. Today, state DOTs do not have the internal ability to perform the oversight that was required by SAFETEA-LU. Even when a state contracts out a project, it needs employees to oversee the project and serve as project managers and inspectors. They also are charged with performing environmental reviews, moving money efficiently and fulfilling other state requirements. Chronic understaffing threatens the financial integrity of the projects and poses a serious threat to the public interest.

Investing in Transportation Programs

Federal Transit Administration (FTA) funding levels are woefully inadequate to meet current needs. The authorization should increase federal transit funding by 20 percent annually, with an FY 2015 funding level of over \$30 billion. In addition, transit systems should be able to use part of their federal transit funds for operating purposes, including labor, fuel, administrative and maintenance costs. This flexibility will make up for dramatic cuts in state and local budgets that are causing transit cutbacks throughout the country. Transit investment will also help reduce greenhouse gas emissions and conserve energy. The authorization should also encourage appropriate funding for transit by leveraging state and local investment.

The surface transportation authorization should increase the monthly cap on employer-provided, tax-free transit benefits to the level allowed for parking benefits. The tax-free commuter benefits program should be made available to all federal, state and local government employees. Additionally, pilot programs should be created to target free-fare and reduced fare opportunities.

Under current law, there are several special transportation programs to improve mobility options for all of America's citizens. These programs should be consolidated to improve service. For example, paratransit services around the country face serious problems caused by unaccountable contractors who do not provide acceptable services to elderly and disabled passengers. Congress should address the needs of the disabled, seniors and low income people by providing the necessary resources and framework to offer high quality services to meet their needs.

The next reauthorization bill must also dedicate billions of dollars to upgrade, expand and repair our nation's roads and bridges. Calls to arbitrarily limit federal investment now that our interstate system of highways is largely complete are short-sighted and should be soundly rejected. Highways are key to a successful transportation system and a critical conduit for freight movement that often feeds into and out of rail yards and seaports. Drivers travel 700 billion vehicle miles on the U.S. highway network annually. This number will increase to 1.8 trillion on interstates and 5 trillion on all roads in 25 years. It is estimated between \$130 billion to \$166 billion will be needed per year from all sources just to achieve a "medium" level of highway system performance. We are currently spending around \$68 billion. The cost of fixing these problems will only grow if we continue to avoid responsibility.

This reauthorization legislation must build on the promise of intermodalism established in past reauthorization bills. Specifically, we need to reduce chronic chokepoints at our nation's seaports, rail yards and intermodal centers where cargo is transferred. Our nation's freight rail carriers move 2.2 billion tons of goods every year and 95 percent of our foreign trade is moved by ship. We also need to promote policies that enhance better connectivity between modes – policies that have long been pursued around the world.

The Harbor Maintenance Tax (HMT) should not be imposed on domestic and Great Lakes non-bulk cargo. Congress should support a proposal to amend the Internal Revenue Code of 1986 to exempt such waterborne transportation from the HMT. The HMT is imposed on cargo entering a U.S. port from an overseas market. However, if that same cargo were to be transferred to another vessel for

transportation along the U.S. coast to another American port, it would be taxed again under the HMT. Since the payment of the HMT is the responsibility of the shipper of the cargo, the multiple taxation of waterborne cargo under the HMT discourages shippers from considering the use of vessels and, consequently, has impeded the development of a U.S. marine highway system.

Additionally, the Ferry Boat Discretionary (FBD) program, which funds the construction of ferry boats and ferry boat facilities, should be funded to provide for future growth. Additional funds should be authorized for ferry systems beyond the FBD program amounts. These increases will provide for additional transportation alternatives and create high quality jobs for American workers that cannot be outsourced.

A Safe and Skilled Workplace

Congress should increase support for worker training as a means to improve transportation safety and increase job security. A looming wave of retirements and a need to train workers to use new technology threaten the transit sector. Because of the graying of the baby boomer generation, many transit workers will reach retirement age in the next few years. The transit industry needs to train both blue- and white-collar employees to replace retiring employees. The Transportation Job Corps Act will create a career ladder grant program within the FTA and help existing workers retain jobs while also recruiting and preparing young adults across the nation for jobs in the transit sector. Congress should increase funding to expand other proven workforce development programs included in SAFETEA-LU. Funding levels for the International Transportation Learning Center should be equal to those provided to the National Transit Institute. Training should be included among permissible uses of funds from Section 5307 urbanized area formula funds and Section 5311 rural formula funds.

Stringent worker protections must be included in any congressional mandate requiring employers to report employee drug and alcohol (D&A) testing results to state licensing authorities. Individuals should be provided with timely notice when they receive a D&A test result from an employer and be allowed to contest information and remove incorrect records. The process should include the right to appeal to an independent party. Testing results should be maintained in an individual's record for no more than two years. After an employee successfully completes the DOT Return to Duty process, testing results should be purged from the driver's record. This will provide a safe harbor, allowing CDL holders to seek help without risking their jobs and the ability to care for their families. Without such protections drivers who would otherwise seek help might remain silent. These worker protections will improve transportation safety without jeopardizing due process and the integrity of the testing procedures.

In another safety area, transit workers and school bus drivers are increasingly subject to on-the-job assault. This creates a dangerous environment for operators, passengers and other vehicles. Congress must protect transit operators from assaults by requiring states to increase penalties and requiring public agencies to post notices regarding enhanced penalties for operator assaults.

Congress must improve the safety and security of cross-border bus service as it has addressed problems with cross-border trucking. The surface transportation provisions of NAFTA allowed incremental elimination of restrictions on cross-border truck and bus service, but due to bipartisan congressional opposition those provisions have not been fully implemented. Today, while Mexican

bus companies may operate in the U.S., the Mexican government has not allowed U.S. bus companies reciprocal privileges. Additionally, U.S. companies that wish to invest in foreign bus operations are not allowed equal access to the Mexican market. Congress and the President must fix these problems. First and foremost, cross-border motor coach service must meet uniform standards for public and worker safety and no further liberalization of cross-border operations should be permitted until this goal is met. Second, Mexico-based bus companies should not be able to operate in the United States until equal access and investment rights are provided to U.S. bus companies. Finally, the U.S. DOT must crack down on the informal market of cross-border van services that undercut U.S. operational and safety standards.

Transportation labor calls on Congress to protect commercial drivers license (CDL) holders from losing their licenses for violations while operating personal vehicles. These disqualification standards are unfair to the skilled operators whose livelihoods and lives hinge on driving safely on the job. This issue, outlined more fully in TTD's September 2006 policy statement, "Ensuring Fairness in Commercial Drivers License Standards," should be addressed.

Recent developments in hybrid cars have presented fire fighters with unique safety challenges when responding to vehicle crashes. The high-voltage power systems used in such vehicles put first responders at an increased risk of burns, shock or electrocution. Additionally, hybrids operate on battery-only power when idling which can make it difficult to know whether the hybrid is shut off. Further complicating matters, each vehicle differs in layout and safety features. Because of such variations, first responders rely upon emergency response guides for each hybrid or electric model which illustrate the vehicle's various dangers and safety features. These guides can be quite extensive and are not intended to serve as a quick reference. Stronger standardization requirements should be imposed, such as color-coding of key engine elements. Car makers should standardize electric, hybrid and fuel cell vehicles to have clearly identifiable and accessible switches to shut off electricity running from the vehicle's battery. Additionally, first responders should be provided with updated emergency response guides for electric, hybrid and fuel cell vehicles on a regular basis.

Surface transportation reauthorization will be a top priority of transportation labor this year. The final bill signed by the President must:

- significantly increase investments in transit, highways and our intermodal surface transportation system by raising the federal fuel tax and considering other revenue raising measures;
- reform mass transit assistance programs to allow use of federal funds for operating purposes;
- protect the rights and jobs of workers that operate, maintain and build the surface transportation system;
- boost investment in worker training initiatives;
- adopt safety measures to protect workers and the public; and
- ensure that employees and the public interest are protected as innovative financing plans and PPPs are considered.

Policy Statement No. W09-03
Adopted March 1, 2009