AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
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July 14, 2008

Dr. Robert D. Atkinson
Chairman
National Surface Transportation Infrastructure
Financing Commission
U.S. Department of Transportation
1200 New Jersey, Avenue, SE
Washington, DC 20590

Dear Chairman Atkinson:

On behalf of the Associated General Contractors of America (AGC), I respectfully submit the following comments to the National Surface Transportation Infrastructure Financing Commission.

Introduction

The Associated General Contractors of America (AGC) is the largest and oldest national construction trade association in the United States. AGC represents more than 33,000 firms, including 7,500 of America's leading general contractors, and over 12,500 specialty-contracting firms. Over 13,000 service providers and suppliers are associated with AGC through a nationwide network of chapters. AGC contractors are engaged in the construction of the nation’s commercial buildings, shopping centers, factories, warehouses, highways, bridges, tunnels, airports, waterworks facilities, waste treatment facilities, dams, water conservation projects, defense facilities, multi-family housing projects, site preparation/utilities installation for housing development, and more.

Surface transportation in the United States is at a crossroads. Since the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act—A Legacy for Users (SAFETEA-LU) in August 2005, the interstate highway system celebrated its 50th anniversary. It was a celebration of the world’s biggest public works program responsible for providing unprecedented mobility and economic opportunities for Americans. This legacy is our duty to maintain, as it is also our duty to meet the mobility demands of the 21st century to compete in the global marketplace and provide the best quality of life possible for all citizens. Our charge is crowded and crumbling; our country is growing and demanding. The challenges are great: resources are scarcer; energy costs are climbing; construction costs are escalating; and the public’s confidence in its policy makers to address these issues is diminishing. This is what we confront at this crossroads.

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AGC believes the transportation challenges facing the United States are significant and must be addressed in a prompt and responsible manner. All levels of government, including the federal government, must renew their commitment to the nation's transportation system. To this end, increased investment is vital and all options should be considered.

The National Surface Transportation Policy and Revenue Study Commission created under SAFETEA-LU called for a national vision to "Create and sustain the pre-eminent transportation system in the world." The federal government must soon address the crisis facing the nation's transportation system as the expiration of SAFETEA-LU approaches in 2009. AGC and our members across the country firmly believe that a decision not to provide the vision and resources necessary to face our transportation crisis is choosing to accept a diminished role for the United States in international trade and a lower standard of living for all Americans. This is not the choice our national leaders want to make or what most Americans would choose.

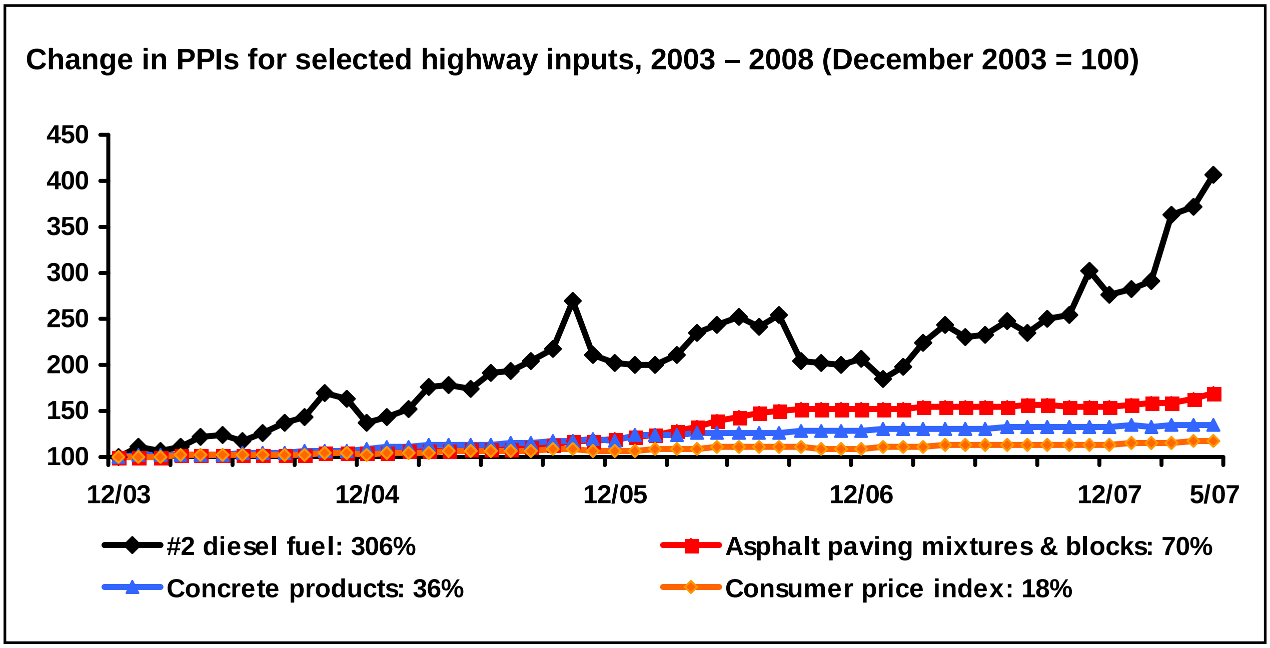
Highway Trust Fund

The Highway Trust Fund, through revenue provided by user fees, has historically provided approximately 45 percent of the annual investment in the U.S. road and bridge system. This mechanism was successful in providing the funds necessary to build the interstate highway system and to expand and maintain it in recent years. The Highway Trust Fund has also supported the construction and upkeep of other transportation projects, including mass transit. The level of investment provided by the Highway Trust Fund should be increased to address mounting needs.

The immediate problem facing the Highway Trust Fund is that for a variety of reasons the Highway Account is projected to be in deficit before the expiration of SAFETEA-LU in fiscal year 2009. The most recent government estimates predict a minimum shortfall of $3.7 billion in the Highway Account in FY 2009. If the shortfall is not addressed, the federal-aid highway program would face cuts of approximately $14 billion, or 34 percent less than SAFETEA-LU authorized for FY 2009. The Commission should recommend to Congress an immediate fix to avoid such a substantial reduction in highway funding. One solution is to transfer from the General Fund of the U.S. Treasury the $8 billion removed from the Highway Trust Fund under the Transportation Equity Act for the 21st Century (TEA-21) in 1998.

In addition, inflation has caused the buying power of the federal motor fuels tax to be reduced by nearly one-half since this user fee was last increased in 1993. Dramatic increases in the Producer Price Index for construction inputs over the past five years, at levels more than double the Consumer Price Index (39 percent vs. 18 percent), have added to the Highway Trust Fund woes.

The chart below illustrates the change in various Producer Price Indexes for selected highway construction inputs compared to the Consumer Price Index since December 2003.



The Highway Trust Fund has been a model for efficient public transportation investment that enjoys significant public support. Eventually the method for charging the user fee may need to be changed but for the foreseeable future the existing system should be maintained and enhanced. An increase in revenue is necessary just to keep up with inflation but also to address the ever growing transportation infrastructure needs.

The authoritative 2006 Transportation Research Board (TRB) study, "The Fuel Tax and Alternatives for Transportation Funding," concluded that fuel taxes would continue to be a viable source of support for the Highway Trust Fund "for at least the next fifteen years."

States should also be encouraged to create dedicated highway trust funds modeled after the federal version and to put in place similar safeguards that exist at the federal level to prevent resources collected and intended for transportation investment to be diverted towards non-transportation-related activities.

<u>Motor Fuels Tax</u>

The federal excise on gasoline is currently 18.4 cents per gallon. Reflecting the political difficulty of raising taxes, it has been raised only five times since it was first imposed in 1956.

Significant increases in the cost of fuel, more fuel efficient vehicles, and alternatively fueled vehicles are all impacting the level of revenue that can be expected to come from the motor fuels tax.

The Commission should recommend to Congress to shore up the existing funding method until a better system can realistically be put in place. In the long term, Congress should consider changing the user fee collection model to a Vehicle Miles (VMT) tax. A VMT tax would be charged to all vehicles using transportation infrastructure that is eligible for federal funds. Mileage could be electronically recorded and collected at the gas pump when vehicles are fueled or through a monthly invoice.

AGC also recommends consideration of the following:

- Retroactively raising the federal motor fuels tax directly to address past inflation since the fee was last increased and annually indexing the motor fuels tax to inflation, preferably to the Producer Price Index for construction inputs.
- Eliminating all motor fuels taxes and replacing them with a federal sales tax on fuel and vehicle sales. A percentage would be applied to the cost of each.
- Levying a sales tax on vehicles based on their weight, thereby more equitably charging vehicles for the wear and tear they impose on the system.
- Establishing a federal user rate commission to determine biennially the federal motor fuels tax rate to avoid the instability in the annual amount of revenue collected which may result from a move to either an indexed fuel tax system or a percentage sales tax. The commission's decision would be final unless overturned by a "Super" majority of Congress.

<u>Highway User Rate Commission</u>

Highway user fees in the form of motor fuel taxes have been the primary source of funding for construction, maintenance, and rebuilding of our nation's road system at the state and federal level for the past 80 years. Motor fuel taxes are currently the largest source of transportation system financing producing nearly $75 billion annually in transportation revenue.

Many factors have undermined the motor fuels tax ability to fully address current and future transportation needs. Due to inflation the fuel tax has lost as much as 50 percent of its buying power over the past 15 years. In addition, automobile engines have become more efficient allowing vehicles to travel more miles per gallon, thereby lowering the amount of user fee paid for each mile driven. Automobiles and trucks are starting to use alternative fuels that are not taxed. Road improvement projects have increased in cost beyond inflation because of increasing requirements for environmental elements, safety, and aesthetic enhancements, and, in parts of the country, to address earthquakes and weather related issues.

Fuel taxes are generally levied on a per gallon basis. In order to keep pace with growing transportation costs and reduced income, regular increases in the cents per gallon tax are necessary. While other user fee based systems such as one based on the number of miles driven each year make sense in the long run, the necessary infrastructure to implement such a system is not currently in place. In order to ensure that as a nation we do not fall further behind in addressing our highway transportation infrastructure needs, retaining the motor fuels tax and increasing it to address growing needs is vital to our economic future.

However, increasing the motor fuels tax is not always politically feasible. Increasing the fee requires public support for legislators, both at the state and federal level, to feel comfortable voting in support. To take this decision out of the political arena, AGC is proposing the creation of a Highway User Rate Commission.

A seven person commission should be established to biennially set the federal user fee on motor fuels. The Commission would be composed of seven Commissioners serving six year terms: two appointed by the Senate Majority leader; two by the Speaker of the House; and three by the President, with the advice and consent of the Senate. Initial appointment periods would be staggered so that the entire Commission does not have to be replaced every six years. A Commissioner may continue to serve after the expiration of his or her term for up to one year or until a successor is confirmed. At any time only three Commissioners may be members of the same party. The Chairman is designated by the President and usually is a member of the President's party.

The biennial rate would be based on the amount of revenue necessary to address transportation funding shortfall as determined by the Federal Highway Administration using the biennial conditions and performance report. The biennual fee would be set using a formula that includes consideration of the annual Consumer Price Index and the Producer Price Index for construction materials. The rate determined by the Commission would go into effect 60 days after being determined unless a majority of 60 or more votes in the Senate or 261 or more votes in the House overturn the decision.

<u>Tolling/ Public Private Partnerships (PPP)</u>

Together, tolls and private capital contribute about 4.5 percent annually to the total revenue pool currently available for U.S. highway program investments. Much of this revenue is used for debt service. While there is potential to expand the application of tolling in the U.S. and to attract even more private capital to highway investments, objective research suggests these methods alone cannot realistically be anticipated to raise the amount of revenue necessary to close substantially the existing highway capital investment gap. As such, while they should be promoted and encouraged, they should not be overemphasized as solutions to meeting future funding needs.

States should be granted the option to use tolls on all existing and future interstate and National Highway System (NHS) routes. Should a state choose to toll existing or future routes built with federal revenue, its federal apportionment should be adjusted to reflect only non-tolled lane miles in the state.

In addition, states should be granted authority to partner with the private sector to improve and operate interstate and NHS routes. It is also imperative that revenues realized by public entities through the sale of concessions be reinvested only in transportation infrastructure programs.

Bonding

A new bonding vehicle should be created to allow the federal government to borrow funds for an immediate boost in federal infrastructure investment, such as the "Build America Bonds" proposal put forth by Senators Ron Wyden (D-OR) and John Thune (R-SD). Bonding, however, can only be a supplement to the motor fuels tax, excise taxes, and other existing pay-as-you-go funding sources. This infusion of additional funds from bonds will provide the revenue source to help states catch up with some of their huge backlog of needs that have resulted for past underinvestment. These funds will also be important in helping states build mega-projects that are vitally needed but can absorb all of a state's funding for many years and, therefore, undermine efforts to address other transportation needs.

However, there is a real concern that extensive borrowing of funds now is mortgaging our transportation future. It is important that bonding remain a limited portion of total transportation funding mix. It is also important to create a dedicated funding source to create the revenue stream to pay the interest on the bonds and ultimately repay the principle.

Customs Fees

A portion of U.S. Customs revenue should be dedicated to paying bond interest or to intermodal or trade corridor routes. Since freight movement is an important national objective, and since the needs here are so great, it is important that an additional funding source directly related to international commerce be created. There should be a direct link between imported products and freight movement. Use of custom fee revenue will create this linkage.

Conclusion

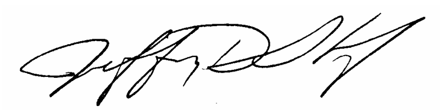
The United States has been under investing in our transportation systems for far too long and the impact is now being felt in every state and in most towns. With the interstate system expanded beyond capacity and design life, this underinvestment is costing U.S. businesses and individuals' time and money.

Providing continued support for traditional funding options and finding new financing options is necessary to address this dire situation. Again, AGC believes the traditional motor fuels tax is the most efficient financing mechanism for increasing revenue for surface transportation in the short-term and should be adjusted appropriately to account for inflation and investment needs. AGC believes a commission should be created to assist policymakers in setting appropriate user fee rates. In addition, AGC believes new financing methods such as bonding, Public Private Partnerships, and tolling, and new funding resources such as customs fees or other user fees are an appropriate supplement to current funding sources.

AGC encourages the National Surface Transportation Infrastructure Financing Commission to consider all options as it looks to providing Congress with the background to make the tough choices that will be necessary.

Thank you for allowing AGC to comment on the work of the Commission.

Sincerely,



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