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Moving Past Gridlock: A Proposal for a Two-Year Transportation Law

Robert Puentes[1]

ABSTRACT

The current political climate in Washington makes major reforms difficult. Yet there are tasks, some bold and sweeping, some targeted and incremental, the federal government can and must undertake to help states and metropolitan areas rebalance America's economy. For one, the federal government needs to take action on transportation infrastructure. This policy brief proposes a positive, affirmative proposal for reauthorizing the existing federal surface transportation law for two full years at its current funding level with several key reforms. These include: federal performance measures in safety and system-wide asset management; a new partnership with metro areas that raise their own revenue that reduces bureaucracy and accelerates project delivery; and better coordination of existing federal credit assistance programs. Such reforms are intended to set the stage for a truly transformative six-year bill in 2013.

I. INTRODUCTION

The Great Recession has left unemployment and abandonment in its wake, deeply touching the lives of tens of millions of Americans. Of the litany of things the federal government can do to build the next American economy, infrastructure and transportation are consistently held up by a growing chorus of civic, corporate, and political leaders as a necessary, effective, and non-partisan way to get the nation back on track.

Yet the nation's surface transportation law is caught in political logjam. Despite an unusually rich three-year policy discussion and a draft reauthorization proposal from the House of Representatives, the prospects for the passage of a long term law in the near future are bleak. This is partly because of concerns about the size of the deficit, a deep philosophical difference between the parties on the proper role of government, and the unwillingness to increase the federal tax on gasoline—the primary source of revenue for the program.[2]

The nation is instead facing the prospect of years of unpredictable and erratic extensions to the current law in order to avoid a shutdown of the program. Those extensions have historically made it difficult for states, metropolitan areas, and private contractors to plan for projects, delaying much needed infrastructure improvements and thwarting employment and economic recovery efforts.

This policy brief proposes a different path. Under a deficit-neutral approach, the existing law should be reauthorized, not simply extended, for two full years at its current funding level, to provide stability for transportation planning—including, critically, hiring workers. Estimates show that enough funding has

already been allocated to support such an extension. This means the federal transportation program runs uninterrupted through at least the end of 2012 and would put in place a number of fixes to ensure the nation gets the most out of its investment. These critical reforms set the stage for a six-year transformative bill in 2013.

II. BACKGROUND

The multi-year, $286 billion federal surface transportation bill, the *Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU)*, was signed into law by President George Bush on August 10, 2005. That law authorizes federal funding for highway and transit grants and provides both general-purpose funds for transportation capital plans developed by state and metropolitan transportation entities, as well as restricted-use funds for specific purposes—for example, congestion mitigation and air quality improvements.

From a legislative perspective, SAFETEA-LU's enactment was similar to that of prior transportation acts in several respects. For one, it represented a significant funding increase from the previous law. Table 1 shows SAFETEA-LU's $67 billion increase over the Transportation Equity Act for the 21st Century (TEA-21). Another is that it was approved by the U.S. Congress by a wide margin. Of the 515 members that voted on SAFETEA-LU, only 12 cast a "no" vote. It is also intensely bi-(or non-) partisan and party alliances are not usually a problem for the transportation program the same way as they are in other policy areas. And like its predecessors SAFETEA-LU contained a large number of congressional earmarks (though with over 6,300, it cemented the transportation program's reputation as a haven for pork-barrel politics.)[3]

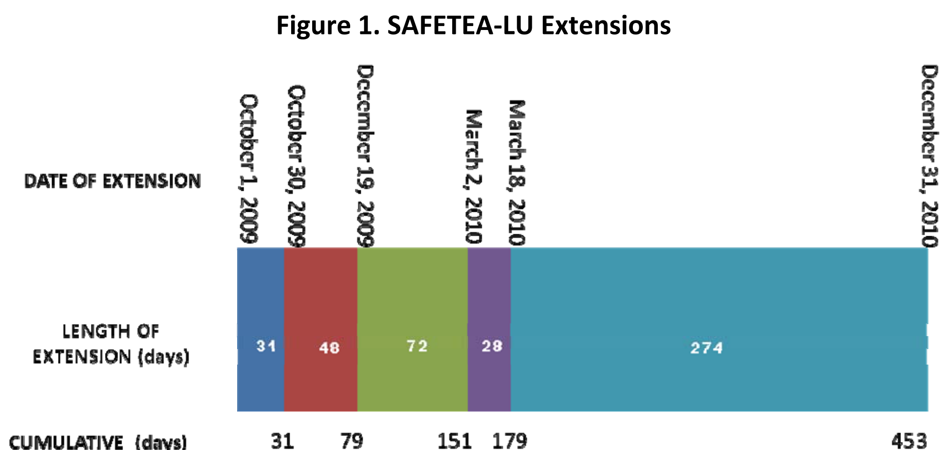
Table 1. Overview of Recent Federal Transportation Laws

Law	Year	Total (billions)	Increase from previous		Earmarks		Extensions		% Yea's
			Billions	Percent	Number	Billions	Number	Days	
Surface Transportation Assistance Act	1982	$73	---	---	10	$0.3	?	~180	66%
Surface Transportation and Uniform Relocation Assistance Act (STURAA)	1987	$88	$16	22%	152	$1.4	?	~60	93% then 80% to override veto
Intermodal Surface Trans-portation Efficiency Act (ISTEA)	1991	$155	$67	76%	538	$6.2	?	253	89%
Transportation Equity Act for the 21st Century (TEA-21)	1998	$219	$64	41%	1,850	$9.3	12	680	81%
Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU)	2005	$286	$67	31%	6,373	$24.2	5	453	98%
Surface Transportation Authorization Act of 2009 House Proposal)	n/a	$450	$164	57%	?	?	-	-	

The other shared characteristic is the delay associated with the law's ultimate passage. The transportation program is generally authorized to run five or six years with the expectation that a new law would replace it when it runs out. However, for a variety of reasons the new law is always delayed. To ensure the program is not shut down, it is always extended past the original expiration date. Such extensions can be part of a new authorization law that stretches the "contract authority," also known as apportionment, that Congress gives the states; and/or a "continuing resolution," as part of the appropriations process.

The idea is that those extensions are necessary until Congress works out an agreement on the new law. For that reason, extensions are also almost always "clean" in that they contain no substantive changes to the existing law. The length of the extension varies based on an assortment of factors such as the annual budget cycle and other matters related to the debate (or lack thereof) in Congress. TEA-21 was extended 12 times over a period of 680 days in lengths that ranged from just a few days to eight months. SAFETEA-LU was slated to expire on September 30, 2009 and has, so far, been extended five times. It is now slated to expire on December 31, 2010, for a cumulative total extension of 453 days. See Figure 1.

Figure 1. SAFETEA-LU Extensions



While the short term extensions are beneficial because they avoid a shutdown of the federal program, they are otherwise highly undesirable.[4] There are several problems:

One is that most states rely heavily on guaranteed funding from the federal government for new capital projects and planning. The lack of certainty jeopardizes this process and the funding distribution is spread over smaller periods of time. Funding also can be subject to disruption by a shutdown of the program if the law expires without an extension as it did in most recently in February 2010. Extensions that stop short of the summer construction season also result in delays as states—especially those in the Northeast—struggle with their contractors to make hiring and equipment purchasing decisions. The end result is a net reduction in construction activity. States are also reluctant to engage in multiyear projects because of the uncertainty of federal funding that hinders the use of certain innovative finance tools. Grant anticipation revenue vehicles (GARVEEs) are debts intended to be repaid by future federal funds but, if for any reason, federal dollars are not forthcoming the states are solely responsible for repayment.[5]

The problems are particularly burdensome now because of the larger concerns about the American economy. Transportation is an important part of the nation's recovery efforts in both the short term (to

create and retain jobs) and the long term (to enable the nation to transition to a new economy driven by exports, powered by low carbon, fueled by innovation, and rich with opportunity.) Yet the reauthorization of SAFETEA-LU continues to be delayed despite strong and clear recommendations from a number of national commissions, as well as a diverse group of constituency groups, advocates, academics, think tanks, labor groups, and practitioners.[6] Almost all of these call for a five or six year reauthorization of SAFETEA-LU, and each emphasizes significant reform.

While the specifics of these proposals vary, there are several common themes. Most want strong federal leadership through additional funding and the formulation of a national vision or framework for the program. Several also strongly call for increased performance and accountability, since neither is characteristic of the program today. All urge reinvestment and protection of the existing system, and most recommend new capacity investments though the emphasis (e.g., freight, transit, highways) varies. Other topics such as environmental protection, carbon reduction, and greater local/state/metropolitan control are also consistent. The National Surface Transportation Policy and Revenue Study Commission led the call for a drastic reduction in the total number of existing surface transportation programs overall.[7]

The only legislative effort to reauthorize SAFETEA-LU came from the House Transportation and Infrastructure Subcommittee on Highways and Transit. On June 24, 2009, the subcommittee marked up their reauthorization bill: the Surface Transportation Authorization Act. This bill would provide $450 billion in total transportation funding and emphasized the reform elements described above. However, the House did not recommend increasing the federal gasoline tax as a revenue-raising mechanism for the draft legislation. Instead the subcommittee called for other funding and finance options such as the redirection and increase of other fees such as the tax on oil and the heavy vehicle use tax, the imposition of a transaction tax on speculative oil trading, issuing transportation bonds, and others.[8] There was no additional action on the draft proposal.

A key culprit is the fact that the balance of the federal highway trust fund (HTF)—the source of revenues for the surface transportation program—has been falling as the spending from the account has exceeded the revenues into it. Part of the problem is that the federal tax on gasoline has not been raised even to keep pace with inflation since 1993. And as Americans have been driving less and driving more fuel efficient cars, they are buying less gas, so the tax is generating less revenue overall. In fact, when SAFETEA-LU was signed into law, estimates of anticipated gas tax revenues coupled with projected authorized spending confirmed that the HTF would run a deficit if additional revenue sources were not found. None were, so on three separate occasions since September 2008 a total of $34 billion in general fund revenues from the U.S. Treasury have been used to infuse the account to keep it from running a negative balance (Table 2).[9] Based on current spending patterns, the most recent transfer should provide enough revenue to keep the HTF solvent through at least the end of calendar year 2012.[10]

The concern, then, is that—with the HTF temporarily solvent—Congress will follow the traditional path and not just extend the current law before the deadline at the end of the year, but also at irregular intervals over the least the next two years.

Table 2. Recent General Fund Infusions into the Highway Trust Fund

Date	Bill	Public Law	Transfer Amount (billions)	Context
Sept. 15, 2008	H.R.6532	110-318	$8.02	To amend the Internal Revenue Code of 1986 to restore the Highway Trust Fund balance
August 7, 2009	H.R. 3357	111-46	$7.00	An act to restore sums to the Highway Trust Fund and for other purposes.
March 18, 2010	H.R. 2847	111-147	$19.50	Making appropriations for the Departments of Commerce and Justice, and Science, and Related Agencies for the fiscal year ending September 30, 2010, and for other purposes. (includes the Hiring Incentives to Restore Employment (HIRE) Act)
February 17, 2009	H.R. 1	111-5	$35.90	American Recovery and Reinvestment Act of 2009. *Note, these General Funds were not officially transferred from to the Highway Trust Fund but are listed here for illustrative purposes only.*

Note: in both FY 10 and FY 11, the federal transit administration will receive about $2.4 billion in general fund revenue

III. THE PROPOSAL

A 21st century transportation program that strengthens metropolitan America and is tightly linked to the vital elements of the next economy is critical for our nation to emerge from the rubble of the recession. Yet the current political climate in Washington makes major transportation reform difficult. But as an alternative to the undesirable series of extensions, continuing resolutions, and deficit spending, the federal government should act to help states and metropolitan areas rebalance America's economy. Congress must not waste the next two years and let the transportation discussion languish just because it cannot agree how to move forward, or are preoccupied with the federal deficit. The nation needs a positive, affirmative path forward.

The current emphasis on fiscal responsibility does not mean we should slow down investments in transportation. In fact, these investments are more important than ever. But to do them right in a constrained environment, Congress should consider a set of low (or no) cost recommendations to enable them to marshal the resources to spend taxpayer money wisely, make critical reforms which have broad appeal and have been recommended by a host of interested organizations and sectors, and set the program up for a transformative bill after the dust in Washington settles.

Given the unlikelihood for a short-term reauthorization before SAFETEA-LU expires by the end of 2010, a four-month extension should be passed that continues the current law through April 2011. Then, during that period, Congress should work to reauthorize SAFETEA-LU for two years, through early 2013. Such an authorization would avoid the current political rancor and the challenges of discussing the necessary increase in the federal gasoline tax during the Presidential election campaign in 2012. There is the added

hope that the national economy will have recovered sufficiently by then to make such a conversation possible.

That new two-year law (SAFETEA-TWO) should provide the predictability that states, localities, and metropolitan areas need to plan projects. It should keep in place the basic framework of the existing program and also be the vehicle for helping states and metropolitan areas invest in new ways to support the assets that drive the next economy. But as a program laden with pork and politics as its core principle, Congress needs to sharpen its transportation priorities so that they can cut and invest wisely. Only then can they take advantage of the strengths and assets in states and metropolitan areas with smart, targeted investments.

1) Invest in new ways to support the assets that drive the next economy

The next economy will be created through smart public and private interventions around infrastructure assets that matter. SAFETEA-TWO should put in place mechanisms that support such investments along with an improved network of market-oriented, private sector-leveraging, performance-driven institutions. These investments and institutions do not necessarily require new public resources, but they do demand that existing dollars be spent in a more purposeful fashion.

Refining existing innovative finance tools is one way to squeeze the most of the transportation program and leverage dollars at all levels. So the existing slate of federal credit assistance programs should be streamlined and institutionally coordinated. Today, the Federal Highway Administration's (FHWA) new Office of Innovative Program Delivery manages several finance tools that issue assistance in the form of loan subsidies, loan guarantees, and bond issuances. Congress should direct that office to coordinate disparate programs such as the Transportation Infrastructure Finance and Innovation Act (TIFIA), the Railroad Rehabilitation & Improvement Financing (RRIF), and Private Activity Bonds (PABs) so public and private sector actors can help package up a variety of federal credit tools all under one office. Applicants should be able to simultaneously apply to more than one program and receive notification of awards at the same time. Fortunately, there is already precedent for this sort of coordinated, cross-financing approach. Denver's recent Union Station makeover is as an example of loan program coordination and was the first project to receive both RIFF and TIFIA funding.[11] Resources from these programs could eventually be combined, setting the stage for transition to a National Infrastructure Bank.[12]

For its part, the TIFIA program has been successful in supporting a wide range of project-specific applications such as roads that are directly supported by toll revenues. However, its utility would be greatly enhanced if TIFIA was amended to support applications that contain multiple projects such as requested by Los Angeles' 30/10 Initiative.[13] Today, TIFIA deals with applications on a project basis. But when those projects are part of one holistic package and funded primarily by the same revenue source (such as a regional sales tax) the federal government should be able to provide one upfront credit commitment. A revised TIFIA should take steps to ensure that the spirit of the program—to fund projects of national or regional significance that transcend state and local boundaries—is not undermined by allowing packaged smaller projects to be eligible.

These programs should finance projects on the basis of demonstrable merit and performance metrics. The coordinated evaluation teams should take lessons from the U.S. DOT's Transportation Investment Generating Economic Recovery (TIGER) and Urban Partnerships programs and apply common intermodal standards to all applications, but also add more clarity and specificity to their assessment of eligible projects. Since the demand for TIFIA assistance is so strong, goals need to be made explicitly clear and transparent so applicants have confidence they can assemble projects that fit with the

program's objectives.[14] If all this is done correctly, the federal government will create more "bang for its buck" through key reforms, economies of scale, and well-aligned goal setting.

SAFETEA-TWO should also expand the use of public/private partnerships (PPPs) for transportation. An October 2010 House T&I Committee report found that doing so could save up to $180 billion.[15] While the U.S DOT has done much to promote the benefits of PPPs, it needs to do more to help states and metro areas think through potential costs and trade-offs, as well as assessing national interests.[16] In contrast, no less than 25 countries have begun implementing specialized units throughout various governmental agencies to assist with the expanding opportunities for PPPs. These so-called PPP Units fulfill different functions such as quality control, policy formulation and coordination, technical advice, standardization and dissemination, and promotion of PPPs.[17]

In the U.S., the primary purpose of such an entity would be to provide technical, non-binding information, assistance and advice to states and metropolitan entities. The House reauthorization proposal takes a step in this direction by proposing to create an "Office of Public Benefit" but its steps too far by giving it decisionmaking authority over PPP projects. A better model would be to augment the efforts of the Office of Innovative Program Delivery. Today, that office provides general guidance, outreach, and best practices on PPPs. However, it has no specific budget for the PPP program, nor staffing resources for the technical expertise in procurement and management, value for money, or risk transfer.

Beyond the innovative finance tools, SAFETEA-TWO should support aggressive research, development, and demonstration programs around the transition to a new, more direct user charge system such as a Vehicle Miles Traveled (VMT) fee. A VMT fee would use satellite tracking devices to record how far and when motorists drive and would assess a fee based on those travel habits. Because of the institutional and technical complexity inherent in such a system (coupled with the urgency of the need) it is important to identify and address critical policy questions such as privacy, administrative methods and costs, and the interplay with climate change and other national policy goals. These issues will require investment in research and technology, including a variety of demonstration programs of mileage-based user fee systems. The effort should be overseen by a coordinating body with expertise in the range of relevant issues such as the U.S. DOT's Intelligent Transportation Systems Joint Program Office.[18]

In addition to finding ways to fund and finance the assets of the next economy, other projects need to be strategically identified. In order for the U.S. to orient its economy around increased exports, we need a framework for goods movement policy and investment that spans all modes. Building off the FHWA's existing Freight Performance Measures Initiative we need a national freight transportation strategy to prioritize and assess corridors and projects on a strategic cost-benefit analysis that would include all modal options. Part of this effort should be to determine the appropriate finance and evaluation mechanism to support major U.S. seaports and airports to remain globally competitive.

Then to get new projects completed, SAFETEA-TWO should begin to put in place certain reforms in order to simplify the project development process and improve project delivery. While there is general agreement that federally-funded transportation projects take too long to complete, there is considerable disagreement about the cause of those delays.[19] For example, the environmental review is a common target of criticism despite the fact that a very small percentage of federally-funded projects trigger the detailed reviews, and other studies show environmental issues are not the main source of the main source of the problem.[20] Oftentimes, the delays are due to disagreements or lack of consensus on project funding.

Yet, it does seem clear that strong partnerships and coordination among stakeholders, supported by financial incentives have been successful in engendering early project completion.[21] Congress should consider allowing the U.S. DOT to maintain an incentive pool to reward states and metropolitan areas that consistently deliver projects on time while adhering to environmental protocols. The potential savings could potentially offset the costs of the program. SAFETEA-TWO could also create a voluntary pilot program to work with certain states to determine how to accelerate project delivery through more thorough federal review of states' long range transportation plans. In this way, the deliberations about projects can take place much earlier in the process. Also, states with very strong environmental review and planning processes—such as California—should be able to waive steps such as the draft environmental impact statement. Projects could also be delivered faster through greater use of categorical exclusions that allow projects with low impacts to avoid the standard environmental review process entirely, resulting in significant time and cost savings.

Lastly, Congress should strive to play a helpful role around the build-out of inter-metro area passenger rail. The recent dust-up over the high-speed rail program after the gubernatorial elections in Wisconsin and Ohio highlights a difficult challenge when new governors decide that the federal government's offer of capital funding imposes unwelcome maintenance demands once the system is completed. One way to bridge this gap is to allow these rail expenditures to be eligible for flexible surface transportation funding from the highway trust fund should states decide to do so. In addition, future awards of federal high speed rail funding could encourage, as part of the application process, clear evidence of a stable and ongoing commitment to the project, perhaps in the form of state legislative action.

2) Cut to invest in the next economy and make the existing system perform better

While the federal surface transportation program cannot support itself long term at the current funding levels and with current revenue sources, the most recent General Fund infusion to the Highway Trust Fund should remain in place. In this way, a two-year authorization at current funding levels means there does not have to be draconian cuts to the program or to individual modes.

Nevertheless, the recommendations from two national commissions to reduce the number of federal transportation programs from 108 should be considered. Restructuring the program by framing it around national goals and priorities and consolidating it into a mode-neutral, formula-based, maintenance program on one hand and a competitive program for capacity expansion on the other makes sense given the challenges and needs we are facing today. But it is too heavy a lift for the short term. Congress should spend the next two years preparing to do that by directing the U.S. DOT to work with a wide range of stakeholders to establish a candidate set of these overarching goals and objectives.[22]

At the same time, SAFETEA-TWO should start the transition to a performance-driven framework by applying performance measures in a few key areas. Several states and metropolitan planning organizations (MPOs) are already doing this to some degree in areas like safety and asset management and have information and data collection methods in place to help them measure success. These areas are prime candidates for initial tests to demonstrate performance.[23]

But in order to commit to the deeper kind of evidence-based program many are calling for, an overhaul is needed in how the federal government collects, assembles, and provides data and information. Therefore, SAFETEA-TWO should invest in a world-class data and information system ("TranStat") and make it transparent and accessible. That is a key—and relatively inexpensive—reform to improve the system, support metropolitan areas, and to regain the credibility of the public. TranStat should be

funded by a small takedown of one half of one percent of the core highway programs and transit authorizations (about $125 million each year.)

Improvements also need to be made to two new discretionary programs: TIGER and High Speed Rail. By awarding funds on a competitive basis and evaluated by the U.S. DOT on the basis of quantifiable merit they represent a sea change for how Washington thinks about transportation investments. However, more transparency about the decisionmaking process is sorely needed. While applicants for these funds had to adhere to the factors enumerated in the federal notices, the process was nonetheless opaque. SAFETEA-TWO should make both of these programs permanent after "sunshine" measures are put in place. A more effective partnership between Congress and the Administration about how competitive, merit-based, earmark-free projects are chosen should be the goal of such an effort.[24]

The partnership should go to great lengths to ensure the competitive programs do not suffer the same fate as others like the Projects of National and Regional Significance or Bus and Bus Facilities Discretionary Programs. These programs are emblematic of those that start out ostensibly as competitively-awarded programs but end up entirely earmarked by the legislature. In other words, while discretion is still technically with the U.S. DOT Secretary, Congress fully or partially dedicates the funding to other specific projects. For this reason, even though SAFETEA-LU was stuffed with over 6,300 earmarks, eliminating these specific projects from the law would not necessarily have resulted in a smaller overall bill since many earmarks were just reallocated discretionary money.[25] A better approach would be to make programs like these truly competitive with transparent standards of performance and outcomes, and benefit/cost analysis.[26]

While these programs should maintain their funding levels, there are other legacy programs that should be cut or trimmed. For example, SAFETEA-LU funds three regional development agencies, the Appalachian Development Highway System Program ($470 million each year), the Delta Region Transportation Development Program ($10 million), and the Denali Access System Program ($15 million). These programs support the laudable goal of promoting economic growth. But they are redundant given other highly flexible core federal transportation programs that states could use to fund projects in these areas. Simply reducing the federal match from 80 percent of the project costs to 50 percent could save $185 million each year. Eliminating them completely would save nearly a half billion.[27] Furthermore, a House T&I proposal from September 2010 to consolidate the administrative functions of these agencies—perhaps within the Department of Commerce—would save $1 million each year.[28]

3) Leverage metropolitan strengths through smart, targeted partnerships

To create jobs and build the next economy, the federal government has to recognize the power of our economic engines: the metropolitan areas that house most of the American people and generate an even greater portion of our GDP.[29] Metropolitan areas are critical for job creation, revenue generation, and economic growth. The federal transportation program should align itself and leverage this potential with targeted investments and strategies that help metropolitan areas build on their distinct and concentrated assets.

Metropolitan areas around the country are acting on their own to envision, design, and finance the next generation transportation system in America. Those places—especially in the West—are taxing themselves, dedicating substantial local money, and effectively contributing to the construction of the nation's critical infrastructure system. The federal government needs to follow and align its resources to help those that help themselves.

In metropolitan Phoenix, for example, voters in Maricopa County approved Proposition 400 in 2004 which extended a half-cent sales tax for regional transportation for another 20 years. That bit of local effort will generate over $ 11 billion over time to expand regional transit service (including the expansion of the region's new light rail system) and, like Los Angeles' Measure R, it will dedicate billions for freeway upgrades, additional lanes, and improved interchanges, including substantial improvements to the national interstate system. Other major metro areas like Charlotte, St. Louis, Oklahoma City, Seattle, and Milwaukee have also gone to their voters for approval of ballot initiatives to fund a mix of light rail and bus lines, highway projects, commuter rail and corridor preservation. A coalition of business and civic leaders in the Dallas Metroplex, for that matter, is pushing the state legislature to give metros in Texas the authority to do the same.

In short, metropolitan areas across the country are laboring hard to keep up with system maintenance, enhancement, and expansion needs—even along national corridors—on which they are investing substantial local resources. These efforts epitomize a new kind of 21st century self-help that SAFETEA-TWO should explicitly recognize and embrace. Though a new partnership, the federal government should provide incentives to metropolitan areas that secure long-term and substantial regional funding sources approved for a minimum of 20 years and that equal a significant (one-third to one-half) portion of the annual federal transportation funding received. As to the incentives, a possible menu of options might include: more direct funding to MPOs, more flexible "mode neutral funding," more streamlined planning processes, more direct reporting to federal agencies, and reduced bureaucracy.[30]

Clearly there are many details to work out and vet under such as scheme. Legitimate questions can be raised, for one thing, about whether this would lead to an overreliance on sales tax funding sources that are at once regressive and susceptible to volatility. Likewise, some metros will quibble with the specifics of the eligible local funding and the 20-year and funding thresholds. However, the sales tax is but one potential source of funding and all funding options and timeframes should be on the table for discussion.

SAFETEA-TWO should also establish a national policy for road pricing to assist and guide metropolitan areas as they struggle with capacity constraints, climate challenges, and revenue allocation. Such a policy should lay out a bold, flexible vision that includes a range of strategies including standard tolling, variable pricing, high occupancy toll lanes, cordon and area-wide schemes. The goal of the national policy would be to permit metropolitan areas to experiment with the best mix of strategies for their particular area. But any project using federal money to add additional capacity to the national highway system within metropolitan areas should be required to be tolled with optimal electronic collection strategies.

A national metropolitan road pricing strategy should also remove the archaic restrictions on tolling the interstate system. Metropolitan and local leaders—in conjunction with the states—are in the best position to determine which interstate roadway segments are the strongest candidates for pricing strategies. Such portions would include those where a range of travel options exist or are planned, and where the most intense peak-hour congestion on expressways is present. A broad range of tolling strategies should be considered–not solely for revenue generation but for congestion and demand management strategies such as on beltways, downtown spurs, and within mega-regions.

IV. CONCLUSION

During this time of economic uncertainty and overall stresses on the federal budget, Washington must maximize the returns from its largest domestic discretionary program—transportation. But Congress also needs a strategy for a comprehensive transportation law to replace the current program. An important element of that is recognizing that the chances for a six-year authorization are remote because the appetite for an appropriate revenue source (in particular, the gas tax) is low between now and the presidential election in 2012. But rather than following the traditional course of uneven and unpredictable continuing resolutions, Congress should instead pass a two-year reauthorization that sets the stage for the transformative bill many are calling for.

At the same time, there are other activities Washington could also pursue concurrently during this window of time without explicit legislation. For example, the U.S. DOT should conduct baseline data inventory and institutional assessment is a critical step to moving to a more performance-based system. They should continue to work in a transparent fashion to refine how major transit project proposals seeking federal funding are rated and evaluated. Current efforts to link-up with other federal agencies around housing and environmental issues could be expanded to coordinate between transportation and economic development efforts, especially around freight transportation.

Outside the Beltway, states are also facing severe financial and budgetary shortfalls. Twenty-one states saw transportation program area cuts in fiscal year 2010 and eleven are proposing cuts for the next fiscal year.[31] Governors will increasingly be looking to the federal government for help on transportation. While major infrastructure initiative like the American Recovery and Reinvestment Act may not be possible in the foreseeable future, Congress should at least do-no-harm and avoid the possibility of shutting down the program because of inaction on the authorization or on the overall budget.

The stakes are too high to let the nation's transportation program—historically one of the few examples of true Washington non-partisanship—languish. Even in these difficult times, there are many important transportation reforms that are critical for helping pull the nation out of the rubble of the recession. There is no shortage of ideas.

ENDNOTES

[1] The author thanks Adie Tomer, Emilia Istrate, Christopher Leinberger, and David Jackson for their contributions to this policy brief.

[2] Reuters, "Americans Strongly Oppose Proposed Gas Tax Hike," December 7, 2010.

[3] See: Costas Panagopoulous and Joshua Schank, *All Roads Lead to Congress: The $300 Billion Fight Over Highway Funding*, CQ Press: 2007.

[4] John Haifley and others, "Revisiting the TEA-21 Reauthorization: Extensions and Delays," *Public Roads*, March/April 2009, Vol. 72, No. 5. The director of the Oklahoma department of transportation recently echoed some of these concerns. Murray Evans, "Oklahoma Transportation Officials Want Fund Extension," The Associated Press, December 7, 2010.

[5] The rating agencies such as Fitch and Standard & Poors have expressed credit concern about potential delays in federal transportation funding, though the ratings are still generally stable for GARVEES.

[6] When SAFETEA-LU was passed in August 2005, legislators and the administration recognized that there were still looming challenges that needed to be addressed. Therefore, SAFETEA-LU authorized the establishment of two national commissions to examine the future of federal transportation policy, funding, and financing. Those two commissions consisted of nationally-recognized experts in the field and both called for significant policy reforms to the surface transportation program.

[7] National Surface Transportation Policy and Revenue Study Commission, "Transportation for Tomorrow," 2008.

[8] Congressman James Oberstar, Testimony before the Committee on Ways and Means, U.S. House of Representatives, Subcommittee on Select Revenue Measures, Hearing on Surface Transportation Financing, July 23, 2009.

[9] General fund money regularly funds parts of the federal transportation program, such as transit and safety. In addition, the American Recovery and Reinvestment Act provided $35.9 billion in general funds for highway and transit projects.

[10] Congressional Budget Office, "Highway Trust Fund Projections FY 2010 Baseline 2009-2020," August 19, 2010.

[11] "Transportation Secretary Ray LaHood Announces $300 Million for Denver Union Station Redevelopment," U.S. Department of Transportation Press Release, DOT 143-10, July 23, 2010.

[12] Emilia Istrate and Robert Puentes, "Investing for Success: Examining a Federal Capital Budget and a National Infrastructure Bank," Brookings: 2009.

[13] See: Robert Puentes, "New Partnerships for Accelerating Infrastructure Investments," Los Angeles: Briefing on Metropolitan Los Angeles' 30/10 Initiative, August 23, 2010.

[14] TIFIA is now oversubscribed with a record 39 loan applications for a range of transportation projects. Combined, the applicants are seeking $13 billion in finance assistance to support $41 billion in projects which is far more than the program's $1 to $2 billion dollar annual capacity. See: Roy Kienitz, Testimony before the Committee on Environment and Public Works, United States Senate, Hearing on Federal, State and Local Partnerships to Accelerate Transportation Benefits, March 11, 2010.

[15] The details or time frame for the claim are not clear from the report. Committee on Transportation and Infrastructure, "Sitting on Our Assets: The Federal Government's Misuse of Taxpayer-Owned Assets," U.S. House of Representatives, 111th Congress, October 2010.

[16] U.S. Government Accountability Office, "Highway Public-Private Partnerships: More Rigorous Up-front Analysis Could Better Secure Potential Benefits and Protect the Public Interest," GAO-08-44, 2008.

[17] Canada maintains one of the most well-funded and expansively responsible PPP units. Ireland. India, the Netherlands, South Africa, and Italy are a sampling of the other countries that employ PPP units to facilitate their process. Forthcoming Brookings report.

[18] National Surface Transportation Infrastructure Financing Commission, "Paying Our Way: A New Framework for Transportation Finance," 2009.

[19] U.S. General Accountability Office, "Highway Infrastructure: Perceptions of Stakeholders on Approaches to Reduce Highway Project Completion Time," GAO-03-398, 2003.

[20] Jennifer Dill, "What Influences the Length of Time to Complete NEPA Reviews? An Examination of Highway Projects in Oregon and the Potential for Streamlining," Portland State University, Submitted for Presentation at the 85th Annual Meeting of the Transportation Research Board, 2005. Another study ranked "utility relocation" as the number one cause of delay.

Transportation Research Board, "DOT-Utility Coordination: Understanding Key Aspects of the Problem and Opportunities for Improvement," Strategic Highway Research Program 2 Project Brief R15, 2009.

[21] The American Recovery and Reinvestment Act (aka the stimulus package) contained a use-it-or-lose-it provision that states obligate highways dollars by a certain date, and not one state failed to meet the deadline. Yet it is important to note that reconstruction projects (such as the I-35W Bridge in Minneapolis/St. Paul) are substantially different from new greenfield projects.

[22] "Surface Transportation Authorization Principles," endorsed by the American Association of State Highway and Transportation Officials and others, August 2010.

[23] Bipartisan Policy Center, "Transitioning to a Performance-Based Federal Surface Transportation Policy," Washington: National Transportation Policy Project, 2010.

[24] Bipartisan Policy Center, "Performance Driven: A New Vision for U.S. Transportation Policy," Washington: National Transportation Policy Project, 2009.

[25] Other programs like Job Access Reverse Commute became so encumbered with earmarks that Congress turned it into a simple formula grant program. For more details on earmarking see: Gian-Claudia Sciara, "Planners and the Pork Barrel: Metropolitan Engagement in and Resistance to Congressional Transportation Earmarking," University of California, Berkeley, UC Transportation Center Dissertation No. 166, 2009.

[26] A good model is the Notice of Funding Availability for the Department of Housing and Urban Development's Community Challenge Planning Grants and the Department of Transportation's TIGER II Planning Grants. Federal Register 75:121 (June 24, 2010) p. 36246.

[27] Despite the authorization, in 2009 Congress appropriated $100 million for these programs. Congressional Budget Office, "Budget Options, Volume 2," Congress of the United States, 2009.

[28] Committee on Transportation and Infrastructure, "Achieving Deficit Reduction by Reducing Waste, Fraud, Abuse and Mismanagement, Promoting Efficiency and Reform of Government, and Controlling Spending," U.S. House of Representatives, 111th Congress, September 2010.

[29] In 47 states, the majority of state GDP is generated by metropolitan areas, including such supposedly rural states as Kansas, Nebraska, and Iowa.

[30] Maricopa Association of Governments, "United States Department of Transportation and Metropolitan Planning Organizations: A New Partnership," Phoenix, 2010.

[31] National Association of State Budget Officers, "The Fiscal Survey of States," Washington, 2010.

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Robert Puentes
Senior Fellow
Metropolitan Policy Program at Brookings
rpuentes@brookings.edu

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