

AMERICAN ASSOCIATION  
OF STATE HIGHWAY AND  
TRANSPORTATION OFFICIALS

**AASHTO**

TESTIMONY OF  
**The Honorable David B. Bernhardt, P.E.**  
President, American Association of State Highway and  
Transportation Officials;  
Commissioner, Maine Department of Transportation

REGARDING  
**Condition of Our Nation's Transportation System  
and Financing Options to Sustain Long-term  
Growth**

BEFORE THE  
**Subcommittee on Transportation, Housing and  
Urban Development, and Related Agencies of the  
Committee on Appropriations of the  
United States Senate**

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## **INTRODUCTION**

Chairman Collins, Ranking Member Reed, and Members of the Subcommittee, thank you for the opportunity to provide input on the condition of our nation's transportation system and funding and financing options to sustain long-term growth. My name is David Bernhardt, and I serve as the Commissioner of the Maine Department of Transportation (Maine DOT) and as President of the American Association of State Highway and Transportation Officials (AASHTO). Today it is my honor to testify on behalf of the great State of Maine and AASHTO, which represents the State departments of transportation (State DOTs) of all 50 States, Washington, DC, and Puerto Rico.

I first joined Maine DOT as a registered professional engineer in 1984. Prior to my appointment as Commissioner in 2011, I held several positions at the agency over the years including Director of Engineering and Operations and Director of Maintenance and Operations, among other roles. During my tenure as AASHTO President in 2016-2017, my three emphasis areas for the Association are to work closely with the new Administration and you—the members of Congress—to develop strong transportation legislation, freight and freight connectivity, and implementing AASHTO's comprehensive committee restructuring.

My testimony today will emphasize four main points:

- Maintaining a strong Federal investment in surface transportation by stabilizing the Highway Trust Fund;
- Ensuring timely action on annual appropriations to minimize program disruptions;
- Developing and deploying multimodal transportation solutions with Federal funding support, and;
- Supporting the development of a major infrastructure package that benefits every part of our nation.

## **MAINTAINING A STRONG FEDERAL INVESTMENT IN SURFACE TRANSPORTATION BY STABILIZING THE HIGHWAY TRUST FUND**

Transportation matters more today than ever before, not only in Maine, but throughout our country and across the world. Families and businesses depend on a strong transportation infrastructure to keep our state competitive. Smart investment in the maintenance and upgrade of this infrastructure is critical to sustaining a vibrant Maine economy and connecting us to a global economy.

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 the nation's transportation system. Through the development of post roads, canals, railroads and highways with strong Federal support throughout history, transportation investment has an illustrative track record of creating jobs and supporting economic development throughout the country.

For most of its life since its inception in 1956, the federal Highway Trust Fund (HTF) has provided stable, reliable, and substantial highway and transit funding. I would be remiss if I did not share the State departments of transportation's utmost appreciation for your Committee's leadership, along with your Senate and House colleagues on partner committees, in shepherding the Fixing America's Surface Transportation (FAST) Act in December 2015 to ensure stability in the federally supported passenger rail, freight, safety, highway, and transit programs through 2020. While the five years authorized under the FAST Act has given us a temporary reprieve—thanks to over \$140 billion of General Fund transfers since 2008—from recurring deep cuts in obligations due to the \$15 billion annual gap between Highway Trust Fund receipts and outlays, the case for maintaining a strong Federal role and investment in transportation remains as important as ever.

We in the transportation industry do everything in our power to build our projects as fast as possible, but due to the nature of large capital programs, including an extensive regulatory process many of them take several years to complete. The lack of stable funding from the HTF makes it nearly impossible for State DOTs to plan for large projects that need a reliable flow of funding over multiple years. Major transportation projects around the country will be put to risk near the expiration of the FAST Act due to the unpredictability of Federal funding at that time. 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. More importantly, these projects are what connect the traveling public to the many of facets of their lives. Once completed, they help stimulate economic growth in every community where they are built.

At MaineDOT, we produce a three-year work plan containing all the work we plan to do over that period. Having stability in federal funding makes this work much more of a reality than a guessing game. It also means that we can keep our word with our customers. From downtown reconstruction in Ogunquit and new road construction in Presque Isle, to major bridge construction projects in Kittery and Jonesport/Beales Island, stable funding means Mainers can depend on us sticking to our schedule.

Nationwide, State DOTs rely on the Federal surface transportation program for nearly half of their capital investment on highway and bridge projects. This year the Federal highway program apportioned over \$44 billion to State DOTs for road and bridge projects across the country, in addition to over \$9 billion in Highway Trust Fund support for transit. 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 address the structural cash shortfall in the Highway Trust Fund by 2020 and allows the Highway Account of the HTF cash balance 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 and other industries indirectly supported by infrastructure investment. 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.

As I mentioned, we do have a bit of a grace period right now in not having to face this funding cliff until 2020 - thanks to the FAST Act. But without action before then to shore up the HTF, this extremely costly and disruptive scenario will be all but inevitable.

### **ENSURING TIMELY ACTION ON ANNUAL APPROPRIATIONS TO MINIMIZE PROGRAM DISRUPTIONS**

The work of your Subcommittee is absolutely crucial to the dynamic I described above with the Highway Trust Fund. That is because HTF contract authority for the Federal surface transportation program can only maximize its value and effectiveness when paired with timely annual appropriations for the entire fiscal year that provide robust obligation limitation and the liquidating cash necessary to pay for Federal reimbursements to States. While we understand the difficulties in Congress when it comes to resolving budget and spending issues, we want to raise some of the impacts that can be felt by state DOTs and our local partners from the use of continuing resolutions (CR). And we stand ready to assist the Subcommittee as you work to complete the FY2017 appropriations process and begin work on FY2018.

An important funding feature of the FAST Act was to authorize a 5.6 percent increase in highway funding from FY 2015 to FY 2016, with subsequent annual adjustments between 2.1 and 2.4 percent. For the mass transit program, the FAST Act authorized a 10.2 percent increase between FY 2015 and FY 2016, with subsequent annual increases up to 3.3 percent. In addition to avoiding a series of short-term extensions of program authorization because the FAST Act is in place until 2020, AASHTO is especially grateful to Congress for being able to build in increases in annual authorized funding levels above inflation. And we very much appreciate your Subcommittee and the full Committee for honoring the FAST Act obligation limitation in FY 2016.

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There are two principal challenges for States if Congress is unable to pass a full-year appropriations measure that honors the FAST Act funding levels.

First, building on FAST Act apportionments of contract authority, States can make good on their planned investments for the Federal fiscal year—especially in cold, northern States like mine with a limited construction window—if obligation limitation for the entire year becomes available on October 1. Continuing resolutions that provide only a portion of obligation limitation mean that even if we are ready to proceed with our much-needed projects, we can only commit Federal dollars to a small portion of those projects. Missing the construction window due to a less than full year obligation limitation can mean that some projects are delayed.

Second, because continuing resolutions freeze obligation limitation levels at prior year levels, FHWA is unable to provide the full funding anticipated under the FAST Act. For FY2016, FHWA has been able to provide only \$42.2 billion of obligation limitation this fiscal year at an annualized rate as opposed to \$43.2 billion expected under the FAST Act. This translates to States around the nation receiving over \$1 billion less in Federal highway funding, with resulting reductions in funding at the State and local level. In addition, operating under a continuing resolution in FY2016 has prevented transit and passenger rail agencies from accessing \$199 million authorized for positive train control (PTC) in the FAST Act for FY 2017. Given that FY2017 is the only year for PTC funding from the Mass Transit Account, it is important that Congress enact an appropriations measure for the balance of FY2017.

AASHTO is ready to provide any and all assistance necessary to ensure the timely passage of annual appropriations bills on October 1 of each year, and respectfully request your Subcommittee and the full Committee to honor the obligation limitation contained in the FAST Act in the final FY 2017 appropriations, and in future fiscal years as well.

## **DEVELOPING AND DEPLOYING MULTIMODAL TRANSPORTATION SOLUTIONS WITH FEDERAL FUNDING SUPPORT**

AASHTO and its member departments of transportation proudly trace our lineage back to the early days of the State and Federal highway program at the beginning of the 20<sup>th</sup> century. Since then, State DOTs have underpinned economic activities enabled by passenger and freight movement as the primary stewards of our nation's highway infrastructure by designing, building, maintaining, and operating key highway assets ranging from seven percent of public road miles in California to 89 percent in West Virginia. State DOTs also own and operate the Interstate Highway System which handles nearly 25 percent of total vehicle miles traveled annually and 40 percent of truck traffic even though it comprises only 1.2 percent of total public road miles.

We are also proud, however, of the fact that State DOTs manage an increasingly multimodal network by investing in public transportation at a larger share than the Federal government, and in non-motorized travel modes such as walking and biking. In addition, some State DOTs operate public transportation systems, short line railroads, airports, and harbors.

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Similar to State DOTs, your Subcommittee has always brought a holistic approach to transportation funding by directing the Senate's resources to support all modes of transportation, especially through the highly successful TIGER discretionary grant program. Since 2009, the TIGER program has provided a combined \$5.1 billion to 421 projects in all 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and tribal communities. These federal funds leverage money from private sector partners, states, local governments, metropolitan planning organizations and transit agencies. The 2016 TIGER round alone is leveraging nearly \$500 million in federal investment to support \$1.74 billion in overall transportation investments.

Thanks to the strong support from you Madam Chairman and high quality applications and projects, MaineDOT is fortunate to have been successful at every round of TIGER and in the first round of FASTLANE. The result is critically needed infrastructure that would have been difficult to build any other way. For example, the Sarah Mildred Long bridge connecting Maine, New Hampshire and an important Navy shipyard is currently under constructions using a mix of funding including TIGER funds. TIGER funds also support rail and port infrastructure in Northern and Central Maine and built a commercially important breakwater in Eastport, Maine.

In addition, the National Highway Freight Program, a new formula-based funding category, and the Nationally Significant Freight and Highway Projects better known as FASTLANE Grants, in the FAST Act have enabled States around the country to provide more targeted freight funding support. These new programs focus investment in infrastructure and operational improvements that strengthen economic competitiveness, reduce congestion, reduce the cost of freight transportation, improve reliability, and increase productivity. They also improve the safety, security, efficiency, and resiliency of freight transportation in rural and urban areas, and enhance all aspects of the National Highway Freight Network.

I had mentioned earlier that one of my three emphasis areas during my AASHTO presidency are freight and freight network connectivity.

The International Marine Terminal, in Portland, Maine, is a great example of the FASTLANE Grant program. The Maine Port Authority and MaineDOT have undertaken major upgrades that will double the capacity of a terminal that is growing 20% year over year. The facility utilizes marine, rail, and truck modes to move product across the regional and internationally. The result -- new markets for Maine and U.S. products, lower logistical costs for Maine businesses and fewer trucks in highly congested corridors in the Northeast.

With the help of federal freight funds, and your support Madam Chairman, Maine is also upgrading large portions of its freight rail network allowing for higher speeds and weights on existing track. These projects support natural resource based manufacturing and agriculture throughout rural Maine.

## **SUPPORTING THE DEVELOPMENT OF A MAJOR INFRASTRUCTURE PACKAGE THAT BENEFITS EVERY PART OF OUR NATION**

For over one hundred years, we as a nation have enjoyed the fruits of the Federal government's highly successful partnership with State DOTs to build and maintain our Nation's surface transportation system. From the Federal-Aid Road Act of 1916 establishing the foundation of a Federally-funded, State-administered highway program that has been well-suited to a growing and geographically diverse nation like ours, federal investment in all modes of transportation have allowed States and their local partners to fund a wide range of projects that serve the interest of the nation as a whole. Thanks to the federal surface transportation program's flexibility that defers project selection and investment decision-making to State and local governments based on extensive public input, diverse communities in rural, suburban, and urban areas of the country have all been able to help people get to and from work, and help goods get access to a larger market than ever before in a way that best meet their unique needs.

AASHTO and its member DOTs, like many of us in the transportation industry, recognize a special opportunity this year to enact a major infrastructure investment initiative given the high degree of interest from the Trump Administration and strong bipartisan support in Congress. As you and the President consider the design of this package for transportation infrastructure, based on the federal surface transportation program's long track record of success, we recommend that any increase in federal funds should flow through the existing FAST Act formula-based program structure rather than through untested new approaches that will require more time and oversight.

Any effort that does not rely on the existing Federal surface transportation program could undermine timely and successful delivery of the new infrastructure package. Putting the 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—into work again to deploy additional Federal resources represent the optimal approach to serve all corners of our country, improving mobility and quality of life in urban, suburban, and rural areas.

It is also important to note that any major infrastructure package must focus on direct funding, rather than on Federal financing support. This is because financing tools that leverage existing revenue streams—such as user fees and taxes—are typically not viable for most transportation projects in the United States. We in Maine and many of our state DOT peers certainly appreciate the ability to access capital markets to help speed up the delivery of much-needed transportation improvements. But we also fully recognize the inherent limitations of financing for the vast spectrum of publicly-valuable transportation projects that nevertheless cannot generate a sufficient revenue stream through tolls, fares, or availability payments to service debt or provide return on investment to equity holders.

The state DOTs continue to support a role for financing and procurement tools such as public-private partnerships given their ability to not only leverage scarce dollars, but to also better optimize project risks between public and private sector partners best suited to handle them. But we also maintain that financing instruments in the form of subsidized loans like TIFIA, tax-exempt municipal and private activity bonds, infrastructure banks, and tax code incentives are

just simply not enough in and of themselves to meet most transportation infrastructure investment needs.

AASHTO and its member are well-prepared to work with Congress to take advantage of our strong, productive partnerships with Federal and local governments to deliver on a major infrastructure initiative.

## **CONCLUSION**

State DOTs remain committed in assisting Congress to develop strategies to ensure long-term economic growth and enhanced quality of life through robust multimodal transportation investments. Just last week, hundreds of State DOT leaders from all corners of our country were only a couple of blocks away attending AASHTO's 2017 Washington Briefing. Over three days of productive discussions, many of my colleagues were on Capitol Hill meeting with their respective Congressional delegations. As they did then, and as I do again now, AASHTO and the State DOTs will continue advocating for the reaffirmation of a strong Federal-State partnership to address our surface transportation investment needs.

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