**Transportation Policy Brief -- March 2008**

Based on the latest Federal revenue projections, it is estimated that the Highway Account of the Highway Trust Fund may be depleted (reach a zero cash balance) prior to the September 30, 2009 end of the current legislative authorization period. The Mass Transit Account also is forecast to reach a zero balance within a few years. Approximately 87 percent of the Federal Highway Trust Fund income derives from fuel taxes. While there will still be substantial revenue accruing into the Highway Account and the Mass Transit Account, that income will be insufficient to sustain the current expenditure levels. The prospect of a decrease in Federal aid at this time is of great concern, given the very large gap between even current revenues and needs.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU) acknowledges the finance challenges by 1) mandating creation of a National Surface Transportation Policy and Revenue Study Commission (the "Policy Commission") to study and report on current conditions and future needs of the surface transportation system, and 2) providing for creation of a National Surface Transportation Infrastructure Financing Commission (the "Financing Commission") to assess current revenues of the Highway Trust Fund, potential alternative Federal revenues, and additional resources that will be required to meet estimated future needs. The Policy Commission submitted its final report to Congress on January 15, 2008, and the Financing Commission submitted an interim report in February, with the final due no later than April 2009.

The following brief summarizes recommendations of the Policy Commission and the Financing Commission (in its interim report). A more detailed summary of the Policy Commission report is also included for reference.

First, to assist in framing the issue, below are four conclusions from *the National Summit for State and Metropolitan Agencies on Future Transportation Funding and Finance Strategies: Implications for Planning, Public Policy and Institutional Arrangements*, held in conjunction with the American Association of State Highway and Transportation Officials (AASHTO), the Association of Metropolitan Planning Organizations (AMPO), and the Federal Highway Administration (FHWA) in December 2007.

1. National Transportation Vision -- Transportation Needs a Bold, Compelling Vision for a "21st Century National Surface Transportation System"
2. Roles and Responsibilities -- From the National Vision Flows the Roles and Responsibilities of Federal Government, State DOTs, and MPOs
3. Policy/Planning -- Performance-Based Measurement and Accountability are the watch words for the future
4. Funding/Financing -- Future Planning and Programming will require consideration of a range of funding and financing mechanisms

**National Surface Transportation Policy and Revenue Study Commission -- *Transportation for Tomorrow***

The following are summary comments from Commissioner Steve Heminger, Executive Director, Metropolitan Transportation Commission

The Policy Commission was authorized to study the current condition and future needs of the surface transportation system and offer recommendations for a new vision, goals, policies and programs to guide the future federal role. The full report and more information can be found at http://www.transportationfortomorrow.org/.

**MAJOR RECOMMENDATIONS**

1. The federal surface transportation program should not be reauthorized in its current form. Instead, we should make a new beginning.

2. The federal program should be performance-driven, outcome-based, generally mode-neutral, and refocused to pursue objectives of genuine national interest.

3. The 108 separate highway, transit, railroad, and safety funding categories in SAFETEA should be consolidated into the following 10 new federal programs:

- Rebuilding America—state of good repair
- Global Competitiveness—gateways and goods movement
- Metropolitan Mobility—congestion relief in major urban areas
- Connecting America—connections to smaller cities and towns
- Intercity Passenger Rail—regional networks in high growth corridors
- Highway Safety—incentives to save lives
- Environmental Stewardship—both human and natural environments
- Energy Security—development of alternative transportation fuels
- Federal Lands—providing public access on federal property
- Research & Development—a coherent national research program

4. The various modal administrations of the U.S. Department of Transportation should be reorganized into functional units that parallel the federal focus areas described above.

5. Congress should establish an independent National Surface Transportation Commission. The new federal commission would perform two principal planning and financial functions:

- Establish performance standards in the federal focus areas outlined above and make detailed plans to achieve those standards. These plans would be assembled into a national transportation strategic plan for approval by the commission.

• Once the national strategic plan is approved, the commission would establish a federal share to finance the plan and recommend an increase in the federal fuel tax to fund that share, subject to congressional veto.

6. The project delivery process should be reformed by retaining all current environmental safeguards, but significantly shortening the time it takes to complete reviews and obtain permits.

7. The annual investment shortfall to improve the condition and performance of all modes of surface transportation—highway, bridge, public transit, freight rail, and intercity passenger rail—ranges from $140 billion to $250 billion.

8. To address this investment shortfall by providing the traditional federal share of 40% of total transportation capital funding, the federal fuel tax needs to be raised by 25 to 40 cents per gallon. This rate increase should be indexed to the construction cost index and phased in over a period of years.

9. Other federal user-based fees also should help address the funding shortfall, such as container fees for freight projects and ticket taxes for passenger rail improvements.

10. The fuel tax continues to be a viable revenue source for surface transportation at least through 2025. Thereafter, the most promising alternative revenue measure appears to be a vehicle miles traveled (VMT) fee, provided that substantial privacy and collection cost issues can be addressed.

11. The deployment of peak-hour "congestion pricing" should be permitted on Interstate highways in major metropolitan areas, provided that revenues generated by this strategy is restricted to transportation purposes in the travel corridors where the fees are imposed.

12. Public-Private Partnerships should be encouraged as a means of attracting additional private investment to the surface transportation system, provided that conditions are included to protect the public interest and the movement of interstate commerce.

**Interim Report of the National Surface Transportation Infrastructure Financing Commission –*The Path Forward: Funding and Financing Our Surface Transportation System***

The Financing Commission is authorized to analyze options and recommend changes for federal policy makers to consider in funding the system. The interim report presents the mandate and the goals of the Financing Commission and the outline for how they plan to meet those goals. The interim report and more information can be found at http://financecommission.dot.gov/.

The current surface transportation funding approach is suffering from three main problems:

• Revenue is insufficient to maintain the national network and build needed improvements to the system;

• Current funding mechanisms and levels of revenue are not closely linked to use of the transportation system, allowing demand and costs to grow faster than revenue; and

• Critical components of the current approach to investing transportation revenue are not structurally driven toward cost effectiveness, dissipating the effectiveness of existing revenue.

Preliminary observations by the commission:

• System demands are outpacing investment;

• System maintenance costs are competing with necessary expansion of the system;

• The fuel tax, which has been the key federal funding source for our system, is no longer sufficient at current rates;

• More direct user charges should be explored; and

• We need not only more investment in our system, but more intelligent investment complemented by better operation of the system.

Next steps:

• Evaluate each identified funding mechanism against certain criteria to help determine which should form the core of a revitalized and enhanced transportation funding approach.

• Finalize and publish the recommendations by April 2009.

## National Surface Transportation Policy and Revenue Commission
## January 15, 2008

**Commissioners Signed:** Jack Schendorf, Frank Busalacchi, Steve Heminger, Francis McArdle, Steve Odland, Patrick Quinn, Matt Rose, Tom Skancke, Paul Weyrich

**Dissenting Commissioners**: Mary Peters, Maria Cino and Rick Geddes

## RECOMMENDATIONS

**Develop Comprehensive, Performance-based Approach**

**Reform Program and Project Delivery Processes**

- Eliminate Redundancies in the NEPA Process
- Reduce Permit Process Time

(Specific Recommendations see pg. 6-7)

**Reform Federal Programs**

The Commission recommends dismantling the current DOT modal structure and its subsequent 108 programs and restructures our national needs under the following programs.

1. Rebuilding America: A National Asset Management Program
    a. State, local governments and other entities accepting Federal capital support must develop, fund, and implement a program of asset maintenance and support over the useful life of the asset that conforms to nationally accepted standards and that is independently audited.
    b. Match: 80-20.

2. Freight Transportation: A Program to Enhance U.S. Global Competitiveness
    a. Create a national freight program to address the high-cost infrastructure.
    b. It should include public-private partnerships
    c. Include intermodal connectors, interstate highway, bridge, rail infrastructure and implementation of train control technology
    d. Projects judged by how it increases freight volumes and benefit-cost analysis
    e. Match: 80-20, with higher participation levels for national benefits

3. Congestion Relief: A Program to Improve Metropolitan Mobility
    a. Fund projects that reduce congestion in our largest metropolitan areas (of 1 million or more in population.)
    b. The full range of public and private stakeholders (including system owners, operators and users) involved in the planning, construction, and operation of regional transportation in such metropolitan areas would be convened to assure the consideration of the urban interest in defining national standards.
    c. Expectation that this will effectively support and encourage the use of public transit

d. Mobility goals should reflect that high traffic urban highways can generate significant revenues from congestion pricing, requiring less tax-based funding.
**e. Planning and project selection authority in the Metropolitan Mobility program would be vested in the transportation agency designated by the Governor and leading local elected officials from the metropolitan area. This could be the MPO, another regional transportation agency, or the State department of transportation.**
f. Match: 80-20.

4. Saving Lives: A National Safe Mobility Program
   a. Cut surface transportation fatalities in half from current levels by 2025
   b. Define safety performance to be used by all Federal, State and local agencies
   c. Match: 90-10.

5. Connecting America: A National Access Program for Smaller Cities and Rural Areas
   a. US DOT would establish standardized measures of access as well as national accessibility goals.
   b. Each state would develop State-specific performance standards and develop plans
   c. Match: 80-20.

6. Intercity passenger Rail: A Program to Serve High-Growth Corridors by Rail
   a. Pursue development of a fast and reliable rail passenger network
   b. Primarily connect regions and population centers within 500 miles of each other
   c. Plans would be based on benefit-cost analyses that include user and non-user of rail
   d. Establish key performance measures: reliable on-time performance, congestion mitigation, safety and environmental benefits, improved transportation choices, mobility options for communities with limited options, and reduced energy use.
   e. Match: 80 percent Federal share, primarily for capital costs

7. Environmental Stewardship: A Transportation Investment Program to support a Healthy Environment
   a. Authorized at a level equivalent to 7 percent of the total funding for the Federal surface transportation program.
   b. Distributed to states on a per-capita basis, with up to 80% of project cost
   c. Ten percent for each of these programs funding by State, leaving 40% state flexibility: Air Quality, Vehicle Retrofit, Transportation Enhancements, and Programmatic Mitigation
   d. Supportive of Federal tax incentives for next generation, cleaner-burning and more fuel-efficient vehicles and locomotives.

8. Energy Security: A program to Accelerate the Development of Environmentally-Friendly Replacement Fuels
   a. Distinct transportation energy research and development program be authorized in conjunction with ongoing research programs of the US Department of Energy to address these goals, at a level of $200 million annually over the next decade.

b. Recommend Congress establish an accelerated tax credit program and revolving loan program to encourage private sector development

9. Federal Lands: A program for Providing Public Access
   a. Federal government should continue to be responsible for transportation access to this Federal property.

10. Research, Development and Technology: A Coherent Transportation Research Program for the Nation
    **a.** Federal government is best suited to monitor the vast scope of research activities underway across the Nation and the world, targeting funds to research gaps.

**Robust state and metropolitan planning will be essential to the success of the national strategic planning process. Accordingly, the Commission recommends continuing the practice of funding these planning activities as a percentage of the total authorized funding for the Federal surface transportation program.**

**Create a National Surface Transportation Commission (NASTRAC)**
This commission would create the national strategic plan. It would be 10 members appointed by the President for six year staggered terms, 2 term limit. The Commission's revenue recommendations would be sent directly to Congress. The recommendations would then be subject to congressional veto by 2/3-recorded vote of both houses within 60 days of receiving them. If no actions were taken, the recommendations would become law. No amendments would be allowed.

- Oversight of the USDOT-led process by which performance standards would be set on a national basis for reducing traffic congestion, improving highway safety, and other performance indicators. The standards would be incorporated into Federal grants to require progress toward achieving those goals.
- Oversight of the USDOT-led process to adopt standards for demonstrating that only economically justified projects that accomplish plan objectives would be eligible for Federal funding.
- Approval of the USDOT-led effort to integrate the various programmatic plans for asset management, freight movement, and other functions into a national strategic plan for surface transportation.
- Recommendation to Congress of the user fee rates and adjustments necessary to fund the Federal share of the national strategic plan.
- Authority to adjust the Federal share for particular activities as an incentive, rewarding States and MPOs that demonstrate creativity and innovation. If States and MPOs exceeded performance objectives, Federal participation rates for future funding would be increased. Conversely, Federal participation rates would be reduced for grantees that fail to meet agreed-upon objectives.
- Adoption of maintenance of effort requirements. Even with increases in Federal funding, a commensurate increase in funding from other levels of government and sources is required and expected. Therefore, maintenance of effort checks would be built into the grants to mitigate the tendency to substitute Federal funds for State and local resources

## Recommendations for Paying the Bill

Currently, sustainable revenues bring in **$86 billion** a year for all modes (Highway, Transit, Freight Rail and Passenger Rail). The Commission calculated a low and a high range for each mode and did there scenarios: 2005-2020, 2005-2035, and 2005-2055. For all modes combined: to 2020, we need $241-$286 billion, to 2035 we need $220-$301 billion, and **to 2055 we need $225-$338 billion annually**.

**Solvency of the Highway Account of the HTF Recommendations**:

- Increasing one or more of the existing taxes that go into the HTF.
- Ensuring that the HTF receives the full amount of the taxes levied on highway use by shifting the cost of exemptions from and refunds of taxes for certain highway users to the General Fund of the Treasury.
- Retroactively reinstating the crediting of interest on the invested balances of the HTF. The rediting of interest ceased after Federal FY 1998 pursuant to section 9004(A) of TEA-21, P.L.105-178.
- Crediting the proceeds of the gas guzzler tax under section 4064 of the Internal Revenue Code to the Highway Account.
- Dedicating a portion of the revenue generated from transportation-related taxes, such as customs fees, to transportation purposes.
- Taking measures to reduce evasion of fuel taxes and other highway user taxes.
- Crediting the Highway Account of the HTF with funding that has been provided for emergency purposes from the HTF, thus shifting that burden to the General Fund, which has been the source for appropriations for these purposes in recent years.

**Increasing Federal Revenues**

Fuel tax should remain an important component of the surface transportation finance until viable alternatives are found. Alternatives to fuel tax may be necessary in 20 years.

- Federal government should retain approx. 40 percent of total surface transportation capital outlay
- The Commission recommends that the **Federal fuel tax be increased from 5 to 8 cents per gallon per year over the next 5 years, after which it should be indexed to inflation**.
- Transit should retain funding share of 80% Highway Trust Fund, 20% General Fund.
- **Federal ticket tax should be levied on all transit trips to supplement revenues from the Federal fuel tax and the General Fund**.
- Federal freight fees can help finance freight-related improvements as part of an overall freight program. Custom duties should also have a portion to finance these projects. Tax credits should be given to facility owners for freight capacity expansion.
- Passenger Rail should be funded by 1) ticket surcharges, 2) highway user revenues, and 3) General Fund revenues.

**Remove Barriers to Options for Increasing State and Local Revenues Over the Next 20 Years**

- States should increase state fuel tax and other highway fees
- Provide new flexibility for tolling and pricing
    - Recommends that flexibility be given to use tolls to fund new capacity on the Interstate System
    - Recommends that flexibility to price the new capacity to manage its performance

- **Recommends that flexibility be given to implement congestion pricing on the Interstate System, on both new and existing capacity, in metropolitan areas with populations greater than 1 million**.
- Congress should promote the use of a nationwide, uniform system of electronic tolling so that toll collection does not become a burden on interstate travel and commerce.

Encourage the use of public-private partnerships -- including concessions -- for highways and other surface modes.

**Long-term Federal and State Revenue Options**

- Continue studying the application of mileage-based user fees
- Recommends that the next surface transportation authorization act require a major national study to develop the specific mechanisms and strategies for transitioning to an alternative to the fuel tax to fund surface transportation programs.
- Recommend the name of the Highway Trust Fund be changed to the Surface Transportation Fund.

## DISSENTING REMARKS
## Mary Peters, Maria Cino and Rick Geddes

In their dissenting remarks, Commissioners Peters, Cino and Geddes stated that they:

- Do not support tax increases.
- Believe alternative to replace fuel can be done in 10 years rather than the 20 years noted by the Commission.
- Oppose creation of new commission and unnecessarily large Federal Role.
- Disagree with public-private partnership limitations. Believes there should be greater flexibility as to attract private partners.
- Would not limit tolling on existing Interstates to areas under 1 million people.
- Agree with the desire to eliminate earmarks but believe the Commission is still tempting Congress with more transportation revenue.
- Oppose maintaining historic federal share of 40 percent. Want to focus on making cost beneficial, high priority national investments
- Oppose the transit ticket tax and wants operators to structure their own fares.
- Believe the Commission report is process-driven, while they support performance-driven requirements.
- Believe the Commission's energy research and investment recommendations are inappropriate. This is the purview of the Department of Energy.

**Chapter 6 – Are Programs and Institutional Reforms Instrumental to achieving our national vision?**

**Lack of National Program Focus**

- National Surface Transportation Interests
- **Relative Authority and Responsibility -** "**Each level of government should contribute financial support for various surface transportation improvements in proportion to their relative interest compared with other levels of government."** The "scope of federal programs should be narrowed and alternatives examined for disturbing funds to those program areas with the greatest national interest."
- Functional Orientation - Federal programs refocused around functional areas rather than modes
- National Strategic Plan
- **Reducing the focus on redistribution across the states – "Return to source approach is contrary to focusing federal funding on national priorities. … National interests are not spread evenly across the states. National productivity and economic efficiency are enhanced when Federal monies are invested in those improvements with the greater national return, not when large amounts are redistributed to States by some formula that bears no connection to national transportation system performance."**

**Ineffective Investment Decisions**

- Lack of performance standards – Federal funds have become block grants with no standards
- **Congressional earmarking – "Since earmarks frequently are over only a fraction of the total cost of a project, State and local recipients of earmarks frequently must divert other available Federal, State and local funds to fully fund the project."**
- Lack of requirements for investment analyses such as benefit –cost analysis
- Inflexibilities in the current funding arrangement that prevent State and local transportation agencies from implementing the most effective mix of improvements
- Distribution of highway funding exclusively through State highway agencies that my have different priorities than local transportation agencies
- Federal regulations that limit tolling on Interstate Highways
- Institutional arrangements that constrain effective intermodal planning, linkages between transportation and land-use decisions, and the effective use of operational strategies.

**Streamlining Project Development Processes**

- Legislatively provide for a simplified NEPA process that offers the equivalent of 1040 EZ tax return for projects with few significant impacts.
- Revise Council on Environmental Quality (CEQ) regulations to allow additional factors to narrow the number of alternatives considered as "reasonable alternatives":
    - Alternatives should be appropriate for project-level (rather than planning-level) decisions.
    - Alternatives should reflect community values
    - Alternatives should reflect funding realities

- Revise CEQ regulations for implementing NEPA to allow for a single EIS rather than the current requirement for a draft and final EIS, while preserving adequate opportunities for public comment and review.
- In parallel with revision to CEQ regulations, FHWA would set minimum conditions for what must occur during a "robust scoping period" before publishing the Notice of Intent and formally beginning NEPA. Some requirements could include:
    - Determination of general project location
    - Determination of modal choice
    - Development of a risk management plan
- Handle impacts identification and mitigation issues early by considering them in an integrated fashion, looking at overall resources rather than in a sequential, project-by-project basis. This might involve addressing these issues at the programmatic level earlier in the planning process.
- Standardize the "risk design" approach under Federal regulations so that project sponsors can proceed with design activities at risk during the EIS process.
- Require greater coordination among Federal agencies reviewing transportation project permits including:
    - Setting time limits for review
    - Using Federal transportation funds to pay for regulatory staff to speed reviews and comply with time limits
    - Establishing a Cabinet-level appeal process where USDOT can seek redress for adverse decisions.