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IMPLEMENTING MAP–21: THE STATE AND LOCAL PERSPECTIVE

(113–14)

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BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT

OF THE

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TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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April 19, 2013

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SUMMARY OF SUBJECT MATTER

TO:	Members, Subcommittee on Highways and Transit
FROM:	Staff, Subcommittee on Highways and Transit
RE:	Subcommittee Hearing on "Implementing MAP-21: The State and Local Perspective"

PURPOSE

The Subcommittee on Highways and Transit will meet on Thursday, April 25, 2013, at 10:00 a.m. in 2167 Rayburn House Office Building to receive testimony related to implementing the Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141). At this hearing, the Subcommittee will learn the state and local perspective on the progress of the U.S. Department of Transportation (DOT) toward implementing programmatic reforms and meeting deadlines mandated in MAP-21. The Committee will hear from representatives of the American Association of State Highway and Transportation Officials (AASHTO), the American Public Transportation Association (APTA), the Association of Metropolitan Planning Organizations (AMPO), the National Association of Development Organizations (NADO), the National Conference of State Legislatures (NCSL), and the San Francisco Municipal Transportation Agency (SFMTA).

BACKGROUND

Federal surface transportation programs are administered by DOT in partnership with states, localities, and public transit agencies. While U.S. DOT provides financial and technical assistance, it is these partners that are tasked with carrying out the programs on a day-to-day basis.

MAP-21 was enacted on July 6, 2012, and reauthorized federal surface transportation programs through September 30, 2014. MAP-21 is set to expire before the end of the 113th Congress. As a result, reauthorization of MAP-21 without having to resort to any short-term extensions is a priority for the Committee.

Program Consolidation and Elimination

MAP-21 consolidated or eliminated nearly 70 DOT programs. Many of these programs served similar purposes and several of them were no longer necessary because the nature of the Nation's transportation system has changed over time. By consolidating some DOT programs and eliminating others, MAP-21 allows DOT to become more effective and efficient through organizational and staffing changes and affords states, localities, and public transit agencies greater flexibility with the use of their federal funding.

Project Delivery/Streamlining

MAP-21 reformed the project approval and delivery process for highway and transit projects. MAP-21 streamlined this process by: allowing federal agencies to carry out their obligations for a project concurrently with the National Environmental Policy Act (NEPA) environmental review for that project; instituting a financial penalty to each federal agency that misses a deadline as part of the NEPA review process; and providing categorical exclusions for repair or reconstruction of an existing facility damaged by an emergency, for projects within the right-of-way, and for projects that receive limited federal funding ($5 million or less). MAP-21 also requires that all environmental reviews for a project be completed within four years.

Performance Management and Planning

MAP-21 emphasized performance management by incorporating performance measures into the highway, transit, and highway safety programs. These performance measures will provide a more efficient federal investment by focusing federal funding on national transportation goals, increasing accountability and transparency, and improving transportation planning and project selection. States, localities, and public transit agencies are required to establish performance targets and incorporate them into their transportation plans and project selection.

Innovative Financing for Transportation Infrastructure Projects

MAP-21 increased funding for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from $122 million a year to approximately $1 billion a year. This increase in funding, combined with a change in law to allow a TIFIA loan to account for 49 percent of the project costs (previously 33 percent), will allow DOT to issue about $35 billion in loans over the next two years. State governments, local governments, toll authorities, and public-private partnerships are eligible to apply for TIFIA loans.

MAP-21 also expanded the ability of states to collect toll revenue from the federal-aid system. Specifically, any project that adds new lane capacity to the Interstate System can be tolled, and states continue to have the ability to toll roads that are not on the Interstate System. Furthermore, high occupancy vehicle lanes on the Interstate System may be converted to toll lanes.

Transit New Starts /Small Starts

MAP-21 streamlines the project development process for New Starts by setting time limits on environmental reviews and consolidating the steps the Federal Transit Administration must take in the project approval process from four to three. MAP-21 eliminates the alternatives analysis requirement and instead relies on the review of alternatives performed during the metropolitan planning and environmental review processes.

Transit State of Good Repair

MAP-21 established a new grant program to maintain public transportation systems in a state of good repair. This program replaced the fixed guideway modernization program. Funding of State of Good Repair grants is limited to fixed guideway systems, including rail, bus rapid transit, and passenger ferries, as well as high intensity bus operations (buses operating in high occupancy vehicle lanes).

Transit Bus and Bus Facility Grants

MAP-21 created a new formula grant program for bus and bus facilities, which replaces the previous discretionary Bus and Bus Facilities program, which was heavily earmarked. This grant program provides funding to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities.

Public Transportation Emergency Relief Program

MAP-21 establishes a public transportation emergency relief program to fund transit projects that have suffered damage as a result of a natural disaster or a catastrophic failure. This program may also fund transit operating expenses in areas impacted by a disaster or catastrophic failure if the area meets certain eligibility criteria. The Disaster Relief Appropriations Act, 2013 appropriated $10.9 billion for the Public Transportation Emergency Relief Program in response to Hurricane Sandy.

Public Transportation Safety Program

MAP-21 provides the Secretary with increased oversight of public transportation safety while still maintaining the state safety oversight model. The Secretary is required to create a national safety plan and set specific performance standards across all modes of public transportation. State safety oversight agencies must implement plans in accordance with these standards and report regularly to the Secretary. Although safety remains primarily the responsibility of the state and local transit agencies, MAP-21 provided the Secretary with audit authority and the power to withhold federal transportation dollars in the event of non-compliance.

National Highway Traffic Safety Administration (NHTSA) Highway Safety Program

MAP-21 continued the behavioral highway safety program from SAFETEA-LU. Beginning in fiscal year 2014, States are required to incorporate performance measures into their

annual state highway safety plan. The state highway safety plans will set performance targets that focus each state's funding on the most effective safety projects. The Secretary will monitor each state's progress toward meeting their performance targets.

NHTSA National Priority Safety Program

MAP-21 consolidated several incentive grant programs from SAFETEA-LU into the National Priority Safety Program. State legislatures must enact laws that meet NHTSA grant program requirements in order to receive funding for highway safety programs such as occupant protection, safety information systems improvements, impaired driving, distracted driving, motorcycle safety and graduated drivers licensing.

WITNESS LIST

Mr. Terry Bobrowski
Executive Director
East Tennessee Development District
On behalf of NADO

Mr. Michael Lewis
Director
Rhode Island Department of Transportation
On behalf of AASHTO

Mr. Richard Perrin, AICP
Executive Director
Genesee Transportation Council
On behalf of AMPO

Mr. Edward Reiskin
Director of Transportation
SFMTA

The Honorable Bruce Starr
Senator
State of Oregon
On behalf of NCSL

Mr. Peter Varga
Chief Executive Officer
Interurban Transit Partnership (The Rapid)
On behalf of the APTA

IMPLEMENTING MAP–21: THE STATE AND LOCAL PERSPECTIVE

THURSDAY, APRIL 25, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:00 a.m. in Room 2167, Rayburn House Office Building, Hon. Thomas E. Petri (Chairman of the subcommittee) presiding.

Mr. PETRI. The subcommittee will come to order. Today's hearing is the second in a series of oversight hearings on the U.S. Department of Transportation's implementation of the Moving Ahead for Progress in the 21st Century Act, better known as MAP–21.

Signed into law by the President last July, MAP–21 authorizes the Federal highway, transit and highway safety programs through September 30, 2014. These programs are administered by the U.S. Department of Transportation, in partnership with States, localities, and public transit agencies. And while the Department of Transportation provides financial and technical assistance, these partners are responsible for carrying out these programs on a day-to-day basis. So today we will hear their perspective on Department of Transportation's implementation effort.

Before we begin, let me briefly highlight some of the reforms that were included in MAP–21. We consolidated or eliminated more than 70 Federal programs. These changes allow for a greater focus on national transportation goals and priorities, while giving our partners greater flexibility to meet their transportation needs. States, localities, and transit agencies are now required to establish performance targets and incorporate them into their transportation plans and project selection. These performance targets will help focus limited Federal resources on projects that have the greatest benefits. It will also help ensure that American taxpayers get the most bang for their buck.

Currently, it can take almost 14 years for a transportation project to be completed if Federal funding is involved. This is simply unacceptable. MAP–21 made major reforms and improvements to the project delivery process. Some of the reforms include allowing Federal agencies to review projects concurrently, penalties for agencies that don't meet project review deadlines, and expanded categorical exclusions for projects in the existing right-of-way or with limited Federal investment. By cutting the bureaucratic red-tape, we will realize the economic and safety benefits of these projects much sooner.

MAP–21 increased funding for the Transportation Infrastructure Finance and Innovation Act programs, or TIFIA, from $122 million a year to approximately $1 billion a year. This increase in funding, combined with a change in law to allow a TIFIA loan to account for 49 percent of a project's cost, will allow the U.S. Department of Transportation to issue about $35 billion in loans over the next 2 years. State governments, local governments, toll authorities, public transit agencies, and public-private partnerships are eligible to apply for these loans.

Previously, transit agencies had to work through FEMA to replace equipment or rebuild their systems after a disaster. After Hurricane Katrina, transit agencies sought an emergency program similar to the Emergency Relief program run by the Federal Highway Administration. MAP–21 created a new program that provides relief for public transportation systems that are affected by a natural disaster or a catastrophic failure. This program is already being utilized by the States and transit agencies impacted by Hurricane Sandy.

Congress also recognized that new highway safety challenges have emerged. MAP–21 requires the National Highway Traffic Safety Administration to implement a national priority safety program that incentivizes States to pass and enforce laws that address important safety issues. The program focuses on impaired driving countermeasures, occupant protection, motorcycle safety, distracted driving, and graduated drivers licensing. These reforms are only part of the sweeping policy and programmatic changes made in MAP–21.

Today's hearing will allow representatives from State departments of transportation, State legislatures, transit operators, transportation planning agencies, and local governments to provide their views on how MAP–21 is being implemented. And I look forward to hearing from our witnesses.

But before that, I would turn the podium over to our senior leader on the Democratic side, Mr. DeFazio, for any statement he might like to make.

Mr. DEFAZIO. Thank you, Mr. Chairman. Mr. Chairman, I look forward to hearing the perspective of local and State jurisdictions regarding the Federal transportation policy.

And though MAP–21, of course, is not fully implemented yet, we want to hear what is working, what isn't working, what they are anticipating, but this is also part of an evolution during my entire tenure during the committee, as we have given more discretion to the States, we have attempted to streamline the environmental restrictions on projects, and I want to hear about all those things.

But I am also going to be asking specifically for the witnesses to tell us what the impact of a 98-percent reduction in Federal aid to transit and highways will mean in fiscal year 2015. The Ryan budget assumes that we will go from $50 billion of expenditures to $100 million of expenditures. And I am going to ask each of you to discuss what a 98-percent reduction in Federal funding would mean to your jurisdiction. Thank you, Mr. Chairman.

Mr. PETRI. Thank you. And I would ask unanimous consent that our witnesses' full statements be included in the record.

[No response.]

Mr. PETRI. And without objection, so ordered. And, as you know, when you do make remarks, we would invite you to do your best to summarize them in approximately 5 minutes. The full statements are a part of the record.

I now turn to our colleague, Jimmy Duncan, from Knoxville, Tennessee, to introduce one of the witnesses.

Mr. DUNCAN. Well, thank you, Mr. Chairman, and I will follow the rules about limiting the opening statements to the chairman and ranking member. But, of course, I am very much interested in this subject, because I did chair this subcommittee during the last Congress, when MAP–21 was written, and so this is a very important hearing.

But I wanted to welcome one of my bosses, one of my constituents, and a neighbor, and a friend, Mr. Terry Bobrowski, who has been the executive director of the East Tennessee Development District since 2002. And he has had a lot of challenges that he has had to deal with because our little part of east Tennessee is one of the fastest-growing places in the country. And so I want to welcome him. And I look forward to hearing his testimony. He is one of the most respected citizens in our area, and I am pleased that you have allowed him to be on the panel here today representing his national association. Thank you very much.

Mr. PETRI. Thank you. And he is joined by Mr. Michael P. Lewis, who is the director of the Rhode Island Department of Transportation, who is appearing on behalf of the American Association of State Highway and Transportation Officials; by the Honorable Bruce Starr, a State senator from Oregon on behalf of the National Conference of State Legislatures; Mr. Peter Varga, chief executive officer, Interurban Transit Partnership, which is known as The Rapid, on behalf of the American Public Transportation Association; Mr. Richard Perrin, executive director of the Genesee Transportation Council on behalf of the Association of Metropolitan Planning Organizations; Mr. Terry Bobrowski, executive director, East Tennessee Development District, on behalf of the National Association of Development Organizations; and Mr. Edward D. Reiskin, who is the director of transportation, San Francisco Municipal Transportation Agency.

Welcome to all of you, and we—I guess I would like to invite Mr. Lewis to open things up.

TESTIMONY OF MICHAEL P. LEWIS, DIRECTOR, RHODE ISLAND DEPARTMENT OF TRANSPORTATION, ON BEHALF OF THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS; HON. BRUCE STARR, STATE SENATOR, OREGON LEGISLATIVE ASSEMBLY, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE LEGISLATURES; PETER VARGA, CHIEF EXECUTIVE OFFICER, INTERURBAN TRANSIT PARTNERSHIP (THE RAPID), ON BEHALF OF THE AMERICAN PUBLIC TRANSPORTATION ASSOCIATION; RICHARD PERRIN, AICP, EXECUTIVE DIRECTOR, GENESEE TRANSPORTATION COUNCIL, ON BEHALF OF THE ASSOCIATION OF METROPOLITAN PLANNING ORGANIZATIONS; TERRY BOBROWSKI, EXECUTIVE DIRECTOR, EAST TENNESSEE DEVELOPMENT DISTRICT, ON BEHALF OF THE NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS; AND EDWARD D. REISKIN, DIRECTOR OF TRANSPORTATION, SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY

Mr. LEWIS. Good morning, Mr. Chairman. Chairman Petri, Ranking Member DeFazio, and distinguished members of the subcommittee, I am Mike Lewis, director of the Rhode Island Department of Transportation, and president of the American Association of State Highway and Transportation Officials. Thank you for the opportunity on behalf of AASHTO and the State DOTs to share our views on MAP–21's implementation.

Before I start I must express our gratitude to all of you on the T&I committee for the role—your role last year in enacting a bipartisan surface transportation bill with its transformative policy and program reforms.

With regard to MAP–21 implementation, I will summarize three points for you. First, full implementation of MAP–21's significant reforms will require sufficient time to be completed in a way that accurately reflects the direction envisioned by Congress. Therefore, we urge you to allow this implementation to take its course before contemplating major changes. In short, we need time to put the reforms in place and have them work as envisioned.

Second, while it is early in MAP–21's implementation, at this point we are pleased with the collaboration with the U.S. DOT. States, transit agencies, and local governments own, construct, maintain, operate, and manage the Nation's highway and transit systems. Our unique collaboration with U.S. DOT as partners is absolutely essential in delivering a safe, economic, and environmentally sound surface transportation system.

Third, we are pleased with the progress being made in implementing MAP–21, and are optimistic that the flexibilities delegated to the States, and the reforms envisioned by the drafters of MAP–21 will be appropriately reflected in future regulations and guidance. As we support and applaud these reforms, we urge you to maintain these reforms in the next surface transportation reauthorization bill.

And now we would like to elaborate on three of the key reforms of MAP–21: accelerated project delivery, performance measurement, and freight.

Obstacles in the environmental review and contracting processes have been a major contributor to project delay. We made progress

in accelerating project delivery with provisions in SAFETEA–LU. And much more progress will be made as a result of MAP–21's reforms. These reforms will shave months off the simplest routine projects, and years off of major projects, without compromising environmental protection or opportunities for public participation. This will translate into real savings, savings in project costs, productivity, and lives saved, while still preserving and enhancing the environment.

We urge you to encourage U.S. DOT to give priority to implementing MAP–21's streamlining provisions in order to expedite the economic, social, and environmental benefits that will come from improving our transportation system.

Performance measurement is another cornerstone of MAP–21's policy reforms, which we fully support. State DOTs have a strong history of developing and using performance measures to report to the public, improve operations, and plan better projects. For the last decade, many State DOTs have implemented comprehensive and robust performance management systems to balance investment decisions against resource limitations. State leaders in performance management, including Michigan, Missouri, and Washington State, have well-known performance management programs that have been producing proven results for many years, and have become role models for other States, like Rhode Island.

As responsible owners, managers, and operators of the highway and transit system, State DOTs, with their transit agency and MPO partners, are ready, willing, and able to bring greater accountability and transparency to the surface transportation programs. AASHTO urges U.S. DOT to focus on a set of meaningful and credible national performance measures to be implemented through an iterative process that allows time for experimentation and innovation without the unintended consequences of penalties.

MAP–21's focus on freight is significant. Transportation is an essential link to the economy, and the fundamental role of the Federal Government is no clearer than in the need for efficient and effective freight movement that improves interstate commerce. We applaud your recognition of that fact, and further commend Chairman Shuster for establishing the special Panel on 21st-Century Freight Transportation to examine the current state of our freight system and how freight transportation can strengthen our Nation's economy.

MAP–21's freight provisions begin to put in place the central components to more systematically and effectively address freight transportation needs. As owners and operators of the highway system over which 70 percent of the domestic freight tonnage travels, State DOTs understand the economic imperative of addressing freight transportation. AASHTO urges the U.S. DOT to extend this collaboration to include State DOT representation on the National Freight Advisory Committee.

Finally, Mr. Chairman, I must end by commending this committee for its leadership and commitment to consider the long-term sustainability of the Highway Trust Fund. The reforms to the Federal Surface Transportation Program provided in MAP–21 will take years to implement, and they will be for naught if Congress does not address the long-term stability of the Federal surface transpor-

tation program. We stand ready to support you in your efforts to address this fundamental challenge.

Mr. Chairman and members of the committee, thank you for this opportunity to testify. I look forward to answering any questions you may have.

Mr. PETRI. Thank you.

Senator Starr?

Mr. STARR. Chairman Petri, Ranking Member DeFazio, and distinguished members of the subcommittee, I am Bruce Starr, president-elect of the National Conference of State Legislatures, and a member of the Oregon Senate. I am here today on behalf of NCSL, a bipartisan organization representing the 50 State legislatures, and the legislatures of our Nation's commonwealths, territories, possessions, and the District of Columbia. Thank you for the opportunity to testify on the implementation of MAP–21, and thank you, Mr. Chairman, for your leadership on this issue.

I would also like to applaud Congress for its approval of MAP–21, which put an end to the numerous short-term extensions and uncertainty regarding the availability of funding for surface transportation. Let me begin by saying that NCSL supports the continuation and preservation of the Federal aid surface transportation program that directs spending to national priorities while allowing for State and insular area flexibility in local and regional variations. NCSL maintains its strong support for infrastructure programs and will continue to work to ensure that all funding and financial options remain available to States to continue to economic benefits that infrastructure programs provide.

To illustrate how State legislatures currently view the implementation of MAP–21, my testimony today will focus on a few key areas including the development of Federal performance measures, program consolidation, and the expansion of the Transportation Infrastructure Financing and Innovation Act, commonly referred to as TIFIA.

In addition to my written testimony—in addition, my written testimony addresses project streamlining, the new safety incentive grants, and the NCSL's engaging with U.S. DOT as it relates to the implementation of MAP–21. Mr. Chairman, I respectfully request that the copy of the NCSL's "Surface Transportation Federalism Policy Directive" and NCSL's "State-Federal Priorities for the 113th Congress" be submitted for the record to accompany my testimony.

Mr. PETRI. Without objection, it is included as part of the record.

[These documents immediately follow Mr. Starr's prepared statement.]

Mr. STARR. Thank you. One of the largest transformations within MAP–21 was the shift to a more performance-based program to ensure that investments are correctly targeted, as well as to increase the accountability and transparency of these investments. NCSL encourages the Federal Government to establish a cooperative process through which performance measures can be crafted.

NCSL also urges the U.S. DOT to both recognize and build on the extensive work States have done in the area to avoid creating additional reporting mandates or implementing lowest common denominator performance measures that run counter to good asset

management practices. I am proud to report that Oregon was recognized by the Pew Center as one of five States with a performance management system that received top marks in six areas.

MAP–21 also featured a significant restructuring of the transportation programs into a smaller set of core programs with the intention that the new structure would provide States and other grantees additional flexibility to deliver projects more efficiently. NCSL supports this enhanced flexibility in order to meet national goals, and urges its continuation in any reauthorization. Again, in my home State of Oregon we are mirroring these consolidations made in MAP–21 using the flexibility it provides to break down the programmatic silos and consolidate programs. These changes allow us to work with stakeholders, make it easier for users to acquire funding without having to submit multiple grant applications.

One program in particular for MAP–21 that I would like to discuss is the TIFIA program. With the expansion of the TIFIA, States will be able to finance and complete major projects of national and regional significance. NCSL is very supportive of this kind of expansion of credit-based loan guarantee programs to incentivize private-sector investment.

In Oregon, we are working with Washington State to seek a TIFIA loan of approximately $1 billion to construct the I–5 Columbia River crossing project, a bi-state, multimodal megaproject that will address one of the worst bottlenecks in the Nation's highway system. The favorable financing terms provided by TIFIA are expected to provide about $200 million more than if the State were to bond toll revenues, making the project more financially feasible.

Finally, I would like to address—quickly address—what I believe to be the largest issue facing the States and our Nation: How MAP–21, which expires in less than a year-and-a-half, can help lay the foundation for the next long-term surface transportation bill. NCSL believes that the next reauthorization should provide for a more sustainable, long-term funding mechanism for surface transportation. As State legislatures have the responsibility for State budgets, policy planning, and oversight activities, we stand ready to work with Congress and this subcommittee as it develops the successor to MAP–21.

Mr. Chairman, I thank you for this opportunity to testify before the subcommittee. I look forward to the questions from members of the committee. Thank you.

Mr. PETRI. Thank you.

Mr. Varga?

Mr. VARGA. Thank you. Chairman Petri, Ranking Member DeFazio, and members of the subcommittee, thank you for the opportunity to testify today on implementation of MAP–21. I am Peter Varga, chief executive officer of The Rapid, the public transportation agency that serves riders in and around Grand Rapids, Michigan.

Today I testify on behalf of public transportation systems across the country, as I am also the vice chair of the American Public Transportation Association, or APTA. It is an honor to testify before this committee, and I commend you for soliciting industry input on how the new law is being implemented.

While we recognize the enormous task facing the Department of Transportation in implementing the major changes made in this 2-year bill, we ask the FTA to resist a one-size-fits-all approach, and to ensure that new requirements on transit agencies are scalable on agency size, resources, and operational complexity.

There is much to laud in the Department's MAP–21 outreach and implementation efforts to date. The FTA wisely included extensive early guidance in its fiscal year 2013 apportionment notice. FTA staff have held webinars and listening sessions, and conducted several online national dialogues on major MAP–21 provisions. The FTA has actively participated in many of APTA's recent meetings to share information and solicit input from the industry.

Moving forward, we strongly urge DOT to follow all public notice and comment procedures for rulemakings and guidance, so all stakeholders have an opportunity to be heard.

Federal Safety Authority. MAP–21 grants the FTA significant new safety authority, directing the agency to create a national safety plan and minimum safety performance standards for public transportation systems. The Department has established the TRACS committee to advise in this effort. APTA members remain concerned that industry engagement in this expansive new oversight program beyond the participants in TRACS has been limited.

APTA, through an historic partnership with the FTA, has led efforts to develop consensus-based industry operating and equipment safety standards, and has administered both rail and bus safety management audits for many years. FTA should not abandon this partnership or the progress made in this effort, and should make full use of APTA's expertise.

Transit asset management, state of good repair. Increasing the reliability and performance of our transit systems is one of APTA's most fundamental goals. FTA must encourage common asset management principles, flexible enough to accommodate a broad range of transit asset management plans, from sophisticated practices already functioning well at some agencies, to more general approaches suitable for smaller systems just forming their plans.

Underpinning any asset management plan is the ultimate goal of bringing assets into a state of good repair. We commend FTA for recognizing that transit systems continue to be safe, while working to bring their assets into a state of good repair. We are encouraged by FTA outreach via informal listening sessions and online national dialogues on these topics. Yet we still await critical rulemakings and guidance on transit asset management plans, the definition of state of good repair and performance-based planning.

Capital investment grant program—New Starts. Building on a rulemaking underway when MAP–21 was enacted, the FTA has already revised the New Starts program to reflect some of the law's changes, including simplifying the project development process and revising rating and evaluation criteria. While moving quickly on these revisions, the FTA sought significant public input, including hosting a New Starts listening session at APTA's annual meeting last October.

We strongly support FTA's move toward simplified measures. However, we are concerned that some of the approaches for evaluating projects did not adequately account for the substantial dif-

ferences among the wide breadth of projects seeking grants, particularly the difference between Small Starts and larger projects.

Environmental streamlining. We applaud FTA's continuing efforts to reform the NEPA process for transit and highway projects. Streamlining project approval and delivery will accelerate projects, reduce regulatory burdens and costs, all without compromising necessary environmental safeguards.

In conclusion, we commend the FTA for revamping its triennial review program. The agency has developed a more targeted review strategy, focused on preventing problems before they occur. We are encouraged by this new streamlined approach. MAP–21 includes numerous important reforms long sought by the transit industry and we are eager to see them fully implemented.

A healthy opportunity for public involvement in implementing these changes will produce stronger rules that could be implemented more effectively. These changes take place in an environment of constrained funding, so we ask that the FTA provide discretion to transit agencies as they work to expand service to meet ever-growing ridership demands to modernize our aging systems and to sustain public transportation's enviable safety record.

Thank you for the opportunity to testify today. I would be pleased to answer any questions you may have.

Mr. PETRI. Thank you.

Mr. Perrin?

Mr. PERRIN. Chairman Petri, Ranking Member DeFazio, and distinguished members of the subcommittee, thank you for the opportunity to provide input on the implementation of MAP–21 on behalf of the Association of Metropolitan Planning Organizations, AMPO. My name is Richard Perrin, I am the executive director of the Genesee Transportation Council, the MPO for the Genesee Finger Lakes region, which includes Rochester, New York. And I currently serve as the vice president of AMPO.

AMPO serves the needs and interests of the approximately 400 MPOs that currently exist, nationwide. More than 85 percent of Americans live in metropolitan areas, and these regions drive the Nation's economy and compete head-to-head with economies across the globe.

While the implementation of many of the elements contained in MAP–21 is being advanced through the required rulemaking processes, one of the primary reforms has already taken place: the restructuring of core highway formula programs. As you are aware, MAP–21 places an increased emphasis on the National Highway System. The fiscal year 2013 Federal Aid Highway Program apportionments, the first to be made under MAP–21, increased the amount of required Federal investment on the National Highway System by 50 percent from the previous year. National Highway System facilities carry approximately 50 percent of vehicle miles traveled. Clearly, their importance is recognized by the agencies that own, maintain, and operate them.

In 2011, only 5 percent of bridges on the National Highway System were classified as structurally deficient, compared to 13 percent of bridges carrying non-National Highway System facilities. Given that the level of funding to the Federal Aid Highway Program has remained flat, there should be a mechanism for metro-

politan areas to be able to make a direct request to FHWA for a streamlined transfer of National Highway Performance Program funds to other programs, namely the Surface Transportation Program, provided that the requirements for the interstate system and National Highway System bridges have been met and can be maintained in the metropolitan area of the MPO making the request.

While there is a clear national interest in a well-maintained, highly functional National Highway System, there is also a clear national interest in ensuring that limited Federal transportation funds can be invested where needed, regardless of mode or ownership of infrastructure. Even a flawless National Highway System can only see its benefit maximized if persons and freight can make their way to it via the roads and bridges that connect to it, many of which are owned by local governments.

The transition to performance and outcome-based planning and programming is probably the single most needed change that MAP–21 delivers. The increase in accountability and transparency provided by the reporting of system performance, coupled with requirements to make progress towards associated goals, should improve the level of trust among the public and businesses that the revenue they provide is being put to the highest and best use.

Further, effectively communicating both achievements and additional needs may allow for a more constructive public discourse on additional funding for transportation.

Most importantly, meeting the performance management requirements of MAP–21 will be dependent on MPOs and other agencies being able to conduct these processes in a cost-effective manner. With that said, a Federal approach to setting performance targets must not be prescriptive. AMPO recommends that the measures and targets not be overly rigid, but instead allow for selection in a manner that is responsive to statewide and regional priorities. Certain measures and targets are not in the purview of MPOs. The final rule on this matter should clearly define how agencies, measures, and targets should be integrated into the metropolitan planning process.

In terms of freight, the competitiveness of American manufacturers, including agricultural operations, is dependent on a safe, reliable, and efficient network for moving goods at all stages of production. AMPO supports the designation of a national freight network and the associated goals Congress included in MAP–21. This will facilitate a national investment strategy in multimodal facilities critical to transnational and interregional movement of freight.

AMPO appreciates the transit community's concerns on the need for greater coordination between all modes, and AMPO agrees that MPOs should take into account the views of public transportation providers in planning and project selection decisions.

The relevant provisions of MAP–21 were written broadly to allow for maximum flexibility and implementation. We request that U.S. DOT maintain the same intent when promulgating regulations or guidance. This is crucial to ensuring that unintended consequences which could reduce the quality of transit representation that exists today are avoided to the maximum extent practicable.

In conclusion, we are all in this together. The impacts, positive and negative, of transportation do not begin nor end at the bound-

aries of metropolitan and rural areas or States. MPOs, Federal agencies, State departments of transportation, public transportation operators, regional transportation planning organizations, and private freight-related interests have a shared responsibility to the public and each other to work cooperatively in the interests of this great Nation under the direction provided by Congress. MPOs stand ready to go above and beyond to ensure the continued economic and social vitality of all areas.

Again, thank you for the opportunity to provide testimony on the vital work undertaken by this subcommittee. Thank you.

Mr. PETRI. Thank you.

Mr. Bobrowski?

Mr. BOBROWSKI. Thank you, Chairman Petri, Ranking Member DeFazio, and members of the subcommittee, for the opportunity to comment on the implementation of Moving Ahead for Progress in the 21st Century, or MAP–21. I would also like to recognize Congressman Duncan, from my home State of Tennessee, and thank him for his kind words. My name is Terry Bobrowski, I am the executive director of the East Tennessee Development District, headquartered in Aloca, Tennessee. The East Tennessee Development District is a voluntary association of municipal and county governments that are located in the Mideast region of Tennessee.

I also serve as the treasurer of the National Association of Development Organizations, NADO. NADO's 520 public-based regional development organizations promote regional strategies, partnerships, and solutions to strengthen the economic competitiveness and quality of life across America's local communities. NADO members worked closely with this committee during the formulation of MAP–21. As the subcommittee continues to monitor the implementation of MAP–21, NADO would like to highlight the following three issues.

First, Mr. Chairman, NADO is very pleased that MAP–21, for the first time, provides Federal recognition of rural transportation planning organizations for areas outside the boundaries of metropolitan planning organizations. Under MAP–21, States may establish and designate RTPOs to participate in the development and implementation of statewide, long-range transportation plans, along with the State transportation improvement program. Currently, 30 States have established some type of RTPO.

As MAP–21 is implemented, NADO recommends that U.S. DOT not prescribe a single approach regarding the structure and duties of RTPOs, and instead provide flexibility so that the existing national network of regional transportation planning agencies does not have to undergo a complicated restructuring process.

The formal involvement of rural and nonmetropolitan local officials in the transportation process provides a vital link to local economic and land-development planning. MAP–21 requires States to develop a consultative process with nonmetropolitan local officials that is separate and discreet from the public involvement process. MAP–21 also allows the secretary to comment on the nonmetropolitan local official consultation process developed by the States. NADO members look forward to working with our State DOT partners to implement these provisions and recommend the U.S. DOT

ensure the consultation process is both collaborative and meaningful.

A second issue NADO is closely watching during the implementation of MAP–21 relates to the use of performance measures, the changes in MAP–21 related to the development of national performance measures goals and targets will transform the way in which transportation investment decisions are made in the future.

While there are no specific roles for RTPOs and the performance measurement process established in MAP–21, RTPOs could be valuable partners with State DOTs in the development of statewide performance targets. In many States, rural and nonmetropolitan planning organizations already have been a part of this process.

NADO is monitoring the new performance measurement process established through MAP–21, and the extent to which RTPOs are called upon to assist with the development of statewide performance targets.

And finally, a third issue we would like to highlight relates to the implementation of the freight provisions of MAP–21. MAP–21 requires the Secretary to consult with State DOTs and other public and private stakeholders in the development of the National Freight Strategic Plan. NADO recommends U.S. DOT ensure the participation and input of rural and nonmetropolitan local officials when developing the National Freight Strategic Plan.

In addition, MAP–21 requires the Secretary to identify a primary freight network and critical rural freight corridors. MAP–21 limits the national freight network to no more than 30,000 center-line miles. It is possible that this mileage limitation may prevent the inclusion of important urban and rural roads as part of the network. Therefore, NADO would ask the committee to examine the limitation of 30,000 center-line miles in order to determine if the number of network miles should be expanded to adequately address all of the critical metropolitan and nonmetropolitan freight routes.

In closing, Mr. Chairman, we support efforts to strengthen the coordination of Federal surface transportation investments and plans more closely, with regional, local community, and economic development strategies, with a special emphasis on the utilization of the RTPO model.

Thank you again, Mr. Chairman and members of the subcommittee, for the opportunity to appear before you today. I would be pleased to answer any questions.

Mr. PETRI. And thank you.

Mr. Reiskin?

Mr. REISKIN. Good morning, Mr. Chairman, Ranking Member DeFazio, members of the subcommittee. Thank you again for the opportunity to provide the local perspective on MAP–21. There are goals that MAP–21 embodies, in terms of enhanced safety, strengthening infrastructure, and streamlining programs that we share at the local level. My name is Ed Reiskin, I am the director of transportation in San Francisco. I also serve as the vice president of the National Association of City Transportation Officials, which is a coalition of cities working together to strengthen transportation in our cities and metropolitan areas.

The cities and metropolitan areas of this country are a big part of what drives the national economy. And, therefore, it is important for us to be able to have people access jobs and have mobility, and, therefore, have strong transportation systems.

My agency, the San Francisco MTA, is a somewhat unique, integrated transportation agency. We serve as the city's transportation department, the main transit provider, and the regulator of the taxi system. So that integration of functions, of transportation functions, allows us to serve what is the most densely populated city west of the Mississippi, or in the western part of the United States, in ways that allow people to get around the city on transit, on bikes, on their feet, in taxis, and car-share vehicles, and other alternative forms of transportation to keep our streets relatively free of congestion and our air relatively free of pollution.

We operate MUNI, which is the seventh largest transit system in the country, with—carrying more than 200 million people each year, and we maintain all the other transportation assets in the city, which include more than 1,000 transit vehicles, more than 1,200 traffic signals, 28,000 parking meters, 40 off-street parking facilities. And I make the point of listing these assets to give a sense of what it takes to manage transportation in our cities. It takes a lot of assets, transportation assets, to keep a city moving. Keeping a city moving is core to driving the economy of our cities and our metropolitan areas. And it takes investments to keep these systems strong and healthy.

The local governments have stepped up in investing in these transportation assets. A number of California counties, including San Francisco, have enacted sales taxes dedicated to transportation. There are other dedicated revenues the local governments and local residents are providing, which not only support transportation in our cities, but help match the Federal funds that come through programs funded by MAP–21. So it is a good local partnership, local and Federal partnership.

We applaud the leadership of Congress and the administration in bringing forward the bipartisan MAP–21. The focuses on state of good repair, performance management, and safety are, we think, very important to the Nation's transportation system. State of good repair is a significant challenge nationally and in San Francisco. At a national level, the mass transit account funds a level of state of good repair that is significantly less than the need requires.

Down at the local level we have a similar situation. We need about $500 million a year in San Francisco to bring all of our assets into a state of good repair and maintain them as such. We have less than half of that in our capital budget, less than $250 million. And it is about $75 million that we get annually from the Federal formulas.

We are—as I mentioned, we have a sales tax. We are issuing revenue bonds and securing other grants to help fill the gap. But what we can do at the local level will not be adequate to meet all of the needs.

MAP–21 does provide, I think, a great framework for us, going forward, over the next number of years. The capital investment program, New Starts, the fact that it has been streamlined is excellent. We have recently received a full-funding grant agreement so

we participated under the old process, so I can speak for the fact that a streamlined process will be much welcomed. But the funding for New Starts and the core capacity, with their general fund source and the impacts of things such as sequestration, make it challenging to plan for and deliver capital projects.

I will end by saying that investing in infrastructure, transportation infrastructure, has dual benefits. Immediately it creates jobs that will help bring the country out of the economic recession and, in the long term, the transportation infrastructure is really key to the economy of the Nation. So the city and county of San Francisco, NACTO cities, and transit agencies across the country look forward to working with this subcommittee and Congress and the administration to bring forward adequate and sustainable funding for transportation. And I thank you very much for the opportunity, and look forward to answering any questions.

Mr. PETRI. Thank you. Thank you all. And thank the folks at your associations, those who worked on your statements, and we appreciate the specificity, in many cases, of your remarks and helpful nature of the comments you have made.

I have a question for the entire panel, and I think, as you are quite familiar with the program and how it is structured and all, you know that we need to do a major long-term reauthorization, which is certainly our goal and is what we need, as a country, to have an efficient, adequate framework for marshaling resources for investment and maintaining our transportation infrastructure, and currently the trust fund is projected to only cover roughly 60 percent of the program, if it were maintained at the current level.

Do you or your organizations have any suggestions as to how we address that problem? The chairman said all options are on the table. We have been getting advice from trucking organizations and from National Chamber of Commerce, and other user-fee States are beginning to wrestle with this because it is a problem, it is a Federal-State partnership. And I don't think we can avoid this issue if we are really going to deal with a serious reauthorization.

Have any of your organizations taken any positions, or do you or your organizations have any suggestions as to where we should look or what we should do about solving this problem?

Mr. LEWIS. Mr. Chairman, Mike Lewis from AASHTO.

I think that is the issue of the day, and I think we at AASHTO and across the States want to work with the committee and our partners in transportation to come up with possible solutions to this challenge. We know it is not easy, we know there are a lot of other demands placed on you and on the country.

We do feel, however—and I think all of us feel—how important the transportation infrastructure is to the economic health of the country. And there are a finite number of options for addressing the revenue needs.

We also all recognize that we continue to need to be as efficient as we can with the resources that we have. And we recognize it is not just a Federal issue, it is a State and local issue, as well. And I think the solution is going to come from a combination of all of those factors. But we stand ready to work with you, work with the committee on developing options for the future.

Mr. STARR. Thank you, Mr. Chairman. Happy to address that question. In previous policy, we had supported an increase in the Federal fuel tax. In our existing policy today, we don't specifically identify a funding source. It is clear, though, that the options available are limited. And your partners at the State level, State legislative level, will partner with you and work with you to address these issues.

I would just comment that State legislatures across the country are addressing this issue, head on. We have legislators that are increasing their State fuel tax to address the issue. We have legislators that are going toward a sales tax on fuel as a source of funding.

And I would also just like to highlight some of the things that we are doing in Oregon to address this in the long term. We have undertaken two pilot programs studying the road user tax, or road user charge, to charge folks based on how many miles they would drive, as opposed to how much gasoline they might buy. I believe that, potentially, that is an option that other States might pursue. It might be an option that this committee might consider studying.

I would ask, as well, that the Congress work with the States in providing dollars so that States can investigate and contest some of these new options. You have State legislators who are willing to take risks, who are responsible for the infrastructure in their States, and I think stand ready to work together cooperatively to address this issue. It is the number one issue that we need to address in transportation, long-term funding.

Mr. VARGA. Chairman Petri, you know it is really all about mobility. All transportation modes are about mobility, moving people, goods, everywhere. So we are concerned that the funds are diminishing.

I am from Michigan. The State legislature is debating various issues on how to move their agenda forward because of the shortfall of funds in the State. I think it is going to be comparable at the Federal level. There are many items that are going to be put on the table. And what I would encourage is that all of our partners in transportation work with the committee to investigate all possible options so we come up with the best possible solution. Although we don't have any significant main priorities right now, the issue is to have a short-term and a long-term view as to how we will raise the money.

We know what the short-term possibilities are, you know, with gas tax and all that. But I think long term, we are going to have to look at all kinds of different options in terms of dealing with the mobility solution. We stand ready to work on all of the transportation problems to solve all of the mobility needs that we are engaged in.

Mr. PERRIN. Mr. Chairman, I think I would echo some of the other individuals at the table in saying that this is obviously the single largest issue that we need to address. But I think there is a bit more to this than just going out and saying, "We need more funds."

When I give presentations, I show a picture of a Starbucks cup of coffee, and I say—you know, it's the largest one, and I say, "This is—this costs about $2.35. This is the average motorist's weekly

contribution to the Highway Trust Fund." I then take that picture and turn it into an iPad, and I say, "Nobody needed iPads until Apple told them they did." We have needed roads and bridges for hundreds of years, centuries. Our problem is that we don't sell our product well enough. We have a great product. We move people and goods to jobs, to day care, to education. It is absolutely imperative and critical, what we do. This is the largest issue that we have to address.

Both of the commissions that came out of SAFETEA–LU said the same thing. In the immediate term, an increase in the gas tax is something that has got to be fully considered. We agree with Chairman Shuster; all options have to be on the table.

But ultimately, we are not going to have a complementary energy and transportation policy if we are saying, "Drive more fuel-efficient vehicles, reduce our dependence on foreign oil," yet that is going to be our primary source for funding Federal transportation investments. So it is not a simple question, it is a difficult task that this committee and Congress are charged with. It is times like these I am glad I am on this side of the table.

But, ultimately, AMPO is here, we are ready to discuss these issues, provide our input. It is not just about what is happening in 50 States and the District and some territories. It is about individual metropolitan areas. It will only work if people see a result and see a positive benefit for what their funds, their hard-earned funds, are going to. And at the same time that they are tightening their belts, we have to tighten ours. And I think that is why these performance management requirements of MAP–21 are so absolutely critical.

Again, as I said, we can discuss achievements, but we can also discuss additional needs on what we could be able to effectively purchase with their dollars if we invest them as wisely as possible and had some additional funds to work with.

Mr. BOBROWSKI. Mr. Chairman, I can tell you in the State of Tennessee, we have a backlog of about $10 billion worth of transportation projects. And our effective annual budget to deal with those problems is about $500 million. So everybody can do the math. Obviously, there is just not enough money to really deal with the projects that we have got, not to mention that we cannot add any new projects to that list because it is simply ridiculous to add a new project to a list that is already vastly underfunded.

As vehicle miles traveled goes down in our State, and we are dependent on the gas tax for our primary source of revenue, the situation is going to be exacerbated over time.

So, we are doing all that we can, and I am speaking for our Tennessee Department of Transportation. We don't, at the development district, have anything to do with fiscal policy. But we have inside knowledge about what is going on down there. So it really is getting to a critical point in Tennessee, as it is in other areas.

Mr. REISKIN. Mr. Chairman, I would concur with the other panelists. I think if we are going to have a strong transportation system that is suitable to the needs of the American economy, we need to resource it adequately.

I concur also that we really need all options to be on the table. The Bay Area's metropolitan planning organization, the MTC, re-

cently made a recommendation for a percentage-based fuel tax. And I believe they included a recommendation for floors and caps, such that when revenues were strong, excess revenues would flow to the general fund. And when they were below the floor, that the general fund would subsidize. So more of a two-way street between the trust fund and the general fund.

I also think that the usage-based fees, such as Oregon is looking at, has a much stronger policy basis to support it. And I concur with the idea of supporting States and metropolitan areas and local jurisdictions and experimenting with different ways to better tie usage to the funding of the transportation system.

Mr. PETRI. Thank you. Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. Mr. Perrin, actually, you know, one point you made was very good, which is not only haven't we increased the gas tax, but as cars become more efficient, and vehicle miles traveled can actually go up, impact on the system goes up, but revenues go down. That is why I propose that we should index the existing gas tax to both fleet fuel economy average and a construction cost inflation, and then project those revenues, issue bonds, and backfill the trust fund.

I mean the bottom line is if we adopted the Chamber of Commerce position, and raised the gas tax a nickel, that wouldn't solve the problem in 2015. That would mean that instead of going to $100 million Federal investment in our highways and bridges, we would be somewhere around $8 million or $9 million. But that is still dramatic—so we need something more immediate to heal the trust fund.

I would just like—I mean I think the Ryan budget reflects reality, which is the fact that if we don't do something, if Congress doesn't do something, in 2015 Federal investment in highways, roads, bridges, goes from $40.3 billion to $100 million. That is a national number, $100 million.

Senator Starr, if we shared that under the formula in Oregon, we would get $1.23 million from the Federal Government. This year we are getting $483 million. What kind of impact would that have on our programs, a reduction of $481 or $482 million? Think you could make that up real easily?

Mr. STARR. Yes. Mr. Chair, Congressman DeFazio, as you know, that would put a huge dent in our construction process. There is no doubt——

Mr. DEFAZIO. Or maybe a giant hole.

Mr. STARR. Yes, exactly.

Mr. DEFAZIO. Right. And then transit, you know, on the transit side, we are looking at going to only a reduction from $9.6 billion to $1 billion. So that would only be, you know, about 90 percent, 80-some-odd percent reduction. How would that impact transit operators?

Mr. VARGA. Chairman DeFazio, I mean, it would cripple us slowly over the future. Our transit system is in a state of extremely good repair. We will be in total disrepair. We won't be able to meet the objectives of the folks that support us with property tax revenues and other revenues. And it is unconscionable because we will have the funds to operate services, but we are not going to be able to provide them. And I think that has—you know, you have to look

at how you are going to address all these mobility needs over time without crippling the agencies who are trying to make it work.

Mr. DEFAZIO. And San Francisco?

Mr. REISKIN. Yes, Mr. Chairman. In San Francisco, more than 30 percent of the trips taken each day are on transit. And a significant portion of the capital support for transit comes from the Federal Government. So with cuts at the levels that you had suggested we would not be able to maintain our systems in a state of good repair. We would not be able to safely operate them. And, therefore, we wouldn't be able to move those 30-plus percent of the people.

So it would really have a crippling effect on our economy, and would really significantly change the quality of life in our city and in our region. We are very transit-dependent, we are very densely populated. And there is no way that we could safely operate our systems and attract people to them with funding levels such as those you suggested.

Mr. DEFAZIO. All right. And, Mr. Lewis, I have an estimate from an outside group, we haven't had a chance to vet it yet, but it said if Rhode Island wanted to make up the deficit of loss of Federal funds, they would have to raise both the gas and diesel tax by $.25 a gallon. Do you think that is a viable option for you?

Mr. LEWIS. The other alternative might be to join Massachusetts or Connecticut and, you know, eliminate the State borders.

[Laughter.]

Mr. LEWIS. For a small State like Rhode Island, and some of the rural Western States, the economy is such that it just doesn't have the economic base to produce enough funding to replace the reliance on the Federal program. And, we are taking steps locally to prepare for change, and to bring more to the table locally, but we could never fill the loss that would come from the Federal program.

Our construction program would virtually screech to a halt. And, in the Northeast we have some of the worst bridge condition in the country, due to its age, due to the climate, and due to investment.

So, it would be devastating. And I think that is true at different levels all across the country. Forty percent, on average, of the highway programs is dependent upon the Federal Highway Trust Fund across the country. So this would be, as you said, an enormous hole in the program.

Mr. DEFAZIO. OK, thank you, Mr. Chairman. Thank you.

I would just ask that each of you who represent organizations take back my idea, look at it—if you got other ideas—but you know, looking at the indexation and bonding approach to take care of both immediate and some longer term problems. Wouldn't solve everything, and I agree with those who say at some point we are going to have to move toward vehicle miles traveled.

But Oregon is now doing a more representative sample or experiment or pilot. The first one, as I say to people—people say, "Well, it worked pretty well, didn't it?"

I say, "Well, that was Earl Blumenauer's district, and the people who live there are happy to have the Government know where they are every moment of the day at all times. And a lot of people in my district, not so much." So we have some issues to work out yet on vehicle miles traveled. Thank you, Mr. Chairman.

Mr. PETRI. Mr. Duncan.

Mr. DUNCAN. Thank you, Mr. Chairman. Yesterday, at the tail—at the end of a hearing that I chaired, I said I think that our three biggest challenges on transportation projects overall are—number one, of course, is funding that most of you have mentioned.

Number two is this great need to speed up the projects. Two of the most recent Federal highway studies have said that the average highway projects take—one study said 13 years, one said 15 years from conception to completion. Obviously, if we could cut that in half, we could do a lot more with less, or double the number of projects.

And, number three, how do we balance our limited resources? Because you have got many big cities that—especially in the Northeast and Midwest that are losing population. You have to—have aging infrastructures, and they need help. You have got fast-growing areas like my home area and a lot of places in the Southeast that, because of their rapid growth, they need a lot of help. And also the—a lot of the small towns and rural areas can't be left out because they—some of them are economically depressed and need help and have a lot of needs also.

But I am—Mr. Lewis, this is my 25th year on this committee, and we have been talking about environmental streamlining all through those years. I think we went further in MAP–21 than we have ever done before by saying that a lot of these Federal agencies had to do studies concurrently, and we put limits with fines and so forth. Do you see progress being made from these Federal agencies? And do you have hope that we will see more progress than we have seen in the past?

Mr. LEWIS. Congressman, I absolutely do see progress, and I absolutely do have hope that we will be able to streamline the project delivery process and timelines. I think working very closely with Administrator Victor Mendez of the Federal Highway Administration and his program of Every Day Counts really speaks to the emphasis that U.S. DOT, and the Federal Highway Administration, in particular, are putting on streamlining the project delivery process.

We in Rhode Island just went through a recent environmental reevaluation. And the responsiveness of the Federal Highway Administration to the time commitment was exemplary. Just this week we have got a revised record decision on a process that, in my past life, might have taken years to produce. So I think we, at the State level, at AASHTO, absolutely see this as a critical step forward. We see that the U.S. DOT is committed to helping us with that. And I have a very positive outlook that we are going to make real progress.

Mr. DUNCAN. Well, good. I remember when I chaired the Aviation Subcommittee, the Atlanta Airport testified that their newest runway, which is several years old now, took 14 years from conception to completion for a runway, and took 99 construction days that they did in thirty-three 24-hour days, they were so relieved to get all the approvals.

Senator Starr, you mentioned your vehicle miles traveled. And I am very interested in that. Specifically, what have you done? How far along? Is it just being done in a few places, or—Congressman DeFazio mentioned the opposition from people in his district and

the supporting Congressman Blumenauer's district. I would like to hear a little bit more about that.

Mr. STARR. Very good. Thank you, Mr. Chair. The Road User Fee Task Force was created in 2001 through a bill that I introduced. I chaired that task force. That task force then put together our first pilot program, which Mr. DeFazio referenced, that mandated a particular device in vehicles. It was a test, it was a pilot. And ultimately, it proved effective.

We have gone since then to a different system, what we call an open system, where we—we have just accomplished another pilot that concluded at the end of January. And it was actually the—our second pilot included individuals from the State of Washington and individuals from the State of Nevada. And folks could choose from a menu of options of how they wanted to have their miles recorded. And from a very high-tech device that basically did identify where folks were driving and at what times to a very low-tech opportunity of paying a flat fee, where they didn't have any technology necessarily at all. That program is the one that ultimately, I think, is the future.

We partnered with the private sector, rather than having Government mandate, or the State of Oregon mandate a particular technology. Ultimately, I believe that——

Mr. DUNCAN. You mean the low-tech one is the future? Is that the one most people chose?

Mr. STARR. No, actually——

Mr. DUNCAN. Or they——

Mr. STARR. Actually, folks chose all across the board.

Mr. DUNCAN. Oh.

Mr. STARR. But the opportunity for us to partner with the private sector to divide—to develop the technology, where it is not Government that is mandating a particular device. I see a future where, in the time of vehicles that have a significant amount of technology already included in the vehicle, you have individuals that are driving with smartphones in their car that is linked to the vehicle, where there is an opportunity for the private sector to collect the data that is necessary and actually collect and remit the fee, rather than creating a huge bureaucracy in Government, which is one of the challenges that we would face in this type of situation.

Mr. DUNCAN. I am sorry, my time is up. Thank you. Thank you, Mr. Chairman.

Mr. PETRI. Thank you. Representative Johnson.

Ms. JOHNSON OF TEXAS. Thank you very much, and let me express my appreciation for the hearing and for the witnesses. I have been listening for the information we can use to fund these many infrastructure needs that we have. We hear a lot about the problems and not a lot about where we get the money.

Also recently have seen the ads not to increase gas tax. So I would like each of you to comment more specifically on what you would suggest we do to find the funds to deal with the Nation's infrastructure problems.

Mr. LEWIS. Congressman Johnson, I think, as many of us mentioned, there is a finite list of options that have been raised by national commissions, State commissions, and blue-ribbon panels that have looked into the challenge of raising revenue sufficient to meet

the Nation's needs in transportation. And the options range from the existing system, the gas and the diesel fuel tax—are there modifications to that, or are there increases to that that are viable?

Long term, many of us have mentioned the potential of a true user-based fee that may be a vehicle miles traveled tax. There are other methods that I think that can be explored that could raise the necessary revenues. And it is a combination of revenues at the Federal, State, and local levels. I don't think there is a one-size-fits-all solution. But we stand ready to work with you, work with the committee, and work with all of our partners to come up with a menu of options that is achievable and meets the objectives of raising the revenues that are needed.

Mr. STARR. Thank you for the question, Congressman Johnson. In the short term, I don't know how you get away from addressing the shortfall outside of the fuel tax. But in the long term you have to move—transition away from a tax that is based on the use of fuel to something else. And I believe it is a road user charge situation where folks that use the system pay for it. The user fee principle, I think, is an important one.

In the midterm, I would ask for a partnership between the Federal Government and the States to help support States' testing pilot programs.

Mr. VARGA. Representative Johnson, you know, I would like to start by saying that the public, the people, really understand the issues. Last year, 80 percent of transit tax measures locally in the United States were passed under difficult circumstances. So the question is, how do you bring something forward to the people so they understand that the problem has to be solved, and that you have worked out a solution?

And I agree with Mr. Starr, you know, you have to start somewhere, but you eventually are going to have to figure out different options for paying for what is needed out there in the communities.

But I will emphasize, I think the voters know the problem, I think you have to bring something to them that solves what they need in life, which is mobility for everybody.

Mr. PERRIN. Representative Johnson, I mean I think we have heard—and I would say maybe in a little disagreement with my colleague to my right—that I am not sure people understand the issue. They may see it—if there is needed cuts, they may see it when a bridge closes. But right now I don't think people understand the impending crisis that is coming. Transportation is not on the top of their list. Any Pew Center poll you see, it is not up there.

So, the question is, should it be up there? I mean we all know that these things need to be done. But ultimately, it is those voters who decide, and they decide with—where they decide to live and what they decide to do. So, I think it is a very challenging issue.

I think ultimately, though, the vehicle miles traveled tax or fee charged, whatever you want to call it, still has some things to be worked out. Oregon is clearly far, far ahead of most places. One of the issues that has to be considered is how easily is it basically gotten around. I mean that is one of the beauties of the fuel tax. It is paid for at the pump—actually, pre-paid for by the time you fill up.

As one of my colleagues says, my peer in Little Rock, Arkansas, the implementability of the vehicle miles traveled tax will be there when Hell's Angels and other motorcycle gangs let you put those on their bikes. Until then, there is going to be people looking to get around this, and they are going to be able to find a way to do it, even as the technology advances.

So, I think it is what everybody—what I would like to think everybody up here is saying, which is let's start with the immediate options that we have available. Ranking Member DeFazio put one in there where, you know, as far as balancing it out, you know, make hay when the sun shines. When it is working, let's go with it, and let's have it backfilled for when things are in a more difficult place. But eventually, we have to get to something that, along with being able to be implemented, is also a fair and equitable way to charge for uses of our roads and our transit systems. And that is ultimately going to depend on how much you drive, what type of vehicle you have that does what type of wear and tear on the roads, and how far you want to go when you use a particular public transportation system. Thank you.

Mr. BOBROWSKI. Thank you. Representative Johnson, I work for exclusively local governments. So my area of knowledge and expertise as it relates to your question is very limited. So I am just going to pass.

Ms. JOHNSON OF TEXAS. That is not an excuse; I don't accept that.

Mr. BOBROWSKI. Pardon me?

Ms. JOHNSON OF TEXAS. I don't accept your response. If you are with the local government, you know exactly where money comes from and how it is used.

Mr. REISKIN. Congresswoman Johnson, I also believe that, in the short term, something based on the current system, whether it is indexing the current fuel tax or switching to a percentage, a sales tax approach, I think is probably the most practical. In the longer term, I think shifting towards more of a user-based system would make more sense, from a policy perspective. But as people have said, there are issues to be worked out there.

I don't presume to understand voter sentiment that well. But as Mr. Varga said, there have been a number of transportation revenue measures at the State and local level in the last few years that have done very well, including in California, where generally we have a two-thirds threshold for voter approval.

And while I know that the gas tax, or increases in the gas tax, whether a one-time or through indexing, tend to be thought of as not popular, I would just note that when you look around our cities and towns, from gas station to gas station and from day to day, prices vary quite considerably. And the demand doesn't respond very much to some of these price swings. So I think with the right kind of education, understanding of the state of our Nation's infrastructure, its importance to the economy, I think it would be possible to build support for a more rational short-term basis for funding the trust fund.

Ms. JOHNSON OF TEXAS. Thank you very much. I know my time has expired, but let me just say that we know that whatever we can come up with, we will need all of you, your input and your sup-

port, to help us educate the public and educate us here, so that we can take some tough stands, as well. Thank you.

Mr. PETRI. Thank you. Mr. Bucshon.

Dr. BUCSHON. Thank you, Mr. Chairman. I would like to make a couple of comments first. And I agree with Mr. Perrin, that we have not sold our product well. When I talk to people in my district, there is a, I feel, a general lack of understanding even about where the gas tax money goes and what it is used for. And there is also, really, I think an uncertainty about whether the Federal Government is actually using it for what we say we are supposed to be using it for. And historically, there is some—unfortunately, some truth to that. So, we have some public relations work to do in convincing the American people that we need more money, and where that should come from to fund our highways.

Mr. Reiskin just commented on the unpopularity, and there is a recent polling that shows that over two-thirds of the American people say, "Don't raise the Federal gas tax, even if it means that it goes to infrastructure." And I think that relates to their lack of confidence in the Federal Government's ability to actually use it for infrastructure. I really do.

So, in my district, at least, I tell people exactly what the deficits are and what we need to do to fix that. That is my first comment.

Also, as everyone knows, recently and historically we have used the—you know, the user fee, the gas tax, as well as some general fund money to keep the level of funding where we had it, basically, in the last 4 or 5 years. But as Congress continues to fail to address, really, the long-term drivers of our Federal debt and deficit—you know, the 60 percent of the pie chart that is mandatory spending—discretionary spending programs across the board, including transportation, are going to continue to feel the pinch.

So—and with $17 trillion in debt, imagine what will happen to our spending, mandatory spending, if the interest rates go up. And this will continue to crowd out all other spending that is discretionary, including transportation. So I think we have a bigger—a smaller picture that is focused on funding transportation, but a bigger picture on how we fund everything that we need in our country, as it relates to all of these problems.

So, my first question, Mr. Reiskin, does your bus system use natural—are you going to natural gas or electric power, I mean, in your city?

Mr. REISKIN. Yes. So we have about 800 buses. About 300 of them are purely electric. They run from a overhead wire system that is powered by hydroelectric power, so it is very——

Dr. BUCSHON. And I have ridden on those. Those are fun to ride on.

Mr. REISKIN. Very, very clean energy. All of our rail system, about 150 light rail vehicles, about 60 or 70 historic street cars and cable cars, all running on clean electric power. The balance of the buses, about 500 of them, we are shifting to B20 biodiesel hybrids. So they are hybrids that are running like a Prius or anything else, runs on electricity when it can, and then it shifts over to B20 biodiesel when it needs gasoline.

Dr. BUCSHON. And that is where, when we talk about where the funding comes from, as you see, when large cities convert over from

gasoline powered engines or even diesel engines, you know, we are going to lose even more revenue, not to mention the fact that they are more fuel efficient.

Mr. Lewis, I—when I talk to Indiana—I am from Indiana—the Indiana Department of Transportation, they have expressed some frustration with how long it is taking Federal DOT to implement these—some of the regulatory changes in MAP–21. Is AASHTO hearing that from DOTs around the country?

Mr. LEWIS. I think there is, Congressman, some frustration. I was with Mike Cline, my counterpart in Indiana, just a week or so ago and we had a good discussion on some of the challenges. And I think there is progress to be made. I think that we still have a challenge. But I do believe that the U.S. DOT is working with the States on improving the flow, so we can do more review concurrently.

I think there is more work to be done on the Federal resource agencies so that not just within the U.S. Department of Transportation, but within the other Federal permitting agencies, that we can work more collaboratively. But that is true on the State level, as well. And so, it is a challenge, but I do believe the hearts and minds are in the right place, and we are moving forward.

Dr. BUCSHON. That is good to know. This question will be for Mr. Perrin and Mr. Bobrowski. When it comes to MPOs or the RTPOs, in my State we have had some—you know, there is a Federal highway project that goes multistate, multicountry. And there were some issues relating to local MPOs and that type of thing, and their ability to include or not include this project in their TIP. And how do you see—you know, I agree with local control.

I think local people have to have some say in this process. But when you have a disagreement between a local organization maybe and the Federal Government, how do you see that interaction—how do you see us solving that dispute?

Mr. PERRIN. I am familiar with the project that you are referring to, and I believe that got resolved by Governor Daniels standing—stepping in and deciding he will just do it with State money, or something along those lines, to——

Dr. BUCSHON. Actually, it subsequently got reapproved by the MPO, so——

Mr. PERRIN. Yes. I have 24 voting board members representing local, regional, and State interests. In an era of limited funding like this, I generally know I am doing a good job if everybody is equally upset with me. I mean that is just a function of what we are dealing——

Dr. BUCSHON. We have got that same issue here.

[Laughter.]

Mr. PERRIN. So that is the issue we are dealing with. I think, though, that the example you have given is few and far between. I think generally, you know, MPOs are not solely to represent local governments. They are there as a cooperative body, and that is their function. It is important to note that when it comes to Federal funding, the largest owners, maintainers, and operators of highway infrastructure are State departments of transportation. I view our State DOT as just as important a customer as anybody else, and it is about finding that balance.

I don't have a short answer to your question. The best I can say is we haven't had an instance like that, and I haven't heard of another one outside of Indiana. But I don't imagine that it will be in any way, shape, or form unique going forward, as communities look at reinventing and re-purposing the transportation system. And where there are interstates and they go through neighborhoods, you are going to have discussions. We saw those years ago in New York with Robert Moses and Jane Jacobs, as he sought to build an empire. So—thank you.

Dr. BUCSHON. Thank you.

Mr. PETRI. Thank you. I just——

Dr. BUCSHON. My time has expired, so——

Mr. PETRI. Yes.

Mr. PERRIN. Thank you.

Dr. BUCSHON [continuing]. I yield back.

Mr. PETRI. Thank you. Mr. Michaud?

Mr. MICHAUD. Thank you very much, Mr. Chairman. This one is for Mr. Varga.

You know, I appreciate your testimony on the well-established precedent of using CMAQ funds for transit projects. I was particularly interested in your concern regarding FTA's lack of guidance and refusal to release funds for approved grants. Have you communicated these concerns with—well, to FTA? And, if so, what was their response?

Mr. VARGA. We have communicated the concerns about CMAQ funding. We are not entirely sure where this is going. But what we are concerned about is the funds that were under CMAQ under the old authorization bill, that they should be moving forward as of the old bill, because that was what was intended at the time. And so the new guidance may change things, but funds that were actually allocated under the old authorization bill should move forward so that those entities can make those projects work.

Mr. MICHAUD. Yes. Have you gotten any response from FTA?

Mr. VARGA. I am sure at some point we will. I don't have it on hand yet, but when I do we will be able to communicate that to you, sir.

Mr. MICHAUD. OK, thank you. As you know, in Maine the Amtrak Downeaster has relied on the CMAQ funds for operating assistance since 2001. And, as you know, under Section 1113 of MAP–21 included language that stated CMAQ funds could be used for operating assistance. Now I understand that FTA may interpret the law differently and restrict States' ability to continue to use the CMAQ funds for facilities such as Downeaster.

In your opinion, looking at the language, is there anything in the new law that would justify an FTA interpretation to restrict the use of CMAQ funds for the Downeaster or similar projects?

Mr. VARGA. From my reading I don't see that, sir. But I think that that is information that we can get back to you. What our concern really is is the funds that were appropriated under the old authorization bill clearly expressed that that could be done, and that is what we would like to see happen then.

Mr. MICHAUD. Great, thank you. No further questions, Mr. Chairman, so I yield back the balance of my time.

Mr. PETRI. Thank you. Mr. Farenthold?

Mr. FARENTHOLD. Thank you very much, Mr. Chairman.

Senator Starr, I would like to start with you. The Texas Legislature is currently hearing a bill that will give the Texas Department of Transportation authority to oversee the NEPA process. Is your State or any other States you are aware of seeking NEPA delegation? And can you tell me any thoughts you have on that?

Mr. STARR. I don't know. Thank you for the question. I don't know of any other State that is pursuing that similar legislation, and I don't believe that NCSL, as a conference, has a policy that particularly addresses that issue.

Mr. FARENTHOLD. Mr. Lewis, do you have any other information on that?

Mr. LEWIS. I am aware that California currently has NEPA responsibility—I don't know exactly how long that has been in effect, but California has been working under a delegation of NEPA.

Mr. FARENTHOLD. Well, hopefully Texas can do it better than the Federal Government.

Mr. Perrin, let's talk a little bit about the metropolitan planning organizations. MAP–21 carries the distribution percentages each State received in 2009. And these numbers were based on the 2000 census. As a result, fast-growing States like Texas, Arizona, and North Carolina end up big losers, while States with more stagnant population growth like New York, Michigan, and Illinois were the big winners, as well as the minimum allocation States like Vermont, Montana, and Wyoming.

For example, one MPO, Burlington, Vermont, has an urbanized population of 108,740. For fiscal year 2013, Vermont gets just over $2 million. And now CAMPO, which is the Austin, Texas planning organization, has an urbanized population of 1,362,416 people. That is 12.5 times the population of Vermont. And the metro planning funds that they received in Austin for fiscal year 2013 was $1,906,022, which is $100,000 less than Vermont. You think there needs to be a fix there?

Mr. PERRIN. I don't know that AMPO has looked at specifically what the distribution is at the Federal level.

Now, it is important to note that the States distribute those metropolitan planning funds, both the FHWA metropolitan planning and the FTA Section 5303 metropolitan planning funds, based on formulas that are more or less decided at the State level. Clearly, though, I think anything you—I mean I am a planner. I don't want to use 2000 census data, I want to use 2010 census data. To the degree that it is even more reliable, I want to use the American Community Survey estimates from up to 2009, 2010. So I think that is really a function of how does it get distributed to the States, and that is something that Congress does.

Mr. FARENTHOLD. All right. And let's talk a little bit about performance data. One of the things we are kicking off in Texas now is TEXDOT, our department of transportation, is working with the State association of MPOs to coordinate and share information regarding the national performance management process.

Rather than waiting for rulemaking, we are getting a go on that. What is your organization doing to prepare to get that information?

Mr. PERRIN. I think AMPO has obviously been very clear about what they want to see, and that is not prescriptive Federal regulation from U.S. DOT about how this needs to happen.

But I think you are absolutely right. In New York we have a New York State association of MPOs. We have an integrated planning initiative. And we have jumped right into this and said, "What is the data we are going to need?" Regardless of what comes down from Washington, when it gets to us and our 13 MPOs, what is the data we are going to need? How do we get that most cost-effectively? Does it really make sense for the 13 of us to be purchasing employment projections separately, or is this something we can do through the New York State DOT?

So that is really the critical part, is how do we do this to save money.

Mr. FARENTHOLD. All right. Mr. Lewis, I want to get to TIFIA for a second. You know, MAP–21 substantially expanded the TIFIA program. And I was wondering if you all could—Mr. Lewis or anybody—could give me some information particularly on how this is working with respect to rural areas. Are we seeing TIFIA help rural areas as much as we are urban areas?

Mr. LEWIS. I don't have the specifics on that, Congressman. But we see it from the States' perspective as a very important tool in the toolbox for advancing our goals in transportation. It is not a solution.

Mr. FARENTHOLD. And, you know, Texas now has, I think, four TIFIA letters of interest, but we are really finding that it is pretty slow-going. Is that consistent with the rest of your organization of not getting fast-enough response on that?

Mr. LEWIS. Congressman, I will work with the staff and get you an answer on that, poll the States to determine what their experiences are in terms of TIFIA——

Mr. FARENTHOLD. I would appreciate it. We have got these alternatives out there that I think the—never forget the time value of money. The sooner we can get these things going, the better we are.

I see my time has expired now. Thank you, Mr. Chairman.

Mr. PETRI. Thank you. Ms. Hahn?

Ms. HAHN. Thank you, Mr. Chairman. I represent Los Angeles. And we, as I think most counties and cities in this country, are beginning to realize that we can't totally depend on the Federal Government for investment in our transportation infrastructure, although I do think the Federal Government has a role to play in investing in this Nation's infrastructure. I think it absolutely makes for a more seamless system in this country, as well as leading to jobs in the economy.

But—so we in Los Angeles passed, with a two-thirds vote requirement, Measure R in L.A. County, which was a half-cent sales tax, and raised $40 billion. Originally it was $40 billion that would be used over the course of 30 years. But Mayor Villaraigosa came up with the idea of 30/10, and asking the Federal Government if they would consider front-loading that money in the first 10 years of the tax measure, and then we would pay back the Federal Government over the course of 30 years. It seems like it would make

a great—it made great sense. Front-load the projects, get the economy going, build the system.

And so, that sort of morphed into America Fast Forward, where, you know, cities and counties across this country could leverage local dollars with the Federal Government's ability to front-load those initiatives with tax—with bonds and tax credits.

So, now, one of the new ideas the advocates of America Fast Forward want to push for qualified transportation improvement bonds, QTIB—not to be confused with Q-Tip—which would have the Federal Government subsidize most or all of the long-term borrowing cost for investors in large-scale transportation projects.

So, I am just going to ask those of you on the panel. How helpful would a new class of tax credit bonds for transportation similar to these Build America bonds be for local and State governments? Is that something we should pursue?

Mr. REISKIN. Congresswoman, from our perspective I think it would be extremely helpful. As I mentioned, we have a half-cent sales tax in San Francisco. We are about 10 years into a 30-year authorization. But we have ourselves advanced a lot of that value at a much higher cost than we would be able to under, say, a QTIB kind of process. So we are now looking at—in addition to going to the voters next year for a possible general obligation bond, going in the next few years for a reauthorization and possible expansion of the sales tax. The ability to capitalize those revenues with credit support or other kind of low-interest financing from the Federal Government would certainly help invest dollars now that would save us costs down the road.

With—before I was in this job I was the public works director in San Francisco. And what I learned there is that as you delay expenditures over time, the cost of bringing things back into a state of good repair get exponentially more expensive. So being able to borrow forward with low-interest money to invest now cannot only improve today's infrastructure, but can save money in the long term. So I think it would be extremely helpful.

Mr. LEWIS. Congressman, I think, as I mentioned earlier, it is a potential tool in the toolbox. From the States' perspective, as you may know, the GARVEE bonds are a program that the States can borrow to advance work to get it done more quickly, and Rhode Island has taken advantage of that. But we are pledging our future Federal revenues to pay off those bonds. And with the uncertainty in future Federal revenues, that makes this a more risky proposition.

And so, I think that any opportunity that we can add to the toolbox is helpful. But it can't replace the funding needs that we have at a national level.

Mr. STARR. And State legislatures as well, I think, look at the wide variety of opportunities to address these issues. And bonding borrowing is one of those tools. And in a way I think we have positions supporting bonding in our policy statements. So we would support this, as well.

Mr. VARGA. You know, in Grand Rapids right now we don't see it as a tool that we could use, but I could see how, in the future, it might be. And I agree with Mr. Reiskin's statement, that this is something that they find useful, and I think the opportunities for

leveraging funds that way do save money. And so I would encourage any institutions that really want to pursue it to have that available.

Mr. PERRIN. I would just agree with, basically, Mr. Lewis's comment and Senator Starr's, which is it is something else that is available to us. And the wider range of options, the more diversified portfolio we can have to tap into, is always going to be a benefit.

Mr. BOBROWSKI. I would agree with the rest of the panel. I mean that is—you know, in Tennessee, again, we need all the help that we can get, in terms of funding.

Ms. HAHN. Thanks. Well, my time is up, but again, I think some of the comments that transportation is not on the front burner for the general public, we have not found that to be true. Of course, I think Los Angeles was just named the worst city for traffic in the country.

But I think my history in Los Angeles has been the voters will continue to tax themselves if they know that the money is going directly to projects which will benefit their daily commutes on the freeways, the highways. And we understand in Los Angeles the idea of goods movement, so we get the idea of good bridges and overpasses and roads and truck expressways. So—but we found that over and over. If the voters understand the purpose for which the tax is going, they will, again and again, be willing to cough up the money to pay for a better transportation system. Thank you.

Mr. PETRI. Thank you. Mr. Rice.

Mr. RICE. Thank you. Thank you, members of the committee, for allowing me to participate. Thank you, witnesses, for coming all this way to educate us. And I certainly learned a lot. I appreciate your perspective.

I agree that funding is the biggest issue that we face. And we have a real need—I think that infrastructure drives American competitiveness, worldwide. Our competitors for jobs across the world are advancing, I believe, at a much faster pace than we are. I think that a lot of that is due to regulation, and these MAP–21 restrictions are certainly going to help.

But in terms of funding, I think—Mr. Perrin, you said earlier that people are tightening their belts, and they want to see us tighten ours, too. And the unfortunate truth is that the Federal Government's budget has grown by about 29 percent in the last 5 years.

Mr. Starr, in Oregon has your budget grown by 29 percent in the last 5 years?

Mr. STARR. No, sir, it has not.

Mr. RICE. No, it hasn't. In fact, a lot of States are static. In fact, a lot have actually gone down. You know, we are spending at a massive level, running record deficit after record deficit.

And unfortunately, also, at the same time, we have had a—we had a huge tax increase at the very end of the last year to satisfy the fiscal cliff deal. And with the implementation of the largest expansion of entitlements since the sixties, with Obamacare, we have got another massive tax increase scheduled to hit January 1st of next year. It was delayed. When they passed it they delayed it for

a few years so they didn't have to feel the impact. So we got two massive tax increases coming.

I very much agree with what Ms. Hahn said, that across the country—in fact, in my county, back at Horry County, South Carolina, we adopted a local option sales tax to pay for roads. I think voters don't mind doing that, as she said, if they see that it will go directly to projects that benefit them. But the truth is that the Federal fuel tax doesn't all go to highways. We have robbed that. We have got a ports fund supposed to go to maintain ports, but it doesn't. We have robbed that. So I am not sure that, in the Federal Government's case, that the voters actually believe that the money goes directly to highway funding.

You know, we have got a massive problem with infrastructure. I think it would be my absolutely top priority. But it is a matter of priorities. And we can't expand on every front and expect the voters to step up and pay for that. We got the biggest, as I said, expansion of entitlements with Obamacare hitting next year, and we got to decide what we are going to pursue. Are we going to pursue entitlements? Or—and have more people dependent on the Government, and increase their dependence on the Government? Or are we going to explore economic expansion through infrastructure, maintenance, and growth, and try to growth the economy.

So, I think we have a choice that we are faced with. Right now, we are, unfortunately, on the path of expanding entitlements. I don't know that it is realistic to ask the people to stand for three big tax increases in 1 year. That may be just a little bit unrealistic.

The MAP–21 restrictions, you know, we are working on a Federal highway project, trying to get permits. We have been working for 6 years now to try to get permits to build I–73. Still don't have a permit. I appreciate very much the restrictions that MAP–21 puts in place with a 4-year limit. My personal opinion is a 4-year limit is about three times as long as it should be. We have to balance environmental requirements, obviously, with the need for economic growth. But I think the tail is wagging the dog. When it takes 14 years to get a permit to dredge the port in Miami so that we can get Panama Canal ships in there. And if we started digging today it wouldn't happen.

I think our priorities may be a little bit skewed and we need to do—we have got to do a better job. I think we live in the greatest country on earth, I don't think anybody can beat us. But I think we can sure beat ourselves, and we are doing a great job of it. We got the regulatory noose around our own neck and we are strangling ourselves.

So, particularly when you got limited dollars, as we have here, all the money we spend on studies, all the time we waste, all the delays and the increased cost that we could be using to lay asphalt and dredge our ports and make this country more competitive, I think we really, really need to rethink that.

So, I know I didn't give you any questions, it was more observations. I appreciate you being here. Thank you very much.

Mr. PETRI. Thank you. Mr. Barletta.

Mr. BARLETTA. Thank you, Mr. Chair. Mr. Lewis, one of the important provisions in MAP–21 was Jason's Law, which makes truck parking improvements a regular expense for State DOTs and

MPOs. I am interested in your opinion. Do you agree that, first of all, that adequate truck parking facilities are a critical safety and infrastructure investment?

Mr. LEWIS. Yes. Congressman, in different areas of the country it is a bigger problem than in other areas, in certain localities. But safety is our principal objective at the State transportation departments, and also within the U.S. DOT. So we want to look very closely at provisions that would promote safe travel on the highways, and that certainly includes the movement of heavy trucks. I can ask staff to review policies with regard to truck parking, and we would be glad to get back to you, Congressman, with a specific response to that question.

Mr. BARLETTA. You know, obviously, you know, regulations require truckers to park their trucks after so many hours of driving. And Jason's Law was named after a trucker who was fatally shot in an abandoned gas station. So how do we encourage local transportation officials to ensure that this investment is made? When they have a buffet of what they can choose from, how do we communicate that to local?

Mr. LEWIS. I think that communication is key. A number of your colleagues have mentioned that we need to improve our efforts in communicating on all fronts with regard to the investment in transportation. And the point you raise is a critical issue that probably many, many people don't know is an issue. I think that we have an obligation to better educate so that it is on the table when prioritization is evaluated. At the local level, at the MPO level, and on the State level, we think that this is an important issue, and it is one that we need to better educate the populace.

Mr. BARLETTA. I agree. Mr. Bobrowski, a driver is two-and-a-half times more likely to die on a rural road than on an urban road. As local entities, how can we increase roadway safety infrastructure on locally owned roads to reduce fatalities and serious injuries?

Mr. BOBROWSKI. I would go back, Congressman, to the local consultation process. I think there really needs to be a close relationship between State DOTs and the local folks in those communities. They know best where their problems are.

And, you know, the communication of those problems to the State DOT is just a critical, critical process. And it needs to be something that is stable, that is supported by documented statistics. And, you know, I think, just given the nature of rural roads, that that statistic might be a little bit skewed. But many times we look at making large-scale expensive improvements four-laning a road, when really only a truck-passing lane might do the trick to really help safety concerns.

And so, I think the local consultation process is a key to kind of improving what is going on on rural roads.

Mr. BARLETTA. Do you see opportunities in MAP–21 to address safety and effective incident management issues at both the State and local level for corridors that cross multiple State lines? I know Interstate 81, for example, goes through Pennsylvania, and is a——

Mr. BOBROWSKI. Right.

Mr. BARLETTA. And the I–81 corridor, obviously, is an issue.

Mr. BOBROWSKI. Well, certainly, you know, I–81 is an interstate that passes through seven States, I believe. And I think there is an effort afoot to get an I–81 corridor planning authority established, and Tennessee is involved with Virginia and Pennsylvania and New York and Maryland and the rest of the States that are involved, or through which I–81 passes.

So, yes, I think there are great opportunities. But, you know, funding is really a key issue because these are typically grass roots kind of organizations. They are managed at the local level. And I know we have a very, very sophisticated and effective I–95 corridor management agency. So I think where, you know, efforts are afoot to do that kind of thing in other areas of the country, I think they really need to be supported, at least partially, by Federal transportation dollars.

Mr. BARLETTA. Yes. Safety, obviously, you know, if you asked everyone, they would say that is such an important issue. But when it comes to funding, sometimes we bypass it for other things.

My family was in the road-building business and I was a pavement-marking contractor. We did the line painting, only the straight lines. But one thing that I always took pride in is that we never read the names in the paper of the people's lives we saved.

Mr. BOBROWSKI. Right.

Mr. BARLETTA. And I think that is something we should all remember when we are looking at projects and funding. Thank you.

Mr. BOBROWSKI. Thank you.

Mr. PETRI. Thank you. Mr. Mullin.

Mr. MULLIN. Thank you, Chairman, and thank you, panel, for taking the time. I know you guys probably enjoy this as much as I do, which isn't very much, but it is a necessity for us to make sure that we are doing the job that is put in front of us. And it is an honor to do so, and it is an honor to sit in front of you. And so, please, as I have said before in some panels, don't think you are wasting your time. I think you will find out that in T&I we have an interest, and we can usually agree that we truly want to get the problems fixed. It is just things don't move very fast up here. And common sense, sometimes you can spend time butting your head against the wall, and it is frustrating.

I come from a construction background, I still own a construction company. Have about 120-plus employees back in Oklahoma. And I am sitting in front of you because of the frustration. So I share it with you. But we still got a job to do. And I have a few questions I want to throw out, and I hopefully won't take all of our time.

But MAP–21 included category exclusions for projects and right-of-ways and projects receiving less than $5 million in Federal funds. And that is good. But what has happened is the Department has yet to complete the regulations that is needed, and now we are past the deadline to start some of this.

In Oklahoma, Mr. Lewis, in Oklahoma I have heard from our department of transportation that this delay in rulemaking is causing a delay in the project's implementation, has affected what we do. And how has it affected your State?

Mr. LEWIS. Congressman, we agree. We would like to see that provision move forward as quickly as possible. There is a rulemaking pending right now, and AASHTO is in the process of com-

menting on that, as we speak. We think this is an important and relatively easy change that can move projects forward more quickly and more expeditiously.

Mr. MULLIN. Well, for some reason it seems like we are dragging our feet. Are you experiencing cost delays? Are you experiencing—where you are having situations that the project should already be completed, and now it is holding up and putting you in a backlog?

Mr. LEWIS. Speaking from Rhode Island's perspective, we have had that issue in the past, but we don't have that issue currently affecting any of our projects right now. But I am aware that other States across the country are experiencing a greater frustration with this. I think we do need to up our game, and are working with the U.S. DOT, to get this matter moved forward.

Mr. MULLIN. Thank you. Mr. Starr, I appreciate your testimony on the Indian roads program. And I want to point out that in Oklahoma we have a very strong working relationship between the Oklahoma Department of Transportation and the tribes in my State. Because of Oklahoma's unique situation where we don't actually have reservations, it is important that the departments and the tribes have synergy on this issue.

In your opinion, what can things—what things can be done to help facilitate these kinds of cooperative interactions across the country?

Mr. STARR. In Oregon we have a very cooperative relationship with the tribes. And it is a relationship that is based in honoring each other as independent nations and fostering strong communication between our State governments and the tribal governments. I believe that is the crux to having a solid relationship with the tribes, whether it is dealing with transportation issues or any other issues that you have to deal with on a cross-government basis.

Mr. MULLIN. Right. And in my county, which is a very big county, I have a town of 1,200 people where I live. And we had a major flood 3 years ago on Easter. I mean literally moved the banks of some of our creeks over 100 feet, washed out all of our bridges, our low-water bridges. There wasn't a bridge around. In fact, we had to cancel school for several days, just because the bus routes couldn't run on some of these country roads. And the county just didn't have the money. The State didn't have the money. I mean these bridges were built by my granddad in the war program.

And the tribes stepped up and started knocking these out in a very fast pace, faster than we could have ever got it done. But also, the State had the opportunity to waive a lot of the environmental studies and the fish and wildlife studies and all these NEPA programs that are out there that I know you guys love dealing with. But it showed that the projects can be completed. And people are willing to do it, but it seems like we keep hitting our head against the wall, because we are our worst enemy.

So, we look forward, with MAP–21, working to help get this problem figured out, and working with you all, too. So thank you so much, and I appreciate your time.

Mr. STARR. Thank you.

Mr. PETRI. Thank you. Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman. Thank you to all the gentlemen who came in today. And the good news is when you get to me it is almost over.

[Laughter.]

Mr. DAVIS. You are almost done. There is no more nameplates. But it is—and I won't keep you long, I promise. But I appreciate what you do. I think, as you have seen here today, the T&I Committee is the epitome of bipartisanship. There are no Republican bridges, Democrat bridges. We are going to work together. It is important. It is important to get beyond the party politics and talk about rebuilding this crumbling infrastructure that all of you have addressed so eloquently today and sat patiently answering all of our colleagues' questions.

I have one question related to the transit issue. So everybody but Mr. Varga, it is over. You don't have any more. Mr. Varga, I am sorry. But I just want your opinion. And actually, Mr. Lewis, feel free to jump in on behalf of the departments of transportation. And our department of transportation, in particular in Illinois, does an excellent job of working together with the delegation. And I got to commend Ann Schneider and those that have served before her in doing so. And I look forward to working with her now, as a new Member of Congress, to move more projects forward.

But, Mr. Varga, I want to—and if you were asked this earlier, I apologize. But I know the formula grant program, when you talk about transit for bus and bus facilities, is newer. Whereas before, in previous transportation reauthorizations like SAFETEA–LU and TEA–21, et cetera, it was earmarked. A lot of earmarked funding mechanisms.

Tell me. Is the formula grant working, the process working? Is it easier for the decision to be made at the State level? And is that being—is that easier for your organizations that make up your association to deal with? Or was it easier when the Federal Government picked and choose?

Mr. VARGA. This is a very important question. I am hearing from a lot of different members in the association that for many of them it is not working because they don't know how to plan long term for getting the funds, because less funds are available than had been before MAP–21. So, for them it is how do you plan long term, and how do we address this issue? You know, we are looking forward to working with the FTA and with you to find a solution to that issue, because that is what I am hearing from my members.

From my own perspective, in Grand Rapids we are in a state of very good repair. But eventually we will need to replace buses that we have purchased over time under the old method. And I think that that issue will be coming forward for us, as well.

So, how to balance off multiyear needs for capital equipment, for transit system in the bus category, is something that we are going to have to look at carefully. Because I a hearing that from a lot of the members and we are going to have to work together to find some solution.

Mr. DAVIS. OK. Mr. Lewis?

Mr. LEWIS. As an organization, AASHTO has supported formularization. But with that, some places are getting less than they have previously, and I think that that is a difficult place to be.

Many transit projects—and I come from the Northeast area, the Boston area—are very heavily capital-intensive. And then the operating cost of those programs is, as you know so well from Chicago, also very intensive.

So, I think that from our perspective at AASHTO, we really need to recognize it is a balanced system of transportation. It is not one mode winning out over another mode, but that providing flexibility to the States to make those decisions is really where the answer is. Each locality, each State, each region needs to make those decisions within an overall national transportation system.

Mr. DAVIS. Excellent. Well, again, thank you very much to all of you for being here today. Thanks for working with us. And I look forward to working with you in the future as this term goes along. I yield back.

Mr. PETRI. Thank you. And do you have another—Mr. DeFazio.

Mr. DEFAZIO. Just one last question. Mr. Lewis, you referenced the operational right-of-way issue as a relatively simple—I am afraid it isn't, because I advocated for what I defined—and we had this discussion—but the final draft came out with a different definition—that we couldn't possibly know what right-of-way around this country has been acquired. How much of the NAFTA highway did Texas acquire for their 20-lane road? And how much of it do they still have? And suddenly we are going to exempt it from any environmental review?

So, the intent was actual operational—you know, basically within the existing footprint, not any property that was acquired. And that is, I think, part of the problem at DOT is that someone, somewhere, somehow—you know, the Senate not being very good at drafting legislation, you know, slipped that in there. And so I think it is problematic. Because, I mean, I can't even envision—you know, we had a famous fight over the Mount Hood Freeway in Portland many years ago, and, I don't know, maybe we still got some leftover right-of-way there that would be exempt from any environmental review for a greenfields project.

The intent—and I really push this hard—was when you are laying down a streetcar track in the middle of an asphalt, you shouldn't have to go to a—you know, through a NEPA process. I mean there is a net benefit. But to expand a two-lane road to an eight-lane road, well, I am afraid that probably needs some scrutiny. So I don't think it is simple.

Mr. LEWIS. No, and I am sure I could feel my—the staff behind me cringing when I said anything was simple. So I apologize for that.

I think in certain cases it is relatively simple. But I think you have raised a very good point, that it is not universally true. And I think that the State and local reviews will also come into play, so by simplifying the Federal rules, it doesn't give carte blanche. And I think there is some local decisionmaking that can protect those resources.

Mr. DEFAZIO. OK. Thank you. Thank you, Mr. Chairman. I appreciate this hearing. Thanks very much.

Mr. PETRI. Thank you. And I am informed by our staff that there is, in fact, strong disagreement as to what congressional intent

was. And so there are several positions on it. And I just would note that for the——

Mr. DEFAZIO. I was noting my intent.

Mr. PETRI. Yes. We would like to thank you all for your participation and that of the organizations that you represent.

And before we adjourn, I would ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided answers to any questions that may be submitted to them in writing, and unanimous consent that the record remain open for 15 days for additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

[No response.]

Mr. PETRI. Without objection, so ordered. And this hearing is adjourned.

[Whereupon, at 11:59 a.m., the subcommittee was adjourned.]

TESTIMONY OF

THE HONORABLE MICHAEL P. LEWIS

DIRECTOR
RHODE ISLAND DEPARTMENT OF TRANSPORTATION

ON BEHALF OF

THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS

REGARDING

IMPLEMENTING MAP-21: THE STATE AND LOCAL PERSPECTIVE

BEFORE THE

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 25, 2013

American Association of State Highway and Transportation Officials♦444 North Capitol Street, N.W., Suite 249, Washington, D.C. 20001♦202-624-5800

Chairman Petri, Ranking Member DeFazio and Members of the Subcommittee, I thank you for the opportunity to share the American Association of State Highway and Transportation Officials' (AASHTO) views on implementation of the Moving Ahead for Progress in the 21st Century Act – MAP-21. My name is Mike Lewis and I am Director of the Rhode Island Department of Transportation. I am also President of AASHTO and today I am testifying on behalf of AASHTO. AASHTO is a non-partisan, non-profit association that represents the departments of transportation (DOTs) of all 50 states, Washington, D.C. and Puerto Rico.

First, I would like to thank you, Mr. Chairman and this Committee for your role in enacting MAP-21 which was the product of a bicameral, bipartisan agreement on a common set of policy objectives and fundamental program reforms – consolidation and reduction in the number of programs categories; further environmental streamlining; performance measurement, monitoring and reporting; and expanded opportunities for leveraging existing dollars with a much larger Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.

MAP-21's transformational reforms will give States, which are the owners and operators of the most heavily used highway facilities and rural transit systems, additional flexibility to effectively and efficiently deploy resources to best meet needs while ensuring accountability and transparency. We applaud these policy and program reforms and believe that they provide a solid framework and direction for future reauthorization measures.

Implementation of MAP-21 has been underway since its enactment in July, 2012. However, with one hundred and twenty-six different action items and deadlines that extend out to 2017, implementation will continue well beyond the two-year life of the bill. To date, most of the required guidance and regulations to implement MAP-21 are a work in progress so it is still early to render any final judgment on the implementation effort. Nevertheless, the State DOTs are working in collaboration with the U.S. Department of Transportation (U.S. DOT) to put in place interim processes and procedures that reflect and conform to MAP-21's policy reform expectations.

Today, Mr. Chairman, I can report to you that we are pleased with the progress being made in implementing MAP-21, and we are optimistic that the flexibilities delegated to the States and the reforms envisioned by the drafters of MAP-21 will be appropriately reflected in future guidance and regulations. We are also pleased with the level of active engagement with the State DOTs in the implementation process. Collaboration between U.S. DOT and their State DOT partners, the owners and operators of the Nation's transportation network, is essential to the successful implementation of MAP-21.

Principles for Implementation of MAP-21

AASHTO recommends these core principles to guide implementation of MAP-21:

- ***Engage to the maximum extent possible the transportation system owners and operators -- State DOTs, local governments and transit operators -- in the implementation process.*** States, transit agencies and local governments own, construct, maintain, operate and manage the nation's highway and transit systems. Therefore these

transportation partners are more than mere stakeholders in the implementation process and unique collaboration between us and U.S. DOT is essential. AASHTO appreciates that U.S. DOT has engaged the States, transit agencies and local governments in the implementation process and we hope that the Committee will urge them to continue that collaboration with us as partners, not merely stakeholders, in delivering a safe, economic, efficient and environmentally sound surface transportation system.

- ***Guidance and regulations should adhere to the statutory language in MAP-21.*** AASHTO believes that guidance and regulations should not introduce additional requirements beyond the letter and intent of MAP 21.
- ***Provide maximum administrative program flexibility.*** To the extent practicable and permissible, AASHTO recommends that U.S. DOT seek to maximize State discretion in administering the federal highway and transit programs.
- ***Expedite implementation of project delivery provisions.*** Among MAP-21's reforms are provisions to expedite project delivery. AASHTO recommends that U.S. DOT give priority to implementing these provisions, in order to expedite the economic, social and environmental benefits that derive from improving our transportation system.
- ***Simplify and streamline administrative approval and oversight processes for routine and recurring activities.*** MAP-21's reforms provide a framework to broadly reevaluate and overhaul administrative requirements which could also expedite procurement and contracting processes.
- ***Utilize existing processes, practices, data sets and programs to the extent practicable.*** MAP-21's substantial reforms will require several years and iterative steps to fully implement. To the extent that existing processes, practices and data sets can be adapted rather than replaced, implementation can proceed more quickly.
- ***Limit national performance measures to a credible, minimum set, and implement performance measurement through an iterative process that allows time for experimentation and innovation without fear of penalties.*** One of MAP-21's most transformational reforms is the establishment of a process for measuring performance. Performance measurement will bring greater accountability and transparency to the federal surface transportation programs. It is essential that implementation occur iteratively, allowing ***for a process of continuous improvements,*** without fear of penalties.

Accelerated Project Delivery

MAP-21 enacted a comprehensive set of reforms to expedite project delivery. This package included measures to broaden the use of categorical exclusions, expedite environmental reviews for complex projects, encourage linkage of transportation planning and environmental reviews, encourage earlier acquisition of right-of-way, and provide greater flexibility in contracting. Together, these reforms have the potential to reduce project delivery times substantially. But effective implementation is critical to their success.

AASHTO is closely monitoring implementation of the project delivery provisions in MAP-21 and is providing input and feedback to U.S.DOT when given the opportunity. Overall, we believe U.S. DOT's initial implementation steps have been positive, but we do have concerns in

a few areas. In addition, we note that much remains to be done, including potentially significant rulemakings and guidance documents that affect transportation planning, environmental review, right-of-way acquisition, and contracting.

Below is a discussion of AASHTO's perspectives on U.S. DOT's implementation of the project delivery provisions in MAP-21. Our comments address the rulemakings and guidance that have been issued to date, as well as the additional rulemakings and guidance that we expect to be issued in the future.

Increased Use of Categorical Exclusions (CEs) for Projects with Minor Impacts. Under the National Environmental Policy Act, federal agencies can adopt categorical exclusions (CEs) for projects that have no significant environmental impacts. In MAP-21, Congress directed the U.S. DOT to make a series of changes that would expand the availability of CEs for transportation projects. These changes included creating new CEs, modifying existing CEs, and increasing the availability of programmatic agreements that allow States to make CE determinations. These changes all require rulemakings by FHWA and FTA.

Since enactment of MAP-21, FHWA has begun to implement these changes by completing one rulemaking and initiating another. Additional rulemakings are expected later in 2013.

Categorical Exclusions for Emergency Projects

Section 1315 of MAP-21 directs U.S. DOT to create a categorical exclusion (CE) for projects to repair or reconstruct highway facilities damaged in declared emergencies. FHWA and FTA issued a proposed rule implementing this provision on October 1, 2012. In our comments, we recommended that the final rule retain the flexibilities existing prior to MAP 21 and also ensure that the new CE applies to projects that include upgrades to meet current safety standards and to address impacts from extreme weather events when repairing or reconstructing transportation facilities. ***AASHTO is pleased that the final rule, published on February 19, 2013, substantially addresses our concerns and incorporates our recommendations.***

Section 1315 also requires "periodic evaluations to determine if reasonable alternatives exist to roads, highways, or bridges that repeatedly require repair and reconstruction activities." We understand that U.S. DOT intends to address this requirement as part of its implementation of MAP 21's asset management provisions. ***AASHTO recommends that U.S. DOT not develop a single prescriptive approach but rather give states the flexibility to undertake a risk-based approach that considers the purpose and function of the facility and conditions unique to each facility and to each state.***

Categorical Exclusions for Projects within the Existing Operational Right of Way

Section 1316 of MAP-21 directs U.S. DOT to develop a CE for projects within an "existing operational right-of-way." The statute requires this new CE to be included in 23 CFR 771.117(c). On February 28, 2013, FHWA and FTA issued proposed regulations creating this new CE, as well as the new CE required by Section 1317 for "projects with limited federal assistance." Comments on the proposed regulations are due April 29, 2013.

AASHTO has two main areas of concern: (1) the proposed regulations would define the scope of the CEs more narrowly than we believe Congress intended, and (2) the proposed regulations increase the documentation requirements, above and beyond the level required for similar CEs.

One example of our concern involves the proposed CE for projects within the existing operational right-of-way. Section 1316 defines operational right-of-way to include lands "*acquired*" for transportation purposes. The proposed rule narrows the scope of the CE by applying it to land "*acquired, needed, and used*" for transportation purposes. Specifically, the proposed regulations would allow the CE to be used for projects within the existing right-of-way only if the affected lands were "disturbed for an existing transportation facility or are regularly maintained for transportation purpose"; the CE could not be used if the project affected lands within the existing right-of-way "that are not currently being used or not regularly maintained for transportation purposes." Our basic concern with this proposal is that it inserts additional restrictions that were not included in the statute. These restrictions could limit the usefulness of the CE, and also could create confusion about whether the CE is able to be used for a project.

New Categorical Exclusions

Section 1318 of MAP-21 directs U.S. DOT to survey the use of CEs for transportation projects since 2005, solicit requests for new CEs, and then to propose new CEs based on the results of the solicitation. In September 2012, FHWA issued a request for information regarding the use of existing CEs and proposed new CEs. AASHTO responded to the U.S. DOT request for information and submitted suggested new CEs. We are awaiting publication of the proposed list of new CEs. ***AASHTO has recommended that the proposed list of new CEs be comprehensive, and apply to both highway and transit projects, and that the existing CE list be substantially expanded without imposing additional conditions such as documentation.***

Changes to Environmental Review Process for Complex Projects. MAP-21 included several provisions that are intended to streamline environmental reviews for complex projects - that is, projects requiring the preparation of an environmental impact statement (EIS) under NEPA. Overall, U.S. DOT is in the early stages of implementing these provisions. Our comments below address current and anticipated implementation activities related to several issues: (1) condensing the Final EIS and combining it with the Record of Decision (ROD); (2) modifying the environmental review process that was created in Section 6002 of SAFETEA-LU; and (3) providing technical assistance to complete EISs within four years.

Condensed Final EIS; Combining Final EIS and Record of Decision (ROD)

Section 1319 of MAP-21 seeks to streamline the preparation of an EIS in two ways. First, it allows a "condensed" format to be used for the Final EIS, if the comments on the Draft EIS are found to be "minor." With the condensed format, the Final EIS consists of errata pages to the Draft EIS, which avoids the need to publish an entirely new document. Second, it

directs U.S. DOT to issue the Final EIS and ROD as a single document, to the maximum extent practicable, unless the Final EIS makes "substantial changes" to the proposed action, or there are significant new circumstances or information.

Issuing the Final EIS and ROD as a single document can reduce the time needed to complete the NEPA process by several months. FHWA and FTA issued interim guidance in December 2012, which describes the circumstances under which a condensed format can be used and a Final EIS can be combined with the ROD. We were pleased that the guidance recognizes that the Final EIS and ROD "shall" be combined, unless a specific finding is made that it is "impracticable" to combine them. This interpretation is consistent with the intent of the statute. ***Overall, we are pleased with the direction that U.S DOT has taken in the Interim Guidance under Section 1319.***

Changes to the "Section 6002" Environmental Review Process

Section 6002 of SAFETEA-LU established a comprehensive process that U.S. DOT and other federal agencies must follow when an EIS is prepared for a transportation project. This process defined the roles of "lead agencies" and "participating agencies"; required the development of a coordination plan; required opportunities for public and agency input at key points; and created a process for resolving interagency disputes. In MAP-21, Congress modified this process to make it more flexible while also increasing accountability. Implementation of these changes will require an update to FHWA's guidance and also will require a rulemaking to modify FHWA and FTA's environmental review regulations. The legislation does not specifically set a deadline for a rulemaking.

To date, FHWA and FTA have not issued updated guidance or proposed regulations implementing the changes to the Section 6002 environmental review process. We remain hopeful that FHWA and FTA will implement these changes promptly - and in full accordance with the spirit of MAP-21. We also are urging U.S. DOT to ensure that the changes in MAP-21 do not inadvertently *increase* regulatory burdens. For example, lead agencies have the option - but not the requirement - to include a project schedule as part of a coordination plan in the Section 6002 process. Under SAFETEA LU, the schedule only required "consultation" with the participating agencies; MAP 21 requires the lead agencies to obtain "concurrence" of all participating agencies in the schedule, if the schedule is included as part of the coordination plan. ***AASHTO recommends that new guidance and/or rulemaking developed by U.S. DOT related to this process should clarify that a coordination plan is not required to include a schedule.***

Technical Assistance to Complete EIS in 4 Years

Section 1309 of MAP-21 allows U.S. DOT to provide technical assistance to assist in completing an EIS within 4 years after initiation of the NEPA process. This program is open to ongoing EISs that have been under way for at least two years; it requires adoption of a schedule that allows for completion within four years from initiation of the study.

This program does not require a rulemaking, so it can be implemented immediately. To date, FHWA has only issued Q&As that describe this program, but the Q&As do not provide guidance on how a State can apply to receive technical assistance under this program. We are not aware of any other actions taken by FHWA to solicit participation in this program. ***AASHTO encourages U.S. DOT to make information available to States about how to apply for technical assistance to expedite the completion of ongoing EISs.***

Using the Transportation Planning Process to Support NEPA Reviews. In addition to making changes to the NEPA process itself, MAP-21 also sought to expedite project delivery through changes in statewide and metropolitan transportation planning. The transportation planning process is led by States and metropolitan planning organizations (MPOs), and involves the development of long-range transportation plans and transportation improvement programs (TIPs) for States and metropolitan areas. Transportation planning typically occurs before the NEPA process begins. Several of the project delivery provisions in MAP-21 encourage efforts to use transportation planning to help improve and expedite the NEPA process. We expect that these provisions will result in one or more rulemakings, and potentially in new guidance as well. These rulemakings would likely focus on the transportation planning regulations (23 CFR 450), and may also involve changes to the environmental review regulations (23 CFR 771).

Linking Planning and NEPA

Section 1310 of MAP-21 provides new authority to expedite environmental reviews by allowing the NEPA process to adopt analyses and decisions made by States and MPOs during the transportation planning process. Prior to MAP-21, this authority existed in the transportation planning regulations (23 CFR Part 450). Section 1310 provides, for the first time, explicit statutory authority for this practice. It also includes a savings clause, which preserves the States' ability to link planning and NEPA under the existing procedures in 23 CFR Part 450. ***AASHTO welcomes the new authority provided in MAP-21, and also was pleased that Congress included the savings clause to preserve existing authority.***

FHWA has issued Q&A guidance on its website confirming that States can continue to follow the existing planning-NEPA linkage procedures in 23 CFR Part 450. AASHTO is pleased that FHWA has recognized that MAP 21 did not displace existing authority to link planning and NEPA.

We anticipate that FHWA and FTA will be conducting a rulemaking to update its transportation planning regulations based on the new planning-NEPA linkage provisions in Section 1310. FHWA and FTA have not announced a timetable for such a rulemaking. AASHTO intends to be actively involved in the rulemaking process when it occurs. From our perspective, the over-arching issue in the rulemaking process will be ensuring that any new regulations clearly preserve the flexibility that existed under pre-MAP-21 regulations. In short, we welcome the new authority provided in Section 1310 of MAP-21, but also believe the savings clause in that provision is critical to ensuring that Section 1310 does not have the unintended effect of reducing flexibility that existed under pre-MAP-21 procedures.

Programmatic Mitigation Plans.

Section 1311 of MAP-21 creates a new 23 USC Section 169, which allows States and MPOs to develop "programmatic mitigation plans" as part of the statewide or metropolitan transportation planning process. A programmatic mitigation plan "may be developed on a regional, ecosystem, watershed, or statewide scale" and "may encompass multiple environmental resources within a defined geographic area or may focus on a specific resource, such as aquatic resources, parkland, or wildlife habitat." While the recommendations in a programmatic mitigation plan are not binding, the statute does confirm that a Federal agency may consider those recommendations when determining appropriate mitigation for a project as part of the NEPA process.

While Section 1310 does not specifically require a rulemaking, it involves an activity that would be carried out as part of statewide and metropolitan planning. Therefore, implementation of this provision could involve amendments to the transportation planning regulations in 23 CFR Part 450. Implementation also could involve issuance of guidance or other informational materials. To date, FHWA has issued informal Q&A guidance on its website, but no other implementation steps have been taken. AASHTO recommends that U.S. DOT make implementation of this provision a priority. AASHTO also encourages U.S. DOT to reach out to State DOTs, transit agencies, MPOs, and local governments for input during the development of any proposed regulations or guidance regarding programmatic mitigation plans.

In addition, while we welcome this new authority, we also note that Section 1310 does not actually require environmental agencies to consider programmatic mitigation plans when making permitting decisions. As a result, environmental agencies can completely disregard the recommendations in the programmatic mitigation plans. We encourage the committee to monitor implementation of this provision, and if appropriate, consider legislation to ensure that programmatic mitigation plans - if developed - are actually considered and used during the permitting stage of project development.

Early Coordination.

Section 1320 of MAP-21 requires the USDOT and other Federal agencies, at the request of a State or local planning agency, to provide technical assistance on accomplishing early coordination activities. It also states that the U.S. DOT may, at the request of a State or local planning agency, enter into memoranda of agreement with the project sponsor, State, and local governments and to accomplish early coordination activities. These provisions have the potential to streamline environmental reviews through better coordination before the NEPA process begins. These provisions can be implemented right away, without the need for a rulemaking. However, to date, FHWA and FTA have not issued guidance or other informational materials to inform States and other potential applicants about how to seek assistance under this program. ***We encourage the Committee to monitor implementation of this program to ensure that technical assistance is made available and to encourage U.S. DOT to enter into early coordination MOUs when requested.***

Earlier Acquisition of Right-of-Way. Section 1302 amends 23 USC 108 to broaden States' ability to acquire right-of-way prior to completion of the NEPA process, using both Federal and non-Federal funds. AASHTO anticipates that this provision will require amendments to FHWA's right-of-way regulations in 23 CFR 710 and may also involve amendments to the environmental review regulations in 23 CF 771. FHWA has not yet announced a timetable for rulemakings to implement this provision. ***AASHTO encourages the Committee to monitor implementation of this provision to ensure that States have the ability to begin exercising the increased authority provide by MAP-21 for early acquisition of right-of-way.***

Contracting Flexibility. Section 1303 of MAP-21 directs USDOT to promulgate regulations as are necessary to allow States to enter into two-phased contracts that include preconstruction and construction services. ***There is no deadline for this rulemaking, but because this provision has the potential to yield substantial benefits in expediting project delivery, we urge the Committee to monitor and encourage implementation.***

MAP-21 Performance Measures

Section 1203 of MAP-21 defines national goals for the Federal-aid highway program. It also requires that performance measures be established through the federal rulemaking process and subsequent target setting and performance reporting by the State DOTs. These requirements of national-level performance measures will potentially transform the federal-aid highway program and provide a means to the most efficient investment of federal funds. This is done by refocusing on national transportation goals, increasing the accountability and transparency of the federal-aid highway program and improving project decision making through performance-based planning and programming.

The State DOTs, along with their Metropolitan Planning Organizations (MPOs) partners, have been engaged with FHWA and FTA for the past five years in discussing, promoting and testing performance measures and performance-based planning and programming. Much of the focus has been on the technical details addressing everything from data collection and analyses to program and project level performance assessment techniques. ***Given the vast amount of technical and collaborative work already undertaken with federal transportation agencies, AASHTO would ask that the results of these efforts be given substantial weight and consideration by U.S. DOT in implementing the performance measurement requirements of MAP-21.*** The practical advice and input from the State DOTs and their metropolitan, local and transit partners into the performance measure process should be given appropriate weight. As owners, builders, operators and managers of the nation's highways, roads and transit systems, State DOTs, transit agencies, metropolitan and local agencies have the ultimate responsibility to invest in ways to deliver on the performance expectations of their customers who use the system.

State DOTs have a strong history of developing and using performance measures within their organizations to report to the public, improve operations, and plan better projects. For the last decade, many State DOTs have implemented comprehensive and robust performance management systems to balance investment decisions against resource limitations. States such as Michigan, Colorado, North Carolina, Utah, Minnesota, and Maryland have created programs to manage their physical assets and focus on the principles of transportation asset management and not a worst-first approach. Other states such as Missouri, Washington State, and Virginia have well-known

performance management programs that go well beyond physical assets. Missouri's *Tracker Program* is a tool to assess how well Missouri DOT delivers services and products to its customers. Washington State's *Gray Notebook* is the Washington State DOT's quarterly accountability report which has been in existence since 2001. And, Virginia DOT helped to pioneer the transportation dashboard concept.

Most recently, Florida DOT published its 2013 MAP-21 Performance Report based upon the recommended AASHTO performance measures. This clearly demonstrates that State DOTs are more than capable of reporting on national level performance measures. More information on the Florida DOT report is available here: http://www.dot.state.fl.us/planning.

Performance Measure Implementation

As we embark on this journey together to develop national performance measures and implement the requirements of MAP-21, it is imperative that the process be viewed as fair, rational, achievable, and most of all – based upon the years and years of work already completed. The performance focus must evolve over time with increasing sophistication and continuous improvements along the way.

The requirements for the development of, setting targets to, and reporting on national-level performance measures will take a number of years to implement. The two years of MAP-21 is not sufficient to accomplish all three aspects of the performance measure process. ***AASHTO recommends no additional requirements be included in the next authorization bill related to performance measures until such time as the full extent of the MAP-21 requirements are understood and implemented over the next 2 to 5 years.***

There are currently three major areas that AASHTO is addressing with regard to implementing the requirements of MAP-21: Development of National Level Performance Measures, Target Setting, and Transportation Asset Management.

Development of National Level Performance Measures

AASHTO worked with a broad range of its members to develop a credible set of national-level performance measures. In developing the recommended list of national-level performance measures, the group was guided by six overarching principles on how national performance measures should be developed and implemented. These six principles are as follows:

1. **There is a Difference**—National-level performance measures are not necessarily the same performance measures State DOTs will use for planning and programming of transportation projects and funding.
2. **Specificity and Simplicity**—National-level performance measures should follow the SMART and KISS principles:
   - **SMART**—Specific, Measurable, Attainable, Realistic, Timely
   - **KISS**—Keep it Short and Simple
3. **Possession is 9/10ths of the Law**—National-level performance measures should focus on areas and assets that States DOTs have control over.

4. **Reduce and Re-use**—The initial set of national-level performance measures should build upon existing performance measures, management practices, data sets and reporting processes.
5. **Ever Forward**—National-level measures should be forward thinking to allow continued improvement over time.
6. **Communicate, Communicate, Communicate**—Messaging the impact and meaning of the national-level measures to the public and other audiences is vital to the success of this initiative.

The following 15 national-level performance measures grouped into the six performance measure areas identified within MAP-21 have been recommended by AASHTO:

Safety

- **Number of Fatalities**—Five-year moving average of the count of the number of fatalities on all public roads for a calendar year.
- **Fatality Rate**—Five-year moving average of the Number of Fatalities divided by the Vehicle Miles Traveled (VMT) for a calendar year.
- **Number of Serious Injuries**—Five-year moving average of the count of the number of serious injuries on all public roads for a calendar year.
- **Serious Injury Rate**—Five-year moving average of the Number of Serious Injuries divided by the Vehicle Miles Traveled (VMT) for a calendar year.

Pavement Condition

- **Interstate Pavement in Good, Fair and Poor Condition based on the International Roughness Index (IRI)**—Percentage of 0.1 mile segments of Interstate pavement mileage in good, fair and poor condition based on the following criteria: good if IRI<95, fair if IRI is between 95 and 170, and poor if IRI is greater than 170.
- **Non-Interstate NHS Pavement in Good, Fair and Poor Condition based on the International Roughness Index (IRI)**—Percentage of .1 mile segments of non-Interstate NHS pavement mileage in good, fair and poor condition based on the following criteria: good if IRI<95, fair if IRI is between 95 and 170, and poor if IRI is greater than 170.
- **Pavement Structural Health Index**—Percentage of pavement which meet minimum criteria for pavement faulting, rutting and cracking.

Bridges

- **Percent of Deck Area on Structurally Deficient Bridges**—NHS bridge deck area on structurally deficient bridges as a percentage of total NHS bridge deck area.
- **NHS Bridges in Good, Fair and Poor Condition based on Deck Area**—Percentage of National Highway System bridges in good, fair and poor condition, weighted by deck area.

Freight

- **Annual Hours of Truck Delay (AHTD)**—Travel time above the congestion threshold in units of vehicle-hours for trucks on the Interstate Highway System.
- **Truck Reliability Index (RI_{80})**—The RI is defined as the ratio of the total truck travel time needed to ensure on-time arrival to the agency-determined threshold travel time (e.g., observed travel time or preferred travel time) on the Interstate Highway System.

System Performance

- **Annual Hours of Delay (AHD)**—Travel time above a congestion threshold (defined by State DOTs and MPOs) in units of vehicle -hours of delay on Interstate and NHS corridors.
- **Reliability Index (RI_{80})**—The Reliability Index is defined as the ratio of the 80th percentile travel time to the agency-determined threshold travel time.

Congestion Mitigation and Air Quality (CMAQ)

- **Criteria Pollutant Emissions**—Daily kilograms of on-road, mobile source criteria air pollutants (VOC, NOx, PM, CO) reduced by the latest annual program of CMAQ projects.
- **Annual Hours of Delay (AHD)**-Travel time above a congestion threshold (defined by State DOTs and MPOs) in units of vehicle -hours of delay reduced by the latest annual program of CMAQ projects.

MAP-21 is specific in limiting system performance measures to Interstate and NHS roadways. AASHTO believes that MAP-21 also limits CMAQ performance measures to on-road mobile source emissions and congestion as related to projects utilizing CMAQ funds. Thus CMAQ-related congestion measures would not be applicable to the entire surface transportation systems. ***AASHTO urges the Committee to ensure that the use of these performance measures is not seen as an opportunity to introduce additional performance measures that are not related to the systems that State DOTs, local governments and transit agencies own, operate, and maintain.***

Target Setting

MAP-21 clearly recognizes that States DOTs are solely responsible for identifying performance targets for each of the national-level performance measures identified in the federal rulemaking. We believe that MAP-21 provides for the following as related to setting performance targets:

- A set of standard, consistent national performance measures established by U.S. DOT in collaboration with the State DOTs. The State DOTs then would have the flexibility to establish the target values for those measures. The term "consistent" applies to the performance measures, data methodologies (collection, processing and analysis), and performance reporting processes, but not target setting. Therefore, we believe that

Congress did not intend for performance targets to be consistent across state boundaries – rather the performance targets should be geared to specific local conditions and needs and set at the discretion of individual State DOTs and MPOs.

- States must submit biennial reports on progress toward target achievement for each national measure.
- Regarding the Highway Safety Improvement Program, States that have not made significant progress towards meeting established targets will face reductions in funding flexibility and additional reporting requirements.
- Regarding the National Highway Performance Program (NHPP), States that do not make significant progress towards meeting their established targets for asset condition or performance will be required to report actions that they will undertake to achieve the targets.

AASHTO recommends the following with regard to setting performance targets:

- ***State DOTs be given maximum flexibility in setting performance targets.*** Every state and municipality faces different constraints and opportunities affecting their transportation system. Funding levels and sources vary, as do environmental conditions, population growth trends, and legislative and gubernatorial mandates and priorities. Flexibility in target setting allows states and municipalities to face the realities of their unique situations. Furthermore, accountability should be based on what states can accomplish with their shares of federal funding.
- ***States DOTs should be encouraged to adopt performance targets that are attainable and realistic.*** These targets should be periodically reevaluated and adjusted to reflect risks, revenue expectations, and strategic priorities. In addition, the State DOTs agree that ***consistent data collection and analysis methods are essential to ensure that national-level measures and reporting use comparable data.***
- The establishment of performance targets can provide a focal point for action and a basis for accountability. However, it is important to recognize that for several of the national-level performance measures, State DOTs have relatively limited control over outcomes. There are many externalities that could affect a State DOT attaining certain performance targets from economic to social forces. For example, the effect of background changes in traffic related to economic conditions can overwhelm any deliberate actions on the part of a state to improve safety or reduce traffic delay. Generally speaking, State DOTs have more control over achieving targets related to asset condition and less control over performance measures associated with safety and system performance. ***AASHTO recommends that rules and guidance to implement MAP 21's performance provisions reflect this reality.***

Transportation Asset Management

While MAP-21 establishes national-level performance measures, the use of performance measures is part of a broader context of performance management that includes an on-going system of establishing strategic goals, objectives, and performance measures for an organization, monitoring progress on achieving the goals and objectives through target setting and making decisions based on performance data to ensure achieving the goals and

objectives. Transportation asset management (TAM) is one of the most advanced examples of the application of performance management principles in the transportation industry. At the most basic level, TAM applies performance principles for the long-term cost-effective maintenance, preservation, rehabilitation, and reconstruction of the physical assets. At its fullest, TAM applies performance management principles to the long-term cost effective preservation of physical assets to enhance their value, preserve, renew, and enhance them for the lowest reasonable lifecycle cost so they provide the needed level of service to meet mobility, safety, environmental and economic objectives.

Asset Management Approach

Much of the initial work on defining the core principles of what is now called performance management grew out of AASHTO and FHWA efforts to promote a strategic approach to TAM. The analytic tools, data, and experience in applying performance management principles are more advanced in asset management than in many other aspects of transportation. TAM takes a strategic approach to allocating scare resources in order to better management the physical condition of transportation assets. The strategic approach is not based solely upon condition, but incorporates other aspects including risk, utilization, etc. Thus, decisions about what type of treatments to make to bridges in need of repair or which roadways to reconstruct because the pavement is in poor condition is not based solely upon the condition of those assets (this is commonly called a *worst-first approach*) but rather includes other data points such as traffic volume over a bridge or section of road or risk that a catastrophic event may occur requiring that asset to be critical to the safe evacuation of an area.

MAP-21 establishes minimum condition levels for bridges and requires U.S. DOT to establish minimum condition levels for Interstate pavement condition. Both of these requirements may drive State DOTs to employ a worst-first approach rather than a TAM approach where State DOTs are required to spend money on certain assets regardless of their overall strategic importance to the functioning of a comprehensive transportation system. For example, setting minimum condition level for bridges would require a State DOT to improve the condition of bridges in poor condition regardless if they are not heavily utilized or pose some other risk to the agency. In this situation, it may be better for a State DOT to simply close a bridge and use the funding that would have been used to improve the under-utilized and low risk bridge and spend it on keeping other more strategically important bridges from getting to a poor condition rating. ***AASHTO recommends the establishment of an ongoing, comprehensive and inclusive dialogue about how to better integrate and balance an asset management approach with a minimum condition approach.***

Performance-based Planning

MAP-21 Sections 1201, 1202 and 1203 include new requirements for performance-based planning in both statewide planning and metropolitan planning. The principal change to the statewide planning statutes made by MAP-21 is the requirement for a performance-based approach to transportation decision-making. The changes require States to establish a statewide planning process that includes the establishment and use of a performance-based approach to

transportation decision-making. The performance-based process should support the seven national goal areas listed in MAP-21's performance management section. MAP-21 requires the statewide transportation plan include a description of the performance measures and performance targets used in assessing the performance of the transportation system. In addition, a system performance report evaluating the progress made towards reaching the targets must be developed. In addition, the statewide transportation improvement program (STIP) must include, to the maximum extent practicable, a discussion of the expected effect of the STIP toward achieving the performance targets that were established in the statewide plan.

State DOTs remain concerned with the increasing number of plans required under MAP-21. As State DOTs begin to implement the performance-based approach, ***AASHTO recommends that State DOTs be given maximum flexibility in developing interrelated plans such as the Long Range Plan, the Asset Management Plan, Financial Plans, Freight Plans and other plans regarding the sequence and timing of these multiple requirements. In developing guidance and eventual rules related to MAP-21, AASHTO recommends that U.S. DOT consider the relationships among the Long Range Plan, the Asset Management Plan, the Strategic Highway Safety Plan, and Statewide Transportation Improvement Program, and seek to minimize duplication, eliminate conflicts, and streamline planning and reporting requirements.***

Implementation of the new performance-based planning requirements will require amendments to the transportation planning regulations in 23 CFR Part 450. The regulations will need to be revised to address the procedural aspects of performance-based planning - for example, the process for adopting and updating performance targets, and for reporting on progress toward those targets. It is possible that these changes to the planning regulations will be developed as part of a more comprehensive rulemaking involving other changes to 23 CFR Part 450 (such as planning-NEPA linkage and programmatic mitigation plans, which are discussed above). Regardless of how the rulemaking process is structured, we expect that there will be significant rulemaking activity involving the transportation planning process. ***AASHTO encourages the Committee to monitor implementation of the full range of rulemaking activities related to the transportation planning, and to encourage the U.S. DOT to reach out to States, MPOs, and others during the development of proposed regulations.***

Safety

Mr. Chairman, there can be no higher priority for the State DOTs than safety. AASHTO has embraced the national goal of reducing crash-related fatalities by half over the next two decades. But, since even one death is one too many, AASHTO has also been a leader in advancing a Toward Zero Deaths (TZD), a strategy for a long-term highway safety national program in which we and some 30 other national organizations are reviewing the progress already made and have committed to continuously improving safety on our Nation's roadways.

Highway Safety Improvement Program

Federal guidance related to the Highway Safety Improvement Program (HSIP) has provided flexibility in the way states allocate HSIP funds, in the development of the Strategic Highway

Safety Plans (SHSPs), and when the SHSPs are updated. This allows states to ensure SHSPs are tools that can be used to plan according to their individual needs. Challenges to implementing HSIP efforts vary across the states; for example, though HSIP funds can be used on all public roads, state laws vary with respect to the ability to use federal funds off the State roadway system.

Safety Behavioral Programs.

The safety partnership with the Federal Highway Administration and the National Highway Traffic Safety Administration (NHTSA) has been positive over many years, and AASHTO appreciates the collaborative approach to implementing MAP-21. However, some of MAP 21's provisions related to the NHTSA behavioral programs are creating disincentives rather than the intended effect of incentives to address specific aspects such as distracted driving.

- MAP-21 identifies explicit required conditions that must be met in order to qualify for funding from six different national priority safety incentive grant programs under Section 405 of title 23. The statutory language is very specific, but NHTSA's interim guidance released in January, 2013, adds additional requirements. For example, in order to qualify for a graduated licensing incentive grant, states must, among other things, require driver education, have a nighttime restriction of 10 pm to 5 am in addition to the requirements under MAP-21. ***AASHTO recommends that NHTSA limit its guidance to the requirements in MAP 21 and not impose additional conditions.***

- NHTSA's timing for the state application process for behavioral safety grant programs – i.e., March 23rd for FY 13 funds and July 1st for FY 2014 funds – means that States have to demonstrate progress in meeting the fourteen annual safety performance measures required for the behavioral safety programs is being made over a three-month period. ***AASHTO recommends that U.S. DOT provide as much flexibility as possible in applying these performance requirements.***

- Conditions associated with the NHTSA grant programs, especially the State Graduated Driver Licensing Incentive Grant Program are so specific that no State currently will qualify for these funds. In addition, only a small number of States will meet the necessary conditions for the Distracted Driving Program. ***AASHTO recommends that U.S. DOT provide as much flexibility as possible to enable the State to have access to these incentive grant programs to address the safety issues the programs were intended to incentivize.***

- U.S. DOT's interim guidance to implement the behavioral safety grant programs was released on January 23, 2013. States had until March 23rd to submit applications for Section 402 and 405 safety grants for FY 2013 and will have until July 1st to submit applications for FY 2014 funding. Because more than half of the states have 60-90 day legislative sessions, in many cases the states legislatures have not had sufficient time to enact the necessary changes needed to enable the states to meet the legislative conditions to quality for the grants. ***We recommend that U.S. DOT provide as much flexibility as***

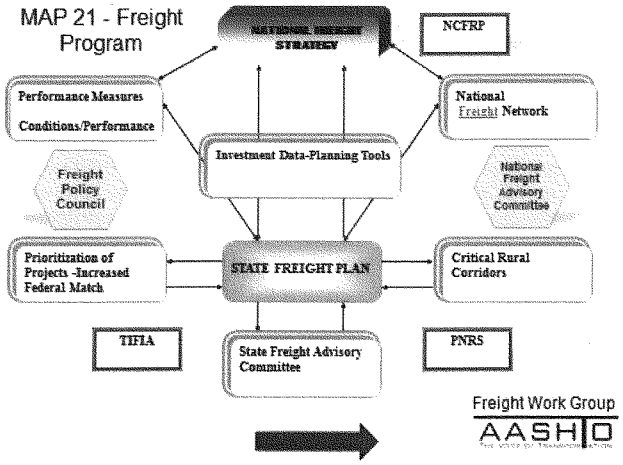
possible and additional time to enable required legislative requirements to be put in place.

MAP-21 Freight Programs

Background. Over 30 state DOTs now have a dedicated freight office or identified freight lead in their respective organizations. In recent years, many states have also developed freight strategies, plans, programs and projects and have incorporated freight considerations into their basic planning and project development processes. States have benefited from the strong partnership with the Federal Highway Administration (FHWA) Office of Freight Management and Operations, as well as good working relationships with the Federal Railroad Administration (FRA), the Maritime Administration (MARAD), Federal Motor Carrier Safety Administration (FMCSA), and other federal agencies with jurisdiction over key elements of the national freight transportation system.

AASHTO applauds this Committee and Congress for the significant emphasis given to freight in MAP-21. AASHTO is also pleased that the U.S. DOT has continued the spirit of partnership in the implementation of the freight provisions of MAP-21.

MAP-21 contains a number of freight provisions calling for: freight plans, freight advisory committees, freight performance measures, a national freight network, state critical freight corridors a freight condition and performance report, and a national freight strategy. The diagram below illustrates how these and other MAP-21 provisions are interrelated. The diagram is useful for seeing both the number of these provisions, and their complexity. It also makes the point that the freight provisions need to be managed as a whole at the U.S. DOT and within the state DOTs.



It is important to note that there is no specific funding provided for freight projects, planning, capacity building, or research. There is only the possibility of enhanced federal match for freight projects funded from a state's apportionment.

In addition to the legislated items the diagram shows two actions taken by the Secretary, the creation of an internal Freight Policy Council and external National Freight Advisory Committee, both of which are supported by AASHTO.

Implementation of MAP-21 Freight Provisions

State Freight Plans

- MAP-21 states that the Secretary shall encourage the development of freight plans and freight advisory committees; no requirement for States to develop plans and committees is mandated in the law. At minimum, the U.S. DOT should not discourage the development of State Freight Plans and State Freight Advisory Committees. Beyond the minimum, ***U.S. DOT should support development of such plans and councils with resources including data, planning tools, technical assistance, and active collaboration.***

- While the law identifies "minimum" contents of state freight plans, the encouragement is directed to all states and therefore the focus, emphasis, priorities, analysis, scope, and complexity of plans will and should vary among the states depending on their size, economies, transportation systems, and state-determined objectives. ***AASHTO recommends that initially the contents of the state freight plans—required or recommended be limited to the six items listed in MAP-21.*** These six items represent a broad and heavy responsibility. Adding to them with additional items or with additional requirements within the six topics in the law will discourage the development of state freight plans.

- As part of the interim process, ***AASHTO recommends that the U.S. DOT and AASHTO collaborate in a program that will encourage the development of state freight plans and, based on State-experience to-date and national objectives for freight transportation, provide insight into how state differences can be accommodated within general guidelines for plans.***

Freight Advisory Committees

MAP-21 instructs the Secretary to encourage states to form freight advisory committees. A number of State DOTs have established freight advisory committees or their equivalent principally for the purpose of involving the private sector in freight strategies, plans, programs, and projects. What is important is the function. A State freight advisory council may take many forms depending upon the given state. Varieties of institutional relationships exist between State DOTs and freight advisory committees, councils and advisory groups, and have generally proven effective.

Freight advisory committees are structured and work in a variety of ways. From groups that are organized and managed by the DOT, to external groups that actively champion freight and advise the DOT through development agencies, to the utilization of regional planning relationships, to transient committees and groups that are formed for special projects and freight planning activities then disbanded, to freight advisory committees that are established and required by State law.

- ***AASHTO recommends that the guidance and implementation on State Freight Advisory Councils reflect this diversity of institutional arrangements and range of membership that participate on these groups.*** Existing groups external to the agency, but functioning as a State Freight Advisory Council are not defined in the U.S. DOT's preliminary guidance.

- ***Further, AASHTO recommends that the States should have the discretion to create and disband advisory committees for specific freight projects and planning activities, rather than convene a standing advisory group when State activities and investments may not warrant the time investments of private sector advisors. Existing committees should have discretion of membership based on their experiences and proven approaches. The guidance should not specify membership beyond what is established in the law.***

Freight Performance Measures

One of the most important core elements of MAP-21 is the performance management system, which establishes a process for developing and applying performance measures in several areas, including freight movement on the Interstate system. Through a lengthy and rigorous process ***AASHTO developed and has recommended two freight performance measures – one to calculate delay and the other reliability.*** (See Performance discussion.) These measures are consistent with those recommended by AASHTO in the related area of system performance and will provide a feasible and useful tool for estimating national performance of the Interstate system for freight movement and for incorporation in a state DOT's overall performance management system. In addition to these measures (Section 1203) the Secretary is directed to prepare "Freight Transportation Conditions and Performance Reports" within two years of enactment of MAP-21 and then every two years thereafter. U.S. DOT has indicated that it will develop measures to gauge the performance of all modes of transportation.

Multimodal Freight Mechanisms

U.S. DOT is working to reduce the silos among the freight modes through mechanisms such as the Freight Policy Council and the National Freight Advisory Committee and through the Freight Transportation Conditions and Performance Reports and the National Freight Strategic Plan. It is important to develop a complete view of the freight transportation system(s) and to understand how highway, rail, maritime, and aviation perform and interact. However, significant elements of MAP-21 are limited to highways, including the primary freight network, the critical rural freight corridors, high priority projects eligible for enhanced federal match, and the Section 1203 freight performance measures.

U.S. DOT and the States have a good start on implementing the MAP-21 freight provisions. The revised freight plan guidance is expected soon as is the proposal for the primary freight network to be followed by guidance for the States on the designation of the critical rural freight corridors. ***Success with these and with the program in general will depend on maintaining a strong partnership between the States, U.S. DOT, and other major stakeholders and proceeding in a flexible fashion recognizing major differences among the States and the need to evolve the program based on experience.***

Buy America

MAP-21 includes a provision in Section 1518 that clarifies that the Buy America requirements in 23 USC 313

> "apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969…, regardless of the funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title."

First, Mr. Chairman, I want to be perfectly clear that AASHTO and the State DOTs support the Buy America Act and the philosophy behind it. We understand and support the economic benefits. However, we – and the utility companies -- have been caught off guard by the interpretation of this provision by U.S. DOT. U.S. DOT has concluded that this provision would include all agreements with utility companies, which are made with the States in order to reimburse the utilities for the costs associated with utility relocations or disturbances that may be required in preparation for highway or transit construction, reconstruction, or rehabilitation.

We believe that it is important to note that if a utility is unwilling or unable to certify compliance of their materials with the new Buy America provisions, a state DOT cannot just find an alternative vendor. In this case, a State DOT is left with the consequences resulting from a situation over which the state DOT has no control – i.e., the State DOT cannot force the utilities to comply. The result, which we are only beginning to see as the construction season is just beginning, is that projects are being put on hold, either indefinitely or until – and if -- the utilities are able to make adjustments to their material suppliers and supply chains and complete the documentation process to certify product content. Meanwhile, the economic, social and environmental benefits which would accrue from these highway and transit projects are not being realized.

Again, AASHTO fully supports Buy America but we believe that there is a need to step back and engage all parties – the U.S. DOT, State DOTs, transit operators, local governments and utilities – in a constructive dialogue to arrive at an approach that respects and promotes Buy America, is consistent with the intent of MAP-21, and is reasonable and practical, in both content and timeline, for the utility compliance.

Conclusion

Mr. Chairman, in conclusion, on behalf of the State DOTs, we applaud and thank you and your Committee for enacting the bipartisan MAP-21 legislation with its transformational policy and program reforms. We believe that MAP-21 will set a sound policy course for years to come. We also recognize that the process for implementing MAP-21 is still in progress and will extend even beyond the end of MAP-21's two-year authorization period. Nevertheless, we are pleased with U.S. DOT's commitment to collaboration with their State DOT partners and their aggressive stakeholder outreach and involvement process.

I thank you for the opportunity to testify and will be happy to answer any questions from the Committee.

Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Nick J. Rahall, II
Ranking Member

May 8, 2013

Christopher P. Bertram, Staff Director

James H. Zoia, Democrat Staff Director

Mr. Michael P. Lewis
Director
Rhode Island Department of Transportation
State Office Building
2 Capitol Hill
Providence, RI 02903-1124

Dear Mr. Lewis:

Thank you for your testimony before the Subcommittee on Highways and Transit on April 25, 2013, concerning "Implementing MAP-21: The State and Local Perspective." I am pleased you appeared and testified on behalf of the American Association of State Highway and Transportation Officials (AASHTO). The Subcommittee gained valuable insight from the information you provided at the hearing.

Enclosed please find additional questions for written responses for the record. The Subcommittee appreciates your written responses no later than May 22, 2013. Please provide an electronic version of your response via email to [redacted].

If you have any questions, please contact [redacted], of the Subcommittee at [redacted].

Sincerely,

Tom Petri
Chairman
Subcommittee on Highways and Transit

Enclosures

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on "Implementing MAP-21: The State and Local Perspective"
April 25, 2013
Questions for the Record

Questions from Rep. Steve Daines:

In Montana, we have the clean air that most other people wish for. In your written testimony, you mention two performance measures for the congestion mitigation and air quality (CMAQ) program, but the testimony does not discuss where these measures would apply.

In MAP-21, Congress specifies that the requirement to develop a CMAQ performance plan would apply only to metropolitan planning organizations serving transportation management areas with a population of one million or more that are in nonattainment and maintenance areas. That was a good decision by Congress. It would be a wasteful bureaucratic requirement if folks in Montana had to develop CMAQ performance plans.

I want to be sure that the Executive Branch, in implementing MAP-21, not undercut that decision by Congress by requiring rural areas and rural States like Montana to collect and report and measure traffic congestion and vehicle emissions for MAP-21 performance measurement requirements. Does AASHTO agree that, like CMAQ performance management plans, performance measurement requirements for CMAQ should be limited to those areas of one million or more in population that are nonattainment or maintenance areas?

Follow up question if the answer is not "yes, we agree":

I have downloaded from the AASHTO website, the AASHTO report on performance measures dated November 9, 2012. On pages 30 and 32, it says just what I asked, that AASHTO recommends to U.S. Department of Transportation that CMAQ measurement requirements should apply only to metropolitan planning organizations serving transportation management areas with a population of one million or more that are in nonattainment and maintenance areas. Can you please explain why AASHTO's position has changed?

Questions from Rep. Lou Barletta:

MAP-21 has a stated priority of worker safety, for which a percentage of the budget is solely dedicated. Given that bridge and highway construction companies must stretch the life of equipment as much as possible to remain competitive, it has become common industry practice to utilize a vehicle purchased at any given time with one purpose, and later significantly alter that truck to perform a very different job. This is essentially a cost-effective method of recycling fleet trucks. When this repurposing takes place, however, it may include the installation of a piece of equipment that alters the purpose of a vehicle. The most common alteration involving equipment added to vehicles for road construction is a crash attenuator cushion, which is required to protect the workers in the work zone. Many of these vehicles are altered without following the 49 CFR Part 567, which regulates the manufacturing and altering of commercial vehicles. Such vehicles are required to display an alterations sticker, which places the

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on "Implementing MAP-21: The State and Local Perspective"
April 25, 2013
Questions for the Record

responsibility and liability for any alterations or body build on the company or person that altered it. In most cases this practice is completely ignored.

For a truck purposely built to save lives, would it not help you to ensure the safety of both workers and motorists in your State and local community if this requirement were more strictly enforced?

Would business not likely self-regulate, eliminating unsafe builds and inexperienced builders if the requirement to take responsibility for such alterations was properly enforced?

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> **Answer:** As stated in the November 9, 2012 report, *AASHTO Standing Committee on Performance Management Task Force Findings on National-Level Performance Measures*, AASHTO finds that CMAQ-related measures and measurement requirements should apply only to metropolitan planning organizations (MPOs) serving transportation management areas (TMAs) with populations of one million or more that are nonattainment and maintenance areas. AASHTO's findings have not changed since that report.

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equipment as much as possible to remain competitive, it has become common industry practice to utilize a vehicle purchased at any given time with one purpose, and later significantly alter that truck to perform a very different job. This is essentially a cost-effective method of recycling fleet trucks. When this repurposing takes place, however, it may include the installation of a piece of equipment that alters the purpose of the vehicle. The most common alteration involving equipment added to vehicles for road construction is a crash attenuator cushion, which is required to protect the workers in the work zone. Many of these vehicles are altered without following the 49 CRR Part 567, which regulates the manufacturing and altering of commercial vehicles. Such vehicles are required to display an alterations sticker, which places the responsibility and liability for any alterations or body build on the company or person that altered it. In most cases this practice is completely ignored.

For a truck purposely built to save lives, would it not help you to ensure the safety of both workers and motorists in your State and local community if this requirement were more strictly enforced?

Would businesses not likely self-regulate, eliminating unsafe builds and inexperienced builders if the requirement to take responsibility for such alterations was properly enforced?

> **Answer:** Ensuring the safety of motorists, bicyclists, pedestrians and workers in construction zones is the highest priority for AASHTO and the State departments of transportation (DOTs). We believe that the State DOTs commitment to safety includes use of safe equipment, including vehicles, in construction zones.
>
> Regarding your questions concerning compliance with 49 CFR 567.7 REQUIREMENTS FOR PERSONS WHO ALTER CERTIFIED VEHICLES, we believe that those standards pertain to passenger vehicles, which are mostly cars and light trucks, based on the definition according to 49 USC § 33101 – Definitions: **(10)** "passenger motor vehicle" includes a multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.
>
> Crash attenuators are usually installed on medium and heavy trucks (>10,000 pounds gross vehicle weight), for which no rear bumper exists or is required (unless the owner installs one) because they are not passenger vehicles as defined above. . The installation of a crash attenuator on the rear of a medium or heavy truck would not be considered a modification to the bumper – because it is not a passenger vehicle, and it was not manufactured with a rear bumper. Consequently, 49 CFR 567.7does not apply to these large trucks. However, we also believe that the State DOTs and their construction contractors above all else are ensuring safe conditions for their workers and the travelling public so that any alterations undertaken by the State DOTs or their contractors are consistent with the highest safety standards.

NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

TESTIMONY OF
SENATOR BRUCE STARR
OREGON LEGISLATIVE ASSEMBLY
President-elect, National Conference of State Legislatures

ON BEHALF OF THE
NATIONAL CONFERENCE OF STATE LEGISLATURES

REGARDING
IMPLEMENTING MAP-21: THE STATE AND LOCAL PERSPECTIVE

BEFORE THE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRCUTRUE,
UNITED STATES HOUSE OF REPRESENTATIVES

APRIL 25, 2013

444 North Capitol Street, N.W., Suite 515, Washington, D.C. 20001
Tel: 202-624-5400 | Fax: 202-737-1069

Testimony of Senator Bruce Starr
April 25, 2013

Chairman Petri, Ranking Member DeFazio and distinguished members of the House Subcommittee on Highways and Transit, I am Bruce Starr, President-elect of the National Conference of State Legislatures (NCSL) and a member of the Oregon State Senate. I appear before you today on behalf of NCSL, a bi-partisan organization representing the 50 state legislatures and the legislatures of our nation's commonwealths, territories, possessions and the District of Columbia.

Mr. Chairman, I would like to take this opportunity to thank you and the committee for your leadership on the important issue of MAP-21 implementation, not just with today's hearing, but with the hearing last month featuring the key modal administrators from the U.S. Department of Transportation. I would also like to applaud Congress for its approval of the Moving Ahead for Progress in the 21st Century Act (MAP-21). The enactment of MAP-21 put an end to the numerous short-term extensions, which created significant uncertainty regarding the availability of funding for surface transportation. With MAP-21 facing reauthorization in 2014, this hearing is an important step to recognize and review its successes as well as those policy areas in need of an update, so that all parties, including state legislatures, can work together to ensure a safe and reliable surface transportation system throughout the country.

The federal government plays a vital role in supporting a national surface transportation system that facilitates interstate commerce, addresses fairly and equally the mobility needs of all Americans and meets our national defense needs. NCSL supports the continuation and preservation of a federal-aid surface transportation program that directs spending to national priorities while allowing for state and insular area flexibility in local and regional variations. The federal program should provide maximum flexibility in deciding how to generate and leverage transportation revenues and how to use state and federal dollars. The ability of states to maintain flexibility in decision making and comply with environmental and other mandates depends on regulatory flexibility as well as adequate and reliable funding.

Infrastructure Priorities

Before I begin a more specific discussion on the implementation of MAP-21, I would like to highlight for the committee that infrastructure is one of NCSL's Top Ten Priorities for the 113th Congress. NCSL maintains its strong support for infrastructure programs and will work to

ensure that all funding and financing options remain available to states to continue the economic benefits that infrastructure programs provide. As part of this priority, NCSL recently approved its Surface Transportation Federalism Policy Directive at our 2012 Legislative Summit. Passage of a policy directive requires 75 percent approval, ensuring that our Surface Transportation Federalism Policy Directive had wide bipartisan support. A copy of that policy directive and NCSL's Top Ten Priorities are included as an appendage to my testimony.

Performance Management

One of the largest transformations within MAP-21 was a shift to a more performance based program so as to ensure that investments are correctly targeted as well as increase the accountability and transparency of these investments.

NCSL encourages the federal government to establish a cooperative process through which performance measures can be crafted for gauging the success of programs. As the U.S. Department of Transportation (USDOT) continues this process of implementing the changes required in MAP-21, we urge the department both to recognize and build off the extensive work states have done with regard to performance management. We also urge the department and Congress to avoid creating additional reporting mandates or implementing lowest-common denominator performance measures that run counter to good asset management practices.

To highlight this concern, I would note that in 2011, Oregon was recognized by the Pew Center as one of five states with a performance management system that received top marks across six areas. The Oregon Department of Transportation (ODOT) uses performance management to report to the Oregon Legislative Assembly on its progress toward meeting key goals, as well as to make important decisions on allocation of resources. When measuring the health of Oregon's bridges, ODOT uses an indicator that encompasses a number of factors, including freight mobility needs, bridge safety, serviceability, and structural sufficiency. In conversations with ODOT, they have indicated that USDOT will likely use structural deficiency as the national bridge performance measure because it is a data point that is readily and widely available. Similarly, Oregon and a number of other states use pavement condition measures that measure the structural condition of pavement to determine whether action is warranted. Speaking on behalf of Oregon, I am concerned that U.S. DOT may decide to use the International

Roughness Index (IRI) data to measure pavement quality primarily because this data is already collected and standardized across states. However, IRI only measures a pavement's ride quality, but does not address the underlying structural condition.

These two examples highlight why the federal government should build upon the work states have done as well as demonstrate why it would be a mistake for the federal government to mandate the use of federal performance measures for making important investment decisions when other, more complete measures would provide more accurate information.

Program Consolidation

MAP-21 also featured a significant restructuring of transportation programs into a smaller set of core programs with the intention that the new structure would give states and other grantees additional flexibility to deliver projects more efficiently. NCSL supports this enhanced programming flexibility in order to meet a multitude of national goals and its continuation in any reauthorization effort.

This flexibility and consolidation is exemplified by the Transportation Alternatives Program. Under the program structure contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), local governments often submitted multiple grant applications for the same project under programs such as Transportation Enhancements, Recreational Trails, Safe Routes to School, and Transportation, Community and System Preservation. By combining all of these programs into a single Transportation Alternative Program, MAP-21 created the opportunity for local governments to submit a single application for funding. Oregon is putting this simplified program structure to use as we develop our next Statewide Transportation Improvement Program (STIP). Oregon is mirroring the consolidations made in MAP-21 and using the flexibility it provides to break down programmatic silos and create larger consolidated programs. This will allow Oregon to work with stakeholders and make it easier for users - particularly local governments - to acquire funding without having to submit multiple grant applications to multiple programs.

TIFIA

One program in particular from MAP-21 that I would like to discuss is the Transportation Infrastructure Financing and Innovation Act (TIFIA). As reported by the Government Accountability Office (GAO) in June 2012, demand for the program has been very high, with requests exceeding budgetary resources by a ratio of 10 to 1 since 2008.[i] With MAP-21 authorizing an expansion of TIFIA to $1.75 billion over two years, from only $122 million in FY 2012, states will be able to finance and complete major projects of national and regional significance. NCSL is very supportive of this kind of expansion of credit-based and loan guarantee programs to incentivize private sector investment.

In Oregon, we are working with Washington State and plan to seek a TIFIA loan of approximately $1 billion to help construct the I-5 Columbia River Crossing project, a bi-state multimodal megaproject that will address one of the worst bottlenecks on the nation's highway system. The favorable financing terms provided by a TIFIA loan are expected to allow tolls levied on bridge users to leverage about $200 million more than if the state were to bond against those tolls, making the project more financially feasible.

Project Streamlining

NCSL believes that the federal government has a role to play in ensuring that national environmental policy aligns with national transportation policy, while assuring efficient and cost-effective approaches to both goals. The findings of an August 2011 Congressional Research Service (CRS) report noted that major highway projects can take ten to 15 years to plan and build. NCSL favorably views efforts included in MAP-21 to streamline regulatory review processes so that construction projects can again be realized on-time and on-budget.[ii]

Some of the streamlining provisions included in MAP-21 allowed for significant changes to requirements around categorical exclusions (CE). However, it remains an open question whether states will see significant benefits from these changes as the Federal Highway Administration (FHWA) has yet to initiate a rulemaking on one potentially important area related to categorical exclusions. This rulemaking would both establish new categories of CEs and move some existing categories from a list that currently requires documentation to a list that does not require documentation. NCSL urges the committee to ensure that state legislatures are

consulted throughout the promulgation of this rule. Such consultation will lead to better results, while strengthening the federal, state, and local government partnership in implementing MAP-21. For example, in order for Oregon to begin taking advantage of this possible benefit by moving items to the "no documentation" list, FHWA would have to modify its regulations or interpretations of the regulations related to categorical exclusions including 23 CFR 771.117 (c), to reduce the need for documentation on projects that do not have significant environmental impacts.

National Highway and Transportation Safety Administration (NHTSA)

MAP-21 consolidated various grant programs from SAFETEA-LU, including impaired driving and motorcycle grants, along with the new graduated driver licenses and distracted driving grants, into the new Section 405 National Priority Safety program. While NCSL supports a continued federal role in helping to set national performance safety goals, NCSL encourages the expansion of safety programs to incorporate emerging safety issues, and opposes the use of federal sanctions or redirection penalties to enforce federal safety standards. I have heard concerns regarding some of these grants that the qualifications are so high it may be difficult for states to participate. Specifically, it may be difficult for some states to qualify for the new incentive grants for graduated driver licenses and occupant protection. Although as the rule making process has not been finalized, I hesitate to draw a final conclusion. NCSL would be happy to work with the committee in the future to help identify those states that would require legislative changes in order to qualify for these grants.

Engagement

The last point I'd like to address regarding the implementation of MAP-21 is the broad level of engagement NCSL has had with USDOT.

USDOT has developed comprehensive websites, for both FHWA and Federal Transit Administration (FTA), that provides detailed overviews and analysis of provisions contained in MAP-21. USDOT has also reached out to NCSL to provide informational updates regarding MAP-21 to state legislators. In August 2012, Deputy Secretary Porcari attended NCSL's Legislative Summit and spoke with our Transportation Committee about MAP-21. Additionally, Secretary LaHood attended NCSL's Legislative Leaders meeting last month where he joined

state legislators, including myself, in a robust discussion on a number of issues related to MAP-21 including a state's authority to toll interstate highways and the expansion of TIFIA. NCSL also recently partnered with the National Highway Traffic Safety Administration (NHTSA) for a webinar designed to help states understand how they could qualify for the numerous new highway safety incentive grants that were included as part of MAP-21. USDOT has also hosted a number of webinars and roundtables seeking input from various parties as USDOT seeks to implement MAP-21.

Beyond MAP-21

Finally, I'd like to quickly address what I believe to be the 800 pound gorilla in the room; how MAP-21, which expires in less than a year and half, can help lay the foundation for the next long-term surface transportation bill. NCSL believes the next reauthorization should provide for a more sustainable long-term funding mechanism for surface transportation. In Oregon, one option that we have begun to test is moving towards a system that requires user fees based not on the amount of gasoline they purchase but rather on the number of vehicle miles they travel, in order to ensure that those users receiving the greatest benefit from the federal highway system pay a proportional share of the costs. As state legislators have responsibility for state budgets, policy planning and oversight activities we stand ready to work with Congress as it develops the successor to MAP-21.

Mr. Chairman, I thank you for this opportunity to testify before the subcommittee. MAP-21 included numerous changes to our surface transportation programs and ensuring that these changes are implemented correctly will help to guarantee a safe and reliable surface transportation system throughout the country. I look forward to questions from members of the subcommittee.

Appendices:

NCSL Surface Transportation Federalism Policy Directive

NCSL State-Federal Priorities for the 113th Congress

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[i] Government Accountability Office. "Financing Program Could Benefit from Increased Performance Focus and Better Communication." June 21, 2012. Accessed from: http://www.gao.gov/products/GAO-12-641

[ii] Congressional research Service. "Accelerating Highway and Transit Project Delivery: Issues and Options for Congress." August 3, 2011. Accessed from : http:bit.ly/CRS080311

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Truth in Testimony Disclosure

Pursuant to clause 2(g)(5) of Rule XI of the Rules of the House of Representatives, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name:

Bruce Starr

(2) Other than yourself, name of entity you are representing:

National Conference of State Legislatures (NCSL)

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?

YES **If yes, please provide the information requested below and attach your curriculum vitae.**

NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:

Bruce Starr

Signature

4/22/2013

Date

NCSL President Elect
Senator Bruce Starr
Oregon

Capitol Office
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Senator Bruce Starr is in his third term representing Oregon's 15th Senate district. He has been actively involved in NCSL for more than a decade, including service on NCSL's 60-member Executive Committee. He has held numerous NCSL positions, starting with the Elections Reform Task Force formed in the wake of the 2000 Bush/Gore presidential election. He chaired the NCSL Transportation Committee and the Working Group on the Federal Surface Transportation Act Reauthorization. He also served on NCSL's Executive Committee's Working Group on Committee Structure and Policy Development Process; the Public Private Partnerships Transportation Working Group; and the Deficit Reduction Task Force.

Starr lives in Hillsboro, Ore., with his wife and their two children.

NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

SURFACE TRANSPORTATION FEDERALISM POLICY DIRECTIVE

NCSL Energy, Transportation and Agriculture Standing Committee

The National Conference of State Legislatures (NCSL) calls on Congress to work closely with states to develop a shared, long-term vision for financing and funding surface transportation systems that will enhance the nation's prosperity and the quality of life of all Americans.

The federal government plays a vital role in supporting a national surface transportation system that meets national defense needs, addresses fairly and equally the mobility needs of all Americans and facilitates interstate commerce. NCSL supports the continuation and preservation of a federal-aid surface transportation program. The federal program should direct spending to national priorities while allowing for state and insular area flexibility in local and regional variations. It is also essential that the federal-aid surface transportation program incorporate requirements and foster goals of other national policies that impact transportation decision-making.

Recent federal reauthorizations have recognized the unique contributions of each transportation mode to the productivity of the states and the nation, and to the ability of this

nation to compete globally in the emerging and existing international economies. These laws contemplate an integrated transportation system for the movement of both goods and people, with increased emphasis on adopting technologies that improve productivity. NCSL urges Congress to provide states enhanced programming flexibility to meet a multitude of national goals. States should have maximum flexibility in deciding how to generate and leverage transportation revenues and how to use state and federal dollars. The ability of states to maintain flexibility in decision making and comply with environmental and other mandates is dependent upon regulatory flexibility as well as adequate and reliable funding.

National Vision

The surface transportation system in the United States needs a new vision to guide it beyond the Interstate Highway era into the 21st century and the needs and challenges that lie ahead. Congress should look at surface transportation anew, authorizing a new program that better meets current and future needs for interstate mobility.

Congress must clearly articulate this new national vision for surface transportation. In doing so, Congress should consider the following as federal objectives:

- Interstate commerce and freight mobility,
- Interstate movement of people,
- National defense and homeland security,
- Safety,
- Environmental and air quality preservation and improvements,
- Research and innovation, and

- Economic productivity.

Congress should focus federal programs and funds on these interstate goals. In doing so, Congress should heed the Tenth Amendment and not intervene in or interfere with state-specific transportation priorities.

Funding and Financing

A federal trust fund, financed by user fees, should be retained as the primary method of funding federal-aid surface transportation programs. It must provide states a sustained, reliable source of transportation funding. It is critical that the Highway Trust Fund (HTF) retain spending firewalls that ensure that user fees will be deposited in the HTF to be used on surface transportation and will not be subject to non-transportation federal discretionary spending. NCSL supports states having maximum flexibility in the use of funds they receive from the HTF. Additional surface transportation financing and investment priorities include the following.

- User fees previously collected and diverted from the HTF must be reclaimed.
- Transit agencies, including commuter rail operations, should be exempt from federal fuel or energy taxes.
- Unobligated revenues should not be allowed to accumulate in the HTF. Moreover, federal highway spending should not be artificially reduced so that HTF revenues will accumulate unspent, thereby appearing to lower the federal deficit.
- Annual appropriations should equal authorized spending levels. Obligation ceilings should be set and maintained to reflect gross receipts, plus interest earned.

- Any federal user fee or container fee assessed for transportation security or infrastructure should provide for state flexibility in project selection and may include private sector input when programming projects funded by a security or infrastructure user fee or container fee.
- User fees designated for deposit in the HTF should be made available for flexible transportation usage by states. States should have flexibility in the use of funds for intercity passenger rail service, including Amtrak. The federal match should encourage state efforts in specific programs of national significance, but not discourage flexibility in state or insular area transference of categorical funds. Despite separate federal authorizing legislation for Amtrak, Congress must ensure that surface transportation authorizing legislation acknowledges and fully supports the role of passenger rail for ensuring interstate mobility. States that invest in or otherwise support passenger rail services to complement highway mobility options should be rewarded and encouraged.
- Any examination undertaken on the advisability and feasibility of establishing a federal capital budgeting program should preserve the ability of states to set surface transportation infrastructure priorities.
- Federal formulas designed to distribute discretionary highway funds should consider all state, insular area, and local efforts to fund highways and not be limited to fuel taxes raised.
- An increase in federal highway transportation funding is needed in the short-term to provide sufficient funding for the next authorization to meet the new vision and until a new, more stable long-term funding mechanism for surface transportation can be put

in place. Any fees or taxes imposed on carbon-based fuels used by vehicles should be recognized as a traditional source for transportation funding and should remain dedicated to the Highway Trust Fund. Congress must migrate the Highway Trust Fund from a gas tax to a new national funding stream. In order to accomplish this, Congress must examine innovative ways that capture all system users. Congress should encourage pilot programs in states for experimentation with approaches, methods and mechanisms. Any system should ensure the privacy of users.

- Apart from the existing Highway Trust Fund flows for transit, NCSL discourages expansion of federal-local funding streams without appropriate coordination with state legislatures as these complicate state-local relationships, financial arrangements, and state match expectations for transportation programs.
- Congress should continue to encourage and expand incentive-based programs, such as the Urban Partnerships program, to spur local and regional transportation innovation in full coordination with state authorities and to promote the use of tolling, congestion pricing, public transit, telecommuting, real-time traffic and other advanced technologies (also known as intelligent transportation systems), and other strategies in a comprehensive approach to achieve interstate mobility goals through urban congestion reduction.
- All funding and financing options must be available to state legislatures for state and federal-aid programs. All current federal restrictions on states' authority to toll should be removed so that states can optimize resources for capacity expansion, operations and maintenance while ensuring free flow of goods and people. Tolling, value-pricing

and public-private partnerships (PPPs) should remain state provinces and are not appropriate federal funding and financing mechanisms.

- Federal guidelines should be designed to accommodate private sector support. The level of private sector participation is best determined by state and local authorities, and private participation should not be a prerequisite for receiving federal funds. Statutory or regulatory barriers to state and locally-granted revenues should be removed. States should continue to have flexibility in creating legislative and programmatic frameworks for public-private partnerships (PPPs), and full authority to select and engage in PPP projects.
- Congress should not mandate or prescribe state use of toll revenues or tolling mechanisms, though Congress may seek to incentivize states to avoid redirection of toll revenues to non-transportation uses.
- Congress should continue Transportation Infrastructure Finance and Innovation Act (TIFIA), Grant Anticipation Revenue Vehicles (GARVEE), private activity bond, and State Infrastructure Bank (SIB) programs. Congress should expand credit-based and loan guarantee programs to incentivize private sector investment—particularly for freight mobility by rail, highway and waterway—in projects sponsored by the public sector.
- Congressional earmarks on transportation spending or for transportation projects should represent additional funding, should be distributed from non-formula funds, and should not redirect base funding. Earmarks should fit within a national objective as defined in the surface transportation program's new vision and must appear in a state DOT's plan.

Technology

NCSL endorses the U.S. Department of Transportation's goal of deploying advanced technologies known as intelligent transportation systems for consumers of passenger and freight transportation across the nation. Intelligent Transportation Systems are advanced wireless technologies that maximize the safety, mobility and environmental performance of the surface transportation system. These services should be integrated, interoperable, intermodal and voluntary.

NCSL recognizes that the private sector and the federal government should lead in the development and bringing to market of reliable and affordable ITS. The federal government should also set national standards for original equipment manufacturers to install the necessary technology so that states can take full advantage of the efficiencies and safety benefits of intelligent transportation systems. Congress should require the Secretary of Transportation to initiate a rulemaking proceeding that new motor vehicles be equipped with platforms for interoperable systems that enable vehicle-to-vehicle and vehicle-to-roadside communications for the purposes of active safety and electronic tolling and tax collection and to provide a means of accelerating the deployment of this equipment in existing vehicles.

Congress should incentivize states to explore and deploy technology for intelligent infrastructure, making it a high priority and performance measurement benchmark in the restructured federal surface transportation program. Privacy protections must be developed and incorporated into all policies and practices governing use of intelligent transportation

systems and technologies. ITS should not be mandated except for legitimate governmental purposes. Any information collected with such technology should be governed by state laws.

The federal government should encourage states to cooperate with the private sector in the development of real-time traffic information systems.

Planning

Congress must work with state legislators to establish in the next authorization a robust and cooperative state-federal system to set system plans and priorities for federal investment. Transportation program plans developed by entities other than those created by the states must be coordinated with state legislatures to ensure that proposals fit into state programmatic and funding plans.

The federal government is uniquely situated to identify and collect data of importance to the development of, maintenance of, and planning for a national transportation system. Congress should incentivize states to share data with the federal government and not use mandates to elicit participation in data collection and analysis.

NCSL supports a negotiated rule-making led by U.S. Department of Transportation, or another collaborative process congressionally mandated and facilitated by the Transportation Research Board or American Association of State Highway and Transportation Officials (AASHTO), in which NCSL and state legislatures are fully represented to determine the necessary level of and standards for uniformity among states in data collection efforts.

Performance Measures

NCSL encourages the federal government to establish a cooperative process through which performance measures can be crafted for gauging the success of programs. Federal funding should not be directly linked to performance measures; instead, a pilot program should be established in which states can voluntarily participate to gain incentives such as additional funding or reduced regulatory burdens upon successful deployment and use of performance measures. Performance measures should be framed as goals for which states may determine the specific measures and benchmarks.

Federal monitoring and compliance standards should accurately reflect compliance effort and unique state circumstances.

Freight and Interstate Commerce

Ensuring the safe and timely movement of goods across the nation is an appropriate federal transportation priority. Robust state-federal consultation should evaluate freight flows and collaboratively plan the routes and development necessary to maintain and expand the highway freight corridors.

Rail capacity expansion should be coordinated with the states to ensure intermodal cooperation and maximum public benefit.

The federal government should incentivize states to explore methods of separating highway freight traffic from passenger traffic for the purposes of efficiently moving interstate commerce and public safety.

Federal engagement with, and investment through, the states to ensure effective and efficient movement of freight through ports or other commerce choke-points is appropriate.

Environmental Issues

The federal government has a role to play in ensuring that national environmental policy meshes with national transportation policy while assuring efficient and cost-effective approaches to both goals.

- Efforts to streamline regulatory review processes must continue so that construction projects can again be realized on-time and on-budget. Congress should allow and enhance states' programmatic permitting.
- Incentives to states to achieve environmental quality standards through transportation projects should replace prescriptive federal regulation and punitive funding actions.

Safety

NCSL supports a continued federal role in helping to set national performance and safety goals. Safety programs should be expanded to incorporate emerging safety issues while respecting state sovereignty.

Federal transportation safety programs should promote comprehensive safety programs in the states. NCSL opposes the use of federal sanctions or redirection penalties to enforce

federal safety standards. Federal mandates that are enforced through the use of "reprogramming" sanctions should be repealed. Any existing federal compliance standards should reflect overall state effort to promote safety.

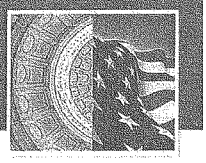
Research and Innovation

NCSL acknowledges that federal leadership and investment in transportation related research and innovation is needed and appropriate. In particular, NCSL supports federal research that promotes fuel efficiency, alternative fuels, high-mileage vehicles, safety and technology. Findings and best practices identified through federal research should be shared fully with states in an unbiased, nonpartisan and scientific manner.

Indian Programs

Transportation is an important service program that provides the infrastructure upon which American Indian tribes' initiatives can be achieved. NCSL recognizes the unique and extensive transportation funding needs on Indian lands. In an effort to ensure that these needs are adequately addressed, NCSL supports a direct planning relationship between Indian Nations and state departments of transportation. NCSL further supports the continuation of the Federal Lands Program and its work with Indian reservations.

NCSL
State-Federal Priorities
113th Congress



As the voice of state legislatures in Washington D.C., the National Conference of State Legislatures (NCSL) works to enhance the role of states and state legislatures in the federal system. These state federal activities are guided by NCSL's Executive Committee and 10 Standing Committees.

State Sovereignty/Restoring State Authority: NCSL works with Congress and the administration to ensure that states, particularly state legislatures, maintain their sovereignty, enjoy flexibility to manage state federal programs, and are not subjected to unfunded federal mandates or unwarranted federal preemption.

Marketplace Fairness Act: NCSL leads the effort to enact federal legislation that would allow states to require online and catalog companies that do not have physical presence in their state to collect and remit that state's sales taxes.

Federal Deficit Reduction: NCSL opposes shifting the cost of deficit reduction to the states and seeks to ensure that any reductions are coupled with flexibility for states to manage programs, seek relief from onerous maintenance of efforts requirements and unfunded mandates.

Affordable Care Act (ACA): NCSL monitors federal regulations and congressional legislation to ensure that states have a voice in the implementation of ACA.

Education: NCSL advocates for state flexibility to ensure that our children are college and career ready and given the skills to fill 21st Century jobs.

Infrastructure: NCSL maintains its strong support for infrastructure programs and will work to ensure that all funding and financing options remain available to states that continue the economic benefits infrastructure programs provide.

Unfunded Mandates: NCSL seeks to strengthen the federal Unfunded Mandates Reform Act (UMRA), prevent the enactment of new unfunded or underfunded federal mandates and eliminate or modify existing unfunded federal legislative and regulatory mandates.

National Energy Plan/Domestic Energy Production: NCSL continues to urge Congress and the administration to work cooperatively with state legislatures to develop, implement and maintain an expansive, integrated, environmentally-sensitive and cost-effective national energy policy.

U.S. Environmental Protection Agency (EPA) Regulations: NCSL ensures that state legislative concerns and perspectives are considered as regulations are proposed and promulgated and programs are implemented.

Farm Bill Reauthorization: NCSL continues to urge Congress to expeditiously reauthorize a Farm Bill that ensures the continuation of the crop insurance program and state flexibility in the Supplemental Nutrition Assistance Program (SNAP).

Military and Veterans: NCSL supports efforts to provide benefits and services to our military veterans and to find innovative ways to expand and grow job opportunities for our veterans.

NCSL's Washington D.C. Office

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Strong States, Strong Nation

2013 State Legislative Calendars

State	Convene	Adjourn
Alabama	Feb. 5	May 20
Alaska	Jan. 15	April 14
Arizona	Jan. 14	late April
Arkansas	Jan. 14	March 14
California	Dec. 3, 2012	Sept 13
Colorado	Jan. 9	May 8
Connecticut	Jan. 9	June 5
Delaware	Jan. 8	June 30
Florida	March 5	May 2
Georgia	Jan. 14	early April
Hawaii	Jan. 16	late April
Idaho	Jan. 7	early April
Illinois	Jan. 9	May 31
Indiana	Jan. 7	April 29
Iowa	Jan. 14	May 3
Kansas	Jan. 14	late May
Kentucky	Jan. 8	Mar 26
Louisiana	April 8	June 6
Maine	Dec. 5, 2012	June 19
Maryland	Jan. 9	April 8
Massachusetts	Jan. 2	*
Michigan	Jan. 9	*
Minnesota	Jan. 8	May 20
Mississippi	Jan. 8	April 7
Missouri	Jan. 9	May 30
Montana	Jan. 7	April 27
Nebraska	Jan. 9	early June
Nevada	Feb. 4	June 3
New Hampshire	Jan. 2	July 1
New Jersey	Jan. 8	*
New Mexico	Jan. 15	March 16
New York	Jan 9	*
North Carolina	Jan. 30	early July
North Dakota	Jan. 8	March 28
Ohio	Jan. 7	*
Oklahoma	Feb. 4	May 31
Oregon	Feb. 4	July 13
Pennsylvania	Jan. 1	*
Rhode Island	Jan. 1	late June
South Carolina	Jan. 8	June 6
South Dakota	Jan. 8	mid March
Tennessee	Jan. 8	mid May
Texas	Jan. 8	May 27
Utah	Jan. 28	March 14
Vermont	Jan. 9	mid May
Virginia	Jan. 9	Feb 23
Washington	Jan. 14	Apr 28
West Virginia	Feb. 13	Apr 13
Wisconsin	Jan. 7	*
Wyoming	Jan. 8	early March
D.C.	Jan. 2	*
American Samoa	Jan. 14	
Guam	Jan. 14	*
No. Marina Is.	Jan. 14	
Puerto Rico	Jan. 14	May 14
Virgin Islands	Jan. 14	*

* = Legislature meets throughout the year.

NCSL Leadership

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Speaker Terie Norelli, New Hampshire

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Senator Bruce Starr, Oregon

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Mission Statement

The National Conference of State Legislatures is a bipartisan organization founded to:

- Improve the quality and effectiveness of state legislatures;
- Promote policy innovation and communication among state legislatures;
- Ensure state legislatures a strong, cohesive voice in the federal system.

Strong States, Strong Nation

Testimony of Peter Varga,
Chief Executive Officer (CEO) of The Rapid, and
Vice Chair, American Public Transportation Association
before the
Highways and Transit Subcommittee
of the
House Transportation and Infrastructure Committee
April 25, 2013

Chairman Petri, Ranking Member DeFazio, and members of the Subcommittee, thank you for the opportunity to testify today on implementation of Moving Ahead for Progress in the 21st Century Act (MAP-21), which was enacted last July. I am the chief executive officer of The Rapid, which is the public transportation agency serving riders in and around Grand Rapids, Michigan. In the 10 years since we were established, ridership on The Rapid's expanding network of bus routes has more than doubled. Ours is but one of many examples of the growing nationwide demand for public transportation. Today I testify as a representative of public transportation systems across the country, as I am also the vice chair of the American Public Transportation Association (APTA).

APTA is a nonprofit international association of 1,500 public and private member organizations, including transit systems; commuter, intercity and high-speed rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations; and state departments of transportation. More than ninety percent of the people using public transportation in the U.S. and Canada are served by APTA member systems.

Implementation Principles

Recognizing the enormous task facing the Department of Transportation (DOT) and the Federal Transit Administration (FTA) as they implement the significant programmatic changes made in the two-year MAP-21 bill, APTA recommends some general principles to guide these efforts. For those changes to programs and policies that could significantly impact the public transportation industry for years to come, industry stakeholders must be afforded a genuine opportunity for meaningful input. In its pursuit of an aggressive timetable for implementing key program and policy priorities, the FTA should resist "one size fits all" approaches, and ensure that requirements placed on transit agencies are scalable based on agency size, resources, and operational complexity.

MAP-21 includes important programmatic changes long sought by the public transportation industry that we are eager to see fully implemented, including changes that will streamline the New Starts process, expedite environmental reviews, and ensure that public transportation has a seat at the table in regional planning decisions. A healthy opportunity for public involvement in developing these and other policy decisions will ultimately produce stronger, consensus-based rules that can be effectively implemented by the industry. These changes take place in an environment of constrained funding from all levels of government, so we ask that the FTA provide significant flexibility and discretion to transit agencies as they work to expand service to

meet ever-growing ridership demands, sustain public transportation's enviable safety record, and modernize our aging systems.

There is much to laud in the Department's MAP-21 outreach and implementation efforts to date. The FTA wisely included extensive early guidance in its FY 2013 apportionment notice. Departmental staff have held webinars and listening sessions and conducted several online national dialogues on major MAP-21 provisions. The FTA has actively participated in all of APTA's recent meetings to share information and solicit industry input on the new law. Moving forward, we strongly urge DOT to follow all public notice and comment procedures for rulemakings, circulars, and policy guidance to the maximum extent possible, to afford all stakeholders the opportunity to be heard.

We appreciate the Committee's attention at this time to MAP-21 implementation, yet we emphasize that in many respects, the process of issuing new regulations to implement the law is just beginning. In the less than 10 months since enactment, the FTA has issued few formal notices of proposed rulemaking, and our ability to comment on the details of how the law will be implemented is therefore limited. We recognize that the short timeline for implementing this two-year bill makes this task more difficult for the FTA; it also makes this Committee's review of the law prior to expiration more difficult too. APTA will remain an engaged and active partner throughout all implementation efforts.

Federal Safety Performance Authority

One of the major new programs in MAP-21 is the public transportation safety program, under which the FTA is required to create a national safety plan for all modes of public transportation and establish minimum safety performance standards for rolling stock not regulated by other federal agencies. The law directs the FTA to establish a safety certification program for federal and state employees who conduct safety reviews and for safety officers at transit systems. Transit systems are required to develop comprehensive safety plans that must contain specific elements and state safety oversight agencies that now oversee safety at transit systems that operate rail transit could continue to do so if they meet certain standards and are certified by the FTA.

While no formal guidance or proposed regulations have been issued to date, APTA's member organizations are committed to complying with the new program and hope to work with the FTA on the implementation of this program, which provides significant new regulatory authority to the FTA. The FTA leadership has made clear that this is a priority under the new law, and has also stated that they intend to develop a program that recognizes both risk and agency size.

APTA trusts that the FTA will work cooperatively with the industry in the development of the program, including the development of safety standards, certification of safety personnel, and the scope and detail of program requirements for rail, bus, and other safety programs. In particular, APTA has administered both rail and bus safety management audit programs for many years, and it would like to share its experience and expertise with the FTA as it implements the new law. Moreover, industry experience, expertise, and input should be considered in the development of standards and guidelines for both operating and equipment standards. APTA

developed the Passenger Rail Equipment Safety Standards (PRESS) program during the 1990's to fill a void in safety standards for commuter rail cars, and we urge the FTA to take advantage of APTA's experience in this regard. Finally, as mentioned earlier, we urge the FTA to develop safety programs that recognize the difference between agencies that operate large-scale, complex systems and smaller bus agencies with much smaller personnel and financial resources.

Transit Asset Management/SGR and Performance-Based Planning

Increasing the reliability and performance of our public transportation systems is one of APTA's most fundamental aims. Especially in our current funding climate, we recognize investment decisions must be systematic and data driven. Our progress in establishing standards for collecting sound, reliable data on asset conditions and performance predates MAP-21. Many of our agencies already collect regular condition and performance data to better focus scarce resources on coaxing greater reliability from aging assets. The FTA must encourage common asset management principles flexible enough to accommodate a broad range of transit asset management (TAM) plans, from sophisticated practices already functioning well at some agencies, to more general approaches suitable for smaller systems just initiating asset management plans.

Underpinning any TAM plan is the ultimate goal of bringing assets into a state of good repair (SGR). We commend the FTA for recognizing that transit systems can continue to be safe while working to bring their assets into a state of good repair. Further defining what constitutes a state of good repair is made more challenging by MAP-21's requirement that the term include objective standards for measuring the condition of capital assets. "Objective" must not be interpreted to require rigid or prescriptive standards, be they based on asset condition, age, performance, or reliability. Additionally, the broad applicability of the term "state of good repair" across several programs should weigh strongly in favor of a simple, flexible definition.

The MAP-21-mandated performance management goals around safety and state of good repair will be developed by transit agencies. Through the metropolitan planning process, these goals are harmonized with the regional plan; we support this process. Other important goals are defined at the regional level, such as environmental sustainability, land use, and mobility. These regional priorities, for which transit plays a key role, are equally important and should follow a similar performance management approach.

We are encouraged by FTA feedback from informal listening sessions and solicitation of stakeholder input via national dialogues on these topics, yet we still await critical rulemakings and guidance on transit asset management plans, the definition of state of good repair, and performance-based planning.

Capital Investment Grant Program

Building on a rulemaking already underway when MAP-21 was enacted, the FTA has already revised the New Starts program to reflect some of the law's changes here, including simplifying the project development process and revising rating and evaluation criteria. While moving quickly on these revisions, the FTA sought significant public input, including hosting a New

Starts listening session at APTA's Annual Meeting last October. We strongly support FTA's move towards simplified, more comprehensible measures. However, we remain concerned that some of the approaches for evaluating projects do not adequately account for the substantial differences in project length, scope, complexity, and investment size among the wide breadth of projects seeking grants. Some evaluation measures apply identical rating thresholds to both New Starts and Small Starts projects, holding smaller project sponsors to an inappropriately high standard. We urge the FTA to modify its policy guidance to recognize the legitimate differences between large and small projects in the areas of mobility improvement and land use.

There remain a number of significant New Start changes not yet implemented by the FTA, including the transition to MAP-21's simplified project development process, expanded eligibility for core capacity projects, a new congestion relief rating criterion, program of interrelated projects eligibility, and the process for expedited technical capacity review. We are eager for the rulemaking implementing these MAP-21 changes to get underway. Expanding eligibility to include core capacity projects, while also slightly reducing program funding, further strains the capacity of the New Starts program. To maintain stakeholders' confidence in the integrity of decisions made in this highly competitive discretionary program, the process behind departmental approvals and funding recommendations must be transparent.

Environmental Streamlining

Public transportation projects can and should be approved by FTA more quickly. Streamlining project approval and delivery processes will accelerate projects, thereby reducing costs and regulatory burdens and more efficiently using the limited resources of all levels of government and the private sector, all without compromising environmental safeguards. We applaud FTA's continued efforts to streamline the National Environmental Policy Act (NEPA) review process for federally funded transit and highway projects.

In addition to a recent final rule expanding categorical exclusions (CEs), in February the Department issued a notice of proposed rulemaking establishing CEs for certain projects within rail transit operational rights-of-way and projects receiving limited federal financial assistance. We would like to see a strong outreach program to ensure all involved understand the changes and that this rule is implemented consistently throughout the country.

Emergency Relief Program

Last fall, Hurricane Sandy impacted the lives, property, and transportation systems of millions of Americans along the East Coast. New York and New Jersey in particular – comprising our Nation's most transit-reliant region – suffered unprecedented damage to their subways, buses, and commuter rail systems. Congress responded by passing the Disaster Relief Appropriations Act, providing $10.9 billion for the transit Emergency Relief program newly established in MAP-21. FTA has allocated the initial $2 billion to transit properties in New York, New Jersey, Connecticut, Massachusetts, Pennsylvania, and Rhode Island for expenses incurred in preparing for Hurricane Sandy, reconstructing or replacing damaged equipment and facilities, and mitigating the impacts of any future natural disasters. The FTA and the Federal Emergency Management Agency (FEMA) also acted swiftly to complete the required Memorandum of

Agreement (MOA) that delineates the roles and responsibilities for each agency as this grant program is administered.

Assisting citizens, States, and localities in the wake of natural disasters is a fundamental role of the federal government. We are grateful to both Congress and Administration for providing and streamlining the federal assistance greatly needed by East Coast communities, riders, and transit systems as they continue to work to fully restore their systems and prepare for the inevitability of future storms.

Joint Development

One significant benefit of public transportation is its ability to catalyze community development. In proposed guidance issued last month, the FTA incorporated MAP-21 provisions and consolidated its earlier collection of guidance concerning joint development, which governs how federal transit grants and federally-funded real property may be used in coordinated development of public transportation projects with other, non-transit development of real property. In reviewing transit agencies' joint development decisions, FTA should respect local authorities' findings on whether a project offers a meaningful level of benefit. Nor is it appropriate for the agency to define the benefit of a project solely in terms of revenues accruing to the local transit agency. Instead, the FTA should enable localities to consider a project's cumulative, net benefit to public transportation and the community in the context of the joint development project as a whole.

The substantial local investment of time and resources necessary to reach a final development agreement are daunting in any project scenario. The departmental project review process here must provide early, concise, and timely input, consistently implemented across the federal regions. Transparent and early action by the FTA is a key component in attracting the private capital needed to make these projects successful.

One hurdle to effective joint development involves some transit agencies' inability to take advantage of value capture, that is, to secure a dedicated revenue stream from the increased property values attributable to a transit joint development project. In some jurisdictions, these property tax revenues are only available for use by municipal governments. We look forward to working with this Committee and with FTA to address this issue and ensure transit project sponsors appropriately share in the benefits their projects bring to communities.

CMAQ Funding for Operating Assistance

Flexing CMAQ (congestion mitigation and air quality improvement) funds to transit operating assistance has been an approved, well-established practice that provides essential funding for the first three years of new or expanded public transportation service. In an amendment to the CMAQ program, MAP-21 essentially codified this operating assistance eligibility. We are therefore concerned that, almost 10 months after passage of MAP-21, FTA has released no revised CMAQ guidance, creating considerable confusion. In some communities, FTA has refused to release pre-MAP-21 CMAQ funds for approved grants, asserting that all CMAQ funds – including funds authorized in legislation preceding MAP-21 – are now subject to rules DOT has

yet to make public. For transit agencies with approved CMAQ grants, the Department's suspension of operating assistance is untenable. APTA urges the Department to release these approved grants as quickly as possible.

Bus and Bus Facilities Program

For a great number of smaller cities, towns, and rural areas across the country, public transportation means bus service. While both the urban and rural formula programs did increase under MAP-21, bus and bus facilities program funding was cut by more than half and discretionary bus funding was eliminated. Where agencies operating predominately bus service had the opportunity to apply for grants to fund large but infrequent major capital purchases, under MAP-21, they are now struggling to pull together alternative sources. We understand the rationales for maximizing formula funding in MAP-21, and we hope to work with the Committee to find a more workable and better-funded solution going forward.

Conclusion

While not directly related to MAP-21 implementation efforts, the Department's progress in revamping its triennial review program also merits mention today. By assessing information before the on-site review and making other changes, the FTA has developed a more targeted and risk-based approach that is focused on preventing problems before they occur. We are encouraged by this new streamlined approach and the FTA's industry outreach on the process.

I conclude by reaffirming APTA's commitment to continue participating with the FTA and other transit stakeholders in meeting our shared aim of fulfilling the nation's growing demand for reliable and safe public transportation. Hallmarks of this implementation effort must include broad opportunities for public input as each MAP-21 policy and rulemaking is crafted, and flexible final requirements scalable to transit agencies of widely differing sizes and resources.

Thank you for the opportunity to testify today. I am happy to answer any questions you may have.

Testimony of Richard Perrin
Executive Director
Genesee Transportation Council
and
Vice President
Association of Metropolitan Planning Organizations

U.S. House of Representatives
Subcommittee on Highways and Transit

Hearing on:
"Implementing MAP-21: The State and Local Perspective"

April 25, 2013

Chairman Petri, Ranking Member DeFazio, and distinguished members of the House Highways and Transit Subcommittee, I want to thank you for the opportunity to provide input on the implementation of Moving Ahead for Progress in the 21st Century (MAP-21) on behalf of the Association of Metropolitan Planning Organizations (AMPO). My name is Richard Perrin and I am the Executive Director of the Genesee Transportation Council, the metropolitan planning organization (MPO) for the Genesee-Finger Lakes Region which includes the Greater Rochester, New York area, and the current Vice President of AMPO.

AMPO is a not-for profit membership organization established in 1994 to serve the needs and interests of the approximately 400 MPOs that currently exist nationwide. Metropolitan areas are the nation's economic engines. According to the Census Bureau more than 85 percent of Americans live in metropolitan areas. These regions drive the nation's economy and compete head-to-head with economies across the globe. Because the pricing of our goods and services in the international marketplace largely determines our ability to compete successfully, we must be able to transport these goods and services efficiently. The quality of metropolitan transportation infrastructure — highways, bridges, airports, transit systems, rail, and ports — is, therefore, a primary factor in American economic competitiveness.

Program Restructuring

MAP-21 represents a fundamental and needed shift in federal transportation policy and investment decision making. While the implementation of many of the elements contained in MAP-21 is being advanced through the required rulemaking processes, one of the primary reforms has already taken place: the restructuring of core highway formula programs.

As you are aware, MAP-21 places an increased emphasis on the National Highway System, including extending it to comprise all roadways classified as Principal Arterials and the bridges that carry these roadways. The Fiscal Year 2013 Federal-Aid Highway Program Apportionments (the first to be made under MAP-21) increase the amount of required federal investment on the National Highway System by 50 percent from the Revised Fiscal Year 2012 Apportionments for Core Federal-Aid Highway Programs pursuant to the Surface Transportation Extension Act of 2011, Part II, as amended.

National Highway System facilities carried approximately half of the vehicle miles traveled in 2011, the last year for which data is available through the Federal Highway Administration, Office of Highway Policy Information's Highway Statistics Series. Clearly, their importance is recognized by the agencies that own, maintain, and operate them – primarily state departments of transportation. In 2011, only five percent of bridges on the National Highway System were classified as Structurally Deficient compared to 13 percent of bridges carrying non-National Highway System roadways.

Given that the level of funding to the Federal-Aid Highway Program has remained flat from Fiscal Year 2012 to 2013 and that National Highway System facilities are by and large in better condition than other roadways and bridges, there should be a mechanism included in the successor to MAP-21 that provides for metropolitan areas to be able to make a direct request to FHWA for a streamlined transfer of National Highway Performance Program funds to other programs (namely, the Surface Transportation Program), provided that the performance requirements for the Interstate System and National Highway System bridges as contained in Section 1106(f) of MAP-21 have been met and can be maintained in the Metropolitan Planning Area of the MPO making the request.

While there is a clear national interest in a well-maintained, highly-functional National Highway System, there is also a clear national interest in ensuring that limited federal transportation funds can be invested where needed so that the surface transportation system as a whole performs at the optimal level, regardless of mode of transportation or ownership of infrastructure. The restructuring and consolidation of programs under MAP-21 was intended to provide greater flexibility. Careful attention should be paid to the actual and projected effects of this restructuring. Even a flawless National Highway System can only see its benefit maximized if persons and freight can make their way to it via the roads and bridges that connect to it, many of which are owned by local governments.

Performance Management

The transition to a performance and outcome-based planning and programming is probably the single most needed change that MAP-21 makes. The increase in accountability and transparency provided by the reporting of system performance by MPOs, states, and transit operators coupled with the investment decision making processes required to make progress toward associated goals should pay dividends in improving the level of trust among the public and businesses that the revenue they provide is being put to the highest and best use. Further, effectively communicating both achievements and additional needs may allow for a more constructive public discourse on additional funding for transportation and other infrastructure.

Most importantly, meeting the performance management requirements of MAP-21 will be dependent on MPOs and other agencies being able to conduct the goal setting and monitoring activities in a cost-effective manner given limited budgets and having sufficient revenues to implement the improvements necessary to attain the goals. One area that can and should be able to show immediate improvement is reduction in project delivery delays. Regulatory revisions that will realize improvement in this performance area should also result in reduced costs on a per project basis, resulting in savings that can be programmed to additional projects.

With that said, a federal approach to setting performance measures must not be prescriptive. AMPO recommends that the measures and targets not be overly rigid, but instead allow for selection in a manner that is responsive to statewide and regional priorities, recognizing that MPO measures must address the articulated national policy goals and be coordinated with

states and providers of public transportation to ensure consistency. Measures should be defined broadly at the national level, and then refined at the state and local levels.

MPOs have existing procedures for some measures and targets, particularly where the air quality conformity process is required, and these procedures should be incorporated into the federal process when applicable. State targets should account for the differences between urban and rural areas. Variations occur among different urban areas. A prescriptive approach for all urban areas in even a single state may not result in the desired benefits.

Certain measures and targets are not in the purview of the MPO and, to a significant degree, are the state departments of transportation's and transit operators' prerogatives. The final rule on this matter should clearly define how other agencies' goals, objectives, performance measures, and targets should be integrated into the metropolitan planning process. The amount of MPO involvement in the target setting process hinges upon how the U.S. Department of Transportation interprets "in coordination." MPOs best understand the nuances of their regions and can be valuable partners in the target setting process.

Freight

Recognition at the federal level of the need to more fully consider and integrate freight is welcomed. In addition to the employment generated in the planning, design, construction, and manufacturing industries through the maintenance and rebuilding of transportation infrastructure and vehicles, freight represents the most direct contribution of the transportation system to economic development. The competitiveness of American manufacturers (including agricultural operations and associated processing) is dependent on a safe, reliable, and efficient network for moving goods at all stages of production – raw materials, intermediate inputs, and finished products.

Metropolitan regions are complex. Accessibility to destinations, efficiency and reliability of travel for people and goods, and safety and security, together, underlie a sound economy and quality of life that are interconnected elements in all regions. AMPO supports the designation of a national freight network and the associated goals Congress included in MAP-21. The network

and goals will facilitate a national investment strategy in multimodal facilities critical to transnational and interregional movement of freight.

Freight planning is multifaceted, involving both public and private entities, using highways, railroads, airports, and waterways. The American freight network interconnects with and will benefit from greater emphasis in the MPO planning process. MPOs possess the technical capability to integrate freight movement with all other metropolitan travel. They provide the cooperative decision making forum that engages local officials, representatives of state departments of transportation, regional authorities, and private businesses. MPOs must play an important role where freight corridors traverse metropolitan areas.

Transit Representation

AMPO appreciates the transit community's concerns on the need for greater coordination between all transportation modes. Several MPOs nationwide administer transit programs, an even greater number conduct the transportation planning for transit systems, and AMPO agrees that MPOs should take into account the views of public transportation providers in planning and project selection decisions.

The relevant provisions of MAP-21 were written broadly to allow for maximum flexibility in implementation. We request that USDOT maintain the same intent when promulgating regulations or guidance. Granting maximum flexibility in identifying the type and quality of representation that determines a region's policy and funding priorities is crucial to ensuring that unintended consequences which could reduce the quality of transit representation that exists today are avoided to the maximum extent practicable.

It is important to note that transit providers may already serve on the Boards of their respective MPOs. Through state law and/or local jurisdictional agreement this may take a variety of forms, including current representation on MPOs by transit providers with independent boards of commissioners, representation by local elected officials who sit on the governing boards of both the MPO and the transit provider, and MPO board members whose jurisdictions are the primary owner and operator of local public transportation services.

Conclusion

We're all in this together. The impacts – positive and negative – of transportation do not begin nor end at the boundaries of metropolitan and rural areas or states. MPOs, federal agencies, state departments of transportation, public transportation operators, regional transportation planning organizations, and private freight-related interests (e.g., railroads, manufacturers, etc.) have a shared responsibility to the public and each other to work cooperatively in the interests of this great nation under the direction provided by Congress. MPOs stand ready to go above and beyond to ensure the continued economic and social vitality of all areas. Again, thank you for the opportunity to provide testimony on the vital work undertaken by this Subcommittee.

Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Nick J. Rahall, II
Ranking Member

May 8, 2013

Christopher P. Bertram, Staff Director

James H. Zoia, Democrat Staff Director

Mr. Richard Perrin, AICP
Executive Director
Genesee Transportation Council
50 W. Main St., 8112
Rochester, NY 14614

Dear Mr. Perrin:

Thank you for your testimony before the Subcommittee on Highways and Transit on April 25, 2013, concerning "Implementing MAP-21: The State and Local Perspective." I am pleased you appeared and testified on behalf of the Association of Metropolitan Planning Organizations. The Subcommittee gained valuable insight from the information you provided at the hearing.

Enclosed please find additional questions for written responses for the record. The Subcommittee appreciates your written responses no later than May 22, 2013. Please provide an electronic version of your response via email to [redacted].

If you have any questions, please contact [redacted] of the Subcommittee at [redacted].

Sincerely,

Tom Petri
Chairman
Subcommittee on Highways and Transit

Enclosures

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Hearing on "Implementing MAP-21: The State and Local Perspective"
April 25, 2013
Questions for the Record

Question from Rep. Lou Barletta:

There are cost effective technologies which can solve the problem of traffic congestion without requiring construction of additional lanes or capacity. As you and your colleagues are allocated funds under the Congestion Mitigation and Air Quality Improvement Program (CMAQ), how do you evaluate the most cost effective options to improve traffic flow and address bottlenecks?

May 21, 2013

The Honorable Lou Barletta
Transportation and Infrastructure Committee
2167 Rayburn HOB
Washington, DC 20515

Re: AMPO response to a question from Representative Lou Barletta from the April 25, 2013 hearing: Implementing MAP-21: The State and Local Perspective.

Dear Representative Barletta:

On behalf of the Association of Metropolitan Planning Organizations (AMPO), thank you for the opportunity to respond to your question regarding the Congestion Mitigation and Air Quality Improvement program (CMAQ) and how Metropolitan Planning Organizations (MPOs) evaluate cost effective options to improve traffic flow and address bottlenecks.

As you know, CMAQ funds are intended to advance activities that improve air quality and mitigate congestion. CMAQ funds may only be used for a transportation project or program in an area of a state that is or was designated as a non-attainment or maintenance area for ozone, carbon monoxide, or particulate matter, and are likely to contribute to the attainment or maintenance of the associated national ambient air quality standard(s). MAP-21 made several changes to the CMAQ program and MPOs are working with the U.S. Department of Transportation (USDOT) to implement and comply with those amendments. One change in the law is the requirement for the Secretary to evaluate projects and develop a table of CMAQ-eligible projects that illustrates their cost-effectiveness in mitigating congestion and improving air quality. AMPO stands ready and willing to work with USDOT on the development of this table. As practitioners of the metropolitan transportation planning process, our members may provide valuable input as to the projects and programs that address congestion and air quality.

In an effort to provide you with a comprehensive response to your question, AMPO surveyed its members. As you can see from the responses below, MPOs use a variety of methodologies and associated tools to evaluate the cost-effectiveness of projects and programs in determining how limited resources will be invested to reduce delay and emissions.

MetroPlan Orlando:

According to FHWA, more than 60 percent of congestion is caused not by a lack of capacity but by incidents: work zones, weather, crashes, and other events (both planned and unplanned). Data are available, mainly in the Intelligent Transportation Systems (ITS) and Transportation System Management and Operations (TSM&O) communities, that allow for the calculation of cost/benefit (B/C) ratios for a range of alternatives, including strategies, programs, and other non-capital projects, that can reduce congestion, improve safety, and decrease emissions. After a decision on which option to implement is made, data collection techniques using Bluetooth, INRIX, and Airsage technologies can be used for evaluating the project, program, or activity. MetroPlan Orlando currently uses Bluetooth data to evaluate our signal retiming program; and B/C ratios and Level of Service analyses are included in performance reporting. Information on this program is available on the MetroPlan Orlando website: MetroPlanOrlando.com. Another part of this process is to collect information from other areas that have deployed and evaluated TSM&O strategies to identify likely benefits relative to costs of these additional strategies.

Boston, MA – Boston Region MPO:

The Boston MPO evaluates problem locations to identify solutions that range from short-term/low-cost to long-term/capital-intensive. Short-term solutions include technology (e.g., signal retiming, coordination for arterials, etc.) or bottleneck merge/diverge/weave corrections through restriping/lane reallocation for freeways. These are programmed in the Transportation Improvement Program and may use CMAQ funds. Typically, MassDOT uses CMAQ funds to advance ITS applications for freeways. This includes the real-time driver information signs on freeways that are presently being installed.

Chicago, IL – Chicago Metropolitan Agency for Planning (CMAP)

At CMAP, each type of CMAQ project is ranked against its' peers. Projects of different types are not directly compared. A selection committee, following staff recommendation, determines the method for each type of project. Some projects do not lend themselves to uniform methods. These are evaluated individually. The primary items estimated for projects are speed improvements (for traffic flow improvements and signal interconnects) or trips eliminated/diverted (for bicycle, pedestrian, and transit improvements). Spreadsheets, Census data, and Geographic Information Systems software is used, where applicable, for each project.

Columbus, OH – Mid-America Regional Council (MARC):

MARC has a traffic signal synchronization program called Operation Green Light (OGL), which is a regional effort to improve traffic flow and reduce vehicle emissions. Travel improvements resulting from this project are identified by performing actual travel time and delay studies in the field before and after implementation. OGL has been very cost effective with B/C ratios for most of our retimed corridors ranging from 8:1 to above 60:1. Originally, OGL was funded as a CMAQ project, although ongoing operations have been funded with Surface Transportation Program.

Dallas-Fort Worth, TX – North Central Texas Council of Governments (NCTCOG):

NCTCOG reviews the characteristics of a corridor to determine the most appropriate operational as well as demand reduction strategies to implement. This type of analysis is completed as part of the Congestion Management Process that Transportation Management Areas are required to do. Even when adding capacity, we look at how we can improve traffic flow through the inclusion of operational and demand reduction strategies in concert with capacity expansion. In addition, through the Clean Air Act-required Conformity process we evaluate the cost effectiveness of these types of projects using emission reduction analysis methodologies.

Houston, TX – Houston-Galveston Area Council (H-GAC):

One of the most effective approaches for addressing congestion in the Houston-Galveston Area is the implementation of regional incident management programs. In many large urban areas, approximately 50 percent of all non-recurring congestion results from incidents such as stalls, crashes, and debris that slow or stop the flow of traffic. Well-crafted and executed incident management programs identify incidents and clear them in a swift manner thereby restoring the flow of traffic. Incident management has one of the highest benefit-cost ratios for improving traffic flow. A variety of B/C ratio analyses have been conducted on incident management programs, resulting in B/C ratios ranging from 10:1 to upwards of 30:1. A study being finalized in the Houston-Galveston Area utilizing the Freeway Service Patrol Evaluation (FSPE) model has shown a preliminary B/C ratio of 21:1 for the Houston area.

CMAQ, based on the purpose of the program – the improvement of air quality AND the mitigation of congestion, is perhaps the most appropriate funding source for this activity. However, while the law does not place any time restrictions for the use of CMAQ for incident management programs, FHWA, via its guidance document, has restricted the use of CMAQ funding to three years for program operations. This is despite the proven record of incident management programs throughout the country. It is strongly recommended that the three-year limitation on the use of CMAQ funds for operational activities should be eliminated for such a proven strategy.

Michigan MPOs:

Michigan has a set of standard spreadsheet files that calculate emissions reductions and B/C of CMAQ projects by project type so they can be compared. MPOs do not always select projects solely on spreadsheet outputs since intangible and qualitative factors (e.g., regional goals, local priorities, safety benefits, etc.) also need to be considered.

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Salt Lake City, UT – Wasatch Front Regional Council (WFRC):

MAP-21 emphasizes congestion impact considerations in conjunction with air quality benefits when awarding CMAQ funds. In many cases, these two evaluations illustrate the same benefit expressed in different units. In other words, reduced vehicle travel is synonymous with reduced vehicle emissions in most (but not all) cases. WFRC evaluates the reduced vehicle hours of operation and reduced emissions for each candidate project seeking CMAQ funds and uses a B/C comparison to select the best projects. This allows trip reduction strategies to be compared with operational improvement strategies using the same dimensions.

Southern New Jersey, NJ – South Jersey Transportation Planning Organization (SJTPO):

SJTPO uses a specialized spreadsheet program known as NJ-AQONE (New Jersey Air Quality Off-Network Estimator) to calculate the emissions reductions from any proposed CMAQ project. NJ-AQONE can compute the cost effectiveness of alternatives and SJTPO supplements this with off-model assessments that include total capital cost, expected service life, and discount rates.

If you would like further information regarding the MPO project evaluation process, please do not hesitate to contact me. Again, thank you for the question and the opportunity to respond.

Sincerely,

Richard Perrin, AICP
Vice-President

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WRITTEN STATEMENT FOR THE RECORD

TERRY BOBROWSKI, EXECUTIVE DIRECTOR
EAST TENNESSEE DEVELOPMENT DISTRICT

AND

TREASURER OF THE
NATIONAL ASSOCIATION OF DEVELOPMENT ORGANIZATIONS
(NADO)

BEFORE THE
HOUSE TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

WASHINGTON, DC
APRIL 25, 2013

Thank you, Chairman Petri, Ranking Member DeFazio and members of the Subcommittee for the opportunity to comment on the implementation of Moving Ahead for Progress in the 21st Century – or MAP-21. I would also like to recognize Congressman Duncan from my home state of Tennessee.

I am pleased to be joined today by many of our transportation partners representing state DOTs, transit agencies, metropolitan planning organizations and state legislatures.
My name is Terry Bobrowski. I am the Executive Director of the East Tennessee Development District, headquartered in Alcoa, Tennessee. I also serve as Treasurer of the National Association of Development Organizations (NADO).

NADO provides advocacy, education, networking and research services for the nation's 520 public-based regional development organizations. The association and its members promote regional strategies, partnerships and solutions to strengthen the economic competitiveness and quality of life across America's local communities. Each regional development organization is typically governed by a policy board of elected local government officials, along with representatives from the business and community sectors. The East Tennessee Development District (ETDD) is a voluntary association of municipal and county governments that are located in the mid-east region of Tennessee. The ETDD provides 16 counties and 56 municipalities with planning and development services while also serving as a forum for local governments to solve common problems associated with economic development and growth. This includes coordinating the activities and programs of two rural transportation planning organizations (RPO) covering areas outside of the Knoxville and Morristown Metropolitan Planning Organizations' (MPO) footprints. Our RPOs provide a forum for local consultation and ensure that rural local officials and other stakeholders have input in the state's transportation planning process.

NADO members worked closely with this Committee during the formulation of MAP-21. We again congratulate the Members of the Committee for your hard work and dedication in enacting this bi-partisan legislation. MAP-21 was truly transformational and made many

important improvements to the performance, project delivery, planning and accountability policies of the federal transportation program.

NADO remains committed to ensuring that this nation's transportation network adequately integrates the intermodal and multi-modal needs of America's communities, especially our nonmetropolitan and rural regions.

Nonmetropolitan and rural regions are focused and dependent on export agriculture, advanced manufacturing, value-added production, distribution of natural resources, alternative and renewable energy, and tourism. Many of these regions suffer from aging or inadequate infrastructure and are experiencing or preparing for dramatic shifts in their population demographics, such as community growth, aging populations or increased commuting distances and times for residents and workers.

As the Subcommittee continues to monitor the implementation of MAP-21, we would like to highlight the following three issues.

First, Mr. Chairman, NADO is very pleased with the provisions in MAP-21 related to Regional Transportation Planning Organizations (RTPOs). MAP-21, for the first time, provides federal recognition of RTPOs for areas outside the boundaries of Metropolitan Planning Organizations (MPOs). In addition, MAP-21 improves the participation of rural local elected officials in the statewide transportation planning process – strengthening our relationship with state DOTs.

Under MAP-21, States may establish and designate Regional Transportation Planning Organizations to increase the planning, cooperation and implementation of statewide long-range transportation plans along with the State Transportation Improvement Program. Currently, 30 states have established some type of RTPO. *As MAP-21 is implemented, NADO recommends the U.S. DOT not prescribe a single approach regarding the structure and duties of RTPOs and instead provide flexibility so the existing national network of regional*

transportation planning agencies does not have to undergo a complicated restructuring process.

Let me provide you with a brief example of why RTPOs can play a valuable role in the transportation arena. In 2005, the Tennessee Department of Transportation (TDOT), in partnership with the state's nine regional transportation development organizations, formed 12 new RTPOs to complement the 11 existing Metropolitan Planning Organizations (MPOs). The RTPOs are tasked with facilitating the input and involvement of rural elected and appointed officials in the state's planning and decision-making processes, as well as making recommendations to the state department of transportation on multi-modal transportation needs and short-term funding priorities. While TDOT is still ultimately responsible for statewide transportation planning, the RTPO process is intended to serve as the primary tool to increase local input and to pursue a more comprehensive approach to multi-modal planning in the state.

As TDOT was setting up its RTPOs and doing their initial outreach to local leaders, they were able to refine projects on the Statewide Transportation Improvement Program (STIP) to use federal and state funds more efficiently on the projects that were determined to be true local needs. The RTPOs have been successful in assisting TDOT in the prioritization of projects and also with meeting their federal requirements for rural local official consultation in the statewide planning process.

NADO also supports the provisions of MAP-21 that elevate the participation of rural and nonmetropolitan local officials in the statewide transportation planning process.
The formal involvement of rural and nonmetropolitan local officials in the transportation process provides a vital link to local economic and land development planning. This underlying principle recognizes that state transportation policies and plans have an enormous impact on rural communities, especially as they relate to local economic development, land and workforce development efforts.

It is no longer sufficient for transportation planning to be focused on 'project lists' and technical needs developed in a vacuum, without regard to the local and regional challenges that arise from their development.

While often viewed as only roads and bridges, the rural transportation system actually consists of a complex and growing network of local transit services, intermodal freight connectors, regional airports, short-line railroads and port terminals. Often times, local governments are the owners, operators or partners of these transportation assets and facilities. Therefore, there is an immediate and logical need for a higher level of cooperation between state and local officials to ensure that the nation's multimodal transportation system is integrated and connected in a seamless and efficient manner. Because of their responsibility for local transportation facilities and land development decisions, rural and nonmetropolitan local officials need to have a degree of active involvement in statewide planning. MAP-21 requires States to develop a consultative process with nonmetropolitan local officials that is separate and discrete from the public involvement process.

Additionally, MAP-21 allows the Secretary to comment on the nonmetropolitan local official consultation process developed by the States. *NADO members look forward to working with our state DOT partners to implement these provisions and recommends the U.S. DOT ensure the consultation process is collaborative and meaningful.*

A second issue NADO is closely watching during the implementation of MAP-21 relates to the use of performance measures.

The changes in MAP-21 related to the development of national performance measures, goals and targets will transform the way in which state DOTs, metropolitan and nonmetropolitan areas make investment decisions in the future. MAP-21 focuses on overall system performance rather than individual projects. Therefore, requiring the use of

performance measurement in several key areas will help lead the planning and investment process to be even more targeted and strategic given limited federal resources.
There are no specific roles for Regional Transportation Planning Organizations in the performance measurement process established in MAP-21. However, RTPOs could be valuable partners with the state DOTs in the development of statewide performance targets. RTPOs could assist in the identification of appropriate rural performance targets for the federally defined measures and could provide critical information in performance areas such as safety and infrastructure condition.

Additionally, the RTPO planning process may be of value to the states in communicating local needs and state investment priorities – thereby assisting states in meeting their established performance targets.
State DOTs have been actively engaged in the use of performance measures for some time and in many states, rural and nonmetropolitan planning organizations have been a part of this process.

For example, Virginia's statewide rural transportation goals include supporting economic vitality through industrial access, recreational travel, and intermodal connectivity; preserving the existing transportation system to benefit the movement of people and goods; and encouraging land development and transportation coordination, among other goals.

Individual regions in Virginia adopted additional goals specific to their transportation facilities and concerns. For instance, the Roanoke Valley-Alleghany Regional Commission's goals include accommodating bicycle and pedestrian traffic, which are beneficial to regional recreation and tourism for the area situated along the Blue Ridge Mountains. For the rural areas served by the Hampton Roads Planning District Commission, providing economic opportunity for all Virginians was important; the Hampton Roads region is home to a major deepwater port.

In addition, each rural region in Virginia analyzed the performance of the transportation system in its current condition. The analysis focused on identifying priority areas and recommendations to address deficiencies in performance for those facilities.

NADO is monitoring the new performance measurement process established through MAP-21 and the extent to which RTPOs are called upon to assist with the development of statewide performance targets.

And finally, a third issue we would like to highlight relates to the implementation of the freight provisions of MAP-21.

NADO members are very interested and engaged in the issue of freight and goods movement. One of the goals of the national freight policy in MAP-21 is to "strengthen the contribution of the national freight network to the economic competitiveness of the United States". While at times the national discussion of freight issues focuses on urban areas and freight bottlenecks, it is important to remember the vital role that rural and nonmetropolitan areas play in the movement of freight across the country.

To remain at the forefront globally, it is essential that the United States maintains and expands our capacity to aggregate, process and distribute our goods, commodities and services in a timely and seamless fashion. This isn't just domestically, but increasingly, globally.

As the nation pursues new approaches to value-added agriculture, energy production and distribution, advanced manufacturing and even tourism, it is critical that we retain highly efficient and cost-effective transportation connections to small towns and rural America. While there are specific roles for U.S. DOT and state DOTS regarding freight in MAP-21, regional planning partners like RTPOs can help to link freight planning with land and

economic development decisions. RTPOs and local officials can also help identify routes within rural regions that connect multi-modal freight facilities, agriculture production, natural resource extraction sites, manufacturing, and distribution centers.
MAP-21 requires the Secretary of Transportation to consult with state DOTs and other public and private stakeholders in the development of the national freight strategic plan. *NADO recommends U.S. DOT ensure the participation and input of rural and nonmetropolitan local officials when developing the national freight strategic plan.*

In addition, MAP-21 requires the Secretary – as part of the development of the National Freight Network -to identify a primary freight network and critical rural freight corridors. MAP-21 limits the National Freight Network to no more than 30,000 centerline miles. It is possible that this mileage limitation may prevent the inclusion of important urban and rural road miles as part of the network. *Therefore, as Congress looks to build upon the freight provisions of MAP-21 in future authorization legislation, NADO would ask the Committee to examine the limitation of 30,000 centerline miles on the National Freight Network in order to determine if the number of network miles should be expanded to adequately address all of the critical metropolitan and nonmetropolitan freight routes.*

RTPOs could play a supporting role in identifying the primary freight network and critical rural freight corridors. NADO members are ready to assist state DOTs with the development of their freight plans and the identification of locally significant freight facilities, major shippers, and locally important routes in rural regions.

In closing, Mr. Chairman, we support efforts to strengthen the coordination of federal surface transportation investments and plans more closely with regional and local community and economic development strategies, including those supported with federal money.

We want to ensure federal transportation policy takes into consideration the vital community and economic development contributions of rural-based industries and sectors to our nation's economic, energy and national security.

As I've mentioned, NADO members will continue to work with all of our transportation partners as we move forward with MAP-21 implementation and prepare for the reauthorization next year. All of us have the same goals – to improve the quality of the transportation system in this country and the quality of life for all Americans.
Thank you again, Mr. Chairman and members of the subcommittee, for the opportunity to appear before you today. I would be pleased to answer any questions.

Statement of

Edward D. Reiskin
Director of Transportation
San Francisco Municipal Transportation Agency

Before the Committee on Transportation and Infrastructure

Subcommittee on Highways and Transit

April 25, 2013

Mr. Chairman, Ranking Member DeFazio, and Members of the Committee:

Good morning and thank you for the opportunity to appear before you today to highlight the local perspective on experience and progress in implementing the Moving Ahead for Progress in the 21st Century Act, or MAP-21. This two-year reauthorization of federal transportation policy codifies the mutual goals that local and federal government share to enhance the safety of public transportation, strengthen our nation's transportation infrastructure and streamline the nation's transportation program.

I am Ed Reiskin, San Francisco's Transportation Director and head of the San Francisco Municipal Transportation Agency, the City's multimodal transportation agency. Previously I served as Director of the San Francisco's Department of Public Works, responsible for managing the city's right-of-way infrastructure. I also currently serve as the Vice President of the National Association of City Transportation Officials (NACTO), a coalition of U.S. cities working together to ensure that transportation infrastructure across all modes will better serve existing and growing populations in the nation's urban centers. Mobility, access, and innovation in our cities and metropolitan regions are the key to the nation's economic success and the fundamental reason that we must continue to build and strengthen the local-federal partnership that is embodied in MAP-21.

About the SFMTA

The SFMTA is unique as the mobility management agency for all modes: Public Transit, Traffic Engineering & Management, Parking, Bicycles, Pedestrians, and Taxis.

We have 5,000 Employees represented by 17 Labor Unions and are the planners, designers, builders, regulators, and operators of San Francisco's transportation system. As an agency that manages an integrated transportation system, the SFMTA is a microcosm of the mobility and growth challenges faced by transportation agencies and cities across this country.

In this capacity, we manage a wide range of transportation assets that enable San Francisco's 800,000 residents and its many workers and visitors to get where they need to go in the most densely populated city in the western United States. We are able to do so by managing a system that enables nearly half of our City's work trips being non-drive alone—34% commute by transit, 9% walk and 4% bicycle to work. As the 7th largest transit system in the nation, San Francisco Muni serves over 200 million riders annually via 890 bus and trolley coaches, 151 light rail vehicles and dozens of historic streetcars and cable cars running on 71.5 miles of track and 25 miles of overhead wires systems. And this all on a system that just celebrated its 100th Anniversary!

The SFMTA also manages 40 off-street parking garages and lots, 28,862 meters, 281,700 street signs and 1,184 traffic signals. San Francisco also now has 208 miles of bike paths, lanes, and routes and we will be rolling out our first bikeshare program this summer.

I list these extensive assets to emphasize the fact that it takes a lot of infrastructure to keep a city moving, regardless of how people may choose to get around. Keeping the city moving is what keeps the city and region's economy strong. We therefore cannot take transportation infrastructure for granted. It takes significant investment to keep the systems in our cities in a safe state of good repair. Local governments across California have been strong participants in this effort, many having passed local sales taxes and other measures to support infrastructure investment. These funds have been critical to leveraging the investment of federal dollars in cities throughout our state and the nation. It is a partnership that should be applauded and strengthened.

MAP-21 and the Federal Role in Metropolitan Transportation Investment

Cities and metropolitan areas are home to two of every three Americans, and are the engines of the United States economy and the global economy. The foundation that supports the United States economy is a network of urban roads, bridges, railroads, and transit systems largely built more than 50 years ago and in some cases more than 100 years ago. Many studies have found that this urban transportation infrastructure, which was once the envy of the world, is increasingly structurally deficient, functionally obsolete, and at or over capacity. The backlog of deferred maintenance is nearing a critical point where failure will require costly and disruptive shut-downs and potential injuries and losses of life.

While not perfect, MAP-21 and its successor will help cities begin to rebuild and modernize transportation infrastructure by providing certainty and funding for transportation projects with an emphasis on state of good repair needs. MAP-21 will also create hundreds of thousands of well-paying jobs in the engineering and construction sectors through these investments. Given the current state of the nation's economy, it is all the more important to note that investment in transportation infrastructure helps to secure our economic future while fueling the economy now – a true win-win.

MAP-21 Implementation

As implementation of MAP-21 progresses, we continue to follow the important rulemaking and guidance required by the Act particularly as it relates to safety, state of good repair, and core capacity. We applaud the leadership of Congress and the Administration in highlighting the critical need to bring the nation's aging transit assets into a state of good repair, especially in large urban areas....and to hold transit agencies accountable for implementing a more strategic approach to managing the lifecycle of our assets and by using a performance oriented approach to investment decision-making.

We know that we cannot replace all assets at the end of their useful life and we know there is a backlog of need. According to the Federal Transit Administration, the nation

faces a state of good repair backlog of almost $78 billion and an annual investment need of $14.4 billion to maintain systems state of good repair after the backlog is eliminated. As a point of reference, the total of all formula grant programs funded out the Mass Transit Account under MAP-21 is $8.6 billion in FY2014, so we have some work to do to identify and prioritize necessary funding.

San Francisco and State of Good Repair

To put this issue in a local context, San Francisco has developed a comprehensive Asset Inventory and state-of-good-repair analysis. The total value of SFMTA assets is $12.3 billion. To meet the full scheduled replacement need of these assets ($10.2B) and address the renewal backlog, we would need $510 million per year for the next 20 years. To address asset replacement need without funding the backlog, the need is $366 million per year. And, just to take care of the renewal of transit service dependent assets with a focus on transit service reliability, we have estimated a need of $250M per year for 20 years. San Francisco, which receives its federal formula funding through the Metropolitan Transportation Commission, the Bay Area's nine-county metropolitan planning organization, has received on average $75 million per year in transit formula funding.

While we applaud the emphasis that MAP-21 brings to these state-of-good-repair needs, it is clear that funding levels for these essential reinvestments in our nation's systems are not keeping pace as assets slide further into deteriorating condition and the backlog grows. We continue to focus our capital investments on safety first and will continue to do so pending an increase in funding. And as many other cities and regions are doing, we are contemplating the prospects of securing additional local revenues through ballot measures, but do not expect any such measures to be able to adequately fill the significant gap that we are facing.

Additional MAP-21 Observations

With regard to other key transit provisions, MAP-21 successfully continues the 5309 Capital Investment or New Starts program. While San Francisco received a long-awaited Full Funding Grant Agreement under the program last year, we support the

FTA's efforts to streamline this program so projects can progress more quickly through what is a very rigorous review process. Issues, however, remain for this important capital program.

As one of the few General Fund supported transportation programs, projects funded out of the New Starts program are vulnerable to General Fund cuts such as those implemented recently under sequestration. Major capital projects must have certainty and predictability of funding to be as cost-effective as possible. Delays in committed funding can result in costly financing in order to keep projects on schedule. We urge you to continue to work to find ways to secure guaranteed funding for major capital funding programs such as New Starts.

A second challenge to the capacity of the program is the inclusion of "core capacity" projects. The core capacity program was established to support existing fixed-guideway transit services. These core system investments will be as important to urban systems as strategic expansions that have been funded under New Starts. However, unless the over all funding level for the program grows to meet the need, the nation's cities will be faced with a tough challenge in how to invest to best meet demand in a zero-sum 5309 funding environment. For us in San Francisco, for example, we have significant existing needs to bring our current system into a state of good repair while at the same time we need to invest in systems that will accommodate the additional 100,000 residents expected to come to our city in the next generation. We do not have the luxury of choosing between maintaining our existing infrastructure and building new; we have to do both if we are to keep the city moving and the economy healthy.

Finally, one additional aspect of MAP-21 that deserves acknowledgement is the public transportation safety program. The act provides FTA significant new tools to strengthen the safety of public transportation systems throughout the United States by granting FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation. The law includes a key role for state safety oversight agencies and California provides a model to look to for this safety oversight function at the state level. The SFMTA and other transit agencies with rail operations in the state already work closely with the California Public Utilities Commission (CPUC) and will

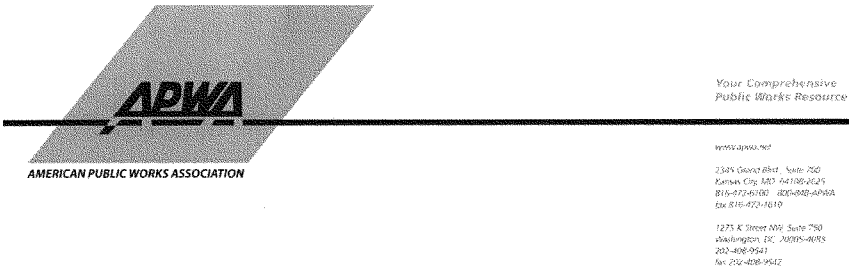
continue to do so under the direction and guidance that is developed pursuant to MAP-21's transportation safety provisions.

Conclusion

The term of MAP-21 is relatively brief and discussions are already underway as we look towards another reauthorization by September 2014, just about a year and a half from now. The federal program has been improved and evolved. The critical next step is the find a way to provide the level of funding essential to keep America and its metropolitan-driven economy as the leader in the 21st century global economy.

San Francisco, the National Association of City Transportation Officials, and cities and transit systems across this country look forward to working with you as partners in this endeavor to keep America moving forward.

Thank you.



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Implementing MAP-21:
The State and Local Perspective

Statement of
Elizabeth Treadway, PWLF
President
American Public Works Association

Hearing of the
House Subcommittee on Highways and Transit

April 25, 2013

Chairman Petri, Ranking Member DeFazio and members of the Subcommittee, thank you for the opportunity to submit testimony for this hearing on Implementing MAP-21: The State and Local Perspective. I am Elizabeth Treadway, President of the American Public Works Association (APWA). I submit this statement on behalf of our members.

APWA is an organization dedicated to providing public works infrastructure and services to millions of people in rural and urban communities, both small and large. Working in the public interest, our 28,500 members and nearly 2,000 public agencies plan, design, build, operate and maintain our transportation, water supply, stormwater, wastewater treatment, waste and refuse disposal systems, public buildings and grounds and other structures and facilities essential to our economy and quality of life.

I thank you and your colleagues on the Committee for your leadership and the hard work that led to enactment of MAP-21. This law provides needed investments in our road, bridge and public transportation systems and creates a performance-based, streamlined, multimodal transportation program.

The locally-owned transportation network is extensive, and an efficient, well-maintained transportation system is vital to local communities, jobs and the economy. Local governments own about 75 percent of the nearly four million-mile roadway network and nearly 51 percent of the nation's bridges (nearly 300,000 bridges under local control) and manage about 90 percent of the transit systems. Nearly every trip begins and ends on a local road, street or sidewalk.

A strong local-state-federal partnership is absolutely key to ensuring effective and successful implementation of MAP-21's programs. Although the US Department of Transportation (USDOT) provides oversight and assistance, state and local governments – the owners of the vast majority of our nation's surface transportation system – manage projects, implement the program requirements and serve the needs of the traveling public. We appreciate USDOT's commitment to working with local partners in the implementation process and believe that continued collaboration is necessary to ensure a successful implementation process.

Accelerating the delivery of transportation projects is a priority for our members. Local governments are the most efficient delivery mechanism for small transportation projects, but it simply takes too long and costs too much to implement projects using federal dollars. Oversight can be duplicative, inconsistent, inflexible and wasteful. Smaller projects in particular may require a disproportionate share of time and resources to complete them.

Local governments are able to invest money into the economy very quickly when implementing transportation projects, creating jobs and generating the economic development that comes with transportation improvements. If that funding happens to be federal, however, it brings with it a level of regulation and oversight that is highly disproportionate to the level of investment. The result is the funding does not go as far, with too much spent on administration rather than on building the project.

Consequently, fewer projects are built, and those that are built are built more slowly than they would have been if funded with non-federal dollars.

MAP-21 takes important steps to remove unnecessary barriers to completing transportation projects in a timely, cost-effective manner, while preserving environmental and other important protections. Among its streamlining provisions are expansion of categorical exclusions, integration of planning and environmental review process, concurrent reviews by federal agencies, deadlines for lead agency decisions and a dispute resolution process among agencies.

As USDOT implements MAP-21's project delivery provisions, we believe it is vitally important that the department implement them quickly, fully and in a manner consistent with the statutory language in MAP-21.

USDOT has already undertaken a number of actions to implement the project delivery provisions. It issued a final rule designating the repair or reconstruction of a highway or bridge damaged by a natural disaster a categorical exclusion, as required by section 1315 of MAP-21, and last year it surveyed state and local governments and others on recommendations for new categorical exclusions, as required by section 1318. MAP-21 requires USDOT to issue a rulemaking to propose new categorical exclusions received from the survey, which we are waiting for. We understand the department is reviewing the survey results.

Two other sections provide for additional categorical exclusions. Section 1316 requires USDOT to publish a notice of proposed rulemaking to designate a categorical exclusion for projects within an existing operational right-of-way, and section 1317 requires USDOT to publish a notice of proposed rulemaking to designate a categorical exclusion for projects with limited federal financial assistance, those that receive less than $5 million of federal funds or with a total estimated cost of not more than $30 million and federal funds comprising less than 15 percent of total estimated project cost.

We believe that the proposed rulemakings implementing these two sections would limit the applicability of a categorical exclusion for projects in the operational right of way and for projects of limited federal assistance, contrary to the intent of the law. Although section 1316 defines operational right of way as all real property interest acquired, the proposed rule would limit the definition to those portions that have been disturbed. Moreover, the proposed rule would limit a categorical exclusion for projects receiving limited federal funding to situations where the only agency action involved is funding. Narrowing the scope of these two categorical exclusions would undermine their effectiveness for accelerating project delivery at the local level.

MAP-21 contains a clarification of Buy America provisions which has the potential to create significant risk and administrative burden to local governments. Section 1518 states:

Buy America Provisions.
"(g) Application to Highway Programs. – The requirements under this section shall apply to all contracts eligible for assistance under this chapter for a project carried out within the scope of the applicable finding, determination, or decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), regardless of funding source of such contracts, if at least 1 contract for the project is funded with amounts made available to carry out this title."

APWA and our members support jobs for Americans. We are concerned, however, with the direction we are receiving to apply Buy America requirements to construction projects based on federal funds used for preconstruction activities such as design, NEPA and right of way. This application creates an additional administrative burden to track and report on Buy America compliance at the local level. There currently are no mechanisms in place for oversight agencies to adequately track projects utilizing no federal funds in the construction phase.

Another area of concern relates to utilities not controlled or funded by the contracting agency. State and local government do not have the authority to require utilities to comply with this additional requirement when the state or local government is not financially participating in the work. Also, mechanisms are not in place to hold the utility financially responsible for reimbursement of funds to the federal government if the utility failed to comply with Buy America and jeopardized the entire project funding.

MAP-21 consolidated or eliminated nearly 70 USDOT programs and substantially consolidated the program structure into a smaller number of broader core programs, with a focus on an expanded National Highway System (NHS). In addition, MAP-21 eliminated many smaller programs, with eligibilities generally continuing under core programs.

We are concerned that consolidation will come at the expense of funding local road and bridge needs, reducing the ability of local agencies to implement improvements that will create jobs and support economic development in urban and rural areas. Projects previously funded by the Transportation Enhancements program now compete under the Transportation Alternatives program with projects that previously were funded with separate dedicated program funding, such as the Safe Routes to Schools and Recreational Trails.

In addition, MAP-21 eliminated the Highway Bridge Program. The NHS program provides funding for bridges on the NHS. Although the Surface Transportation Program (STP) retains the 15 percent set-aside for off-system bridges (bridges not on the federal system), we need to ensure adequate funding for local bridges on the federal system but not on the NHS.

Moreover, changes reducing the STP suballocation formula impact medium-sized rural regions and have resulted in a loss of control over funding. We would have preferred

staying with the SAFETEA-LU suballocation formulas in which localities had more control. There has been a substantial investment of staff time in implementing the changes, with only a few benefits. Overall it has not demonstrated a good cost-benefit ratio.

MAP-21also seems to have increased the amount of paperwork involved in planning for transportation projects, without new money. The relatively minor changes in the funding formulas are resulting in a great deal of time regional planning agencies are spending to assure that long-term plans are not drastically impacted and that funding sources are not unduly falling.

Because MAP-21 is a two-year authorization, some programs and procedures will not have had the time necessary to fully achieve their intended objectives nor to be fully evaluated before the law expires on September 30, 2014. What we need is to begin work immediately on a long-term authorization that builds on the strengths of MAP-21 and provides a sustainable revenue source to avert a looming funding shortfall. The Highway Trust Fund is on the brink of insolvency. The Congressional Budget Office reports that the Trust Fund will be unable to meet all of its obligations in fiscal year 2015. Inaction to address the shortfall could result in federal transportation programs being cut by about 90 percent to bring the Trust Fund into balance.

In addition, we believe MAP-21's successor needs to build on progress to accelerate project delivery with a focus on providing a level of oversight that is locally-administered and consistent with the scope of the project. Local governments are capable of administering transportation projects, regardless of the funding source, and are best able to deliver small projects quickly and efficiently.

Providing local engineers and project managers the ability to administer small federally-funded projects will mean federal funds are inserted into the economy more quickly and projects are completed more efficiently, saving taxpayers money and generating greater economic impact.

MAP-21 did not address the important issue of clarifying when federal regulations become applicable to a project or for what phases of a project. Currently, there is no clear identification of when a project becomes "federalized" and subject to federal laws and regulations. Interpretations may vary from "when federal funding is planned to be sought" to "when federal funding is accepted."

A clear definition is needed to address the wide variation in interpretation. State or local projects should not become subject to federal laws and regulations ("federalized") until such time as the appropriate USDOT agency notifies the affected State Transportation Department or governmental agency that the project has been approved to receive federal funding; that all prior work performed with state and local funds are acceptable to federal agencies, provided such work followed state and local laws and regulations; and that only the individual project phase(s) (planning, design, right-of-way, or construction) on which federal funds are used are subject to federal laws and regulations.

Some projects funded under the American Recovery and Reinvestment Act (ARRA) utilized this approach, whereby local agencies acquired right-of-way without following federal guidelines prior to the project being awarded federal funding. The right-of-way was acceptable, with all work after award of federal funding being subject to federal requirements. This common sense practice allowed relatively expeditious delivery of ARRA projects. We urge Congress and the Administration to clarify this issue in the very near future.

Mr. Chairman, thank you for this opportunity to submit our statement. We look forward to working with you as we continue to work with our federal, state and local partners to implement MAP-21 and begin work on a multi-year surface transportation authorization.

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