AMERICAN HIGHWAY USERS ALLIANCE

June 2, 2008

National Surface Transportation Infrastructure Financing Commission
c/o Jack Wells, Chief Economist
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington DC 20590

Dear Finance Commissioners:

On behalf of the American Highway Users Alliance, thank you for the opportunity to comment on the finance commission's interim report, *The Path Forward*. We also would like to take a moment to thank you for the open, de-politicized meetings that you have held and their cooperative atmosphere. We have been pleased that one or more of our policy committee members have been able to attend each of your open meetings. We look forward to observing and/or participating in future meetings as you develop final recommendations in the coming months.

The American Highway Users Alliance is a broad coalition of stakeholders who contribute "user fees" into the Highway Trust Fund in the form of fuel, truck, and tire taxes. Our members represent AAA clubs, truck and bus companies, motorcyclists, RVers, and diverse businesses from a variety of industry sectors. Our mission is to advocate in the interests of the motoring public, and to promote highway safety and mobility.

From the interim report, it appears that the finance commission agrees with several conclusions from the final report of the policy and revenue commission. Most importantly, public support for increased funding and *any* new federal finance mechanisms hinge on programmatic reform, establishment of national priorities, consistent use of benefit/cost analyses tied to desired outcomes, financial incentives to the States for addressing problems of national significance, and streamlined decision-making that reduces the costs of delay. Programmatic reform may also help to reduce recurring political problems associated with state-by-state distribution of formula funds, poor and excessive earmarking decisions, and the diversion of funds to programs with few benefits for those paying the bill.

While there is much of value in the policy and revenue commission report, we regret that it <u>failed</u> to narrow the <u>scope</u> of eligible projects and focus the federal role, even as it recommended reducing the <u>number</u> of federal programs. In fact, that commission's recommendations substantially *increase* the scope of the program. In our view, this is the wrong direction to go

1101 14th Street NW, Suite 750, Washington, DC 20005, 202-857-1200, 202-857-1220 (fax), www.highways.org

and leads to funding targets that are unrealistic and inadvisable for the finance commission to attempt to meet. Unfortunately, these unrealistic funding targets and the tax increases suggested to meet them may have unfairly damaged the first commission's credibility and diverted attention from the many good policies contained in their report. We encourage the finance commission to learn from these mistakes and pursue a more *narrow* scope for the portion of the federal surface transportation program funded with highway user fees. Projects to address needs that do not fit within the narrow scope of a reformed Highway Trust Fund should be funded by other means. In our opinion, a narrow scope should focus on congestion relief, safety, freight mobility, and infrastructure conditions.

One issue that has not been greatly discussed in the interim report is the relationship between global climate change legislation and surface transportation funding. Many believe that legislation to reduce greenhouse gas emissions is likely to precede a transportation bill. Our view is that a carbon tax would yield better results than a cap-and-trade scheme. A carbon tax on motor fuels could be deposited into the Highway Trust Fund and help support surface transportation programs. If a carbon tax can be established for highway fuels, these fuels should not be regulated under a cap-and-trade scheme.

There is a history of air quality legislation affecting the highway bill. In 1990, the Clean Air Act Amendment was enacted. In many ways, the enforcement mechanism for the new air quality standards was contained in the 1991 ISTEA bill. New planning requirements tied highway funding to pollution reduction planning and a new highway category (CMAQ) was created to fund air quality projects in non-attainment areas. Unfortunately, the CMAQ program was not data driven nor performance based. Many projects funded under CMAQ have no discernable air quality or congestion relief benefits. Unfortunately, CMAQ funds could not be used for most congestion relief projects that add highway capacity, even those that would improve air quality.

Like the 1990 Clean Air Amendments, current climate change legislation has the potential to impact future surface transportation legislation. Current proposals would increase the cost of highway fuels but would not add revenue to the Highway Trust Fund. In addition, some have claimed that a percentage of trading credits established under a cap-and-trade scheme be applied to fund non-highway projects. If a new transportation funding source is created through emissions credits, we suggest that project selection be data-driven and that carbon-reducing congestion reduction and highway bottleneck relief projects be fully eligible. We also encourage the commission to forcefully reject EPA-enforced mobility reduction targets. Some have advocated mandatory VMT reductions under cap-and-trade legislation, alarming those who believe mobility is critical to personal freedom, economic growth, and improved quality-of-life. Past history indicates that air quality improvements are best made through technological, not behavioral changes.

The commission has thoughtfully considered political viability and public opinion. The Highway Users recently conducted a poll of likely voters that may be of value to you as you weigh final recommendations. It is attached.

Reviewing the details of the interim report, we have the following specific comments:

Synopsis

- We concur with the points raised in this section and are very pleased to see the problem of "chronic congestion and delays" identified in the very first sentence of the report. We strongly encourage the Commission to retain a focus on finding solutions to congestion, as one of the top considerations in your funding recommendations.

- The section concludes with five preliminary observations. We concur with all of them.

Overview of the Problem

- On page 3 of the report, it is stated that federal fuel and vehicle taxes worked well in the past but have not kept pace with the system's changing needs. As suggested in the synopsis, we agree that the current levels of these taxes have not kept pace with the needs. Yet we caution the commission against assuming that fuel taxes by their nature are outdated or inadequate measures of road use. Fuel taxes have great value as user fees – even with diversity of alternative fuels. We are unaware of any form of motor fuel that couldn't be taxed. For example, any fuel can be taxed by its energy content instead of a liquid volume. As vehicles become more efficient and require less energy, regular adjustments will need to be made, just as they need to be made to consider the effects of construction and general inflation. Energy-based highway user fees also create incentives for motorists to use lighter vehicles that damage roads less and are more fuel efficient. Alternatives, such as tolls, frequently charge the same toll for all cars regardless of their weight.

- On pages 3 and 4, the commission discusses the need to re-assess the current approach to funding in order to remain competitive in a global economy. We agree with this proposed change in approach to funding. In addition, we agree that key problems (congestion, an aging system, disrepair and lack of emergency capacity) are not inevitable and can be solved with more *and wiser* investment. We appreciate the commission's focus on problem-solving.

The Financing Commission – People and Purpose

- Page 5 discusses the statutory requirements under Section 11142 of SAFETEA-LU. One of the requirements is that the commission examine fuel tax exemptions for states waiving HTF funds. We strongly recommend that the commission recommend against fuel tax exemptions in the final report. If Congress is able to authorize a reformed, focused, federal program that serves national needs, it would be counter-productive to allow States to "opt-out" of such a program.

- Page 9 discusses the need for funding all modes of surface transportation, including intermodal connections. This section also discusses the "balanced approach" to federal funding under ISTEA and subsequent "TEA" bills. We take some exception to this characterization by noting that this "big tent" policy structure has damaged the integrity of the program by eliminating a defined federal program purpose and diverting funds from nationally-oriented highway programs. It is important to note that ISTEA's policies have not changed significantly since 1991 and there is significant disillusionment over the lack of priorities associated with the "balanced approach". We agree with your conclusion both existing funding mechanisms and new ones must be considered that are more easily adaptable to target modes. We encourage the commission to consider supporting new "user fees" for non-highway users, including public transit and rail users. The expenditure of all user fees should be targeted to benefit those paying the fees.

<u>The Challenge – The Path We're On</u>

- We commend the commission for the statistical analysis contained in Part A on pages 12-16. This section concisely and effectively explains system performance problems.

- Part B identifies perceived problems with fuel taxes. As discussed above, we disagree with the theory that fuel taxes are outdated, but agree with Subpart 1 (page 17) that the current taxes are insufficient to meet the needs.

- Subpart 2 (page 17) discusses pricing. We agree that new technology can greatly increase the efficiency of the transportation system, in many cases at a fraction of the cost of major construction projects. However, we do not agree with the implication that we should use attempt to price capacity to "optimize" (or reduce) demand. This idea is rooted in the theory that some people's trips are less important than others and that these motorists should be "priced-off" existing road capacity or moved to another time of day. The problem is that high tolls are required to create very slight reductions in demand and that congestion fees disproportionately harm the poor and those on a fixed work schedule. However, <u>we do not object to pricing new capacity</u>, or building new express toll or converting underutilized HOV lanes to HOT lanes. The difference is that motorized would benefit from <u>new supply and new choices</u>. Our view is that increased supply is a better solution to congestion than attempts to reduce demand. Congestion itself is enough of a deterrent to discretionary trips.

- We strongly agree with Subpart 3 (page 17) and appreciate your conclusion that "directing funds to improve system performance does not appear to receive adequate emphasis… (and that)… all of this may contribute to system under-funding…"

- On page 20, we agree with your conclusion that the "unifying force behind the HTF has steadily dissipated." The report also notes the expansion of the scope of eligible projects. Although a new program is unlikely to have a simple, easily-defined purpose, we urge you to recommend national priorities for the federal program. Data-driven outcomes, and projects selection prioritized by benefit/cost analysis can help restore some of the public support that has been on the wane. This is essential to keep America moving.

- On page 21, you conclude that major reform is needed. We strongly concur.

- On page 22, there is more discussion of congestion pricing. Please see our comments above.

- Page 23 discusses financing techniques that include borrowing, toll road concessions and asset leases. We agree that these options have tradeoffs. Our greatest concern is with diversion and unfair tolls associated with asset leases and toll road concessions. To monetize an asset and then spend the money on health care (for example) is particularly upsetting to highway users. But a less blatant case would involve taking the payment to use for transportation projects that are of no value to those paying the toll. A Pennsylvania proposal would involve monetizing and leasing the Pennsylvania Turnpike and then spending the lease monies as far away as Erie County (hundreds of miles away) or on the ailing Philadelphia transit system, SEPTA. In addition, long-term leases leave no opportunity for the public to reconsider the lease arrangements, including toll rates. Some leases also include "non-compete" agreements that deter or prevent nearby road improvements, which can cause safety problems on inadequate parallel routes. We strongly discourage the commission from supporting asset leases and toll road concessions. Yet public-private partnerships in which investors assume the risks involved in <u>new</u> road and <u>new</u> lane construction could be an important financing tool worth supporting. The key difference is that road leasing requires a captive market to already be in place, but new construction creates new opportunities and new markets. The finance commission has agreed as a general principle that their recommended funding and financing plans must be fair. We ask that you rigorously investigate the long-term fairness of asset monetization and road leasing plans to road users. When road-leasing and asset monetization impacts interstate commerce, the federal government should regulate to ensure fairness for interstate travelers.

- On page 24, there is a statement that federal funds should not conflict with investment decisions at other levels of government. In general, we agree. However federal and state investment decisions should also be driven by issues that transcend local considerations. For example, the need to support interstate commerce is a national or regional concern that sometimes conflicts with a local planning process. In such a case, the federal policies might legitimately conflict, and for good reasons. While attempts should be made to resolve disagreements, projects of national interest should not require the concurrence of local planners to proceed.

- On page 25, there is discussion of the need for streamlining and a description of the current, tortuous planning burdens. We strongly support the commission's implication that outcomes should be emphasized over process instead of the other way around.

- On page 26, the report discusses recurring urban congestion and the need for better traffic management. We strongly concur that better management of traffic signals, work zones, inclement weather responses, and special events is needed. We recommend that State DOTs be rewarded for improved traffic management.

- Also on page 26, the report states that investment decisions should be based on a rigorous analysis of costs and benefits – over the life of the assets. We agree.

<u>Recommendations</u>
The Commission has provided a detailed list of potential funding mechanisms. Provided major programmatic reform and full consideration of the source of funds, we recommend that the commission consider the following:

Existing Highway Trust Fund Sources: Increase current user fees, considering increased auto efficiency mandates and recent inflation for construction materials. Tax alternate fuels by energy content. Our recent survey (April 2008) indicates that the public would support modest fuel tax increases dedicated to specific needs. The support jumps overwhelmingly once the threats of doing nothing are explained.

Tolling and Pricing: A long-term strategy to transition to a nationwide VMT tax may be valuable, provided that all users pay fairly. Our greater concern is with interim measures that unfairly target certain road users, such as truckers and tourists. Unlike a broad-based VMT tax, these proposals do nothing to support the national program, yet are likely to target interstate truck and auto traffic for local funding and diversion. We support the construction of new tolled lanes or roads and conversion of underutilized HOV lanes to HOT or express toll lanes. But we strongly oppose cordon-pricing and believe that it is unworkable in nearly all U.S. urban areas due to the low percentage of transit riders and likelihood that businesses would simply relocate outside cordoned areas.

Driver & Vehicle Taxes & Fees: We have not studied these taxes but note that at first glance they seem politically palatable only at the state and local level.

Excise & Other Targeted Taxes: As discussed earlier, we prefer carbon taxes over cap-and-trade schemes and believe that carbon taxes on highway motor fuels should be deposited into the Highway Trust Fund. We do not support the other taxes mentioned.

Broad-Based Sources: These non-user fee taxes are suitable for funding much of the diversions in the existing program (such as transportation enhancements). We do not have a position on any specific candidate.

Freight and Import Sources: These taxes should be evaluated on a case-by-case basis with fairness to those paying the user fee being a critical concern.

Other Sources: We do support transit fares, and rail ticket taxes to support public transit programs. We do not support mixing these funds into the existing trust fund. We do not support parking fees for the federal program. For our discussion on asset sales, leases and concessions, please see the above commentary.

Thank you again for accepting our comments. If we can be of service to the commission in the future, we'd be pleased to send a representative to discuss any of the issues we have raised in detail at any of your meetings. We wish you the best of luck in developing final recommendations.

Sincerely,

Gregory M. Cohen

Gregory M. Cohen
President and CEO