Comments on "The Path Forward"
Interim Report of the
National Surface Transportation Infrastructure Financing Commission

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Overall, the interim report is well thought-out and well-written. It provides an on-target assessment that our surface transportation system is indeed "a system in crisis," with interrelated problems of insufficient funding and sub-optimum use of existing funds. What follows are section by section comments, aimed at the development of a well-justified final report by the Commission.

Part One

My only concern here is the box on p. 2, defining the surface transportation system. While that comprehensive definition is indeed correct, that is a far broader definition than the specific charge Congress gave to the Commission (p. 5), which focuses entirely on the funding of highway and transit infrastructure. This more limited focus gets nearly all of the attention in what follows, so I suggest that if the final report repeats the broader definition of surface transportation, you explain that this definition is being provided for context. I strongly recommend that your recommendations remain within the scope set forth by Congress, rather than ranging far afield as the Policy and Revenue Commission did.

Part Two

This is a very succinct overview of the problems facing this country in our highway and transit systems. In particular, the emphasis on wiser investment, not just more investment, should be a major theme of the Commission's final report.

Part Three

I agree that your focus should be to recommend "a funding and financing approach for the federal government that will meet the policy goals set by Congress," which again suggests sticking with highway and transit infrastructure per the charge on p. 5. I am in general agreement with just about everything said in this section, and especially want to stress the importance of critical thinking about what highway and transit responsibilities are truly federal in nature. This is crucially important in defining the scope and magnitude of the problem, and I think the Commission would be derelict in its duties if it failed to address this issue by uncritically accepting the status quo.

It seems clear to me that the most obviously federal interest in surface transportation is the interstate movement of goods. The Constitution itself calls for the federal government to ensure the free flow of commerce among the states, and in today's global economy, major new investments are needed—with benefits both local and national—in making sure that goods can move efficiently between ports of entry and the rest of the transportation network. There is also a clear federal interest in the goods-movement function of much of the Interstate highway system.

By contrast, despite the magnitude of the urban congestion problem, it is not clear what federal or national interest is at stake in solving it, whether via added highway capacity, road pricing, or increased transit investment. It may well be that the wiser federal role is to remove all federal barriers to cities and urban regions solving these problems in their own preferred ways.

I strongly agree with the emphasis on both proper maintenance and investment in new capacity. The current system does a poor job with both of these, and seems perversely designed to transfer funds from fast-growth states with severe transportation problems to slow-growth states with far less serious transportation problems. When you add to this the growing problem of earmarks, it is understandable that the rate of return on highway investments has trended downward in recent decades—at the same time as the system's performance has declined tremendously, especially in urban areas (congestion). Something fundamental is wrong with this picture. So I also strongly agree with the interim report's emphasis on how infrastructure investments are prioritized.

I am troubled by the mention on p. 9 about "the needs of all modes," and will address this point below in my comments on Part Four. I will also provide there some thoughts on the recommendations of the Policy and Revenue Commission.

Part Four

Section A of Part 4 does an excellent job of quantifying the poor (and still worsening) performance of the system. When making comparisons over time, I notice that the highway and congestion figures span more than two decades, while those for transit (p. 13) and goods movement (p. 14) cover only a single decade. Two decades in all cases would be more meaningful.

Section B criticizes "funding the transportation modes separately," thereby allegedly missing out on opportunities for "system-wide solutions" such as intermodal connections. This point deserves considerable discussion. Despite the popularity of calls for "breaking down the silos," we need to recall that the original "silo" was the Highway Trust Fund. Americans accepted a federal fuel tax because they were promised that all the monies would be spent to build and maintain the Interstate highway system. This was a credible promise because most states had created and preserved state highway trust funds starting in the 1920s, with state fuel taxes dedicated to highways. This user-pays concept has been one of the great strengths of the U.S. highway system, compared to most other countries where fuel taxes are simply a source of general revenue and highways must fight for funding against all other government activities.

One of the problems we face today is the gradual but continual erosion of this user-pays principle. The more that highway user taxes get used for non-highway purposes, the more the program becomes a general public works program, and our elected representatives feel free to serve their political ends by using the money for politically popular projects.

"Breaking down the silos" means jettisoning the user-pays principle, turning user fees into taxes to be allocated via the political process.

That, unfortunately, is the vision set forth by the Policy and Revenue Commission. They would greatly expand the scope of the federal program to encompass all modes of surface transportation, with all of them theoretically charging "user fees" and all the proceeds put into a common pot for allocation. Recognizing the huge political hazard of such a system in the hands of Congress, they naively called for creation of a permanent national commission (NASTRAC) to make the allocation decisions, supposedly on objective cost-benefit criteria. Predictably enough, that portion of the Commission's proposal has been dubbed dead-on-arrival in Congress, which leaves the prospect of a many-fold increase in federal "user-tax" revenue (the huge majority of which would come from highway users) to be allocated politically for all kinds of purposes in addition to highways and transit—i.e., business as usual, only worse.

An alternative vision, which I hope the Financing Commission will embrace, is to strengthen the user-pays principle by retaining mode-specific funding, with stronger protections for fuel-tax and toll revenues to be re-invested into much-needed highway investments. This need not preclude needed intermodal projects, especially if goods-movement is made a higher federal priority. Indeed, under current funding arrangements there are numerous intermodal projects being developed, many by means of public-private partnerships involving state DOTs, railroads, land developers, and others.[1]

The documentation of the highway/transit funding gap is well-done, and retains the proper narrow focus of the Commission's charge from Congress.

On p. 22, readers might be misled by the statement that transit users are paying "20 to 70 percent of the cost of their rides." That is almost certainly referring only to the operating costs, omitting the very large capital costs of the rail transit portions of transit systems.

The discussion in part B.3 on resource allocation is first-rate and should guide thinking in formulating the Commission's recommendations. How, realistically, do we create incentives and institutions that will rely on return on investment rather than politically negotiated formulas for allocating always-limited transportation funding? The well-developed systems for funding tolled capacity offer a stark contrast, as Commission members appreciate.

Part Five

The list of potential revenue criteria is good. My only caution is about the criterion of Externalities. Most economists prefer to use taxes to address externalities, and I think that is wise. As you weigh various funding sources for highways and transit, I think it wise to separate the mitigation of externalities (taxes) from a price that pays for the costs of providing and properly operating the infrastructure. They are different tools for different purposes. For example, if CO_2 reduction is deemed to be a national priority, a tax on

[1] See *Financing Freight Improvements*, Federal Highway Administration, January 2007, especially section 3.0, "Case Studies of Freight Financing."

CO_2 output is the most straightforward way of dealing with this goal. That way, a vehicle that produces no CO_2 would pay no CO_2 tax. That same vehicle should still be charged the same user fee/toll/price as any other vehicle based on the facility it uses and the time and circumstances of its use. (Note: the congestion impact from one vehicle on others is not, strictly speaking, an "externality" since it is not imposed on non-users.)

The list of potential funding mechanisms seems comprehensive. I have concern about only one of them: customs duties. Those of us committed to free trade favor getting customs duties down to zero over time. But turning some portion of customs duties into a funding source for transportation infrastructure will create a vested interest in retaining customs duties indefinitely. I view that as a serious drawback. On the other hand, container fees dedicated specifically to goods-movement infrastructure do not suffer from that problem.

Part Six

I agree whole-heartedly with the five bulleted Observations, and think they are a sound basis on which to proceed.