TESTIMONY OF

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REGARDING

Surface Transportation Reauthorization Bill: Laying the Foundation for U.S. Economic Growth and Job Creation, Part II

BEFORE THE

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ON

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INTRODUCTION

Chairman Shuster, Ranking Member DeFazio, and Members of the Committee, thank you for the opportunity to provide input on the need to reauthorize, fund, and improve highway, transit, and highway safety programs. My name is John Cox, and I serve as President of the American Association of State Highway and Transportation Officials (AASHTO), and as Director of the Wyoming Department of Transportation (WYDOT). Today it is my honor to testify on behalf of the State of Wyoming and AASHTO, which represents the State departments of transportation (State DOTs) of all 50 States, Washington, D.C., and Puerto Rico.

I have been fortunate enough to serve as Director of the Wyoming Department of Transportation for over ten years. And in my role as AASHTO President, I lead the Association's primary goal of fostering the development, operation, and maintenance of a safe, efficient, and integrated national transportation system. Before WYDOT, I served 28 years in law enforcement, most recently as commanding officer of the Wyoming Highway Patrol from 1998 to 2005.

My main message this morning is to urge prompt action on a well-funded, long term surface transportation bill that clearly reflects and serves the national interest. Our country needs a Federal transportation program providing robust investment levels coupled with long-term funding stability. Furthermore, the program should provide States with flexibility by not diminishing the percentage of funds distributed by formula and by streamlining regulations and program requirements. Enacting this well-funded, long-term Federal program with flexibility for States is absolutely critical if we are to address significant transportation challenges, and, thereby, strengthen the United States and its economy.

My testimony today will emphasize three main points:

- The urgent need for a long-term surface transportation bill;
- The importance of the Federal-State partnership in funding transportation infrastructure; and,
- Policy changes that build on the successes of MAP-21.

THE URGENT NEED FOR A LONG-TERM SURFACE TRANSPORTATION BILL

Throughout the history of our country, transportation has played an integral role in the success of our economy. While States have done an admirable job of addressing transportation within their boundaries, there is clearly a need for a cohesive national transportation system. In Wyoming, for instance, Interstate 80 runs east and west across the southern portion of the State for 401 miles and reaches 8,640 feet in elevation. More than half the traffic on this route is from trucks. These trucks, over three-quarters of which are in transit through Wyoming between the Midwest markets and the West Coast ports, carry all manner of goods from agricultural commodities to raw materials and manufactured goods. This traffic, which contributes greatly to national commerce, would not be possible without an effective interstate transportation system.

And, in addition to I-80 in Wyoming, there are tens of thousands of interstate and other highways in this county that serve truck and passenger traffic on roads in a given State, but which do not originate or terminate in that State. Your State, Mr. Chairman, came to be known as the "Keystone State" for just such reasons.

Yet, on May 31, 2015, the authorization for the Federal highway, transit, and highway safety programs will expire, and a short time later the Highway Trust Fund (HTF) will not have sufficient cash balances to reimburse State DOTs and local transit agencies for costs already incurred on highway and transit projects.

Over the past six years, Congress has had to pass 11 short-term extensions and transfer more than $60 billion from the General Fund into the Highway Trust Fund to keep it solvent. The negative impact of these short-term extensions and the near-constant threat of Highway Trust Fund insolvency cannot be overstated.

While we as a transportation industry do everything in our power to build our projects as fast as possible, many of them take several years to complete. The lack of a long-term surface transportation bill that provides a predictable stream of Federal funding makes it nearly impossible for State DOTs to plan for large projects that need funding over multiple years. Major transportation projects in several States are sitting on the shelves or have been delayed due to the unpredictability of Federal funding. Such delays have serious economic consequences both in the short- and long-term. These projects employ thousands of companies and hundreds of thousands of workers every year. Once completed, they help stimulate economic growth in every community where they are built.

In my own State, we have completed construction on the Togwotee Trail, one of the main routes to access Grand Teton and Yellowstone National parks for millions of visitors each year. This project took several years to complete and without the predictability of a long-term surface transportation bill, critical multi-phase, multi-year projects like this, as well as other kinds of projects, may not move forward.

The current surface transportation authorization will expire in the middle of the spring construction season, and already several State DOTs are pulling back on needed projects that are scheduled to go out for bid. Tennessee announced they will delay $400 million in highway and bridge projects this year due to the uncertainty of Federal funding, and Arkansas followed with an announcement that they will delay three projects totaling more than $30 million that were planned for bid in late January.

Like other cold-weather States, the winter season in Wyoming can greatly limit our timing in building our critical projects. We work diligently to advertise projects at the right time in order to get the most competitive bids and to build them as quickly as possible. This approach minimizes the impacts to the traveling public and our business community. It empowers us to get the best value for the public's investment. With the uncertainty of when—or even if—Congress will authorize the rest of the 2015 program, Wyoming and other cold-weather States may miss this construction year for a full third of our programs. We have already delayed 18 projects worth some $28.5 million. It will also force us to advertise projects late in the construction season, resulting in less competitive bidding, less value for the public's investment, and the potential for delaying important and needed projects that will improve communities and their economies.

Last year AASHTO worked with State DOTs across the country to build a tool at http://invest.transportation.org that showed the impacts of Congress' failure to enact a long-term surface transportation bill. In addition to identifying national impacts, this tool allowed State DOTs to identify specific projects that were at risk if Congress did not ensure the solvency of the HTF. Twenty-eight States identified specific projects that would not go forward if the HTF were allowed to go broke; and in any event, all States will face serious difficulties without a long-term Federal authorization. To further narrate this important message, AASHTO recently released a new version of this infographic that continues to identify specific projects that are at risk if Congress fails to act.

Nationwide, State DOTs rely on the Federal highway program for nearly half of what they spend on highway and bridge projects. Last year the Federal highway program apportioned nearly $40 billion to State DOTs for road and bridge projects across the country. It is important to note that Federal dollars are not provided to States upfront; rather, this is a program based on reimbursement. States only receive funding from the Federal Highway Administration (FHWA) when work is completed on a project and the State submits a request for reimbursement. States typically receive reimbursements electronically from FHWA the same day payments to the contractor are made.

If Congress is unable to pass a surface transportation bill by the end of May or if the Highway Trust Fund is allowed to fall below $4 billion, FHWA will change how quickly they reimburse State DOTs for work already completed. Rather than reimbursing States as soon as the reimbursement request is submitted, FHWA may delay reimbursements or make partial reimbursement subject to available cash in the Trust Fund. States count on prompt payment from the Federal government to be able to manage cash flow and pay contractors for work they have already completed.

Any delay in reimbursement from FHWA will jeopardize the ability of States to pay contractors in a timely manner. In turn, contractors rely on prompt payment from the State to be able to pay their employees and suppliers. Disruptions to this process have the potential to send unwelcome shockwaves throughout the transportation community—contractors will refrain from purchasing new equipment, for example. Other industries indirectly supported by infrastructure investment will also experience adverse impacts. Of particular concern should be the countless number of small businesses that perform work on our nation's highways, as they often don't have the flexibility to wait for additional days or weeks for payment on the work they have already completed on a project.

IMPORTANCE OF THE FEDERAL-STATE PARTNERSHIP IN FUNDING TRANSPORTATION INFRASTRUCTURE

Going back to the founding days of the Nation, Article I, Section 8 of the United States Constitution notes that it is a duty of the Federal government to provide support for national transportation investment. Through the development of post roads, canals, railroads, and highways with strong Federal support throughout history, transportation investment has an outstanding track record of creating jobs and supporting economic development throughout the country.

The case for a strong Federal-role in transportation investment is evident in our Nation's interconnected network of roads and bridges. For nearly 100 years, the Federal government and State DOTs have worked together to build and maintain our Nation's highway system. The Federal-Aid Road Act of 1916 established this fundamental framework of a Federally-funded, State-administered Federal-Aid highway program, best suited to a growing and geographically diverse nation like ours. Today about $40 billion is distributed through this Federal program to State DOTs to fund a wide range of projects that are clearly in the interest of the nation as a whole. These projects are the backbone of our country's mobility and support interstate travel and commerce, helping people get to and from work, and helping goods get access to a larger market than ever before. Furthermore, a strong Federal role ensures the safety of the nation's transportation network.

State DOTs play a critical role in ensuring that we have a safe, reliable, and efficient transportation network. In fact, in 2013, my governor—Governor Matt Mead—sought to establish a sustainable State funding base for transportation projects by signing a ten-cent increase in the State motor fuels tax that was passed by Wyoming's House and Senate. Supported by business organizations and civic groups like the Wyoming Taxpayers Association, this action has allowed us to raise $70 million in additional resources per year to invest in our State's transportation infrastructure assets. Approximately two-thirds of this additional funding will be put to work on the State highway system, with the rest going directly to local governments. That being said, States like Wyoming are only able to play this role through a robust partnership with the Federal government, because without the strong Federal support, Wyoming's enhanced investment package will fall apart much more quickly than the time it took us to put it together. Dozens of other States have joined Wyoming in successfully adopting legislation that increases revenue for transportation investment. But it is important to note that when States take action to increase revenue for transportation, they do so expecting to **supplement** the Federal program … not as a **substitute** for the Federal program. Indeed, it is this century-old Federal-State partnership that has enabled America to build a transportation system envied by the rest of the world. If one of those partners does not hold up their end of the bargain, this system will fail.

The Federal surface transportation programs also provide substantial support for public transportation and AASHTO supports the current highway-transit funding balance. A large portion of transit funding is directly apportioned or allocated to transit agencies, not through state governments. But States are also actively involved in assisting transit service, particularly in rural areas and for seniors and special needs individuals. State DOT also work closely with local transit agencies to spend ("flex") an average of $1 billion a year in Federal highway funding on transit projects.

While the Federal-State partnership is the foundation of our Federal highway program, State DOTs also have strong partnerships with local governments in their respective States. The transportation planning process as strengthened under the Intermodal Surface Transportation Efficiency Act of 1991 requires State DOTs to work extensively with local planning agencies and the public in developing multimodal transportation plans and identifying projects that are supported by the Highway Trust Fund.

MAP-21 contained several provisions that further enhanced the role of local government in the transportation planning process, including an increase in Federal funding that is suballocated for projects in different parts of the State based on population. In many cases, this suballocated funding is dedicated to local projects identified solely by local planning agencies. In FY 2014, close to $5 billion in Federal highway funding was suballocated, which represented a nearly five percent increase in the amount of funding suballocated annually compared to prior surface transportation bills.

Furthermore, MAP-21 introduced the development and implementation of a performance-based transportation program where State DOTs will be required to set and meet targets based on the current program structure. As such, selection of federally-funded projects should not be done by local governments alone if State DOTs are to be able to meet the transportation system-wide performance targets.

Any effort to disrupt the Federally-funded, State-administered structure of the Federal-Aid highway program that has served our nation with great success could undermine the very foundation of a strong Federal role in transportation investment. It is this program framework that built the Interstate Highway System and the National Highway System—the backbone of our national network of roads and bridges that drive our national economy.

Rather than drastically altering the Federally-funded, State-administered nature of the Federal-Aid Highway Program and facing consequences of such disruption, we are prepared to work with Congress to highlight best practices where State DOTs have strong, productive collaborations with local governments and where the transportation planning process is working well. States strongly believe in, and will continue to, consult closely with our important partners in regional and local governments.

POLICY CHANGES THAT BUILD ON THE SUCCESSES OF MAP-21

MAP-21 was one of the most significant pieces of Federal transportation legislation because it instituted major programmatic and policy reforms. AASHTO supports these changes and applauds this Committee for its leadership in advancing those critical modernizations to the Federal-Aid highway and transit programs. However, several of these reforms have yet to be implemented by the United States Department of Transportation (U.S. DOT), and it is for this reason that we think this bill should build on the successes of MAP-21 rather than make another round of major programmatic changes.

First, Congress should continue to ensure that U.S. DOT is implementing the provisions in MAP-21 in a way that is consistent with Congressional intent. U.S. DOT is in the middle of more than a dozen MAP-21 rulemakings, and Congressional oversight of these rulemakings should ensure that the end product is consistent with what members of Congress intended when they wrote the legislation two and a half years ago.

Congress should also resist efforts to change or establish any additional national-level performance measures beyond those in current law. U.S. DOT has yet to issue final guidance on all the performance measures in current law, and State DOTs will need at least five years to fully implement the performance-based planning and management policies in MAP-21 once they are finalized. In addition, when looking at our peer nations abroad, fewer, high-level measures are generally acknowledged as more effective in moving the transportation vision toward accomplishing the goals of the national or regional governments.

Furthermore, we need to be judicious when it comes to developing and implementing Federal regulations. Currently proposed rules, if adopted, would impose new requirements, resulting in increasing data collection, planning, and administrative costs at a time when construction inflation takes away a share of the flat-lined Federal funding level. For example, one proposed rule would have States expend scarce dollars collecting multiple data items for all public roads, including gravel and dirt roads. Frankly, dollars would be much better used on road and bridge projects than collecting data on unpaved and low volume roads.

We need to strive towards reducing administrative burdens and maximizing actual transportation outcomes and services from the Federal program dollars.

State DOTs also ask to be afforded the opportunity to continue improving the project delivery process. Both California and Texas are participating in the National Environmental Policy Act (NEPA) delegation program established in MAP-21. In addition, Utah and Alaska have assumed assignment of Categorical Exclusion documents with great success. Several other States are also interested in participating in these efforts in the future. One specific change that will make this program more attractive is to clarify that States may assume U.S. DOT's responsibility for making project-level transportation conformity determinations under the Clean Air Act. State DOTs are also interested in assuming additional responsibilities currently held by U.S. DOT including the ability to approve designs and acquisition of real estate and rights-of-way. Congress could also consider further expediting project delivery by more clearly allowing the adoption of planning decisions in the NEPA process and allowing any U.S. DOT modal administration to use a categorical exclusion determined by another modal administration.

To build on the current flexibility in the Federal-Aid Highway program, Congress should consider authorizing a "Consolidated Funding" pilot program. This pilot program would build on the program consolidation efforts made in MAP-21 by treating all core funding provided to a State under the National Highway Performance Program, Surface Transportation Program, and Highway Safety Improvement Program as a single, consolidated apportionment. States would only be eligible to participate in the program once they had an established performance management system that demonstrates a system of metrics and performance measures that assist and guide the State in the decision-making process to Federal program funding received through the pilot program.

Finally, Congress should modify the language in MAP-21 that established the Primary Freight Network (PFN). Given their innate understanding of a State's overall transportation network, State DOTs request for the ability to designate or include additional segments to the PFN beyond the current mileage cap of 27,000 centerline miles. As part of this framework, Congress should also consider implementing a corridor-based approach to the PFN that incorporates multiple highway facilities.

CONCLUSION

We cannot address our nation's 21st century surface transportation investment needs without reaffirming the strong Federal-State partnership that is the bedrock of the national transportation program from the very beginning. AASHTO remains committed to helping Congress pass a robust, long-term surface transportation reauthorization prior to the expiration of the current MAP-21 extension in May.

I want to thank you again for the opportunity to testify today, and I am happy to respond to any questions that you may have.