S. HRG. 111–490

ADDRESSING SURFACE TRANSPORTATION NEEDS IN RURAL AMERICA

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

AUGUST 10, 2009

Printed for the use of the Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

53–062 PDF WASHINGTON : 2010

For sale by the Superintendent of Documents, U.S. Government Printing Office
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MONDAY, AUGUST 10, 2009

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND
MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Sioux Falls, SD.

The Subcommittee met, pursuant to notice, at 9:35 a.m. at City Hall, Commission Room, 224 W. 9th Street, Sioux Falls, South Dakota, Hon. John Thune, presiding.

OPENING STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Good morning. This hearing of the Subcommittee will get underway.

I want to welcome members of the public who are here today, as well as our distinguished panel. I very much appreciate your willingness to participate this morning to talk about transportation issues and their impact on the economy in South Dakota.

What I want to do is start with an opening statement, and then turn to our panel for their opening statements, and then we'll hopefully get an opportunity to ask some questions and probe a little deeper into some of the issues.

And I would say, by way of introduction—and I will try and adhere to this—but, there's a light, here, that will trigger you at the 5-minute mark. We're going to try and confine, as much as we can, the oral part of your presentation to that. Obviously, there's some flexibility there. But, I did read through your presentations, the testimony that you submitted, and it's thoughtful and thorough, and long.

[Laughter.]

Senator THUNE. So, I don't think you'll get those statements all on the record in 5 minutes, but I say that simply to let you know that your entire statement, whether or not you deliver it all in the form of oral testimony, will be made a part of the entire public record. And I will introduce, in just a moment, the members of our panel this morning.

First, I want to thank all of you for being here today. As the Ranking Member of the Surface Transportation and Merchant Marine Subcommittee of the Senate Commerce Committee, I'm pleased to chair this field hearing addressing surface transportation needs in rural America.

I want to welcome our distinguished panel of witnesses, and thank each of you for participating in today's hearing and sharing your perspective on rural transportation.

Rural states, like South Dakota, face unique challenges when it comes to transportation. That is why I wanted to hold this field hearing, to ensure that the surface transportation issues affecting rural states are not overlooked as Congress works to improve our Nation's overall surface transportation system. I think it's important to explore the proper role of the Federal Government in ensuring our transportation system can safely and efficiently move freight and passengers throughout the country. State and local governments must also play an important role, as they understand best each state's particular needs. I'm especially interested in hearing any proposals or ideas from today's witnesses for improving the movement of people and goods that don't involve large commitments of financial resources. In other words, I'm interested in your ideas about how we can do things better and smarter.

One of the most important issues facing the Congress is reauthorization of the multiyear transportation bill that funds highway construction, safety, and transit programs. The current law expires at the end of September, at which time we will also face a multibillion-dollar shortfall in the Highway Trust Fund, which just received $7 billion in short-term funding to prevent insolvency this month. While the Commerce Committee has jurisdiction over rail and safety programs, including highways, motor carriers, HAZMAT, and boating safety, I'm also interested in hearing the witnesses' views in how best to ensure rural transportation needs are addressed in the comprehensive bill. While we can expect Congress to enact short-term extensions until an agreement can be reached on the comprehensive bill, much work lies ahead, and your input is important.

Keep in mind, the last highway reauthorization bill that was finally enacted in August of 2005 required 22 months of extensions before it was finalized. South Dakota, like our neighboring states, plays a vital part in the national transportation system. Our highways serve as connectors for traffic and commerce that benefit citizens from other states. In fact, more than two-thirds of the truck traffic on highways in South Dakota neither begins nor terminates in our state. Our roads also provide access to many of our Nation's world-renowned national parks, and are essential in transporting agricultural goods to market. So, there's a real national interest in facilitating interstate commerce and mobility that requires first-rate highways in, and connecting across, rural states.

Our state's rail network also deserves discussion today. There are approximately 2,000 rail miles in South Dakota, with BNSF owning 890 of those miles; the DM&E Railroad is the second largest owner, with 586 miles; and the state is close behind, with roughly 526 miles of rail line. Without question, we're also fortunate to have short-line operators to provide service to rail shippers across the state.

Today, we will get to hear the perspective of not only the largest Class I carrier in the country and the state, but also from a short-line operator. We will also receive testimony from the South Dakota Secretary of Transportation, a representative of the trucking industry, and a witness providing the agricultural community's point of view on rural transportation needs.

Finally, I'd like to talk briefly about the significant need that exists when it comes to Federal funding for transportation infrastructure across the country. Since being elected to Congress, I've had the opportunity to work on the past two transportation reauthorization bills, in both the House and the Senate, which has allowed me to ensure that South Dakota's infrastructure needs are not forgotten. South Dakota relies on the Highway Trust Fund for over 75 percent of its highway construction budget on an annual basis. The Federal gas tax is the primary funding source for the Highway Trust Fund, which provides funding to all the states to address road and bridge infrastructure improvements. However, revenue generated for the fund has been outstripped by demand and the dramatic increase in constructions costs over the past 15 years.

Because of the dwindling amount of revenue deposited into the Highway Trust Fund, due to the weakening economy and the fact that the gasoline tax hasn't been changed since 1993, I've been working to develop additional funding options that could be used by the states. I've joined with Senator Ron Wyden in introducing the Build American Bonds Act, which enjoys bipartisan support. Our legislation would provide $50 billion in new funding for transportation projects, such as roads, bridges, transit, rails, and ports. In turn, Build American Bonds would create jobs, spur economic recovery, and ultimately help to save lives by making needed improvements to our Nation's transportation system.

While this legislation is not a substitute for other important funding, such as from the Highway Trust Fund, it would provide valuable supplemental funding for transportation projects, and I would appreciate very much hearing the witnesses' views on this proposal, as well.

Congress certainly has a great deal of work to do in crafting the next transportation reauthorization bill. And I want to welcome today's witnesses, and look forward to hearing from you.

And I want to point out, for those who can see the pie charts up here, of the truck traffic that moves across the country—56 percent of its moves across rural areas and rural roads in the country; compared to 44 percent in urban areas. If you look at the total amount of road mileage in the entire country, 75 percent of that road mileage—actual highway miles, road miles—is in what we would call rural areas of the country; only 25 percent is in urban areas. And these are Federal Highway Administration sources.

And then, over here, if you look at bridges, 77 percent of all the bridges in the country are found in rural areas of the country; only 23 percent are found in what we would characterize as urban areas.

And then, I think the last chart is somewhat telling, in that, in spite of the fact that the roads and the bridges, and a lot of the traffic, occurs in rural areas of the country—a majority, or a large percentage, of the traffic—still you look at where the money is spent, and it's only 40 percent of the money is spent in rural areas, as opposed to urban areas.

And the point of all that is that when people want to get to and from their destinations, when you want to move freight across the country, a lot of that has to cross rural states. And so, having a national transportation system is critically important to our country's future and to our economic competitiveness, going forward.

So, I want to, again, thank our panelists for being here today. And I want to start—we'll go left to right, here. Darin Bergquist, the Secretary of Transportation for the State of South Dakota—welcome, nice to have you here. Larry Anderson, who's representing the trucking industry here today—Larry, thank you for being here. And Jack Parliament, representing short-line railroads—thank you for being here. Lisa Richardson represents one of the biggest commodity groups in South Dakota, the corn growers, and obviously the shipping interest—it has a very deep interest in transportation issues. And Matt Rose, who is the CEO of the largest Class I railroad in this country, the Burlington Northern Santa Fe. So, thank you for being here, Matt. And I welcome all of you.

And I want to start with Darin. So, please feel free to proceed with your oral remarks.

STATEMENT OF DARIN BERGQUIST, SECRETARY, SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

Mr. BERGQUIST. Thank you, and good morning, Senator Thune.

Before starting, Senator, I want to say that we very much appreciate your efforts to improve transportation in South Dakota.

My full statement addresses many ways Congress should improve transportation in the rural states, and I want to highlight a few of those before you this morning.

Congress is now shaping legislation that would fund highway and transit programs for the next 6 years. It is a foremost priority for us that the share of the overall highway and surface transportation program for rural states like South Dakota be at least as large as our current share of the present program. This is appropriate, because our highways in rural areas benefit the Nation in many ways. They are a bridge for through traffic to other parts of the country. They benefit tourism, providing access to scenic wonders, such as Mount Rushmore. They enable agricultural products and other resources to move to market. They help serve the Nation's energy industry, such as new wind energy facilities and ethanol production plants, which are located largely in rural areas. And finally, they ensure that our rural Native Americans are connected to the Nation's transportation network.

Yet, a rural state like South Dakota faces severe transportation funding challenges. We can't provide these benefits to the Nation without strong Federal help because we are geographically large, we have extensive highway networks, and we have low population densities. We have relatively few people to support each lane mile of Federal-aid highway in South Dakota. The national average is 129 people per lane mile. In South Dakota, that number is 19, less one-sixth the national average. Yet, South Dakota's per-capita contribution to the highway account, of the Highway Trust Fund, is above average, $160 per capita, compared to a national average of $114. So, we are doing our share to fund transportation in South Dakota.

For these reasons, the Federal surface transportation bill should provide strong funding for transportation in rural states, yet some proposals seem unlikely to sufficiently emphasize rural transportation.

The House Transportation and Infrastructure Committee has posted position papers and reported a partial draft surface transportation bill. Included is $337 billion for highways, an increase of $110 billion over the prior 6 years. Though the bill is incomplete at this time, we, in South Dakota, are basically ineligible for at least $75 billion of this increased funding, such as the $50 billion being set aside for metro areas greater than—500,000 population, and another $25 billion that's reserved for huge projects. There are large needs in South Dakota and other rural states that must be met in the national interest. All states need a significant increase.

It is not appropriate if most of the funding increase is for programs we can't access, especially if there is no corresponding large program reserved for rural states, which there currently is not.

Instead, Congress should take the approach to this issue offered by AASHTO, that at least 90 percent of all highway program funding be distributed by formula to states. This approach, combined with a formula providing South Dakota at least its current share of formula funds, is the way to address the national interest in improving transportation in both rural and urban areas.

Under SAFETEA–LU, about four times as much funding has been provided for the highway program as for transit. The draft House bill disproportionally increases transit funding, which is directed mainly to large urban areas. The Federal Government should continue the current ratio of highway-to-transit funding, but allow states to transfer funds to transit, if they desire.

In September, Congress should pass legislation to ensure that the highway account of the Highway Trust Fund can continue to support at least current funding levels. Congress must also extend highway and surface transportation programs beyond September 30 of this year. These steps will allow continued transportation investments while Congress works on a multiyear transportation bill.

In conclusion, there are many actions Congress should take to improve transportation in rural America. I hope I've made clear that our biggest concerns revolve around funding.

I'll close as I opened, emphasizing that it is in the national interest for South Dakota to receive at least its current share of the overall highway and surface transportation program under new legislation.

Thank you, Senator, for the opportunity to testify this morning. I'd be pleased to respond to any questions.

Thank you.

[The prepared statement of Mr. Bergquist follows:]

PREPARED STATEMENT OF DARIN BERGQUIST, SECRETARY, SOUTH DAKOTA DEPARTMENT OF TRANSPORTATION

Senator Thune:

Good Morning. I am Darin Bergquist, Secretary of the South Dakota Department of Transportation. Thank you for the opportunity to appear before the Subcommittee today to address surface transportation needs in rural America.

We are pleased that the Subcommittee is holding this hearing, as the importance to the Nation of good transportation in and across rural states sometimes is underappreciated.

In my statement today I'll address a number of transportation issues important to rural America and to South Dakota.

- I'll discuss why rural states like South Dakota must receive a significant increase in Federal transportation funding and participate at least proportionately in future growth of the Federal highway and surface transportation program.
- I'll address a variety of issues that have been raised in the context of proposals to reauthorize highway and surface transportation programs, including program structure issues and proposals to increase Federal regulation of states through plan approvals, Federal performance targets, and otherwise.
- I'll also address:
  - safety and transit issues;
  - the impact of restrictions on the ability of rail short lines to access large rail carriers; and
  - the challenges of funding the proposed Harrold, SD transload, rail to truck facility.
- Before closing, I'll also emphasize the importance of maintaining the ability of the Highway Account of the Highway Trust Fund to support at least current funding levels and remain solvent and the importance of passing extension legislation to ensure continuity of the highway program in South Dakota and the Nation.

Highway and Transportation Reauthorization Legislation Must Provide at Least Proportionate Funding Growth for Rural States Like South Dakota, As Well As Increased Funding

At the outset I want to stress that Federal investment in South Dakota's highways is in the national interest. It is imperative that legislation reauthorizing the Federal highway program continues to provide significant investments in highways in and across rural states, allowing us to continue to meet the demands being placed on our highway network, including from interstate travel.

I think it is also important to note that all regions of the country have significant transportation needs. There is a broad consensus, at least in the transportation community, that increased investment would serve the national interest. For example, the American Association of State Highway and Transportation Officials (AASHTO) has proposed a $375 billion in Federal highway program funding and $93 billion in Federal transit funding for the six-year period 2010–2015. These levels would represent significant increases over the roughly $290 billion in Federal funds provided for highway, transit, and safety programs in the 2004–2009 period.

Many ideas have been advanced in recent years and Congress is now starting to shape multi-year surface transportation funding legislation. Certainly our department and others from rural states have clearly stated to Congress and various Commissions that *this next reauthorization bill must provide a rural state like South Dakota at least its current overall share of Federal formula funding and other funds.* That result would be in the national interest, as my testimony explains later on. Yet, it is not a foregone conclusion that Congress will agree to provide such support to South Dakota and similar states.

Early Thoughts on Legislative Proposals

We have concerns about the reauthorization legislation under development in the House of Representatives. While legislation with specific funding levels has not yet been introduced, the House Highways and Transit Subcommittee has reported to the full Transportation and Infrastructure Committee a partial draft bill and Committee leaders have released related position papers outlining their proposal. It apparently calls for an increase in Federal highway program authorizations from the Highway Trust Fund of about $110 billion over the next 6 years compared to the last 6 years (roughly $337 billion compared to $227 billion).

According to position papers distributed by the Committee leadership, the bill would provide $50 billion of that $110 billion to a new program *only* for metropolitan areas with a population of 500,000 or more. We understand that traffic congestion is an issue in many cities. But we disagree with committing so much of the overall increase to a program that will benefit only large metropolitan areas. The proposal also includes another program where $25 billion is reserved for very large projects to be selected by USDOT. The eligible costs of those projects would have to be at least $500 million or 75 percent of a state's most recent annual highway apportionment. In South Dakota, that means a single project of more than $150 million would be needed just to be able to apply for these discretionary funds.

So, we see $75 billion of the $110 billion in additional trust fund authorizations for highways dedicated to two programs that are not available to our State in any practical way. In addition, the draft bill includes a $50 billion non-trust funded program for high-speed rail for which our state is not eligible.

We, like AASHTO, support a different approach, under which not less than 90 percent of highway program funds would be distributed by formula to the states. Further, it is essential to recognize the importance of investment in highways in and across rural states like ours in the final formula and funding package. Our state's share of the overall highway and surface transportation reauthorization program should be at least as large as our share of the present program in order to ensure national access and connectivity and provide other national benefits, as I will describe.

We know you understand this, Senator Thune, both from your work on transportation issues through the years and from your recent work. For example, we appreciate that you are a co-sponsor of S. 308 and S. 309, bills introduced by Senator Baucus that would strengthen Federal funding for investment in highways in and across rural states.

Also of concern, the House draft bill would provide a disproportionately small share of its overall funding increase to the highway program, even though it is highway users who pay for the program in user taxes. Instead, the draft House proposal would provide an increased share of its overall funding to transit, relative to highways. South Dakota's share of Federal transit dollars is far less than its share of Federal highway dollars. Transit is a small portion of the transportation need in our state. We, like AASHTO, support keeping the ratio between the highway and transit programs at 4–1, with four times as much funding going to the highway program as going to the transit program from all sources of funding. Let me add that this 4–1 ratio is before any adjustments reflecting transfers of funds from highways to transit, which have regularly been in the range of a billion dollars annually. We support continuing such flexibility, which allows each state to better address its own needs.

In addition, the House Committee's position papers regarding the draft bill state that it will include an infrastructure bank, probably supported from outside the Trust Fund. We are not certain how much public governmental funding will be committed to the bank's activities but we do foresee these funds as not being easily accessible to a rural state like ours. An important consideration for any new Federal transportation financing mechanisms like an infrastructure bank is to ensure all areas of the country, both rural and urban, are not only eligible, but can compete on a level playing field. Also, funding sources for the bank should not compete for funding against sources for the regular surface transportation program.

In contrast, the Build America Bonds bill (S. 238) that you are co-sponsoring would ensure that both rural and urban areas of the country participate in its program. We greatly appreciate your leadership in developing a proposal that would benefit both rural and urban areas.

In short, even without knowing the details of any proposed formula changes in the draft House bill, we are concerned over the structural changes in the highway program that we do see. Those changes would emphasize funding for new, non-formula programs for the benefit of large metropolitan areas. This approach will dramatically reduce our state's share of the overall program. So, while details of the House bill are not set, we currently expect that the House legislation would provide South Dakota with a reduced share of the transportation bill's programs compared to current law, perhaps a considerably reduced share.

In addition to preserving our share of overall funding, I would like to address some additional highway program issues.

- *Don't Put New Restrictions on the Use of Federal Funds.* The current highway and transportation program is complex. We would like to see processes streamlined so we can deliver projects more efficiently. The role and authority of states in delivering the highway and surface transportation program should be respected and not diminished. We see proposals for additional requirements as counterproductive, adding time and cost to the project delivery process.

  The draft House bill includes restrictions on the ability to use a considerable portion of the bill's funding for investments that would add capacity or strengthen roads. States and local governments are in the best position to know which projects should be implemented. Restricting the ability of states to add capacity and strengthen roads is not the correct approach, at least in rural America.
- *Transportation-related Climate Change Provisions May not Make Sense in Rural States.* Both the climate change legislation that has passed the House of Rep-

resentatives and the draft legislation reported by the House Highways and Transit Subcommittee would require all states to develop targets to reduce transportation-related greenhouse gas (GHG) emissions. States will be required to make efforts to increase transit ridership, walking, and bicycling. While South Dakota has made great strides in this area, our state is very rural in nature and there is only so much we can do to cost-effectively promote walking, bicycling, and transit ridership. Performance requirements would be imposed and under some proposals states not meeting performance targets could have funds withheld. There are several proposals with new planning requirements that would compel states to reduce GHG emissions. These proposals may be viable options in metropolitan areas, but due to our low population density, great distances, and harsh winters, they are not practical transportation options for rural states like ours. We believe that the proper, national interest approach is to ensure that any such statute would not force, or allow an agency to force a state like ours to undertake unrealistic efforts to reduce transportation-related GHG emissions. We generate very little GHG from transportation compared to other states and we will do our part to remove GHG emissions using modern, no-till agricultural practices.

- *Do Not Agree to Increased Regulation Through National Performance Measures, Targets and Plan Approvals.* Performance measures are important, and the South Dakota DOT uses them in making project selections and in other aspects of program delivery. However, we are concerned that national performance measures established by the Federal Government will not be sensitive to all states' needs and may result in reduced emphasis on funding projects in rural states. The House legislation has the Federal Government, not states, establishing certain performance targets and gives the Federal Government authority to impose sanctions for failure to meet certain performance targets.

  We believe that national performance measures should be general in nature and that each state should be allowed to establish its own specific measures and targets. Deference should be shown to the owners and operators of the Nation's transportation system. States, local governments and transit providers have decades of success in delivering transportation and such success should be respected. The role and authority of states in the delivery of highway and surface transportation should be enhanced, not diminished, compared to present law. Simply, we don't see increased Federal regulation, even if cloaked in the new terminology of "performance," as a way to achieve increased efficiency in program delivery. Reduced regulation should be the goal.
- *Highway Safety Provisions Should Provide Flexibility to States.* Transportation safety is a critical concern in South Dakota, as it is in all states. Contrary to the House draft legislation, states, not the USDOT, need to have control and approval authority over their safety plans. Inflexible Federal requirements in safety planning and specific program requirements can be counterproductive. For example, the draft House bill includes a provision that would withhold some highway funding from a State if it does not have a law that requires ignition interlocks to be installed in the cars of first time drunk drivers. Ignition interlock devices do not always work very well in cold climates like we have in the Dakotas. The South Dakota Attorney General has developed another approach to dealing with convicted drunk drivers that requires them either to be tested twice a day to ensure zero alcohol consumption or to wear a continuous alcohol sensing bracelet. Both of these approaches have been found to be very effective at reducing repeat offender drunk driving. States need to be able to choose the most effective methods to promote safety. Top down mandates, funding restrictions and specifying the use of particular technologies is not an approach that provides incentives for state innovation and successful program outcomes.
- *Do Not Agree to Increased Regulation Through Comprehensive Street Design Policy.* The draft House legislation would significantly restrict state flexibility, project design and project selection by inviting significant new and prescriptive USDOT regulation and potential litigation regarding issues such as whether states have "balanced" costs with the "necessary" scope of a project and adequately preserved "aesthetic resources" and "adequately" accommodated all users. Defining and interpreting such terms may broaden project scopes substantially and increase project costs while delaying project delivery.

So, a state like South Dakota faces both funding and regulatory challenges in this legislation. However, the way to improve transportation in this country is to pass reauthorization legislation that, among other things, ensures that rural states like

South Dakota receive at least their current share of transportation dollars without undue regulatory burdens.

Let me turn now to some of the reasons why the reauthorization legislation should continue to provide rural states like ours with at least their current share of funding under the Federal highway and surface transportation programs.

The Nation Benefits from Federal Transportation Investment In and Across Rural States

Federal-aid highways in our state, not just those on the National Highway System, provide many benefits. Among other things, they:

- Serve as a bridge for truck and personal traffic between other states, advancing interstate commerce and mobility;
- Support agricultural exports and serve the Nation's ethanol production and energy industries, which are located largely in rural areas;
- Are a lifeline for remotely located and economically challenged citizens, such as those living on tribal reservations;
- Enable people and business to traverse the vast tracts of sparsely populated land that are a major characteristic of the western United States; and
- Provide access to scenic wonders and facilitate tourism.

The Federal-aid system extends beyond the NHS and allows enhanced investment to address safety needs on rural routes.

Further, Federal investment in rural transit helps ensure personal mobility, especially for senior citizens and people with disabilities, connecting them to necessary services. Federal public transit programs must continue to include funding for rural states and not focus entirely on large metropolitan areas. Let me amplify a few of these points.

Bridge States Serve a National Connectivity Interest for People and Business

Highway transportation between our country's major metropolitan areas is simply not possible without excellent roads that bridge those vast distances. This connectivity benefits the citizens of our Nation's large metropolitan areas because air or rail travel frequently will not be the best option for moving people or goods across the country. The many commercial trucks on our rural interstate highways demonstrate every day that people and businesses in the major metropolitan areas benefit from the Nation's investment in highways in rural states.

The most recent FHWA data on tonnage origins and destinations shows that just over 68 percent of the truck traffic using South Dakota's highways does not originate or terminate within the state. This is well above the national average of about 45 percent, underscoring that South Dakota highways help connect the Nation in a way that benefits other states and the Nation.

Essential Service to Agriculture

A significant portion of the economy in our state is based on agriculture. Agriculture is one sector of the economy where the United States has consistently run an international trade surplus, not a deficit. Over the last two decades roughly 30 percent of all U.S. agricultural crops were exported.

Apart from its value to the state, there is a strong national interest in ensuring that value-added agricultural products and natural resources have the road network needed to deliver products to markets, particularly export markets. A key part of that total road network is the roads below the National Highway System, where export crops begin their journey from point of production to their final destination.

South Dakota is a major contributor of energy production in the Nation. Our state is currently fifth in the Nation in ethanol production and has nearly a one billion gallon a year production capacity. Good roads throughout the state allow grain to be harvested and delivered to ethanol production facilities by truck. These roads are paramount to the Nation becoming energy independent and providing agricultural products to feed a hungry world.

It is also worth noting that, over the last three decades, tens of thousands of rural rail branch lines have been abandoned nationwide. Since 1980 in South Dakota over 152 miles of railroad branch lines have been abandoned or rail banked. The reduced reach of the rail network means that many areas, particularly rural areas, must rely more heavily on trucks to move goods.

These trucks are subject to spring load restrictions. The underlying reason for spring load restrictions is inadequate road base strength and roadway thickness. During the spring thaw, the ground is waterlogged and can't support a fully loaded 18-wheeler on many highways. Given their current funding, many northern states have little choice other than to limit axle weights on highways during those times. Like congestion, load restrictions slow down commerce and add greatly to the cost of doing business.

To better serve agriculture and the nation, projects that facilitate truck to rail transfers at grain elevators and other locations should be an eligible activity to be funded by direct grants and broader formula programs in the next reauthorization at the national level. Freight bottlenecks in metropolitan areas and access to ports or other waterborne freight locations are not the only freight activities that should be eligible for funding.

Tourism Access

Without a strong highway network in rural states, citizens from across the country as well as visitors from abroad would have limited access to many scenic destinations. Tourism is vital to the economy of South Dakota and tourism is enhanced by a good highway network. Badlands National Park, Mount Rushmore National Monument, Wind Cave and Jewel Cave National Parks, the Spearfish Canyon and Peter Norbeck National Scenic Byways are important tourist destinations and they and many other state attractions are served by the non-interstate highway network. Continuing access to such destinations remains a strong national interest and must be backed up by funding for rural states and areas.

Rural States Face Transportation Funding and Financing Challenges that Require Federal Financial Assistance

Rural states like South Dakota face a number of serious obstacles in preserving and improving the Federal-aid highway system within their borders. We:

- are geographically large;
- have low population densities; and
- have extensive highway networks.

Our large road network has few people to support it. In South Dakota there are about 19 people per lane mile of Federal aid highway. The national average is approximately 129 people per lane mile. Our per capita contribution to the Highway Trust Fund also exceeds the national average. The per capita contribution to the Highway Account of the Highway Trust Fund attributed to South Dakota is $160 compared to the national average of $114 per person.

These factors make it very challenging for rural states to provide, maintain, and preserve a modern transportation system that connects to the rest of the Nation. Our low population and traffic densities also mean that tolls are not an answer to funding transportation needs in rural areas.

Rural Transit

I have explained earlier that we support proportionate increases in the Federal highway and Federal transit programs and we continue to support flexibility to transfer funds between the highway and transit programs. This allows many of the more heavily populated states to make additional investments in transit.

Within that context we do want to emphasize that transit is not just for large metropolitan areas. Our larger cities, Sioux Falls and Rapid City, have transit needs. Our more rural and smaller cities and Indian reservations also have needs for public transportation. Accordingly, we offer a few thoughts on transit program legislation.

We support the Rural Transit Improvement and Flexibility Act, S. 1144, introduced by Senator Johnson with four co-sponsors. One section of that legislation would ensure a slightly increased share of rural transit funds for very rural states. That is appropriate given the special transit challenges facing a very low population density state like ours.

Consider that in rural areas transit is usually provided via small bus and van service. Frequently, it is on demand service for the elderly and disabled, such as non-emergency trips to the hospital, pharmacy, or clinic, or trips to a grocery store. This is especially challenging in the very low population density states, where the one-way trip to a medical facility for one or two riders can be 50 miles or more.

There are some basics needed for transit service regardless of population or traffic density. Service requires a bus (or van). It requires qualified drivers. It requires a well-maintained and well-equipped vehicle. It requires vehicle parts. These elements are essential whether a bus is carrying 4 people and has to travel 50 miles (big state, low density) or is carrying 15 or more people in towns with a population of 45,000. Simply, there are diseconomies of geographic scale in providing essential public transit connectivity in extremely rural areas. We appreciate that S. 1144 would try to respond to those challenges.

Another section of that bill would provide additional flexibility in the use of funds under the elderly and disabled transit program, by allowing a small portion of those funds to be used for operating expenses. Given funding pressures on state and local governments, to help ensure continued transit services for the elderly and disabled, it is appropriate to provide the flexibility to use at least a portion of section 5310 funds for operating expenses. The bill would provide that flexibility by allowing—but not requiring—up to 25 percent of section 5310 apportionments to be used for operating expenses. This proposal will provide states both rural and urban increased (but limited) flexibility to ensure that there are funds to operate transit service for the elderly and disabled.

The draft House bill would completely exclude rural states from eligibility for discretionary transit grants (eliminating bus and bus facilities from the program under 49 USC 5309). This would eliminate a source of funding that has benefited citizens throughout South Dakota, including Indian tribes, in recent years.

We have outlined above some of the special challenges of providing transit service in rural areas and hope the Congress can help us meet them.

NHTSA and FMCSA Programs

The Commerce Committee has jurisdiction over programs of the National Highway Traffic Safety Administration and the Federal Motor Carrier Safety Administration. These are important safety program areas and South Dakota's participation in them is administered by our State's Department of Public Safety. Our broad concern with these programs is that any changes that are made to current law should be done in a way that does not adversely impact South Dakota's eligibility to receive funds under the programs or reduce its share of funds from the programs. To the extent that is not the case, our state's ability to invest in safety enforcement and education and related safety programs would be impaired. As the legislative process advances with respect to these programs, we would welcome the opportunity to work with you and the Committee to ensure that the needs of rural states like ours are taken into account.

Rail Issues—Barrier Rates When Short Lines Access a Large Rail Carrier Can Adversely Impact Rural Shippers

When a large railroad decides a branch line is not profitable, it is often not abandoned but, instead, sold to a short line carrier. The sales of these lines usually will include terms referred to as "paper barriers," which restrict the short line from interchanging freight with carriers other than the seller. These restrictions often work to the detriment of the shippers on the line. South Dakota shippers might be able to access new markets or have more competitive shipping rates if rates between short lines and major carriers improved. In South Dakota, the sale of the core rail system and the settlement agreement with the BNSF eliminated many of these paper barriers. In any case, a large carrier should not be discouraged from selling lines to short line carriers as an alternative to abandonment but some improvements in rates between short lines and major carriers may be possible.

Where paper barriers have been eliminated and other carriers can be reached, or where rail freight competition exists, we see much lower freight rates. These lower freight rates are a direct benefit to the shippers and producers in the state and to the economy of the state as a whole.

In addition, we support programs, funded from outside the Highway Trust Fund, that encourage rail freight infrastructure improvements to lessen the traffic and wear on our state highways.

Harrold Transload Facility

A very exciting project has been proposed for Harrold, South Dakota, but there are real challenges finding a way to fund it. This project will construct an intermodal handling facility, rail to truck, for wind power components. Many of these oversize and overweight components are currently trucked long distances causing interference with normal traffic and additional stress on the roads. Use of the railroad will create a shorter freight haul over the highway and reduce road damage.

The project will include engineering, property acquisition, grading, and gravel surfacing for the rail yard area, installation of switches and construction of 5,800 feet of railroad track. The completed project will allow wind power generating equipment to be shipped into Harrold, South Dakota, by rail and then loaded onto trucks and shipped to its final destination. It is expected that these components will be trucked as far as southern North Dakota and northern Nebraska. Total estimated project costs are $3 million.

We believe the project is eligible under the Transportation, Community, and System Preservation Program (TCSP), within the Federal Highway program. However, we have not received confirmation of that from USDOT. Further, that is a very small discretionary program that is often oversubscribed. Further, the program would be terminated under the draft House bill. So, there is no reliable way to fund it under the current program.

If TCSP funding is to be used, the plan is for the non-Federal match to be loaned by the State of South Dakota to the Hughes County Regional Railroad Authority. The Hughes County Regional Railroad Authority will lease track to the DME Railroad. The DME Railroad will repay the loan.

The new legislation needs to provide a clear path that enables this kind of project to be funded.

Ensure Highway Trust Fund Solvency and Program Continuity

Before closing, I also want to emphasize that, when the Congress returns in September, it should promptly enact legislation to ensure the solvency of the Highway Account of the Highway Trust Fund and to extend highway and surface transportation programs.

Even though the Congress just passed welcome and sorely needed legislation to transfer $7 billion into the Highway Account, that merely prevented serious financial problems for the Account, at present funding levels, from happening this month. The Highway Account could still reach a zero balance around the end of September or shortly thereafter. It will be highly disruptive to states if FHWA begins to delay payment of state claims to reimburse costs. As a zero balance gets closer, states will begin to curtail bid openings and take steps to avoid the risk of not having funds to pay for the work. Compounding the situation, South Dakota, like other states, already has contracts in place for which the Federal Highway Administration may not be able to reimburse funds. This would create a financial crisis for the SDDOT. For the public at large, the jobs and transportation benefits of the program would be denied, or at least delayed, if the program is disrupted.

Therefore, we hope the Congress will pass legislation in September providing the highway Account of the Highway Trust Fund with the resources to pay for highway work funded at least at current funding levels. USDOT and AASHTO have estimated that an additional $8–$10 billion must be added to the Account in order to continue current highway program levels through FY 2010. This is needed just to continue programs at current levels, avoid disruption to the program, and avoid job losses and cutbacks in construction. We note that S. 1474, recently introduced by Senator Baucus with Senators Rockefeller and Menendez, would provide sufficient funding to ensure program continuity for the highway, transit, and safety programs funded from the Highway Trust Fund for a period of time that hopefully will facilitate development and enactment of a multi-year reauthorization of these programs.

Another matter that we hope can be addressed by Congress in September is the need to pass legislation that would repeal the rescission of some $8.7 billion in highway contract authority that is scheduled to take effect in late September. Rescissions on this scale will reduce the programming flexibility available to every state DOT and make it harder for states to pursue priority projects.

Further, there is no question but that highway, transit and highway safety programs need to be extended before the end of September to avoid program disruption. Various Senate committees, including the Commerce Committee, have reported "clean" extension legislation. We think that is the appropriate course, as we have concerns with respect to a number of the "reforms" some would have included in extension legislation. Enactment of an extension is necessary to continue transportation investments while Congress works on multi-year authorization legislation. The clean extension is needed to continue investments—which means jobs, highway and transit mobility, and safety—while work on a multi-year bill continues.

Conclusion

In conclusion, we consider it essential that Congress pass legislation reauthorizing the highway and surface transportation programs that recognizes that significantly increased Federal investment in highways and surface transportation in rural states is, and will remain, important to the national interest. The citizens and businesses of our Nation's more populated areas, not just residents of rural America, benefit from a good transportation network in and across rural states like South Dakota. With such legislation, we will be better equipped to address transportation needs in our state to the benefit of South Dakotans and all Americans.

That concludes my testimony. I'd be happy to respond to any questions you may have.

Senator THUNE. Thank you, Mr. Secretary.

Mr. Anderson?

STATEMENT LARRY ANDERSON, PRESIDENT, A&A EXPRESS, INC. ON BEHALF OF THE AMERICAN TRUCKING ASSOCIATIONS, INC.

Mr. ANDERSON. Senator Thune, thank you for the opportunity to testify on behalf of the American Trucking Association.

My name is Larry Anderson. I'm the President of A&A Express, a trucking company located in Brandon, South Dakota. We provide transportation for food service industry throughout the United States. I am the former Chairman of the South Dakota Trucking Association, and currently serve on the ATA's Board of Directors.

Rural communities are very dependent on the highway transportation for the movement of both people and goods. More than 70 percent of South Dakota communities, for example, rely exclusively on trucks for the movement of their freight and deliveries.

Over the past three decades, farmers and their customers have become increasingly dependent on trucks to move their products. As of 2004, trucks hauled nearly half of the Nation's grain. The future success of rural economies rests on the ability of the trucking industry to move natural resources efficiently. Therefore, the next Federal highway bill must ensure adequate investment in rural highways, and make changes to the Federal law which allow trucking industry to operate more efficiently and more safely.

The highway bill should dedicate a significant share of the highway user-fees revenues to the improvement of the national Highway system. There is a 162,000-mile network of highways that make up just 4 percent of the country's roads and carry 75 percent of U.S. truck traffic and 45 percent of the total vehicle traffic. While the highway improvements are very likely to carry a significant cost, it is possible to improve freight transportation efficiencies with a very small investment if trucking companies are allowed to run their safest, most productive equipment. Increasing the carrying capacity of trucks will allow the trucking industry to move the country's freight, while making fewer trips. This reduces our accident exposure, allows us to burn less fuel and emit fewer emissions, and lower freight costs for our customers, making them more competitive in the world market.

Unfortunately, the Federal freeze on increasing truck size and weight limits prevents states from making commonsense changes. For example, here in South Dakota, Highway 37 and Highway 12 have been upgraded to four-lane roads, yet Federal freeze forces trucking companies to run longer combinations on less-safe two-lane roads. Even worse, the prohibition against running LCVs on Highway 12 forces trucks to drive 220 miles out of their way. The Federal freeze makes no sense for South Dakota and other states facing similar problems, and we urge Congress to reform Federal law so states can make sensible changes to their size and weight regulations.

Finally, the ATA is recommending several changes to the Federal safety regulations that we believe will go a long ways toward reducing injury and fatalities on our highways. These proposals are outlined in our written testimony, but I would like to focus on one of them: the creation of a national clearinghouse for positive drug and alcohol test results. A loophole in the Federal drug and alcohol testing requirements for commercial drivers is being exploited by some drug-abusing drivers. When a driver moves from one trucking company to another, some positive drug and alcohol test results are not being discovered by the hiring company, because these results are self-reported and not centrally tracked. As a result, the hiring company may not be aware of the driver's past drug test results, and could hire a driver who has been—who has not been evaluated, treated, and cleared to return to work. A centralized clearinghouse for drug and alcohol testing results would eliminate these loopholes and allow companies to avoid hiring unsafe drivers. We hope Congress will create a clearinghouse in the highway bill.

Senator the ATA is looking forward to working with you and other members of the Subcommittee, during the highway reauthorization bill, to promote policies that contribute to safer and more efficient rural transportation system.

Thank you once again for this opportunity. I'm looking forward to your questions.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF LARRY ANDERSON, PRESIDENT, A&A EXPRESS, INC.
ON BEHALF OF THE AMERICAN TRUCKING ASSOCIATIONS, INC.

Chairman Lautenberg, Senator Thune, Members of the Subcommittee, my name is Larry Anderson, and I am President of A&A Express, Inc, located in Brandon, South Dakota. I am appearing here today on behalf of the American Trucking Associations (ATA). ATA is the national trade association for the trucking industry, and is a federation of affiliated state trucking associations, conferences and organizations—including the South Dakota Trucking Association, of which I am a past Chairman—that together have more than 37,000 motor carrier members representing every type and class of motor carrier in the country. I currently serve as the ATA State Vice President for the State of South Dakota. Thank you for the opportunity to testify.

Mr. Chairman, almost all of the United States' natural resources and food production are located in rural areas. These products must all be transported to processing plants, warehouses and, ultimately, to population centers in the U.S. and abroad for consumption. The future economic security of rural areas and the Nation as a whole requires these industries to have efficient transportation connections that ensure good mobility for both employees and freight. The highway system, which the vast majority of rural businesses and residents rely on exclusively for their transportation needs, is the key to good mobility, and must take precedence when rural transportation priorities are determined. In South Dakota, for example, trucks transported 86 percent of manufactured tonnage in 2007.[1] Over 70 percent of South Dakota's communities rely exclusively on trucks to move their goods.[2]

Rural economies—particularly the agricultural sector—are increasingly dependent on truck transportation for movement of freight. Between 1978 and 2004, grain producers increased their truck shipments by 157 percent, while rail grain tonnage rose by 16 percent and barge volumes increased by 31 percent.[3] This increased dependence on trucks by grain farmers and their customers produced a structural shift in the grain transportation market. Trucks' market share increased from 31 percent to 48 percent, while rail share declined from 48 percent to 35 percent and barge share dropped from 21 percent to 17 percent of grain movements.[4] While the decision about which mode to use ultimately rests with the farmer or customer, clearly the shedding of freight rail trackage since passage of the 1978 Staggers Act has shifted a greater share of natural resources transportation to the trucking industry. This undoubtedly led to a higher cost to shippers and, in particular, small communities and small farmers who no longer have direct rail access. Improved trucking industry efficiencies are essential to their economic survival. This issue became so critical in South Dakota, in fact, that the State legislature passed a law allowing the State Department of Transportation to authorize the use of trucks with greater

[1] American Transportation Research Institute. *South Dakota Fast Facts,* 2009.
[2] *Ibid.*
[3] U.S. Department of Transportation. *Transportation of U.S. Grains: a Modal Share Analysis, 1978–2004,* Oct. 2006.
[4] *Ibid.*

carrying capacity to serve the freight transportation needs of communities affected by abandoned rail service.

Invest in Rural Highways

Every day thousands of trailers and containers, carrying everything from grain to machine parts, flow through our ports, across our borders, and on our rail, highway, air and waterway systems as part of a global multimodal transportation logistics system. It is a complex array of moving parts that provides millions of good jobs to Americans, broadens the choices of products on store shelves and creates new and expanding markets for U.S. businesses. Highways are the lynchpin of this system. Trucks move 69 percent of our Nation's freight tonnage, and earn 83 percent of freight revenue; the trucking industry is expected to move an even greater share of freight in the future.[5] In addition, trucks transport 69 percent of the value of freight moved between the U.S. and our Canadian and Mexican trading partners.[6]

However, trucks are also crucial to freight moved on rail, in the air and on the water. The highway system connects all of these modes to manufacturing and assembly plants, retail outlets, homes, farms, mines and warehouses. An efficient highway system is the key to a fluid global supply chain, which in turn is a fundamental element of a growing and prosperous economy.

While the condition of our highways and bridges has steadily improved in recent years, our infrastructure is aging and large sections will have to be repaired or replaced in the coming years, at an enormous cost. More than 11,500 miles of rural Interstate and arterial highways are in less than acceptable condition.[7] Nearly 60,000 rural bridges are structurally deficient and almost 47,000 are functionally obsolete.[8] In 2007, 34 percent of South Dakota's major highways were in poor or mediocre condition, and in 2008, 21 percent of the State's bridges were structurally deficient.[9] In addition, while highway congestion is generally considered to be a uniquely urban phenomenon, the Federal Highway Administration has projected that by 2020 approximately 9 percent of rural highways with heavy freight densities will be severely congested.

Furthermore, rural highways will require large expenditures to address highway safety needs. In 2007 rural roads accounted for 34 percent of vehicle miles traveled, yet 56 percent of highway fatalities were on rural roads.[10] According to a new report, roadway condition is a contributing factor in more than half of roadway fatalities, and these crashes cost the Nation more than $217 billion each year.[11] In South Dakota alone, these crashes cost the State $717 million in 2006.

Given the significant investments that will have to be made in rural highways, it is critically important to make sure that the next Federal surface transportation bill does not limit or take away the flexibility of State Departments of Transportation to invest in rural highway maintenance and new capacity projects. Nor should the legislation shift the ratio of funding toward alternative transportation investments at the expense of money needed simply to fund a basic highway program.

Mr. Chairman, incremental solutions will not allow us to meet the Nation's current and future transportation needs. The Federal surface transportation program in its current form will not suffice. While more resources than are currently available will be necessary to finance the transportation improvements needed to get our country out of traffic gridlock and to make driving less hazardous, we can no longer afford to spend limited Federal resources on projects that do not meet our most important national needs. Therefore, Federal funds must be invested in a manner that will most effectively address these requirements.

ATA believes that limited Federal resources must be focused on the most critical highways. The National Highway System (NHS), which comprises just 4 percent of total road miles, yet carries 45 percent of all traffic and 75 percent of truck traffic, is critical to the Interstate movement of people and goods, and should receive a significant amount of dedicated funding in the next surface transportation bill. It is important to note that nearly 69 percent of NHS mileage is rural. Furthermore, ATA supports a dedicated fund to address the most critically congested highway freight bottlenecks.

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[5] Global Insight, *U.S. Freight Transportation Forecast to . . . 2020,* 2009.

[6] U.S. Department of Transportation, Bureau of Transportation Statistics *Transborder Freight Data,* 2007.

[7] Federal Highway Administration, *Highway Statistics* 2007.

[8] *Transportation Statistics Annual Report,* U.S. Department of Transportation, Bureau of Transportation Statistics, 2008

[9] *Future Mobility in South Dakota,* The Road Information Program, Feb. 2009

[10] Federal Highway Administration, *Highway Statistics 2007.*

[11] *On a Crash Course: The Dangers and Health Costs of Deficient Roadways.* Pacific Institute for Research and Evaluation, May 2009.

Reform Federal Truck Size and Weight Laws

Mr. Chairman, these challenges will be difficult to address, and many of the solutions will be expensive. Clearly, there is no single answer to the problem and we will need to be creative in our approach. However, there is a very simple way for rural states to make great strides toward reducing freight transportation costs, with a very low investment. If states are permitted, under Federal law, to reform their regulations governing the weight and length of trucks, the trucking industry can significantly reduce its costs, lower its energy consumption and output of criteria and greenhouse gas emissions and, most importantly, reduce the number of truck-involved crashes. While many rural states—particularly those in the West—currently benefit from more productive vehicle configurations, Federal law prevents states from making logical changes to these regulations, artificially inflating freight costs, forcing the trucking industry to burn more fuel than is necessary, and needlessly putting lives at risk.

Today's size and weight regulations evolved over the course of many decades to meet economic demands, satisfy engineering standards and fulfill other objectives. The simplest description of size and weight regulation is as follows: the Federal Government has assumed the role of establishing both minimum and maximum weight limits on Interstate Highways to satisfy both interstate commerce and infrastructure preservation goals; in order to promote interstate commerce, the Federal Government has also established minimum truck length and width regulations on a nearly 210,000-mile long federally designated National Network (NN) and on reasonable access routes which serve the NN. The States' role is to govern weight regulations off the Interstate System and to establish maximum length and height limits on all roads.

However, the system is much more complex than this simple description would suggest. Through a series of grandfather rights and exemptions, 38 states allow weight limits in excess of the Federal standard on at least some portion of their Interstate Highway Systems. In total, 48 states allow weight limits in excess of Federal maximums on some portion of their highway systems. Furthermore, all states except Hawaii allow trailers longer than the 48' minimum Federal standard on substantial parts of their highway networks.

Where these exceptions in law exist, there is little uniformity from one state to another in terms of weight limits, routing requirements, equipment specifications, commodity exemptions, whether a permit is required and the details of the permit. While this can be problematic, in many cases these exceptions are designed to meet a specific need within a narrow geographic region and, sometimes, within a limited time-frame. For example, many exceptions are granted to assist farmers who must rapidly transport their crops from the field to storage facilities, processing plants or intermodal transportation facilities during harvest season before spoilage occurs.

Often these needs can be satisfactorily fulfilled under the current legal framework. However, in too many cases Federal restrictions on size and weight limits force the state to make a difficult decision: put businesses and jobs at risk or allow trucks to use secondary roads that were not built to accommodate larger or heavier vehicles. This issue has been most prominently illustrated in Maine, where the state, in order to protect the viability of critical jobs-producing industries with high freight transportation costs and significant international competition, has made the difficult decision to allow heavier trucks to use the secondary road system despite the fact that Interstate highways, which were built to standards that can better accommodate these vehicles, run parallel to these routes and would make a far better, much safer alternative. Unfortunately, Federal restrictions on Interstate Highway operations prevent the state from shifting trucks to these safer, more efficient and better engineered highways. There are many other examples similar to Maine's situation. For example, the Minnesota legislature recently changed State regulations to allow heavier trucks to support the state's agriculture and timber industries. However, Federal law prevented the State from allowing these trucks to operate on Interstate Highways. This situation repeats itself throughout the country. South Dakota, for instance, has an increased weight tolerance for vehicles hauling agricultural products, but these heavier vehicles are limited to secondary roads due to Federal restrictions governing Interstate Highway weight limits.

Despite these challenges, thanks to strong minimum Federal size and weight standards and Federal preemption of State law, most trucks have access to major highways throughout the United States. These Interstate commerce protections are absolutely critical to an efficient freight transportation system and must continue. However, Federal law in this area was last updated in 1982. Both the trucking industry and the U.S. economy have changed substantially over the last 26 years. Since the early 1980s, the U.S. population has grown by 32 percent, real GDP has increased by 82 percent, and since 1990 truck tonnage has increased by 39 percent.

While other modes have adapted their equipment to meet these growing demands, the capacity of the trucking industry's cargo-carrying equipment has remained essentially stagnant due primarily to Federal restrictions on truck size and weight limits. One comparison of productivity changes in various modes due to equipment improvements [12] found that trucking industry improvements have lagged far behind other freight modes since 1980. The author found that ocean intermodal vessel capacity has increased by 300 percent; rail intermodal capacity by 200 percent; grain train capacity by 93 percent; and aircraft capacity (weight) by 52 percent. In the meantime, the cubic capacity of a truck has increased by just 18 percent and the weight by 9 percent. The author also found that U.S. truck weights were lower than what is currently allowed on a broad scale in Canada, Mexico and the European Union. Federal restrictions have prevented the trucking industry from adapting to new economic realities as other modes have, and the U.S. is falling behind other countries who have recognized the benefits of more productive vehicles and have allowed their trucking industries to use safer, cleaner and more economical vehicles.

Mr. Chairman, modernization of Federal size and weight regulations should be a priority in the next highway reauthorization bill. Decades of experience and volumes of research indicate that more productive vehicles can be operated without a detrimental effect on safety or the condition of highways and bridges.[13]

Here are just a few examples illustrating why Federal regulations must be reformed:

South Dakota Highway Access for LCVs

Since the 1991 Federal freeze on longer combination vehicles (LCVs) took effect, several 2-lane highways were upgraded to 4-lane highways in South Dakota, including Highway 37 from Mitchell to Huron and Highway 12 between Aberdeen and Interstate 29. However, due to the freeze, LCVs cannot use these highways and instead must use less safe 2-lane routes. This restriction adds many miles to a carrier's route. If trucks could use Highway 12 this would cut their trips by approximately 220 miles, while using Highway 37 would save about 28 miles. Furthermore, transportation costs for the communities of Fort Pierre and Pierre could be substantially reduced by allowing LCVs to operate on a 32-mile section of 4-laned U.S. 83 from I–90, on which LCVs can currently operate.

These common-sense changes to LCV routes would reduce truck-involved crashes, save fuel, lower emissions and reduce transportation costs. The route changes are supported by State officials and the South Dakota trucking industry. However, Federal law stands in the way of these very beneficial reforms.

Oregon, South Dakota, Ohio and Montana Overall Length Restriction

The 1991 ISTEA freeze on LCVs froze not only the length, weight and routes of operation of LCVs, but also any other State regulations pertaining to LCVs. The comprehensive nature of the freeze gives States almost no flexibility to make changes, even when they are consistent with Congress' larger objective of ensuring that LCVs do not operate beyond their current dimensional, weight or geographic limits.

The legal length limits for Montana and Oregon, as codified under 23 CFR 658, Appendix C, place an overall length limit on triples (*i.e.,* from the front of the tractor to the rear of the last trailer). For Montana the limit is 110′ for a conventional tractor and 105′ for a cabover (a tractor with a flat face). In Oregon, the overall length limit is 105′. Federal law also imposes overall length limits on South Dakota (110′) and Ohio (105′ for Turnpike operations).

Some carriers would like to use sleeper cabs for their triples units to improve driver comfort and safety, and standardize operations. The Montana law would allow the use of some sleepers, but sleepers with a longer wheelbase would exceed the 110′ limit. Oregon's length limit only allows triples to be operated with cabovers. However, U.S. manufacturers no longer build cabovers.

In 2001, Montana asked the Federal Highway Administration (FHWA) for permission to move from an overall length limit to a cargo-carrying length limit, provided that trailer length did not increase. FHWA agreed on the basis that Congress intended only to limit trailer length, not tractor length. In late 2004, Oregon asked FHWA for the same dispensation. This time, FHWA refused, citing ISTEA's freeze on all LCV-related regulations. Subsequently, FHWA threatened Montana with

[12] Berndt, Mark, Wilbur Smith Assoc., *Are Highways Failing to Enable a Seamless Intermodal Supply Chain?* Transportation Research Board Annual Meeting, Jan. 13–17, 2008. Session 502 Presentation.

[13] See for example Transportation Research Board, *Truck Weight Limits—Issues and Options,* 1990, and *New Trucks for Greater Productivity and Less Road Wear,* 1990.

sanction of the State's Federal highway money if the State did not revert to an overall length limit on triples, and Montana responded by making the change.

Congress' intent when enacting the LCV freeze was not to limit tractor length. However, that is the effect in this case. A statutory change is needed to eliminate this unintended consequence of the freeze.

Washington State Triples Access and Weight Increase

Both Oregon and Idaho allow triple trailer trucks to operate on their highways. While Washington State allows LCV doubles operations, triples are prohibited under Federal law. Allowing triples to access very short stretches of highway into Washington would allow the communities of Spokane and Vancouver, among others, to realize significant economic benefits resulting from reduced freight transportation costs.

Furthermore, the Washington State legislature has passed legislation authorizing a weight increase on Interstate Highways. However, Federal law prevents this change in law from taking effect.

Benefits of Size and Weight Reform

The following information describes the many benefits of truck size and weight reform. Additional details regarding the potential advantages of specific reforms are discussed later.

Safety Benefits

While it would not make sense from a safety or economic standpoint to allow larger or heavier trucks to operate on every highway, Congress should not continue to ignore the growing body of evidence that supports the fact that the use of more productive trucks can improve highway safety. The use of more productive vehicles offers two safety benefits. First, carriers need fewer trucks to haul a given amount of freight, reducing accident exposure. Second, studies have consistently found that certain trucks with greater carrying capacity have a much better safety record than trucks that are in common use today. A study sponsored by the Federal Highway Administration found that the accident rate for LCVs is half that of other trucks.[14] Specifically, the study found the following crash rates (expressed in crashes per million miles traveled):

Single tractor-semitrailers (non-LCV): 1.93

Double 28′ trailers (non-LCV): 1.70

Rocky Mountain Doubles (LCV) (*e.g.,* 48′ + 28′): 0.79

Turnpike Doubles (LCV): (*e.g.,* 48′ + 48′): 1.02

Triples (LCV): 0.83

These figures are borne out by carriers' own experience. For example, one large operator of triple-trailer trucks reports that in 2007 the accident rate for triples was 0.43 per million miles traveled, while the comparable figure for the company's non-LCV doubles fleet was 1.95 accidents per million miles traveled.

Canada, which has similar roadways, vehicles and operating environments to the U.S., has produced a significant body of research on the safety of more productive vehicles. That research has conclusively and consistently found a safety benefit from the use of these vehicles.[15]

While lower accident rates are obviously beneficial, reducing accident exposure can also have a significant impact on the number of truck-involved accidents. FHWA's Western Scenario study[16] found that expanding the use of LCVs in the western States where they currently operate, and making the regulations more uniform, will reduce truck miles in those States by 25.5 percent. Therefore, even if the accident rates for LCVs and non-LCVs were the same, a 25.5 percent reduction in truck-involved accidents can be expected in those States. In addition, FHWA found that allowing 6-axle, 97,000 pound trucks nationwide would reduce truck miles—and therefore accident exposure—by 11 percent nationwide.[17]

Another important factor is the type of road that is being used. Because Federal law restricts heavier trucks from using the Interstate System, many States have allowed heavier trucks to operate on non-Interstate roads, which are inherently less

[14] Scientex. *Accident Rates For Longer Combination Vehicles,* 1996.

[15] See for example: Woodrooffe and Assoc. Longer Combination Vehicle Safety Performance in Alberta 1995 to 1998, March 2001.; Barton, R. & Tardif, L-P., Literature Review of the Safety Record of LCV in Canada, Canada Safety Council, 2003.

[16] U.S. Department of Transportation. *Western Uniformity Scenario Analysis,* 2004

[17] U.S. Department of Transportation, *Comprehensive Truck Size and Weight Study,* August 2000.

safe than Interstate highways. Maine allows 5-axle trucks weighing 88,000 pounds and 6-axle trucks weighing 100,000 pounds to operate on the Maine Turnpike. A study looking into the impacts of shifting that traffic from the Turnpike to secondary roads found that the fatal accident rate on the secondary roads was 10 times higher than on the Turnpike, and the injury accident rate was seven times higher.[18]

Infrastructure Benefits

While ATA recognizes that significant resources will be needed to improve the condition of our highways and address highway congestion with or without size and weight reforms, the use of more productive trucks will allow Congress and the States to avoid some of these costs. Gross weight can be increased and not cause additional pavement damage as long as axle weight is controlled. This is why, for example, a turnpike double (typically twin 48' trailers) that weighs 126,000 pounds can cause half the damage of an 80,000 pound tractor-semitrailer on a ton-mile basis.

While increased weight may in some cases increase bridge maintenance costs, these costs are generally lower than the pavement savings and other benefits, such as lower shipper costs, less energy use and lower emissions.[19] Proper bridge management can mitigate the impacts of heavier trucks on bridges. Unfortunately, some studies have exaggerated the effects on bridges by wrongly assuming that these trucks would have full access to the highway system and that any bridge not designed to handle multiple loadings of these vehicles would have to be replaced. In reality, the trucks would in almost all cases either be prohibited from using these bridges or the bridge would be strengthened, at much lower cost. For example, a study by the National Academy of Sciences found that allowing heavier trucks on California highways would overstress only 6 percent of the State's bridges. Nearly all of these bridges were on secondary routes that could easily be restricted by the State DOT without a significant impact on the heavier trucks' operations.[20]

Energy and the Environmental Benefits

Size and weight reform is an effective strategy for mitigating the impacts of carbon dioxide on climate change and addressing the health effects of air pollution due to a reduction in fuel use as a result of fewer trips needed to deliver a given amount of freight. A recent study found that more productive vehicles could reduce fuel usage by up to 39 percent, with similar reductions in criteria and greenhouse gas emissions.[21] In fact, the Environmental Protection Agency identified the use of double and triple trailer trucks as an effective emissions reduction strategy as part of its Smartway Transport Partnership program.[22] In addition, a recent ATA evaluation of strategies to reduce the trucking industry's carbon footprint identified greater use of more productive trucks as the single most effective technique to lower the industry's greenhouse gas output.[23]

Economic Benefits

A number of studies have been conducted to determine the potential economic impacts of increasing size and weight limits. All generally predict a net positive economic return. The largest study to date was the U.S. DOT's *Comprehensive Truck Size and Weight Study* (2000), which looked at the potential impacts of various changes in size and weight regulations. Economic impacts are expressed as a change in shipper costs. According to the study, allowing heavier trucks to operate nationwide would produce savings of 7 percent and extensive use of LCVs would reduce shipping costs by 11 percent. Expanded use of LCVs in the western States alone would reduce costs by more than $2 billion per year.

A 1990 Transportation Research Board study found that simply lifting the 80,000 pound gross weight cap (and retaining bridge formula and axle weight limits) nationwide would reduce truck costs by 2.1 percent, or net overall savings of 1.4 percent. Adopting Canadian limits would reduce costs by 11.7 percent, and 8.8 percent

[18] Wilbur Smith Assoc., Study of Impacts Caused by Exempting the Maine Turnpike and New Hampshire Turnpike from Federal Truck Weight Limits, June 2004.
[19] Transportation Research Board, *New Trucks for Greater Productivity and Less Road Wear,* 1990.
[20] Transportation Research Board Special Report 267, Regulation of Weights, Lengths and Widths of Commercial Vehicles, 2002.
[21] American Transportation Research Institute, *Energy and Emissions Impacts of Operating Higher Productivity Vehicles,* March 2008.
[22] Environmental Protection Agency.
[23] American Trucking Assns., Strategies for Further Reduction of the Trucking Industry's Carbon Footprint, Oct. 2007.

on a net basis. These are averages—savings differ substantially depending on commodity, configuration and other factors.[24]

A study by Oak Ridge National Labs for FHWA concluded that the use of LCVs in a truckload operation could reduce a shipper's logistics costs by between 13 percent and 32 percent, depending on the truck's weight and configuration, the difference in the price charged between an LCV shipment and a single-trailer truck, and the lane volume and length.[25]

Cornell University studied the economic benefits of New York State's overweight divisible load permitting system, and found that it produced direct benefits of up to $708 million annually, with additional infrastructure costs of no more than $35 million.[26]

A Montana State University study of the impacts on that State's economy if size and weight limits were brought down to the Federal limits found a projected reduction in Gross State Product of 0.4 percent. However, different economic sectors would suffer disproportionately. For example, transportation costs for dairy products would increase 54 percent, wood chips 37 percent, cement 31 percent, and fuel 40 percent.[27]

Congestion Benefits

According to the most recent report on congestion from the Texas Transportation Institute, in 2005 drivers in metropolitan areas wasted 4.2 billion hours sitting in traffic, burning 2.9 billion gallons of fuel.[28] ATA views size and weight reform as a key component of a long-term strategy to address highway congestion, along with our proposals to address critical freight bottlenecks. Reducing truck VMT through changes in size and weight limits could allow states to avoid costly, disruptive highway expansion projects. Furthermore, some states have explored the possibility of building truck-only lanes on corridors with high levels of congestion and significant truck traffic. Allowing trucking companies to operate more productive vehicles on these lanes would attract truck traffic away from general purpose lanes and help offset additional costs if toll financing is used. However, the rigidity of Federal size and weight regulations would, in many cases, prevent states from allowing more productive vehicles to operate on these separate lanes.

Proposed Reforms to Federal Truck Size and Weight Regulations

Mr. Chairman, ATA recommends several reforms to Federal truck size and weight regulations. It should be noted that other than recommendations 5, 6 and 7, none of these proposals would require states to make changes to their regulations. Instead, Federal law would simply give states the flexibility to change their own regulations. The proposed changes would give states the authority to require a permit, limit the routes on which the vehicles can operate, specify gross and axle weight and vehicle length limitations, restrict the new authority to specific commodities, or impose any other regulation or limitation allowed under Federal and State law. In short, Mr. Chairman, ATA's proposals would give states significant flexibility, while retaining restrictions designed to ensure safe operations and preservation of highway infrastructure.

1. Allow western States to harmonize longer combination vehicle laws and regulations.

In April 2004, the Federal Highway Administration released its "Western Uniformity Scenario Analysis." The report looked at the impacts of allowing uniform western State longer combination vehicle (LCV) use, including the impacts if LCV use was expanded to the entire western region's Interstate Highway System (excluding California, Arizona, New Mexico and Texas).

The report found a 25.5 percent reduction in total truck vehicle miles, and little impact on rail market share or profitability. The study found a slight reduction in pavement maintenance costs, but estimated that bridge costs would more than double. Overall, infrastructure costs would rise by between $43 million and $133 million per year in the study region. The reduced VMT would result in 12 percent lower

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[24] Transportation Research Board, Special Report 225—Truck Weight Limits: Issues and Options.

[25] Middendorf, David P. and Michael S. Bronzini. Oak Ridge National Labs for Federal Highway Administration. *The Productivity Effects of Truck Size and Weight Policies,* Nov. 1994.

[26] Meyburg, Arnim H., *et. al.,* School of Civil and Environmental Engineering, Cornell U., *Impact Assessment of the Regulation of Heavy Truck Operations,* Sep. 1994.

[27] Hewitt, Julie, *et. al.* Montana State University, *Infrastructure and Economic Impacts of Changes in Truck Weight Regulations in Montana,* July 1998.

[28] Texas Transportation Institute, *2007 Urban Mobility Report.*

energy consumption, 10 percent less noise, and 12 percent lower emissions. Shipper savings would total just over $2 billion per year, about a 4 percent cost reduction.

2. Allow States to authorize 6-axle, 97,000 pound tractor semi-trailers.

ATA recommends the authorization of single-trailer trucks with a GVW of 97,000 lbs, provided the truck has six axles, including a tridem axle on the rear of the trailer. Maximum weight on the tridem axle is limited to 51,000 lbs. While current single and tandem axle weight limits would continue, this vehicle would exceed the GVW allowed under the current bridge formula.

3. Remove gross weight limit on 5-axle combination vehicles.

Maintain current Federal axle weight and bridge formula limits, but lift the artificial 80,000 lbs GVW cap. This will have two benefits. First, for those trailers with tandem axles that slide independently, spreading the axles 96 inches or more allows the axles to be weighed independently as single axles, thus allowing up to 20,000 lbs on each axle, for a maximum GVW of 86,000 lbs. Another benefit is that the absence of a GVW cap will help to compensate for the increased weight of tractors due to Federal emissions regulations and State and local idling restrictions.

4. Allow limited expansion of LCVs beyond western scenario States.

Longer Combination Vehicles operate on a limited basis in States beyond those in the western uniformity scenario. LCV doubles and triples are currently allowed on the Ohio Turnpike and Indiana Toll Road. LCV doubles are also allowed on the Florida Turnpike, New York Thruway and Massachusetts Turnpike. In addition, LCV doubles and triples operate on a short section of I–15 in Arizona and in Alaska. Limited expansion in States that are interested in allowing these configurations can help relieve congestion, improve air quality, reduce crashes, and reduce fuel usage. Additionally, Transportation Research Board Special Report 267 recommended nationwide operation of double 33′ trailers with weight limits governed by current axle weights and the Federal bridge formula.

5. Standardize 53-foot trailer length.

Current Federal law establishes 48′ as the minimum trailer length on the National Network (NN). There is no Federal maximum limit on trailer length, and all States impose length restrictions. Trailer length on the Interstate System is limited to 53′ except in the following States, which allow trailers longer than 53′: Alabama, Arizona, Arkansas, California, Colorado, Florida, Kansas, Louisiana, Mississippi, Missouri, Montana, Nevada, New Mexico, Oklahoma, Texas, Washington, and Wyoming. In addition, 53′ trailers are not allowed on I–95 in New York City or on I–295 in Washington, DC. Some jurisdictions restrict the movement of trailers longer than 48′ on National Network highways that are not part of the Interstate System.

While national trailer uniformity is federally protected for 48′ trailers, 53′ trailers have become the industry standard. Federal law should be brought up to modern standards to ensure the continued protection of the flow of interstate commerce by changing minimum trailer length limits to 53′. In addition, ATA supports capping trailer length at 53′ except in States where longer trailers are currently allowed.

6. Allow a 10 percent axle and gross weight tolerance for auto transporters.

In 2007, more than 52 percent of the motor vehicles sold in the United States were either minivans, pick-up trucks, or sport utility vehicles. Because these vehicles are heavier than passenger cars, many auto haulers cannot legally load their equipment to maximum capacity and also meet the 80,000 pound gross weight limit. In many instances, there is space on the truck for one or two additional vehicles, but adding additional vehicles would make the truck overweight under Federal law.

While larger vehicle sales are declining in the face of higher fuel costs, sales of hybrid vehicles are increasing substantially. A large hybrid SUV can weigh up to 1,900 pounds more than the non-hybrid version of the same vehicle, while the weight of a hybrid passenger car can exceed its non-hybrid counterpart's weight by more than four hundred pounds.

A 10 percent axle and gross weight tolerance would allow auto transporters to reduce the number of trips needed to deliver passenger vehicles, reducing accident exposure, fuel use and emissions. Fewer trips also mean lower transportation costs for the automobile manufacturing industry.

7. Ensure nationwide adoption of weight exemption for Alternative Power Units.

One highly effective way to reduce fuel use by the trucking industry is to limit the amount of fuel burned by idling the main engine through installation of an alternative power unit (APU). Unfortunately, the weight of these units are a disincentive to some carriers, who want to avoid the productivity loss they would experience by trading off the loss of cargo capacity for the energy efficiencies gained by installing the APU. To address this issue, Congress included in the Energy Policy Act of 2005 (Public Law 109–58 Section 756(c)), a 400 pound weight exemption for APUs. Congress' intent was to override State law and mandate the weight tolerance. However, according to the Federal Highway Administration's Final Rule issued February 20, 2007 (*72 FR 7741*), the tolerance is permissive rather than prescriptive. This means that while States may allow the tolerance without risk of Federal sanction for exceeding Federal gross or axle weight limits, they are not required to grant the exemption.

This presents a number of problems. First, States would have to adopt the exemption individually, a process that has been underway since 2005, and 50-state authorization will likely take many years longer. Second, even a single hold-out would present a problem for an Interstate carrier, who would be reluctant to install the APUs knowing that they risk a ticket if they enter a State that does not allow the tolerance.

Based on conversations with Congressional committee staff and the Member of Congress who sponsored and supported the tolerance language, ATA strongly believes that Congress' clear intent was to override State law and mandate the weight tolerance for APUs. In fact, some carriers installed the units following passage of the Energy Bill based on this assumption, and have been surprised when states have issued citations for an overweight violation. We urge Congress to revise the statute to ensure immediate nationwide adoption of the APU weight exemption.

Truck Safety Initiatives

Finally, Mr. Chairman, ATA would like to recommend several initiatives designed to improve the safety of trucks and reduce the number of crashes and fatalities involving all vehicles. Today's trucks and truck drivers are safer than ever before. In 2007 the large truck fatality rate dropped to 2.12 fatalities per 100 million miles driven, the lowest rate ever recorded.[29] However, we believe more can be done to make our highways safer. ATA urges the Subcommittee to support the following initiatives in the next surface transportation bill:

Drug and Alcohol Testing Clearinghouse—ATA supports the creation of a national clearinghouse for positive drug and alcohol test results. There is a well known loophole in the Federal drug and alcohol testing requirements for commercial drivers that is being exploited by some drug-abusing drivers. When a driver moves from one trucking company to another, some "positive" drug and alcohol test results are not being discovered by the hiring company because these "positive" results are self-reported, and not centrally tracked. Prior to hiring an employee, employers would be required to check with the clearinghouse for an applicant's failed tests and previous refusals to test.

National Employer Notification System—ATA supports a mandatory national employer notification system and recommends development of a standard protocol specifying type, format, and frequency of information required to be transmitted from the states. Violations/offenses to be reported to the states should also be standardized. States should be required to fully participate in this national system and provide information in a timely fashion. The retention period for violations/offenses on a driver's motor vehicle record should be left to the state's discretion.

New Carrier Training—ATA recommends that new motor carrier owners, both interstate and intrastate, should be required to satisfactorily complete a safety training class before commencing operation. Safety training curricula should meet uniform standards nationwide. The Federal Motor Carrier Safety Administration (FMCSA) safety inspection of new carriers should be conducted at 6 months rather than at the current 18 months. Further, new carriers should be required to attach proof of training to their application for a DOT number.

Truck Speed Governing and Speed Limit—ATA believes the speed of all electronically governed class 7 and 8 trucks manufactured after 1992 should be governed at a maximum speed not to exceed 65 mph. Speed limiters on newly manufactured class 7 and 8 trucks should be made more tamperproof. ATA also supports a national maximum speed limit of 65 mph for all vehicles.

Truck Crashworthiness Standards—ATA supports research into crash-worthiness standards for newly manufactured class 7 and 8 trucks, and a relative scale against which to measure a truck's crashworthiness.

Tax Incentives for Advanced Safety Technologies—ATA supports tax incentives to encourage motor carriers to voluntarily adopt advanced safety technologies, including collision avoidance systems, lane departure warning systems, vehicle stability

[29] Federal Motor Carrier Safety Administration, 2009.

systems, brake stroke monitors, electronic on-board recorders (EOBRs), and automated transmissions/automated manual transmissions.

Additional information about these safety proposals is available from ATA upon request.

Conclusions

Thank you for giving ATA the opportunity to address rural transportation issues. An efficient rural highway system is critical to the future mobility and economic success of rural communities. The high freight transportation costs involved in moving natural resources over vast distances means that all modes must be as efficient as possible in order to maintain the global competitiveness of these industries. Given the dominant role played by the trucking industry in moving agricultural products, ensuring an efficient highway system must be the highest priority. ATA believes that making improvements to major highway freight routes, reforming Federal truck size and weight regulations, and making needed changes to Federal truck safety laws and regulations, as described above, are the keys to a cost-effective and safe rural freight transportation system.

Mr. Chairman, we look forward to working with the Subcommittee to address these issues during authorization of the Federal surface transportation bill. Thank you for the opportunity to testify.

Senator THUNE. Thank you, Larry, very much.

Mr. Parliament?

STATEMENT OF JACK PARLIAMENT, PRESIDENT, D & I RAILROAD

Mr. PARLIAMENT. Thank you, Senator, for allowing me to speak here today on behalf of the short-line railroads and D&I.

I'm going to address a couple of topics of concern and challenges that we are facing within the short-line industry; and the D&I, specifically.

Short Line Railroad Tax Credit was originally enacted in 2005, and then was extended for 2 years in 2008. The credit expires at the end of this year, and it needs to be extended, and there's still a lot of work to be done.

Senate Bill 461 and House Bill 1132 have provisions to extend the credit for another 3 years, and it allows new short lines to benefit from the credit, as well. The extender bills increase the limitation from $3,500-per-mile to $4,500-per-mile to account for increased costs associated with rail improvements.

On the D&I Railroad in South Dakota and Iowa, we've used these tax credits, totaling approximately three-quarters of a million dollars over the last 4 years, to help upgrade over 50 bridges and re-lay 35 miles of rail with new welded rail. Our shippers have also contributed to the investment in the line, with loans from the South Dakota Rail Trust Fund. This investment has brought our track structure up to the 286,000-pound standard. We've attracted new business to the line because of the upgrades. Poet Ethanol at Hudson, Ash Grove Cement, and Sioux Energy Transload are customers that are directly benefiting from the improvements and investment that's been made on the line.

The best reason for extending the tax credit is that fact that the shippers benefit firsthand because they receive more reliable, safer, and cost-effective service. In today's competitive market, that's important. In rural South Dakota and Iowa, the D&I Railroad provides the first-mile or last-mile service to producers of corn, ethanol, dry distiller grains, cement, aggregates, and building products. We're a vital link to the Class I railroads for these shippers.

Another reason for extending the tax credit: jobs. Most short-line railroads do not have the personnel or the equipment to make major improvements on their lines. They hire contractors; that creates jobs. Therefore, I ask Congress to extend the tax credit and to continue the work that's been done on the Nation's short lines.

And thank you, Senator Thune, for your continued support of the bills.

Senator THUNE. Thank you, Jack.

Mr. PARLIAMENT. Well——

Senator THUNE. Ms. Richardson?

Mr. PARLIAMENT. Mr. Thune? If I may continue——

Senator THUNE. Yes.

Mr. PARLIAMENT.—on hot-button number 2. I don't think I'm over my time.

Senator THUNE. No, you've still got time. I'm sorry, I thought you were wrapping up.

Mr. PARLIAMENT. Thank you.

Senator THUNE. My apologies. Continue.

Mr. PARLIAMENT. Last year, the Congress passed the Rail Safety Improvement Act. That brought a lot of changes to the railroad industry. There were a lot of good provisions in the law. But, in the essence of time, I'd like to address one problem, which is the requirements of the new hours of service. They were enacted with the intent of battling crew fatigue issues on the railroads. Now, fatigue can be an issue when train service employees operate on a 24/7 basis. However, this law is not addressing the problem, and it's not the answer.

Here's the main points of the new law. A train crew must have 10 hours of uninterrupted rest after each shift. That means, if they are subject to call, the railroad cannot contact them. If an employee works 6 days in a row, they must now have 48 hours off duty. If they work 7 days in a row, they must now have 72 hours off, or 3 days. And no employee in covered service may work more than 276 hours per month.

Here's the problem. On the D&I, and then on many other railroads, train crews—some train crews actually do work with scheduled hours and specified rest days. Typical local freight service job goes to work on Monday, lays over that night, returning home on Tuesday; and then, the same, likewise, Wednesday, Thursday, Friday, Saturday, with Sunday as a day of rest. This type of dependable service to the shippers is now in jeopardy, as small railroads that work on thin margins are less likely to increase their operating expense to maintain that same level of service. So, are we really battling fatigue? No. All we're doing is limiting the service to the shippers. And then, the train crews' paycheck is affected, as well. One of the reasons that the railroad unions have supported the Short Line Association's efforts to get a waiver from the FRA is to allow short lines to be exempted from this legislation.

So, what needs to be done? First of all, the FRA does need to grant the short-lines' waiver request for small Class II and Class III railroads without further delay. Congress needs to work with the railroads and the unions to come up with a remedy before it has a negative effect on the short-line railroads, their employees, and shippers.

There are ways to battle crew fatigue, but the new hours-of-service requirements have created more problems than they intended to fix. Longer rest periods and less work days do not eliminate unexpected report-to-work calls. This law does nothing to address the root problems of crew fatigue.

Now, I do have some specific ideas, and I'd be glad to share them with you or your staff, if you wish.

Thank you for hosting this hearing, sir, and allowing me to speak.

[The prepared statement of Mr. Parliament follows:]

PREPARED STATEMENT OF JACK PARLIAMENT, PRESIDENT, D & I RAILROAD

Short Line Railroad Challenges

What Are Our "Hot Buttons?"

- Infrastructure Funding
- Hours of Service

Infrastructure funding for Short Line Railroads remains a top priority for American Short Line and Regional Railroads. Many shortlines sprung from meager beginnings; when tracks were either abandoned or maintenance was deferred to the point that service was no longer feasible on some of these lines. In the case of the D&I Railroad, we were fortunate that the State of South Dakota stepped up and purchased some of the rail lines that were being abandoned when the Milwaukee Road went bankrupt in the early 1980s. Since then, the State and the shippers on the D&I have joined forces and invested millions of dollars to preserve and improve our vital link to the Nation's Class I railroads. On the D&I, improvements costing roughly $16.5 million (over the past 5 years) have been invested to upgrade bridges and to relay century old rail with new continuously welded rail with funding provided by South Dakota's Rail Trust Fund and administered by South Dakota's Department of Transportation.

Over the years, millions of dollars have been invested to preserve service and to enhance the infrastructure on our Nation's short line railroads. There is still a lot of work to be done on the Nation's rail feeder system, which is of course, the Short Line railroad. In rural America, the short lines provide the "first mile" or "last mile" service to our Nation's producers of corn, ethanol and dried distillers grains, and building products. We need to continue improving the infrastructure to be able to continue to provide service over a safe and efficient network. Today with newer cars having the ability to handle 115 tons-per-car, as opposed to the prior standard of 100 tons-per-car, the weight limits of many of the bridges would be exceeded, without a funding mechanism to maintain and/or rebuild the infrastructure.

One of the major funding mechanisms available for this purpose has been the short line railroad tax credit which provides an incentive for short lines to invest in track rehabilitation projects by providing a tax credit of 50 cents for every dollar spent on track improvements. In South Dakota and Iowa, those tax credits have amassed to about $750,000 in actual tax savings, which is allowing the D&I to continue the investment in our track infrastructure. This year we are relaying an additional thirteen miles of rail and constructing an 8,000 foot siding. Continued investment in the short line railroads' track infrastructure benefits the shippers firsthand and creates jobs. When shortlines upgrade their track, shippers receive more dependable, safer and even profitable service. When a track is able to handle today's heavy axle loads, the shippers can ship more tons per car which is an overall savings in freight costs. Most short lines do not have the equipment and manpower to handle major rehabilitation projects, therefore contractors are hired to perform the work, thus creating jobs.

H.R. 1132 and S. 461 extends Section 45G for 3 years to cover tax years 2010, 2011 and 2012. In addition, the legislation in these two bills allows new short lines railroads created after January 1, 2005, to participate and qualify for the credit. The proposed legislation also increases the limitation from $3,500 to $4,500 per-track-mile to account for increased costs since the credit was originally passed in 2004.

Over the past couple of years, revenues have decreased on many short lines as industries like cement, lumber and other sectors of our manufacturing base have struggled, but they are poised to make a comeback. The railroads must be ready when that happens. Private and government studies estimate that it will cost $13 billion to bring the national short line system up to the necessary level of efficiency.

Please support H.R. 1132 and S. 461. You can do so by signing on as a cosponsor. Your short line railroads will thank you and your shippers will thank you.

Hot Button Number Two

On July 16, 2009 a new *Hours of Service* law went into effect for the Nation's railroads. The intention of Congress when the Rail Safety and Improvement Act (RSIA) of 2008 was passed was to battle crew fatigue in the industry. Unfortunately, that is not what is happening. There are provisions in the RSIA that do meet the intentions of Congress. Positive Train Control (PTC), conductor certification, the hiring of 200 additional safety inspectors, medical attention of injured workers protection, bridge safety and grade crossing improvements are amongst the many good components of the legislation. However, the new hours of service provisions of the RSIA are not having the impact on crew fatigue that Congress had hoped for. In fact, what is happening is that freight is being delayed as the railroads' ability to move the freight is being limited by the new rules. In addition, train service employees are earning less due to the number of days per week and hours per month they can legally work.

The new Hours of Service Law now states that if an employee works six consecutive days, the must have 48 hours of uninterrupted rest. If they work 7 days straight, 72 hours rest is required. The legislation created a new 276-hour cap per month on the number of hours a train service employee may work This legislation was put into effect primarily for the Class I railroads that operate 24 hours-a-day, 7 days-a-week. These crews often work on an "on-call" basis and they typically do not have specified rest days. Their schedules are unpredictable and they are called for service at odd hours with only a couple hours of notice. Then they may work 12-hour shifts, layover at a hotel for an unpredictable amount of time and are subject to call at any time. Unexpected report to work calls and reporting to work after a minimal amount of rest is what causes crew fatigue. The Federal Railroad Administration (FRA) has now imposed these new rest laws as Congress dictated. Although the FRA has said they were sympathetic to the short lines' claim that fatigue is not a short line problem, but they have no recourse but to impose these new requirements.

The unintended result of these new restrictions is putting a real hardship on small operators such as the D & I and can potentially reduce service to shippers along their lines. Picture this; a crew goes to work on a regular schedule at 6 a.m. Monday, works a full shift of 8–12 hours, takes his mandatory period of rest then goes back to work on Tuesday at 6 a.m. and works another shift. This cycle repeats on Wednesday and Thursday, and Friday and Saturday, with Sunday as a day of rest. This is a typical operation for many freight crews which service industries on the railroad. Now, with the new law, the crew will need 2 days of rest. Is there really a fatigue issue here? No it now has become a service issue. The railroad is now forced to make some hard decisions concerning service to these industries.

What are our options?

1. Eliminate the 6-day local freight service and reduce service to those industries. This is counter productive, especially in times of high volume, such as during harvest. On the D & I, our ethanol plants and every customer, for that matter, depend upon our reliable service. We do not want to be forced into eliminating service and not have the flexibility to work our crews an occasional weekend to provide our customers with cars or to pull their freight to market.
2. Hire more crews, but only allow them to work the 2-days a week that the other crew is now unable to work. Does this really benefit anyone? Surely not the railroad that now has increased cost, not the first crew who have just took a 33 percent cut in their pay. And surely not the second crew who only works part time, likely with no benefits.

The demand of operating a 24/7 railroad can create the potential for crew fatigue. However, this new law does nothing to address the problem. Longer rest periods and less work days do not eliminate unpredictable and unexpected report to work calls from the employing railroad.

The American Short Line and Regional Railroad Association (ASLRRA) has applied for a waiver to the Federal Railroad Administration (FRA) for small Class II and Class III railroads. One of the requirements from the FRA is that any railroad that requests inclusion in the waiver, must participate in a pilot program that analyzes crew schedules to determine potential fatigue issues. This waiver needs to be granted without further delay. The Brotherhood of Locomotive Engineers & Trainmen (BLET) and the United Steelworkers Union have expressed their support of the waiver. The BLET and the United Transportation Union have jointly filed comments asking the FRA to clarify its interim policies related to, and interpretations of, the new hours of service regulations. The requested clarifications and simplifications fall into three categories: the RSIA prohibition of communication with employees during statutory off-duty periods; the RSIA's provisions pertaining to mandatory off-duty time following the initiation of an on-duty period for a specific number of consecutive days; and the maximum number of hours that may be worked in a calendar month.

Congress needs to work with the railroads and the unions and come up with an alternative to these new requirements. There are ways to battle crew fatigue; let's create a law that does so. The new Hours of Service requirements in the RSIA have created more problems than it intended to fix. It is now up to Congress to come up with the remedy.

Senator THUNE. Thank you, Mr. Parliament.

Mr. PARLIAMENT.—and the extra time.

Senator THUNE. OK.

Now Ms. Richardson.

STATEMENT OF LISA RICHARDSON, EXECUTIVE DIRECTOR, SOUTH DAKOTA CORN GROWERS ASSOCIATION

Ms. RICHARDSON. Thank you, Senator Thune, for the invitation to visit with you this morning.

It's interesting that you called and asked to talk about something that makes our industry the most competitive in the world, and that's our transportation system.

Good morning, I'm Lisa Richardson. I'm the Executive Director of the South Dakota Corn Growers Association, a grassroots commodity group which represents 12,500 corn growers from South Dakota. As I visit with you today, I'm happy to report that we are getting ready to produce our state's largest corn crop. They're getting ready to haul it on the roads, the bridges, and put it on the rail.

Agriculture is our state's biggest industry. We create a $21-billion impact to South Dakota's economy. Already today, our agriculture resources and production ability are outpacing our transportation capacity, causing delays and efficiency challenges.

Let me put this into perspective for you, Senator. Last year, South Dakota produced 172 million bushels of wheat, 585 million bushels of corn, 138 million bushels of soybeans, close to 8 million tons of hay, a billion tons of sunflowers, and a billion gallons of ethanol. Simply put, we don't have the luxury of calling the United States—U.S. Postal Service or UPS and say, "We have a sales call in Taiwan. Can you help us get our product to market?" We simply need to use this infrastructure.

Let's follow kernel corn from a typical South Dakota field. South Dakota has 83,744 miles or roads to go along with its 75,885 square miles of space. Ninety-one percent of those roads are city, county, and township roads. These are the roads where grain transportation begins as producers truck the grain from fields along these roads to their nearest grain-handling facility.

Years ago, a typical load of corn traveled in a single-axle truck containing 350 bushels of corn. With ever-increasing yields, a producer today is using multiple-axle trucks and semis to deliver their corn to the nearest facility. With the bulk of these bushels traveling on townships and county roads that were designed for 50 bushels-per-acre corn, versus today's yields of 125 bushels-per-acre. These roads also haul all our production to market, whether it be the chemicals or in the livestock arena, where they also haul our feedstocks, such as distillers grain to feed our livestock industry.

Senator Thune, no industry is more dependent on a good, viable transportation infrastructure than agriculture. If South Dakota didn't have rail, South Dakota industries wouldn't be competitive in grain production. Last year, as a Nation, we exported 2 billion bushels of grain around the world. A competitive rail system narrows the basis, because you can have greater efficiency in your energy means. Without rail access, the expense to raise a crop would increase significantly.

But, for agriculture to remain competitive, balance must be brought into the game. Here's the deal with rail. We need it to be consistent. We deserve to know what it's going to cost. And we simply need competition.

The Senate Commerce Committee is currently developing legislation to make the rail industry more competitive and to provide an even playing field for shippers. Senator Thune, I want to thank you for your brilliant leadership in negotiating this legislation. Once again, Senator, you're stepping up for South Dakota agriculture needs.

The goal of the rail competition legislation should be to provide more balance at the Surface Transportation Board between the interest of shippers and carriers. Historically, the STB has sided with the railroads in cases pertaining to rates and access. Small- and medium-sized shippers that are commonly found within the agriculture distribution chain have been shut out of the rate challenge process, because it is prohibitively expensive and the chance of success is relatively low.

A case-in-point is the Basin River Electric versus BNSF rate case, which took over 4 years and $7.5 million before initial ruling. And today, that decision is ongoing, pending appeals. This is a classic example of what the—of how the process doesn't work.

Clearly, the process is broken, and can only be fixed through reform. A rewriting of rules as how to—to handle rate disputes are brought to the STB is imperative. We have to make it simpler, less cost prohibitive, and provisions for smaller shippers must be answered.

We are in a global economy, and our competitiveness and access to those markets are becoming increasingly important. Today, for us to go to the Pacific Northwest with corn, the typical path takes that corn first east, then up north, and finally west again. As we work to find solutions to our transportation challenges in our state and Nation, one thing is clear: efficient and competition transportation has never been more important to the future of our state's economic health and our Nation's energy security. When the last kernel of corn flows out of the grain cart, it begins a journey that is dependent on an infrastructure at the township, county, state, interstate rail, and rivers to make it to a destination in a worldwide economy.

Thank you, Senator Thune.

[The prepared statement of Ms. Richardson follows:]

PREPARED STATEMENT OF LISA RICHARDSON, EXECUTIVE DIRECTOR, SOUTH DAKOTA CORN GROWERS ASSOCIATION

Thank you, Senator Thune, for the invitation to visit with you today about something critically important to South Dakota and what makes the agriculture industry competitive in the world: Transportation

Hello, I am Lisa Richardson, Executive Director of the South Dakota Corn Growers Association, a grass roots commodity organization which represents 12,500 corn producers from South Dakota. As I visit with you today, South Dakota corn growers are preparing to bring in the largest corn crop in our history.

Agriculture is our state's biggest industry creating a $21-billion impact to our economy. Already today, our agricultural resources and production ability are outpacing our transportation capacity, causing delays and efficiency challenges.

Let me put into perspective the importance of transportation in agriculture. Last year, South Dakota produced 172 million bushels of wheat, 585 million bushels of corn, 138 million bushels of soybeans, close to 8 million tons of hay, a billion tons of sunflowers and a billion gallons of ethanol. We simply can't call the U.S. postal service or UPS to please pick up 100 million bushels of corn and take it to the Pacific Northwest because we have a sales call in Taiwan.

Let's follow a kernel of corn from a typical South Dakota field.

South Dakota has 83,744 miles of road to go along with its 75,885 square miles of space. Ninety-one percent of these roads are city, county and township roads. These are the roads where grain transportation begins as producers truck the grain from fields along these roads to their nearest grain handling facility.

Years ago a typical load of corn traveled in a single axle truck containing 350 bushels of corn. With ever increasing yields, a producer today is using multiple-axle trucks and semis to deliver their corn to the nearest facility. With the bulk of these bushels traveling on township and county roads that were designed for 50 bushel-per-acre corn versus today's yield of 125 bushels-per-acre. These roads also haul feedstocks such as distillers grain to our livestock producers.

Now if the nearest grain handling facility doesn't have rail access, that truck either keeps going to a processing facility . . . or right out of state to a top paying market which means South Dakota processing facilities and agribusiness are losing money in missed opportunities in addition to the added pressure placed on our local roads by greater transportation distance.

At a five location Central South Dakota grain cooperative, they handle 22 million bushels of grain annually including wheat, corn and sunflowers. It takes roughly 220,000 truck loads on our state highway system just to get those bushels one point to a grain facility. Again, if that facility doesn't have rail access, it would have to be loaded out by truck a second time, doubling the truck loads for just that one area of the state, to nearly 450,000 truck loads annually, and, in turn, a financial impact on local roads.

Senator Thune, no industry is more dependent on a good viable transportation infrastructure than agriculture.

If South Dakota didn't have rail, South Dakota industries wouldn't be competitive in grain production.

A competitive rail system narrows the basis because you can have greater efficiency in your energy need. Without rail access, the expense to raise a crop would increase significantly.

As ethanol and grain production continues to increase, the availability of economical transportation has become a growing issue. Currently, trucks are used for short hauls, but are prohibitively expensive for long distances. The rail system is utilized for long-distance transport, but is suffering from lack of infrastructure to handle the increasing volumes.

But for agriculture to remain competitive, balance must be brought into the game. Here's the deal with rail: we need it to be consistent, we deserve to know what it's going to cost. Rail customers don't want fluctuation. Elevators have already bought a lot of grain for future delivery and today they still don't know what the rail rates are for 2010.

The Senate Commerce Committee is currently developing legislation to make the rail industry more competitive and to provide an even playing field for shippers. The efforts by this committee are critically important and will have a significant impact on growers who are most affected by commodity prices and the ability to move grain.

The goal of rail competition legislation should be to provide more balance at the Surface Transportation Board (STB) between the interests of shippers and carriers. Historically the STB has sided with the railroads in cases pertaining to rates and access. Small and medium size shippers that are commonly found within the agricultural distribution chain have been shut out of the rate challenge process because it is prohibitively expensive and the chance of success is relatively low.

Since 1980, the STB has allowed the railroad industry to consolidate to four major railroads that carry more than 90 percent of all freight shipped by rail in the United States. A recent study by the STB revealed that over 44 percent of all rail freight by tonnage is captive to a single railroad. Yet the STB has provided meaningful relief for these rail customers in less than 20 percent of the rate challenges brought before the Board since 2000. No rail rate for the movement of an agricultural product has even been contested since 1982.

Congress should provide other forums for adjudication of complaints regarding unreasonable practices by railroads and also provide assurance that cases will be handled expeditiously. In 1995, legislation was adopted "to establish a simplified and expedited method for determining the reasonableness of challenged rail rates"; however, the goal has never been fully achieved. In some instances, STB decisions have taken longer than 5 years, which is unacceptable.

There are other problem areas that specifically need to be addressed. Unreasonable switching charges have substantially increased the cost of shipping grain via rail. Switching charges are fees that railroads use when providing access to competing rail lines. If the switching is open but the price for switching is exorbitantly high, it acts as a barrier to competition. Many railroads are increasing switching rates to such high levels that it is having an impact on the agricultural sector. In some instances, switching charges are more than $500 per car, which has no reasonable comparison to the costs of providing the switch, and accomplishes nothing more than capturing more exclusive traffic for the carrier, while substantially narrowing the range of potential customers available to our growers.

There has also been concern in recent years regarding the question of liability for the transport of anhydrous ammonia by rail. At least one railroad has placed in its tariff a requirement that the shipper fully indemnify the carrier for any personal injury property damage or death resulting from the carrier's transportation of the shipper's goods regardless of whether the carrier was at fault. It is important that the fertilizer industry and the railroads come to a consensus on how to share liability for anhydrous ammonia shipments so that growers have uninterrupted access to this important agronomic product. Congress should explore avenues to address liability for the shipment of hazardous materials, particularly compounds that are toxic by inhalation.

We are in a global economy and our competitiveness and access to those markets are becoming increasingly important. Today for us to get to the Pacific Northwest with corn, the typical path takes that corn first east and then up north and finally west again. As we work to find solutions to our transportation challenges in our state and nation one thing is clear: Efficient and competitive transportation has never been more important to the future of our state's economic health and our Nation's energy security.

When the last kernel of corn flows out of the grain cart, it begins a journey that is dependent on an infrastructure at the township, county, state, interstate rail, and river to make it to its destination in a worldwide economy.

Senator THUNE. Thank you, Ms. Richardson.

Mr. Rose?

STATEMENT OF MATTHEW K. ROSE, CHAIRMAN, PRESIDENT AND CEO, BNSF RAILWAY COMPANY

Mr. ROSE. Good morning, Senator Thune. It's a pleasure to be here in Sioux Falls with you this morning.

As you know, railroads are a very important part of South Dakota's economy and transportation network, and South Dakota is certainly very important to BNSF.

Over the past 3 years, BNSF has invested more than $80 million for capacity expansion and maintenance. Senator Thune, you and I have talked about how important it is to connect and protect rural America's economy and quality of life. The Commission I served on also made this a priority of its findings.

Rural America, like everywhere else, benefits from an efficient supply chain, probably more so than other places, because it relies on transportation to connect to the world markets. The more efficient the U.S. supply chain is, the more competitive U.S. jobs and inputs, like agricultural products, can be in the global economy.

But, the U.S. supply chain is becoming less efficient. In the 1980s, we recognized tremendous efficiencies through the deregulation of transportation industries. However, starting in 2003, supply chain costs began to grow. As a percent of GDP, supply chain costs have increased about 15 percent since 2003. This is due to several factors, including higher fuel costs, but it's essentially a function of diminishing capacity across all modes.

We've been blessed, for years, with overcapacity on both the rail and the highway networks, but now the economy has outgrown the infrastructure, and when that occurs, costs and prices go up.

The economic slowdown may provide a little bit of breathing room here, but the disequilibrium between capacity and demand truly is systemic and long-term. Population growth will require more transportation solutions in rural America, as well.

As you know, there's a call for moving at least 10 percent of the Nation's highway freight to reduce the carbon footprint and fuel intensity of freight movements, and potentially improve on the cost-effectiveness of payment expansion and maintenance expenditures. It's estimated that if 10 percent of the freight that currently moves by truck were diverted to rail, fuel savings would exceed 1 billion gallons a year. Think of it as a three-legged stool, reducing our dependence on foreign oil, reducing our carbon footprint, and improving congestion on our Nation's highways. This is also good for rural America. Expanding the freight rail network in this country will take pressure off the highway networks, mitigating the impact of heavy long-haul trucks on rural state transportation budgets, shifting more freight to the rail. Increasing freight volumes may not reduce truck traffic, but it will certainly mean that the impact of growth will be reduced.

In addition, strengthening the overall network to handle growing highway freight will mean a strong ag supply chain. Expanding capacity will benefit all shippers.

I've been asked specifically about what it will take to move freight off the highway and onto the rail network. It's all about price per ton, and the greatest market opportunity lies here in the 500- to 1,000-mile segments. Currently, however, public policy incents freight to the highways, primarily through subsidies to the largest and heaviest of trucks, and underleveraging the substantial private investment in freight rail for the benefit of the public.

There are about 2 million ton-miles of freight that could go on either a truck or a train. Trucks currently have about 65 percent of the market, and trains have about 35 percent. There's no doubt in my mind that this market share has the origins in the competitive advantage that the largest and heavy truck experience because they don't pay the full direct and indirect cost of the use of the highways.

There's even a bigger issue, because gas tax revenues, as you're aware, are going down, and the Highway Trust Fund is being bailed out by taxpayer dollars. The 20-percent-or-greater cross-subsidies of the heaviest of trucks, that used to come from other motorists, now comes from the U.S. taxpayer. Eliminating a subsidy is always difficult, but it's equally important not to make it worse.

A ballpark industry estimate of what it would take to carry 10 percent of the freight currently on the highway indicates that we would have to double the existing freight-rail intermodal network. More analysis of that is currently being done.

But, we currently are investing in capacity, based on returns, and that investment is substantial. As an industry, we're currently spending about $10 billion in the freight rail network. But, if policy leveraged those investments with public partnerships, these investments would happen more quickly, and with more certainty.

One of the key proposals offered by the freight industry is the investment tax credit, which provides a 25-percent tax credit for expansion, investment in the freight railroad networks by railroads, or by their customers. This incentive would help worthwhile projects get built sooner, but would not be enough to cause economically unjustifiable projects to go forward. It would help fund investments, like "positive train control," which predominantly benefits the public.

I'd like to underscore my comments with an important caveat. Freight railroads will not be able to achieve the expansion necessary to increase market share if the economic regulatory system is not also in sync with this goal. Railroad regulation must allow the industry to achieve the returns necessary to make the investments that I've outlined in this testimony. Our record of reinvestment is a good one. As revenues have increased, so has investment. Therefore, maintaining freight railroad profitability is a key part of meeting the policy goals that Congress seeks to achieve in the surface transportation policy.

I look forward to our continuing dialogue.

[The prepared statement of Mr. Rose follows:]

PREPARED STATEMENT OF MATTHEW K. ROSE, CHAIRMAN, PRESIDENT AND CEO, BNSF RAILWAY COMPANY

Good morning, Senator Thune. It is a pleasure to be in Sioux Falls with you this morning to address surface transportation needs in rural America. Railroads are an important part of South Dakota's economy and transportation network, and South Dakota is important to BNSF. BNSF has invested more than $83 million in South Dakota for capacity expansion and maintenance, over the past 3 years. With rail yards in Aberdeen, Edgemont and Sioux Falls, we handle more than 1.4 million carloads within the state each year. About 100,000 carloads of wheat, soybeans, beets and other agricultural products from South Dakota are moved on BNSF each year for both export and domestic use. Signs are pointing to a pretty good year for agriculture. I hear harvest is wrapping up here with pretty good yields.

In addition to a very good business partnership with South Dakota's agricultural industry, the State of South Dakota has a unique relationship with BNSF that very few other states historically have had. We have a track record of public private partnership that goes way back, which says good things about the state's understanding of the importance of freight rail.

For those who do not know, BNSF purchased right of way from the state (called the "Core Line") in 2005. This 368-mile line runs from Aberdeen to Mitchell to Canton to Sioux Falls and Sioux City. This has allowed BNSF to increase hauling capacity to better serve South Dakota producers and businesses.

As the top Republican on the Senate's Surface Transportation and Merchant Marine Subcommittee, Senator Thune has begun a thorough review of the Nation's surface transportation policies in anticipation of re-writing them soon. He and I discussed the findings of the National Surface Transportation Policy and Revenue Study Commission, to which I was appointed, when its report came out. During the Commission deliberations, a lot of time was spent discussing how to connect and protect rural America's economy and quality of life. Senator Thune and I also recently discussed freight policy and the importance of the U.S. supply chain before his Subcommittee.

It is very important that the U.S. supply chain remain a relatively low percentage of GDP. The more efficient the U.S. supply chain is, the more competitive U.S. jobs and inputs—like agricultural products—can be in the global economy. The scale of the U.S. supply chain is impressive. Its value is more than $1.4 trillion, which is nearly three times the size of the Defense Department budget, and approaches the size of the Gross Domestic State Product of California (which is $1.8 trillion). The role of the U.S. supply chain in global competitiveness and its size and value to the U.S. economy should make freight mobility one of the most important elements of surface transportation policy—but, to date, it has not been.

In fact, the U.S. supply chain is becoming less efficient. In the early 1980s, we recognized tremendous efficiencies through the deregulation of transportation industries. In the freight rail industry, productivity increased about 163 percent and rates went down about 53 percent. In addition, lower fuel costs, and excess capacity in all modes contributed to the cost-effectiveness of the supply chain.

However, starting in 2003, supply chain costs began to grow. As a percentage of GDP, supply chain costs have increased about 15 percent since 2003. This is due to several factors, including higher fuel costs, but it is essentially a function of diminishing capacity across modes. Between 1980 and 2005, volumes, or vehicle miles traveled on the highway grew by 96 percent and lane miles grew by only 5.7 percent. Rail revenue ton miles grew by 87 percent and rail miles decreased by 39 percent. We have been blessed for years with over-capacity on both the rail and highway networks, but now we've reached a supply/demand crossroads and, in many places, tipped over it. Basically, the economy has outgrown the infrastructure and when that occurs, costs and prices go up. The economic slow down may provide a little breathing room, but the disequilibrium between capacity and demand is systemic and long-term. Population growth will require more transportation solutions.

Continued efficiency gains across all transportation systems are an important part of the solution for the future. The railroad industry continues to make gains in productivity. For example, at BNSF, we've improved agriculture network velocity such that moving 2008 volumes at 2007 productivity levels would have required the operation of 320 more trains. Many of our customers, including agricultural businesses, have seen improved transit times. However, ultimately, capacity will have to be added—mainline, facilities and terminal expansion.

This is a challenging time for transportation policymaking. The outlook is for more congestion and, therefore, increasing supply chain and other related economic costs. The Texas Transportation Institute estimates the cost of highway congestion in the Nation's urban areas has increased 60 percent, from $39.4 billion to $63.1 billion, from 1993 to 2003. The U.S. DOT estimates that the cost of congestion across all modes of transportation could be three times as high—approaching $200 billion-per-year—if productivity losses, costs associated with cargo delays, and other economic impacts are included. If you factor in all modes and forecast to 2020, it is clear that the cost of congestion will be well over $200 billion.

At the same time, transportation revenues are down. How do you grow transportation networks for the future, which requires more investment today? Quite simply, transportation investment—and its resulting job creation and economic generation and benefit to global competitiveness—must become more of a policy and funding priority. Also, the U.S. needs a comprehensive vision for transportation that integrates its energy and environmental objectives. Other countries have understood and responded to these transportation priorities.

For example, in China, railway capital expenditure will nearly double from $44–58 billion USD to more than $88 billion USD. A great deal of China's stimulus package will fund rail projects aimed at China's logistics industry. Canada has targeted billions of dollars in recent years for priority freight rail corridors that serve their west coast ports, in an effort to compete with the U.S. West Coast ports and move more freight by rail.

U.S. private freight rail capital expenditures total more than $10 billion annually, which is an impressive amount, and represents capital reinvestment of almost twenty percent, making the railroad industry one of the most capital intensive. BNSF and the Union Pacific Railroad each have annual capital expenditures that are larger than the annual highway expenditures of every state in the country except Florida, California and Texas. Public policy should recognize that a relatively small public investment in freight rail greatly leverages the proportionately larger private capital investment and yields benefits for not only the supply chain and freight mobility, but also for highway users and energy and emissions reduction goals.

In the context of surface transportation reauthorization legislation, there is an increasing call for moving more freight off of the Nation's highways to reduce the carbon footprint and fuel intensity of freight movements and, potentially, improve upon the cost-effectiveness of pavement expansion and maintenance expenditures. There is a bill pending before the Senate Commerce Committee, which calls for moving 10 percent of gross ton miles off the highway (S. 1036).

It's estimated that if 10 percent of the freight that currently moves by truck were diverted to rail, fuel savings would exceed one billion gallons a year. As the Committee is aware, rail accounts for a fraction of total U.S. greenhouse gas emissions (2.6 percent, as compared to 21 percent for trucks). To give you an idea of what impact this has, in 2008, BNSF moved 4.7 million containers and trailers, reducing potential Greenhouse Gas emissions by more than 7 million metric tons. Industry-wide, rail moved 11.5 million containers and trailers, reducing potential Greenhouse Gas emissions by more than 17.2 million metric tons. The congestion benefits are substantial, as well. One BNSF intermodal train removes more than 280 long-haul trucks from the highways.

I believe S. 1036 is a good bill. It is certainly the first surface transportation reauthorization bill introduced in Congress that integrates national energy and environmental goals in a truly multimodal way. It represents the thinking of many I have spoken to in Congress who believe that freight rail can play a larger role in transportation congestion and emissions solutions. If Congress acts on the principles outlined in the bill, it will succeed in making freight a more important consideration in Federal transportation policy and freight networks more robust and seamless.

This will be good for rural America. Expanding the freight rail network in this country will take pressure off the highway networks, mitigating the impact of heavy long-haul trucks on rural state transportation budgets. Shifting more freight to rail in an environment of increasing freight volumes may not reduce truck traffic, but it will certainly mean that the impact of the growth rate will be reduced. In addition, in states like South Dakota where the agriculture freight rail network is an important part of the state's economy, strengthening the overall network to handle growing highway freight will mean a stronger Ag supply chain. Like all network businesses, capacity for all customers is only as large as the network's chokepoints.

I've been asked specifically what it will take to move more freight off the highway and onto rail. The key is what I call "mode optimization"—which is where trucks and trains divide up the Nation's freight in the way that best optimizes the strengths of each mode and results in the best cost, fuel and carbon efficient outcome. If public policy is geared effectively toward mode optimization, I believe that the transportation marketplace will respond and more highway freight would migrate to the rails. It's all about price-per-ton, and the greatest market opportunity lies in the 500 to 1,000 mile segments. Currently, however, public policy incents freight to the highway—primarily through subsidies to the largest of trucks—and under-leveraging the substantial private investment in freight rail for the benefit of the public. I will address this shortly.

To achieve mode optimization, it's important to understand how much of the supply chain could migrate from truck to train. The supply chain is made up of the movement of more than 4 trillion ton miles of freight annually. When you eliminate from the calculation heavy haul freight that generally only goes by train (such as grain and coal) and freight in short-haul, less-than-500 mile all-truck distribution markets, there are about 2 trillion ton miles of freight of all kinds that could go on either a truck or a train. Trucks have about 65 percent of the current market; trains have 35 percent.

There is no doubt in my mind that this market share has its origins in the competitive advantage the largest trucks experience because they don't pay the full direct and indirect costs of their use of the highways. I want to qualify these remarks with the fact that BNSF supports the trucking industry. Our top customers are truckers, and over the years, we have developed strong partnerships that have improved service and allow much more intermodal freight to move via rail.

Nevertheless, it is a fact that according to the May 2000 Addendum to the 1997 Federal Highway Cost Allocation Study Final Report, FHWA estimates that combination trucks on average, pay 80 percent of their Federal highway cost responsibility through user fees, and the heaviest combinations, those over 80,000 pounds, pay only half of their cost responsibility. This modal subsidy distorts the freight economics where trucks and trains compete. Typically, railroads are better suited for long-lengths of haul, due to our advantages such as fuel economy and the fact that our core lines are less congested than major interstates. I believe any of the Class I railroads will tell you that subsidies for motor carriers increases the minimum length of haul where we can be competitive and that without the subsidy, the railroads' market share of over the road traffic would probably be higher than it is right now.

Eliminating a subsidy is always difficult. But it's equally important not to make it worse. Some in the trucking industry are calling for heavier trucks as a way to increase their productivity. If Congress changes the truck weight policy, those trucks must pay not only the cost of their additional weight, but also make up the subsidy they receive at current weights. The question of truck weights and subsidies will no doubt come up in the context of the surface transportation reauthorization, especially if Congress considers an increase in the gas tax, and as General Funds are directed to the Highway Trust Fund. Dwindling revenues from the gas tax has required the use of General Funds for transportation funding, which means that the subsidy that other transportation users used to provide to the heaviest of trucks is now being provided by the general taxpayer.

Expanding freight rail capacity is the other significant factor in achieving mode optimization. Currently, there is no Federal policy aimed at encouraging or partnering with freight railroads to expand capacity. Capacity became very tight in the freight rail industry from about 2003 until last year, and we saw some of the negative consequences of it—even with record capital expansion expenditures during that period. Railroad capital expenditure has remained relatively high, even in light of current decreased volumes. Adequate railroad capacity means increased network velocity and throughput, which allows for more volume and better service. It also improves market coverage, allowing for more truck-like service between the origins and destinations that customers want.

The National Policy and Revenue Commission wanted to determine freight rail capacity in key corridors and project its capacity requirements in the years to come. In sum, the Class I freight railroads, through capital expenditures based on expected revenues from the marketplace and through productivity, can achieve almost all of the needed investment over the next 28 years, but there is a projected shortfall of almost $40 billion. However, this analysis did not take into account what the freight railroads will have to do to facilitate increasing levels of passenger service on their networks, nor the expenditures necessary to comply with the Rail Safety Improvement Act of 2008 (RSIA).

This legislation mandates that positive train control (PTC) be installed on all rail main lines used to carry passengers or certain highly hazardous materials by December 31, 2015. Railroads—private freight and public passenger railroads—are responsible for nearly all of the almost $10 billion in installation and maintenance costs for this technology. The Federal Railroad Administrator has found only $700 million in PTC safety benefits, given the existing high level of safety that already exists in the industry. If the railroads must fully bear the cost of this mandate, it will certainly come at the expense of capacity expansion and, potentially, other maintenance or safety technology expenditures.

The National Policy and Revenue Commission also asked what level of investment would be needed to expand the freight rail market share of the growing freight volumes anticipated in the future—the goal proposed by S. 1036. The Commission found that to increase freight rail market share by 10 percent, an additional $700 million in annual investment would be necessary. More research is being done on this question, which will look also at the impact of increasing passenger service on freight line investments.

What kind of capacity is needed for mode optimization? To succeed, railroads will need to deliver truck-like frequency, reliability, transit-times and trouble free execution. Essentially, we need to zero in on key domestic freight lanes between "megapolitan" markets, much like Canada has done. Significant up-front capacity investment is needed for railroads to execute and deliver line-capacity in targeted 500–1,500 mile lanes to facilitate expedited, high speed double-stack service on top of existing bulk, manifest and hosted passenger train network. Part of this investment will include removal of legacy chokepoints such as Tower 55 in Fort Worth, the Burlington Bridge in Iowa, and CREATE in Chicago. It will require crown clearing on various tunnels across the network, siding extensions, double tracking, and high speed cross-overs on targeted lines across the network.

It also will require facility expansion in strategic locations that support density economics required for frequent reliable service. This includes the development of new or expanded intermodal facilities in major megapolitan locations, such as one BNSF is proposing in Kansas City. It will require additional transload facilities to consolidate carload networks to make it more efficient. Transload facilities allow for the transfer of bulk or industrial products shipments between truck and rail. Rail facilities have an economic multiplier for the communities in which they are cited.

However, locating facilities in and around urban areas poses one of the single biggest challenges to realizing increased benefits of more freight rail. Transportation facilities regularly encounter permitting difficulties in the face of communities' occasional "Not-In-My-Backyard" responses. Our experience has been to successfully work closely with the neighborhoods and organizations representing them to implement state-of-the-art environmental mitigation and to integrate transportation facilities as organically as possible into an area. However, permitting processes can be abused in light of citing concerns. Permitting can be improved to remain responsive to community interests while ensuring that project costs and timelines are not unduly attenuated. In addition, I believe local governments, with the encouragement of Federal policy if necessary, should be aggressive in developing land use regulations and utilizing community planning to ensure citing of needed transportation facilities in the future, and that facilities are not encroached upon by incompatible development.

On the trucking side of the equation, construction or improvement of an extensive network of the intermodal connectors that serve these facilities will be required, along with fuel efficient, high service, dray-networks. In addition, it's important that freight distribution be a part of metromobility. Without enough road capacity in urban areas to distribute freight, the intermodal model is not as effective. Freight must be planned for, accommodated, and not discriminated against in urban areas.

The timing of the railroad investments needed, and the magnitude, to modally optimize 10 percent of the highway freight makes 100 percent private investment too risky to accomplish without the partnership of the public. Public investment that leverages focused private investment can bring sufficient capital to the table, accomplishing national goals more quickly. One of the key proposals offered by the freight rail industry is the Investment Tax Credit (ITC), which provides a 25 percent tax credit for expansion investment in the freight rail network by railroads or their customers. This incentive would help worthwhile projects get built sooner, but would not be enough to cause economically-unjustified projects to go forward. It would help fund investment, like PTC implementation, for which the benefits are predominantly public benefits. It's also significant to note also that each $1 billion of new rail investment induced by the tax incentive would create 20,000 jobs. As Congress considers how to leverage the freight railroad's extensive private investment to achieve mode optimization, the ITC should be carefully considered.

The use of Public Private Partnerships (PPPs) on freight railroads is an important tool in achieving a modally optimized freight network. For years, states have partnered with freight railroads to complete projects that benefit both the railroad and the public, as Senator Thune knows from personal experience as South Dakota State Railroad Director. The benefits that the public can realize from freight rail projects include economic development, reduced vehicular congestion and emissions at grade crossings, reduced truck traffic and related impacts, and improved commuter or intercity passenger rail service. However, there has not been an appreciable Federal role in these PPPs, except for Congressional earmarks. The transportation spending in the recently-passed American Re-Investment and Recovery Act (ARRIA) provided states the flexibility to use the General Funds provided under the Act on freight rail and port projects.

ARRIA also established a grant program at DOT for projects of national significance, for which freight rail projects are eligible. A program of this nature, which is adequately funded and performance-based, can substantially contribute to reducing chokepoints and expanding freight rail capacity for the benefit of the public. These efforts point the way to increased use of PPPs, which the long-term reauthorization legislation should build upon.

In sum, the Commission developed a policy roadmap of what an authorization bill needs to create a balanced, multi-modal transportation system in which "mode optimization" is possible. Below is a high-level overview of what the Commission found is required of Congress to achieve it, from a freight rail perspective:

- a national transportation vision that encompasses the benefits of multimodal freight projects for planning, funding and permit approval;
- rational economic regulation that permits freight railroads to continue to invest sufficiently to meet market share goals;
- leveraging and incentivizing private freight rail expenditures, through a tax credit which will pull forward expansion spending sooner;
- federal public private partnerships for freight rail projects; and
- freight mobility in metropolitan areas—including freight planning and capacity in urban areas.

I'd like to make two additional policy points. First, freight railroads will not be able to achieve the expansion necessary to increase their market share if the economic regulatory system is not also in sync with this goal. Railroad regulation must allow the industry to achieve the returns necessary to make the investments that I have outlined in my testimony. Our record of reinvestment is a good one; as revenues have increased, so has investment. Therefore, maintaining freight railroad profitability is a key part of meeting the policy goals that Congress seeks to achieve in surface transportation policy.

Second, I'd like to comment on carbon policy. It can incentivize use of freight rail and freight rail investment. Whether carbon is priced, capped, or off-set, there will be pressure on the supply chain to become more fuel and emissions efficient. However, Congress specifically will need to consider how to encourage more use of freight rail to achieve mode optimization to meet environmental goals.

Having said that, my belief is that the most important factor for Congress to consider is the economic calculus of what a carbon policy will do to the economy and all of our customers. Whatever Congress votes to do, or not to do, freight rail will be an important part of managing carbon emissions and reducing energy dependence in the future.

If Congress focuses on desired outcomes—lower costs, energy efficiency, environmental mitigation, reduced highway congestion and enhanced global competitiveness—public partnerships with privately funded freight railroads will be a more significant policy option for optimizing the Nation's surface transportation network. I look forward to continuing the dialogue we at BNSF have with you, Senator Thune, and your colleagues in the Commerce Committee and across Congress as you work to enact a reauthorization bill that moves America, and its Supply Chain, forward.

I welcome the opportunity to respond to your questions.

Senator THUNE. Thank you, Mr. Rose.

Thank you, all of you, for your comments. And, as I said, your full statements will be included as a part of the record.

I appreciate many of the suggestions that were made. I guess what I'd like to start by doing is directing some questions to the entire panel, and this first one is more of an overall state-of-the-economy type question. My question has to do with what impact the current economic downturn has had on shipping and freight transportation. Larry, from the trucking standpoint, railroads, agriculture—how are we looking out there, in terms of freight transportation and the impact of the economic downturn?

Mr. ANDERSON. Well, I can speak for my own company. And for the last 5 years, we've grown at a rate of about 15 percent a year. And this year, we will not see any growth. It's—actually went down a little bit. But, we're looking forward—towards the future, and hoping—we were hoping, for the fourth quarter of this year, to see an increase, but I'm beginning to think it'll be the first quarter of next year.

Senator THUNE. Anybody else want to comment on——

Mr. Rose?

Mr. ROSE. I just—I was going to say, I think, in terms of policy, it's a very dangerous time, because, for the first time ever, we're seeing a reduction of VMT on the highway system, as well as the railroad system. So, it's going to create this sense of overcapacity of these networks, when, in reality, we know that the economics—markets will return, and, when those happen, of course, gross ton miles come back to both the highway system and the freight railroad network. And so, you could make an argument that now is the time, more than ever, when you've got the excess capacity; we ought to be making these capacity expansions on the highway and the freight rails.

As far as the economic situation, we watch about 30 businesses, and we really have seen very little direction that says we're going to see a second-half recovery. And we would really expect, into late 2010.

Senator THUNE. Ms. Richardson?

Ms. RICHARDSON. With the worldwide recession that we believe we're in, we're seeing significant decreases in our experts with every commodity group. On the ethanol front, obviously, since we're driving less, there's less opportunity of going to that market, so everything has been down substantially. From corn's perspective, last year, in July, we were talking $7 corn, we're talking—and our basis, our rail rates, have substantially increased. And we used to talk 60—30 cents-a-bushel, and we're over 60 to 70 cents-a-bushel for us to get to the Pacific Northwest, currently.

Senator THUNE. Jack?

Mr. PARLIAMENT. Well, I'd kind of reiterate Matt's comments about improving on the infrastructure now, while we have a chance to do so. It's projected out into, oh, 10, 15 years from now, that freight traffic could nearly double—and so, we need to be able to keep up with the infrastructure. And that means, on the Class I's the short lines, and, quite frankly, on the roads and highways, also. So, infrastructure funding, I think, is probably a key thing for the surface transportation industry.

Senator THUNE. Good. And most of you don't see anything, probably, turning on this until—you said, Mr. Rose, sometime next year. Larry, maybe last quarter this year, but more likely next year, projecting out there into the future.

One of the big issues that's being debated nationally right now, and certainly being debated in the Congress, is the issue of climate change. And I'm just wondering—sort of a general question again for anybody on the panel—about what you see as the economic impacts on your industry of some of the climate change proposals that are currently being debated in the Congress. And obviously there isn't a final bill, at this point, but there is a bill that has passed the House of Representatives, which I think a lot of people have reacted to. So, how do you see that playing out? What impact do you see that having on the freight industry in this country?

Secretary Bergquist?

Mr. BERGQUIST. If I might, Senator. From the department's perspective, we have—sorry—have some concerns with regard to the climate change legislation——

Senator THUNE. There you go.

[Laughter.]

Mr. BERGQUIST.—including what's in the House bill. Part of that would require each state to establish targets for reduction of transportation-related greenhouse gases. And primarily, that means that states will need to do things to increase transit ridership, biking, walking, and those type of things, to eliminate some of the vehicle traffic.

In South Dakota, with the rural nature of our state, with the harsh winters we have, with the significant distances we often have to travel, there are really practical limits to how much we can do in order to promote transit and walking and biking. And we're concerned that pursuing some of these options unwisely may have the side effect of having a negative impact on our transportation investments, taking funds away from what we need to invest in our system, and diverting them to some of these other purposes.

So, we, as a department, feel strongly that if such climate legislation is to pass, either separately or as part of any future reauthorization, it should not result in a rural state, like South Dakota, being required to take impractical steps to reduce greenhouse gas emissions that would negatively impact our transportation systems.

Senator THUNE. Anybody else want to take a stab at that?

Larry?

Mr. ANDERSON. I think we, as a company, have, each year for about the last 4 years, upgraded our equipment. We went, I believe it was 3 years ago, to putting a particulate trap to catch the emissions. And now, in—the 2010 engines coming out will have SCR on them, which is urea, that's going to make the gases less. We're running our trucks slower, so we don't burn as much fuel. And all this is at a substantial cost to us. This new deal, the SCR, is going to add between $8- and $10,000 per cost per truck. And I think, with things like that, and we've put APUs on, so we're not idling our trucks—these are all things that we've done. And now, after putting all these APUs on, now they want to particulate traps on them; and we have one state, in particular—California—that just doesn't care what it costs. I mean—but, they're used to spending money out there.

[Laughter.]

Mr. ANDERSON. So, that's the trucking industry. I think we're taking a lot of steps to burn less fuel. We've seen it in our company. There are—it's gone down, the consumption. And I think a lot of trucking companies are doing that.

Senator THUNE. Good.

Jack? Matt?

Mr. ROSE. I guess, from our standpoint, there are some positives and negatives. The positives are that rail is very fuel efficient, three to four times more so than trucks. And so, if there is mobile source carbon cap-and-trade of some sort, we're going to give more traffic to the railroad. The downside is, the coal franchise has a big risk to it.

And, you know, at the end of the day, the railroad will survive it. It certainly will have a big hole in its boat, but it's—I think it's really much more of what the unintended consequences will be to the remaining manufacturing sector of our economy. And it's just—net-net, the only bill we can look at is the House bill, because that's the one we know. But, if we just continue to raise the inherent cost of manufacturing in this society, all that's going to do is push this stuff more and more offshore, and provide fewer and fewer jobs in this country. And, at the end of the day, what nobody is really talking about is the fact that this is called "global warming" for a very specific purpose. It's not "U.S. warming," it's "global warming" that needs to be solved for.

Senator THUNE. Anybody else?

Jack?

Mr. PARLIAMENT. Yes. From my perspective, if we emit more carbon, we need to have the technology to make it a payback for us. There are certain technologies that we implement ourselves that reduce our idle times, and things like that, and it saves fuel, and it also eliminates emissions. So, so long as the technology stays up with whatever restrictions and programs that we, as railroads, and, I think, probably even the trucking industry—as long as those—the technology stays up with what we have to do, then I think it's an OK deal. But, you've got to be able to pay it back, too, and not just cost everybody money.

Senator THUNE. Lisa?

Ms. RICHARDSON. Manufacturing and efficiency. In today's market, a producer in South Dakota is very concerned what the cost of fertilizer is. And most of our fertilizer actually comes from China. And so, technology has changed our yields. We are still the most aggressive, efficient producer in the world. Now, what makes us competitive is getting our product to market, but the manufacture of the imports is all going overseas. So, watching that, and understanding that, and how that affects our prices, is something very, very important.

We also think there is opportunity—the green economy, in agriculture, with ag offsets. If we get ethanol done right, we think that there's opportunity to grow. But, there's a great misunderstanding, some uncertainty out there. And we have some real valid concerns of what this means, long term, for agriculture, too, as we export significant amounts of every piece of it. It's the one part in the world, we—we surpass everyone else out in efficiency, and we want to continue to do that.

Senator THUNE. Well, I think one of the practical problems we'll run into with the push to more fuel-efficient vehicles and many of the steps that the railroads and trucking industries are taking to reduce the amount of fuel use and amount of emissions, are all good things, all things we ought to be doing. But, we do have a revenue source for our infrastructure in this country. It's based upon fuel, gallons of fuel used. And so, you're going to have an ever-shrinking revenue source, which points to some of the long-term problems that I think Secretary Bergquist has identified, too, and that we're all going to have to be focused on in the next highway bill. And the current highway bill expires at the end of this Fiscal Year, which is September 30. My guess is, the current one will be extended for some time, and that a complete rewriting of the current highway bill won't occur right away. I hope that we get to work on it, but there are lots of other things, right now, on the congressional agenda that, I think, may push it down the road. But, when that debate is engaged, it's going to be a very different debate, I think, for some obvious reasons.

Secretary Bergquist, you mentioned, in your testimony, that projects that facilitate truck-to-rail transfers at grain elevators and other locations should be an eligible activity to be funded by direct grants and broader-formula programs in the next reauthorization, when we get to it. I think that's a very good suggestion. I'm interested in hearing what any of the other panelists think about that idea as a source of using highway funds, discretionary funds, grant funds, formula funds, to better facilitate some of these transfers that occur at loading facilities.

Mr. PARLIAMENT. The railroads and the companies that ship on railroads have looked at many of the different transload operations, and most transloading-type operations seem to do very, very well, from our own company perspective. That's been a major part of our business.

So, taking the—using the trucks for the short haul, bringing it on to rail, and then getting the long haul out of it just is, quite frankly, sort of a no-brainer, and it makes a lot of sense. And if we use some infrastructure funding to accomplish—to help accomplish that, I think that's a good thing.

Ms. RICHARDSON. Senator, South Dakota is one of the few states in the Nation that doesn't have a container loadout facility, and—we don't have substantial amounts of people, and so, taking a look at how many containers come in—from our perspective, a lot of those containers go back empty, and we think that's a great opportunity to put distillers grain in those containers. And if there is an opportunity to put infrastructure with the container loadout facility, which would help the entire manufacturing industry, as well as our industry, I think that's a great opportunity.

On our front, there has been significant increases in our unit train loadouts—105; and most of our ethanol plants now are hooking up and using unit trades at 95, as well. But, a container loadout facility is something that is critically needed here.

Senator THUNE. Mr. Rose?

Mr. ROSE. Senator, this has always been a very emotional issue with, specifically, our friends in the highway area, and the truckers, to some degree. You have to look at it in different stages. Certainly, with the Highway Trust Fund having to be bailed out every 12 to 18 months, $7 to $10 billion, we know that that money is coming from general funds. If we were collecting enough dollars for the trust fund, we wouldn't have to be bailing it out. So, I think, kind of, all rules are off when that happens, and we do believe that, as long as there are general funds coming into the Highway Trust Fund, that there ought to be flexibility for expenditures on more than just concrete highway projects.

When the stimulus money came out, there was an important question, and in this last stimulus bill, flexibility was allowed. We have a lot of states that have decided, "You know, I can make some modest rail-truck loadout investments, rail-truck investments, rail intermodal investments, connectors, things like, and net-net." It's better for our state. And we applaud that flexibility very much.

Senator THUNE. All right, great.

Secretary Bergquist, you mentioned in your testimony, coming back to the reauthorization of the highway bill, a concern over placing new restrictions on the use of Federal funding, mentioning that you'd like to see the processes streamlined so that you can deliver projects more efficiently. And I guess I'd like to, if you can, drill down a little bit on that, and maybe give some specific examples of how the highway program could be streamlined.

Mr. BERGQUIST. Certainly, Senator. And my reference to the processes in my written testimony really refers to everything involved in delivering a project from concept to construction. And I'll give you one example of what I'm talking about—the processes that are involved, and that we go through as a department, in the project delivery phase for environmental and historical review and consultation. This is, right now, a very open-ended process with virtually no deadlines on completion of the process. And, as such, it can tend to drag out for an extended period of time. It greatly slows project delivery, and is often the cause of delay in completion of a project.

And I'm certainly, Senator, not suggesting to you today that we should delete any of the substance that goes into those processes; rather—I do believe that, by streamlining the processes and putting in some deadlines, and bringing some definition to the processes, we can greatly improve the efficiency of delivering our projects. And certainly, we would hate to see any additional regulation or processes that would go in place that would continue to slow that project delivery process and our ability to deliver a program.

Senator THUNE. Have you seen any stimulus monies that have come into South Dakota that haven't been able to be programmed because of some of these delays that you've talked about—getting permitting and such.

Mr. BERGQUIST. Actually not, Senator. And this is why. The stimulus funds that we did receive were directed toward projects that were, by definition, shovel-ready. So, those shovel-ready projects have already completed this process, and they're ready to go. So, it has not impacted any of the stimulus projects.

Senator THUNE. Has most of the stimulus money that's come into South Dakota that's gone into infrastructure been used as if they were formula funds? How are you guys using stimulus dollars?

Mr. BERGQUIST. Our highway stimulus funds, we used to supplement our formula funds——

Senator THUNE. Formula money, OK.

Mr. BERGQUIST.—and do additional preservation-type work on our system.

Senator THUNE. OK.

Mr. Rose, there's a Department of Transportation forecast from 2008, entitled "Freight Facts and Figures," that projects that the tonnage carried by U.S. freight railroads is going to double between 2002 and 2035. And, as you mentioned, currently all the investment in freight rail infrastructure comes from private sources. My question is, how is your industry going to meet the challenge of doubling the amount of freight that it carries? And assuming that that projected growth occurs, how will the industry ensure that the needs of agricultural shippers are not overlooked?

Mr. ROSE. So, in the Commission study, we took those four paths, and it's really all about population growth going from 200 million people in this country to 300 to 350 by the year 2035. Population growth begets people buying things. People buying things begets transportation requirements. We did a study that talked about current level of capital we currently spend in this business, again, about $10 billion annually and looked at how much more capital we need to spend. We'll need to spend about $150 billion over the next 30 years, and, of that, the railroads, left to their projected investment ability, would spend about $100 billion, so we have a shortfall of about $48 to $50 billion. We have proposed a series of things to bridge that funding gap. An investment tax credit would help a lot. Also, so would more public-private partnerships.

But, you know, the basic model of railroads in this country today is very different than the highway model, which is a very publicly driven model. Ours is all about private industries creating enough profitability to reinvest. And, it hasn't been a perfect system, Senator, as you know. But, since Staggers, there has been a long-term sorting out, if you will. And again, it hasn't been perfect. And, as Ms. Richardson said earlier, you know, one of the desires is to have more rail competition.

But I don't have to remind you, there was more rail competition in the past; it was called the Rock Island Railroad in this state. It went bankrupt. And so, when we think about the level of investment that the railroads are going to have to make, part of it is, we've got to make sure that the railroads' profitability stays at a certain level to make those reinvestments.

And so, your next question should be, "Well, are the railroads making too much?" And when you look at railroad profitability as a percent of the S&P 500, we've never been above the median. If railroads were to become less profitable, this question of do you want to see a significant change in the way that we fund railroads? You could make a case for that. I personally think that it would be a bad track to go down. You asked earlier, your question about the Federal program today. We have 108 different Federal programs under the Federal highway bill. I would make an argument that there are a lot of inefficiencies in that, in terms of how funds are distributed.

Railroads are very much free-market capitalists. And when you look at the investments that have been made in South Dakota, which are substantial and market-based and how those will translate into global marketing opportunities for South Dakota shippers, you know, it is clear that market-based principles have worked well here and across the freight railroad network.

So, we think that about two-thirds of the investments that's going to need to be made will come through the normal "make money, spend money back on the railroad; make more money, spend more money back on the railroad," and then that there's about a third of it that we are going to need help with. And if we don't, you know, what will happen is, you'll need to fund more money to the highway system, because the freight—will continue to grow in this country, and we can't get faked out by this recession that we're in, seeing the VMT fall. I guarantee you, in 3 or 4 or 5 years, we're going to be right back to the same sorts of concerns that people have expressed about needing more capacity on the railroads and the highways.

Senator THUNE. On that point, Ms. Richardson, have you ever, sort of, quantified or been able to figure out, when you talk about some of the inefficiencies and what that costs South Dakota agricultural shippers on an annual basis?

Ms. RICHARDSON. Well, currently, a recent study by the STB says that over 44 percent of all rail freight, by tonnage, is—44 percent is captive shippers. We're down to four railroads in this country. And I looked at the tariffs recently, and 7 years ago a bushel of corn cost us 62 cents to get to the Pacific Northwest. That is why we built our ethanol industry. We decided to develop our markets here at home. Well, remember, we still—now we need to get our ethanol to California or New York. And our basis, the cost of getting our product to market, has increased significantly. We've seen no increase in rail capacity across this country. We call it the 300-bushel-per-acre. Senator, we're going to be there in 15 years. We used to talk about 60, 70-bushels-per-acre. And South Dakota is not going to use this product; it's going to go around the world as India, China, and the rest of the world gets hungrier. The importance of agriculture to get to our—to those markets is critically important. And so if there is any opportunity to put competition, rail infrastructure—but we're down to 4 railroads.

Senator THUNE. But, some of the ideas under consideration, I think, would involve more dialogue between shippers and railroads so they at least would have a way of resolving some of these problems without having to try to bring a case to the Surface Transportation Board in Washington, which, as you mentioned, is very expensive, very time consuming.

In your view, is there currently a viable avenue for shippers to bring their concerns first to the railroads and attempt to find a resolution before having to go to the STB? Would mediation, for example, be a good first step? And I'd be——

Ms. RICHARDSON. We——

Senator THUNE.—interested in Mr. Rose's comment on that, too.

Ms. RICHARDSON. We need some steps in the process. Currently, even though agriculture is substantial, we're considered medium shippers; we're not large shippers. And, to my understanding, no rail rate case has happened since 1982. And so, the process of bringing it in—and mediation would be a great example—but some mechanism that isn't so timely and so costly that there would be opportunity for shippers, through the whole entity, to get involved—would be something we'd be very, very open to.

Senator THUNE. Mr. Rose, a comment on that?

Mr. ROSE. So, I'd like to clean up a couple of things. One is, there's not four Class I railroads, there are seven in the United States. There are 500 short-line railroads and Class II railroads.

Point two is that if you look at the big-game-changer in cost between the dates Ms. Richardson noted and where we are today, it's really all about fuel. And anybody who looks at our rail costs, adjusted for inflation, would actually see decreases.

There has been tremendous capacity actually reduced from the system. But, again, it's through the bankruptcies and the—and the only reason a railroad would ever go bankrupt is because the railroad wasn't making enough to return its cost of capital.

So, in terms of the rate process, another one that Ms. Richardson mentioned was the Basin Electric case. Clearly, not a small shipper. It did take 5 years. And there's no doubt that they probably did spend $6 or $7 million. But, the outcome in that case was a $300-million decision. I would tell you that that's not a—that's not a type of case that you would want to send to an arbitrator that doesn't understand anything about the railroad industry or mediation.

So, you know, what we've said, Senator, all along is that this regulatory regime that we're in, it's not perfect, and that's why we have tried some new things, such as in Montana, where we've come forth with an arbitration process for grain rates.

Senator THUNE. Could you describe, a little bit, how that works?

Mr. ROSE. So, it's not through the STB. And, of course, that's point number one. It allows the producers to actually select a—along with the railroad, from a pool of arbitrators. We've done this for years through the NGFA, in terms of equipment and service, things like that. And we're testing it. We're seeing what works.

You know, we don't at all believe that the current system works for all shippers. And we know that, at the end of the day, if people don't have access to the process, that's where people get frustrated. And then they end up calling their Congressman or their Senator. And so, we do believe that there needs to be reform. We think that there has also already been a lot of reform at the STB with the new small-shipment rates cases. And there have been a number of those cases that have been started in that process. And, so far, several of them been—have then been settled through mediation.

So, we don't—we know that there's frustration with the smaller shipper. We think, for the larger shipper, when you—when you're talking hundreds of millions of dollars, we do believe that we ought to have people that live and breathe railroad regulatory policy overseeing those cases.

Senator THUNE. Go ahead, Ms. Richardson.

Ms. RICHARDSON. I do agree that there are seven railroads, Matt. And I appreciate that. But, 90 percent of everything runs on four railroads. In South Dakota, 80 percent of our corn is on your railroad. And I appreciate all of this, and I agree, the fuel has increased, but I think, per carload, there's a $600 fuel surcharge that has remained, regardless of what the price of fuel is doing currently. And so, the process of how to bring that rate case, what we do with it—there currently is a process in place, and it's something we would be open to. Would you?

Mr. ROSE. Yes, you know, Senator, facts are stubborn things. Our fuel surcharges change with the price of fuel. So, I can provide you with that detail. It's just not—it's just not the case.

Senator THUNE. Well, let me ask you this, because the Montana arbitration program that you're doing, it sounds like that's something that the railroad has sort of done on its own volition. And I'm wondering what your thoughts would be about establishing some sort of an arbitration process within the STB that would be, at the national level? And maybe, Ms. Richardson, what you would think about that, as well—to provide some recourse, short of the millions of dollars that are necessary to go into this big, protracted standalone railroad model that you have to construct to take a case to the STB.

Mr. ROSE. I would just say that the industry doesn't have agreement on this yet, and they're going to look to how the BNSF model is going. We continue to have dialogue with his and your staff, and it has been a very rich dialogue. I think you can appreciate that Senator Rockefeller had a re-reg bill for the past 24 years, and, when he became Chairman, he called us all in and said that he wanted to move this legislation to change the railroad regulatory system. And we've met with staff a number of times, and it's been a very thoughtful dialogue. And, you know, while it sounds so simple, "Just change this or change access here or change bottleneck rates here," what I think everybody who is involved in the situation has grown to appreciate is the issue of the law of unintended consequences. And certainly, people in the State of South Dakota might say, "Well, let's just have—let's just put another Class I railroad in here," and yet, I tell you—I would tell you that shippers who have seen this would be very hesitant to go down that path, because, at the end of the day, maybe two railroads can't make enough to make those reinvestments. At BNSF we've had tremendous capital programs for our agricultural shippers. We've bought more ag cars in the last decade than any other Class I railroad. We've created tremendous efficiencies through the shuttle network. We have the ability to handle more agricultural products out of this State than we've ever had, the capital we're spending to make sure that we have a vibrant and healthy railroad network. And so, the process balancing is where all the time is being spent. And if arbitration is a piece of that, then you'll see that go forward. If it's not, then obviously we'll find something else.

But, you know, we don't—I don't sit here before you today and say that this thing's perfect. But, I would also say, look at other industries that have gone through deregulation. The railroad industry is a shining star of this category. You're not putting bailout money into the U.S. railroad industry, and yet, the quality of the physical plant today, versus what it was in 1980, is magnificent. You look at the capital investment that we're making, of $10 billion a day—a year—that replenishes this, verse other industries, like the automobile industry, like the airline industry, like the steel industry; and again, while it's not perfect, it's worked very, very well.

Senator THUNE. Ms. Richardson, in the Montana example that Mr. Rose refers to, are you familiar with that and how that's worked with shipper groups?

Ms. RICHARDSON. I have one question. How many railroads go through Montana? How many Class I's?

Mr. ROSE. Just one.

Ms. RICHARDSON. Just one. I am not familiar with that specific issue. We've had several shippers call us when we found out we were doing a hearing on this, and the interesting part of this is, we always say we're a landlocked state, we don't have access to the river market with one Class I railroad, who carries our product and carries it very well. But, the opportunity of bringing a rate case—bringing a concern—the entire—whether it be a wheat shipper, a sunflower shipper, an ethanol shipper, the process is very long and very expensive. And so, we would be open to taking a look at that. It hasn't happened here in South Dakota, to my understanding, but it's something we would look at.

Senator THUNE. Well, we ought to get the rest of you guys in this discussion, right?

[Laughter.]

Senator THUNE. What happened to the highways guys over here?

I do have a question for Mr. Parliament. And I don't know if you have anything you want to add to the discussion on rates and service. But, I do want to discuss the issue that you raised with regard to hours of service.

Mr. PARLIAMENT. Right.

Senator THUNE.My understanding is, from what you said, you do have some application in at the FRA for a waiver for Class II's and Class III's and short-line railroads. Has there been any action on that? What would be the distinction between fatigue experienced at a Class II or Class III short-line railroad, versus a Class I railroad? I mean, why would that issue be any different——

Mr. PARLIAMENT. Yes.

Senator THUNE.—between Classes?

Mr. PARLIAMENT. Well, first of all, there is a—the American Short Line Association has applied for a waiver for the small Class II and Class III railroads. The reason that the so-called new hours-of-service model, or law, doesn't really apply to most short lines is the fact that we—most short lines do operate on a schedule-type basis. When a crew works 6 days in a row, that's a lifestyle choice, not necessarily a demand. And so, the Short Line Association has applied for this waiver. There are some restrictions within the waiver, that, if it's granted, short lines will have to adhere to the study, which, quite frankly, in my opinion, has a lot of extra baggage with it. It seems like a kind of a one-size-fits-all type of legislation that was put in, and it, quite frankly, isn't working on the actual crew fatigue.

The difference between a short-line and a Class I or, for that matter, any railroad that is running a 24/7 operation, that's when you run into the fatigue issues. It tried to—tried to legislate, "OK, if that's—fatigue is an issue, let's restrict how many days or how many hours they can work." Well, all that has done is affected the paychecks. They don't get as many hours, they have longer rest periods. So, now freight is being delayed, and we're seeing delays like that all over, on the Class I's and on the short lines, too, because that they don't have the rested crews. The crews are available to work, they're just not rested, because they have to have a longer rest period. And so, just throwing more crews out there really isn't the idea, either; that doesn't solve the problem, either. They work less hours, and it's not really a good, quality job in that regards.

So, there is—there are some things that can be done on crew fatigue. I think Matt would agree that crew fatigue occurs when you have a crew that's expecting to go to work, is not called at a—you know, when he's expected to go to work; so he gets his rest, he takes his, you know, nap or his—power naps or gets his full rest, then doesn't get called to work. Twenty-four hours later, he finally gets called, and it's unexpected.

The other—flip side of that is that they work over and over and over, just right at—what we call "on their rest," every 8 to 10 hours. That does buildup fatigue.

So—but, there are ways around that, and I'm just saying that you've got to have 10 hours off, or, if they work 7 days in a row—many times, that's a lifestyle choice, that they have to have 3 days off. Well, that affects the railroad's ability to move the freight and to keep everything reliable to the shippers.

Senator THUNE. Do you know, does the FRA have a timeframe in which they're going to make a decision about this?

Mr. PARLIAMENT. They haven't given the timeframe. They say they're sympathetic to our needs. I guess we'll see where that goes. I'm hopeful that they act soon, but we haven't heard anything out of the—of them, that they are going to act soon, either. So, as it is right now, we're—as of July 16th is when the new law went into effect, and we're all struggling with it. The smallest short lines and the largest Class I's are struggling with it right now.

Senator THUNE. Yes.

Mr. ROSE. Senator, I would just say, again, I think it's difficult for any Member of Congress to get it right when we're talking about something that has been collectively bargained for 100 years and has the oversight of the FRA. These are very complicated crew rest/fatigue cycles.

Another part that was in that bill was positive train control. That is something that I think you ought to pay a lot of attention to. It was the law—the safety bill was enacted out of the horrific commuter accident in Southern California; 26 people died. Very difficult crash. So, the law was passed to require PTC on the entire Class I railroad industry by the year 2015.

The FRA, the regulator, has done a cost-benefit analysis. They have forecasted $10 billion worth of cost to implement PTC, and a $700-million safety benefit. And so, what everybody ought to be asking is: How about this $9.3-billion investment that has zero cost benefit? And there could be a lot of unintended consequences. Quite frankly, it has potential to have unintended consequences for our agricultural shippers, because of the commodities that are hauled—specifically, the fertilizers; specifically, the ammonias that are classified as a TIH/PIH and the cost that those commodities will engender on the railroad for installing PTC. I would urge you to just read the government's own report, the headline of this cost-benefit analysis, and just ask the question: What is the unintended consequence of requiring the railroads to spend $10 billion without a commensurate benefit, here? Will it impact the amount of rail or ties or ballots that's put into the railroad system, chasing inefficient capital dollars because of a new law that's been passed?

Senator THUNE. Is there a rationale, if that happens, for having a carve-out for Class II's and III's?

Mr. ROSE. Well, on the PTC piece, there was a carve-out, and, again, the reason there was a carve-out, because the FRA did a cost-benefit analysis and figured out that if the FDAF of II's and III's were—have to make this level of capital investment, they'd go out of business.

Senator THUNE. Yes.

Mr. ROSE. And that's really all we're asking, is that, with every regulation, there ought to be—it ought to be supported with a reasonable cost-benefit analysis. And in the case of PTC, the answer was no, as it appears to be implemented now.

In terms of fatigue, it's really a mixed bag. I would tell you that, you know, again, putting this thing into the legislative hopper was really the first mistake. It should have been driven back to the FRA and said, you know, "You guys tell us how you're going to fix this, as the regulator, the safety regulator."

Senator THUNE. Mr. Anderson, moving over to trucking for just a minute, you proposed six different options for changes to Federal laws that govern truck size and weight. And I would just be interested in knowing, based on your experience in running a trucking company in South Dakota, which of those options would be the most useful for truckers here in South Dakota, in our state.

Mr. ANDERSON. Well, for us, as a—our company, personally, it would make no difference. But, I think, for the people that run LCVs, to have some uniformity so that they could go—especially in the West, where there's very little population—they can move freight more efficiently by using these, and have less trucks on the road. I think that's the huge benefit that the ATA sees on that. And much more information than that, I would have to get that and send it to you, Senator.

Senator THUNE. Good.

Senator THUNE. Mr. Bergquist, is there anything in terms of trends in transportation in South Dakota that you'd like to call to our attention? Have you seen anything, in terms of, you know, traffic that deviates from things that we've seen historically?

Mr. BERGQUIST. I have probably three things that I'd comment on, Senator. One, in terms of traffic, we've been fortunate—and we've heard some testimony throughout the morning about the decreases in VMT that we've seen across the country—we've been fortunate, in South——

Senator THUNE. You said "fewer decreases"?

Mr. BERGQUIST. There have been decreases——

Senator THUNE. There has been, OK.

Mr. BERGQUIST.—nationwide. In South Dakota, we have not seen nearly——

Senator THUNE. OK.

Mr. BERGQUIST.—the degree of decrease that many other parts of the country have seen.

Let me note a couple of other trends on South Dakota highways. One is in the area of safety; we've made tremendous strides in highway safety over the last couple of years in South Dakota. As an example, we've reduced highway fatalities in South Dakota by 36 percent over the last 2 years. We had 191 fatalities in 2006, and that was down to 121 in 2008. So, I think we've made great——

Senator THUNE. Do you have anything in particular you attribute that to?

Mr. BERGQUIST. I would attribute it primarily to education and behavioral changes. I think you're seeing fewer drinking drivers and those types of things. Obviously, we like to think that we are constructing safer highways and improving the safety of our highways, from a physical standpoint. But, I'd have to admit that I believe the biggest chunk of that is a result of behavioral changes that come through education.

The final trend I guess I'd identify for you, Senator, is with the limited resources that we have available, both on a state and a Federal level, we're really focused on what we refer to as "preservation mode." We're trying to just preserve the condition of, and preserve our existing investment in our system.

The downside to that is, during a period of difficult economic times, that puts us in a very difficult spot of being unable to respond, in terms of additions and expansions or enhancements to our system to support any economic development, or to respond to economic development in the state. So, while we're trying to take care of what we've got, we're woefully short, I would say, in meeting growth needs within the state.

Senator THUNE. And the next highway bill, my guess is, is going to be, as is usually the case, a huge fight between large states and small states, donor states and donee states. And, as we mentioned earlier, it's sort of a shrinking pot of money, which is now being subsidized by general-fund revenues, when the Highway Trust

Fund comes up short, which is going to create some really, really interesting challenges, in terms of funding. And maybe it's not fair to ask this question of you, but, do you have any thoughts about how we would go about coming up with new ways, perhaps innovative ways, of funding infrastructure in this country?

Right now, we rely on the gas tax, obviously. South Dakota has a 22-cent tax. And you couple that with the Federal tax, and that's how we put together the highway program here in South Dakota. But, as we look at this reauthorization, how can we keep up with that backlog of demand, with the shrinking amount of revenue coming into the trust fund?

Mr. BERGQUIST. Sure. And one part of the answer to that question, you indicated in your opening statement, when you welcomed comments on your Build America Bonds program. I think that's an example of one innovative approach to increasing our investment in our system. And we appreciate your leadership in bringing that forward.

We're strong supporters of the Build America Bonds program, a $50-billion increase in transportation funding across the country. We see that as a balanced bill that provides states a lot of flexibility. It's balanced, from the standpoint that every state benefits from it, at least 1 percent going to every state. It's multimodal, gives states a lot of flexibility in using those funds to address needs, whether for highways, bridges, transit, rail, ports, or any of those things. And one of the things we also like about it as, a small state, is that there is no minimum project size, and that enhances state flexibility.

You know, South Dakota doesn't do the mega projects that many other states, and more urban states, do. So, with no minimum project size, that helps us out a lot in South Dakota.

There are other mechanisms that are being discussed currently to enhance funding into the Highway Trust Fund. Crediting the trust fund back with the interest that it hasn't received since 1999, crediting the trust fund back with the emergency appropriations that were taken out of the Highway Trust Fund over the last 20 years or so, those are some additional options for increasing the amount of funding that we have available for infrastructure in this country.

You know, we believe that the highway program is vitally important. We've heard, today, some of the benefits, to the country, of our highway program. Obviously, it certainly warrants and deserves an increased level of investment as we go forward.

Senator THUNE. All right. We need to wrap up, here, in a minute, and I want to ask one final question. Before I do that, I'm curious in knowing more about the amount of freight that moves across South Dakota. Obviously, agriculture is a big part of that. But, what have carloads done? Given the fact that we're sort of in an economic downturn, I'm sure it has impacted shipping, as we've already mentioned—but, just say, over a 10-year period, what have been the trends? Is it flat? What are you seeing, in terms of just the amount of freight moving? And that may have a lot to do with the corn harvests from year to year, too, or how many acres we're putting into corn. But, what do you see, in terms of tonnage?

Mr. ROSE. So, if you go back to 1996—big, big year for ag—you know, our tonnage has really grown every year out of this state, probably 3 to 5 percent gross ton miles units—we've seen some dips with harvests—all the way up to 2007, when we started seeing the freight recession, 2007. From 2006 being the full year through 2009, we're down probably 25 percent.

Senator THUNE. Jack?

Mr. PARLIAMENT. Our levels were increasing—slowly increasing through the 1980s and 1990s, mostly grain. Then, in the 2000s, things changed on our line. And that was basically the ethanol industry. Planning an ethanol plant changed the demographics a little bit. We shipped a lot less corn, but a lot more ethanol and DDG. But, so that shot up the carloads. And then, as we started to improve the track, we landed other shippers. Having additional access to other Class I railroads, now, in Sioux City, that landed a third shipper. So, over the last 3 years, the nonaggregate side of our business, which is about 35 percent of the business, has increased. And for this year, I expect it to be level. And I think that's OK, in the—this recession.

The aggregate side of things, we've had some up-and-down years. This year is really looking to be close to level. And that's about 65 percent of the business. So, we're—overall, for the year, we're hoping to be level at the end of June, and we were just under June numbers from last year.

Senator THUNE. And do you hand off to anybody besides BNSF?

Mr. PARLIAMENT. Yes. Yes. We have access to two other Class I's.

Senator THUNE. OK.

Ms. RICHARDSON. In South Dakota?

Mr. PARLIAMENT. Out of South Dakota, into Iowa, yes. So, we do that in Sioux City, to the Canadian National and the Union Pacific in Sioux City.

Senator THUNE. How many short lines does BN interface with?

Mr. ROSE. Probably 100.

Senator THUNE. And you said there are 105 short lines?

Mr. ROSE. 500.

Senator THUNE. Oh, I'm sorry. 500, 500, OK.

Mr. ROSE. Seven Class I's, 500 other——

Senator THUNE. 500, OK. Yes.

And the biggest thing, in terms of short lines, is this tax credit, getting that extended.

Mr. ROSE. Right.

Mr. PARLIAMENT. Definitely. It has done a lot of good for a lot of the railroads that didn't have any other way to funding—into funding. The RIF loans, they've done well for some of the larger short lines, but for years that was pretty tough to get into the loan system. You could just——

Senator THUNE. Yes.

Mr. PARLIAMENT. The red tape involved. We have been fortunate here in South Dakota with the Rail Trust Fund, that Darin's well aware of, where the shippers were able to invest back into the line themselves, too. So, that's been a big help to us, as well.

Senator THUNE. Well, let me just, in closing, say there's no question this is a hugely important issue to South Dakota. I mean, not only is it getting people across our state and, you know, the travel industry, which is a big impact on our economy, but freight transportation, because we're an ag-based economy—and hopefully that will continue to grow, and if we see the biofuels industry continue to develop—these are issues that we just have to keep, I think, a very intense focus on.

And I appreciate all of your suggestions, your thoughts, and your interaction, this morning. And I guess I just want to ask one final question and it may be hard to think about this and in a short amount of time, to give me an answer, but, from your perspective, what would be the one thing that Congress could or should do that would improve the freight transportation industry in this country. I'm interested, more specifically, in South Dakota. Some of you have footprints all across the country. But, if there's one example, one thing that the Congress ought to be doing right now that would improve—and I'm sure Secretary Bergquist would say "reauthorize the Federal highway bill, and do it in a way that increases South Dakota's share," but—so, maybe that's an intuitively obvious answer, there.

[Laughter.]

Senator THUNE. But—and I said, in fairness, I know it's hard to narrow your answer down, because we've thrown a lot of topics around this morning. But, if you could, try and perhaps give a little bit of focus. What's the most important thing that Congress should be focused on?

I'll let anybody who wants to—and if you——

Mr. BERGQUIST. I don't know that I can——

Senator THUNE.—refrain from answering——

Mr. BERGQUIST.—respond any further——

Senator THUNE.—that's OK.

Mr. BERGQUIST.—on the answer you gave for me, Senator.

[Laughter.]

Mr. ANDERSON. I guess, for the State of South Dakota, I would reiterate, the amount of money they spent on highways that the trucking industry cannot utilize to their ability, they need to get that perspective taken care of so we can use these highways. I mean, why spend all the money if you're not going to use them to the best of their ability?

Mr. PARLIAMENT. Well, I think I'd touch on the hours-of-service deal. That's——

Senator THUNE. Is that a bigger deal to you than getting the tax credit extended?

Mr. PARLIAMENT. You know, Mr. Thune, I think it's—they're equals. And that's why I wanted to touch on both topics——

Senator THUNE. OK.

Mr. PARLIAMENT.—today. They're both high priorities. The tax credit has been a high priority within the short-line industry. But, this hours-of-service deal is really starting to handcuff, not just the Class II's and III's, it's handcuffing the Class I's, as well, right now, and there needs to be some sort of a fix that Congress is going to have to do.

Unfortunately, Congress put the law in without a lot of consult with the FRA, and the FRA's going to have to deal with the law. So, that needs a—it needs some sort of a patch to it, I believe.

Senator THUNE. Good.

Lisa?

Ms. RICHARDSON. Thank you, this morning, for your time, Senator. In one-word, "competition." We're a "landlocked state"—there's one place we have competition in South Dakota. It's Wolsey, South Dakota, and our basis are the NARS. We're the last place in the world grain is sold. It is the cheapest place in the world to buy our product. And we are very—we are all captive shippers. And getting access to the market, and a fair rate. And whether you're talking about healthcare reform, competition is a magical, invisible hand.

Senator THUNE. And the basis, right now, you said, is about 60 cents?

Ms. RICHARDSON. It—correct, it's about 60—last I checked, on Friday, it was 62 cents a bushel.

Senator THUNE. Got it.

Mr. ROSE. Senator, I always look at it holistically, thinking about our infrastructure in this country. And if you were the king of all infrastructure, you owned the highways and the railroads and the waterways, the ports——

Senator THUNE. And you could wave a magic wand.

Mr. ROSE.—you could wave a magic wand—you know you've got population growth coming at you. You know that global trade is so important. You know you've got a highway surface bill that's not working, it's not collecting enough, it's inefficient in the way it's distributed. You'd look down on this thing, and the first thing you'd say is, "We've got to get more of the heavy stuff to the railroads and the heaviest of stuff off the highways." And you do that through lots of ways. You do that through carrots and sticks. You do it through transportation policy, though. You make sure that you protect the vibrancy of the railroads. And then, as you go through this reauthorization, if there's not real reform, I think it'll be a missed opportunity for the future of the highway system, as well.

Senator THUNE. And I know you had a lot of study of that subject, as well. Any particular one thing, in terms of reforms?

Mr. ROSE. Well, I think it starts——

Senator THUNE. I mean, more money is——

Mr. ROSE. Yes. I mean, I think it starts with, you know, three or four legs of the stool. First off, 108 Federal programs; we recommend it going down to about 10. You've got to get more focus on them. You've got to set the pathway to get away from cents per gallon. It's going to take 10 years, 15 years, to go to VMT, because we want more fuel-efficient cars. And so, the revenue's only going to decline, coming into the trust fund. Net-net, you know, we believe that it's got to be indexed—whatever collection has got to be indexed. The current Fed tax at 18 and a half cents a gallon really plays to more like about 12 cents, with inflation. And we're not keeping the highway up to a state of good repair. And so, it's just like the railroad, it wears out with tons.

And this is a—you know, I think you're really at a critical moment here, because the highways have always been on a per-for-use basis, and that's worked, you know, really pretty well. And now, what I think we're seeing is just population growth, is saying we've got to have a different approach to this.

Senator THUNE. All right, very good.

Well, we will keep the record open for—how long?—until the 21st. So, if any of you have additional comments or anything that you want to submit for the record, please do. So, thank you all very much and with that the hearing is adjourned.

[Whereupon, at 11:05 a.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO DARIN BERGQUIST

Question. One national goal of S. 1036, the Federal Surface Transportation Policy and Planning Act of 2009, which Senator Lautenberg and I introduced, is to increase the proportion of national freight transportation provided by non-highway or multimodal services by 10 percent by 2020. What could Congress do to encourage the use of non-highway transportation modes for freight transportation in rural states like South Dakota?

Answer. At the outset, I note that the water freight alternative is not available within South Dakota. Further, air freight is not a viable alternative to the highway mode for moving most freight in South Dakota. Our limited air freight movements mainly occur at our regional airport hubs in Rapid City and Sioux Falls and are low volume.

Since grain, other farm products, and natural resource commodities are the predominant freight shipped from South Dakota, the main non-highway mode that could increase its share of freight carried within South Dakota is rail. Making rail more attractive to South Dakota shippers than it is today would be one way of achieving the goal to increase the non-highway share of freight.

To increase rail's modal share, rail needs to be efficient, convenient and reliable. To improve rail's share, one could legislate regulatory changes or incentives that could be expected to make rail more to appealing to shippers, whether through lower rates, better service, or some combination of rate and service changes that make rail more attractive.

In addition, rail could be made more attractive if investments are made that would improve highway connections to our State's main rail facilities, like grain unit train loading facilities, including improvements to roads that connect to highway/ rail transfer locations. In my testimony I noted that one helpful legislative change would be to more clearly provide, within the Federal highway program, the ability to use Federal funds for facilities transferring freight between the highway and rail modes.

I would not support a mandate for states to make such investments as this could potentially result in the inefficient and ineffective use of public funds. Rather, providing states the flexibility to make such investments when appropriate, timely and efficient would be positive, allowing states to address the amount of freight transported by non-highway means.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO LARRY ANDERSON

Question. You advocate for Federal investment in rural highways in your testimony. What role should shippers play in financing our freight transportation network?

Answer. Depending on market conditions, trucking companies pass on at least a portion of the various highway user fees that they pay to their customers. Therefore, shippers indirectly play a role in financing freight transportation projects. A number of options for more direct funding of freight transportation projects by shippers have been suggested by Congressional commissions and Members of Congress. These include, for example, container fees, freight bill of lading or waybill fees, additional revenue from an increased Harbor Maintenance Tax, and a tax on the value of imported and exported goods. ATA is willing to consider supporting these types of fees under certain conditions. First, the burden should not be on truck drivers or trucking companies to pay, collect or enforce payment of the fees. Second, the fees should not carry significant administrative burdens for either the payer or the collecting agency. Third, if the revenue is to be used for a multimodal program, all shippers using modes that benefit from the program should pay the fee. Finally, certain industry segments should not face a disproportionate financial burden due to, for example, shipping origin or destination, the nature of the cargo or the type of transportation that is used.

Currently, none of the proposals under consideration pass all of these tests. Furthermore, most face significant legal challenges. The primary concern is with collection costs. The fuel tax, which currently provides the majority of funding for surface transportation projects, has an extremely low collection cost and a relatively small evasion rate. This is primarily because there are only a few hundred taxpayers. Directly taxing shippers would potentially require an agency to collect money from millions of individual taxpayers, resulting in much higher collection costs and greater tax evasion. Therefore, ATA firmly believes that an increase in the fuel tax is likely to remain the best way to generate additional funding for freight projects. However, this revenue must be dedicated to highway projects only to avoid subsidization of competing modes.

Thank you for the opportunity to respond for the record. Please let me know if you have additional questions or require clarification.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO JACK PARLIAMENT

Question. Earlier this year, Senator Lautenberg and I introduced S. 1036, the Federal Surface Transportation Policy and Planning Act of 2009, which would establish a national goal of increasing the proportion of freight transportation provided by non-highway or multimodal services by 10 percent by 2020. What steps should Congress take in the next reauthorization bill so that the short line industry can help meet this goal?

Answer. Chairman Rockefeller, I commend your efforts, and those of Chairman Lautenberg to set a meaningful benchmark for measuring America's progress toward improving our utilization of non-highway transportation services. I am confident that an objective analysis of our transportation network and government program priorities, as envisioned by your bill, would recognize the environmental benefits of rail transportation and the strong public policy arguments behind supporting that mode of transportation.

In the next reauthorization there are many things that you and your colleagues could do to help small freight railroads meet your goals for non-highway transportation. Some of those areas are highlighted below:

1. *Preserve and Extend the Section 45G Railroad Track Maintenance Credit*—The "short line railroad tax credit" is enormously helpful in maintaining and improving the first and last mile of rail transportation provided by the roughly 550 short line railroads like the D & I Railroad. This credit helps leverage over $300 million in private sector rail improvements each year by providing roughly $165 million in tax incentives for rail improvements. It allows short lines to make improvements that might not otherwise be economically possible or to immediately complete projects that would otherwise be done in very small pieces over many years. The more efficient our service becomes the more traffic we will attract to rail.

This credit preserves jobs on railroads and in the timber and steel industry, as well as improving service for our customers. The credit also creates an incentive for railroads to partner with customers to improve their lines, and tens of million of dollars in rail improvements have been funded by rail customers, including those on the D&I. Too often we hear about the contention between railroads and rail customers, and the 45G credit is a bright spot that highlights what can be accomplished by railroad and customer cooperation.

While this issue rests in the jurisdiction of the Senate Finance Committee, the transportation reauthorization is a logical vehicle for its extension.

2. *Allow States be Innovators in Funding Rail Improvements*—Too often when people speak of reauthorizing the transportation bill, they speak of the "highway bill." While I am sure that the majority of Federal transportation spending will (and should) remain focused on public highways and transit, I also believe that creating unnecessary "silos" for funds inhibits innovation at the state level.

The importance of freight railroading varies geographically across this country. For heavy bulk goods, rail transportation is critical. States should be granted greater flexibility in the reauthorization in areas where using traditional "highway" dollars to fund rail improvements can further a highway related goal such as decreasing congestion, preventing wear and tear, or improving motorist safety.

The American Recovery and Reinvestment Act allowed this to happen, and a relatively large number of states took advantage of the opportunity to fund rail improvements with money that would have been traditionally limited to highway uses. (see, "Highway Infrastructure Investment" in P.L. 111–5, ". . . and for passenger and freight rail transportation and port infrastructure projects eligible for assistance under subsection 601(a)(8) of such title . . ."). States understand their specific infrastructure needs, and allowing this kind of flexibility will allow state DOTs to determine if moving freight by rail better serves their transportation policy. The 20 words cited above funded millions of dollars in freight rail improvements with a public benefit. Such efforts should be continued and encouraged.

3. *Preserve and Improve the Railroad Rehabilitation and Improvement Financing Program*—The "RRIF" program has not been utilized by the D & I, but for a large number of small freight and passenger railroads, this program could be critically important. Unfortunately, the program is underutilized. The RRIF loan program has the ability to provide an additional *$34 billion* in immediate infrastructure improvement—a bigger and more immediate economic stimulus than that provided by the Highway Infrastructure component of the Recovery Act.

This $34+ billion pool of potential stimulus projects would not require: (1) increasing the national debt; (2) appropriating Federal dollars; (3) decreasing or offsetting other spending priorities in a "pay-for" environment; or (4) giving handouts to corporations; while (5) taxpayers would be guaranteed their money back with interest. Given these facts, it is exceptionally difficult to understand why this program has not been more heavily utilized in the past 10 years.

The underlying problem appears to be one of willpower. For a number of years across numerous Administrations this program has been opposed and undermined by unelected officials who do not fully appreciate the contribution small railroads make to huge segments of rural and small town America. The FRA is committed to making this program work, but their remains institutional opposition to this program from various transportation policymakers. I would encourage both you and Chairman Lautenberg to strongly urge the Administration to end the roadblocks that have stopped this program from maximizing the kind of private sector investment that creates immediate jobs and strengthens an important part of the national railroad network.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO MATTHEW K. ROSE

Question 1. Many important commodities, such as agricultural goods and coal, come from our Nation's rural communities. What should Congress do in the next surface transportation reauthorization bill to help improve rural communities' access to freight rail transportation?

Answer. At the outset, there is nothing more important to preserving rural communities' access to freight rail than Congress and the regulatory agencies continuing the public policies that allow freight rail providers to operate the rail lines that serve rural communities in a rational, market-based manner. Policy changes that would alter the regulatory model and dis-incent investment by the freight rail industry will ultimately hurt rural communities, which often rely on the sustainability of low density rail lines. Policies that do not allow railroads to recover the revenue needed to support their entire system will eventually result in lower investment and smaller systems.

The best example of such policies are those that the railroad industry has labeled "re-regulation", which is a shorthand label for legislative or regulatory changes to the freight rail system that re-impose heightened regulation on rail rates. An example of such would be statutorily determining that certain individual shippers are to be advantaged in rail rate litigation; such changes would ultimately disadvantage the other users of the network and create new hurdles to freight railroads earning adequate revenues. I appreciate the opportunity that you have given BNSF and the rail industry to work with you and the Committee to find a balanced approach to rail regulatory legislation and appreciate your efforts to find a reasonable compromise to this difficult problem and I hope that if there is railroad regulatory legislation that it will be true compromise legislation. But if the legislation is not a compromise, then rural areas should consider and understand their interests in the debate, which lie in fair regulatory processes and greater investment.

Turning to surface transportation reauthorization legislative proposals, on May 14 of this year, you and Subcommittee Chairman Lautenberg, introduced S. 1036, the Federal Surface Transportation Policy and Planning Act of 2009,which has a goal of removing 10 percent of the freight from our highways to other modes of transportation, including rail. This legislation is of interest to the freight railroads and should benefit rural areas. While trucks are a necessary rural connection to markets, the impacts of much of the long-haul truck traffic that traverses highways in rural states is overhead traffic, which passes through, rather than originating or terminating in rural states. I had the privilege of testifying before your Committee on this subject on June 18, 2009, and as I indicated in my testimony, BNSF believes there is a great deal of that freight traffic that, with the proper incentives, could shift back to the freight rail network.

How can the objectives of this bill be realized? Apart from the economic slow-down that has idled assets in both the trucking and freight rail industry, the answer largely depends on analyzing the types of goods being shipped, their origins and destinations and how far they are moving. Freight rail has the most promise for movements that are at least 500 miles, and ideally 1,000 miles. In many instances, to make rail service more efficient and "truck-like," there is a need for more investment in underlying freight capacity, yards or facilities (often in urban areas) or intermodal connectors.

In additional to improving the freight rail system's capacity and efficiency, a large part of achieving "mode optimization" lies in addressing the embedded subsidies that larger trucks enjoy, which serve to economically disadvantage railroads. Heavier trucks pay only about a third or more of their full share of their impact on roads and bridges. Other highway users have covered these costs through their payments into the Highway Trust Fund. As you are aware, however, the Highway Trust Fund has been bailed out by the General Fund, and now general taxpayers cover the heavy truck cross-subsidy.

As I said in my testimony, it is important not to make a subsidy worse. That is one of the reasons we think that surface transportation policy and programs ought to now recognize and fund freight rail projects that have a public benefit. In addition, we also believe that if the United States integrates energy and environmental policy into its transportation vision, freight rail will need to be more important to policymakers, given freight rail's fuel efficiency and emissions profile. I am hopeful that Congress will have that "big picture" debate whenever it decides to reauthorize the surface transportation programs. Therefore, I respectfully submit that Congress should consider the following policy recommendations which benefit rural states and, I believe, deserve your support.

First, enacting an investment tax credit (ITC) to incent railroads to invest in capacity expansion projects. A well-designed ITC would be an excellent opportunity to improve rural communities' access to freight rail transportation. As freight rail capacity fills up again, as it inevitably will, rural communities need the overall "pipeline" to grow so that all customers who want to use rail can be accommodated reasonably, reducing the risk that adding new traffic will negatively impact existing traffic.

Second, you should apply this principle to programmatic provisions in surface transportation legislation as well. Rural interests directly benefit from many of the freight rail projects submitted for funding through a program for projects of national significance (perhaps modeled after the recent stimulus TIGER grant program). At BNSF, we have proposed several large Public Private Partnerships for consideration in the TIGER grant process, as have all classes of freight railroads, which have rural benefits. Rural support for this kind of program for projects of national significance would help achieve enhanced network capacity and, in some cases, specific line capacity that directly benefit rural areas.

Third, rural areas also should support policies that provide States the flexibility to use their Federal transportation dollars to partner with freight railroads. This recognizes that many of the States' Departments of Transportation (DOTs) (South Dakota, for example) are already progressively multi-modal. In the stimulus bill, State DOTs were provided flexibility to obligate General Funds on port and freight rail projects, in addition to highway uses. The same principle should apply in SAFETEA–LU reauthorization.

In sum, rural areas have a lot to gain from public policy that maximizes the use and expansion of the freight rail network. This does not discount or ignore the importance of trucks; trucks currently and will continue to carry the majority of freight and highway investments will continue to be important in both urban and rural areas. However, rural areas have an especially large stake in a financially healthy freight rail industry that continues to expand. BNSF will work closely with rural leaders to support transportation policies that support the common goal of growing the rural economy.

Question 2. As a member of the National Surface Transportation Policy and Revenue Study Commission, you recommended the establishment of a national access program for smaller cities and rural areas that would include national accessibility goals. Are you still supportive of such a program? Have the key elements for the creation of an effective program changed since the Commission issued those recommendations?

Answer. I certainly still do support the Commission's findings and recommendations regarding rural mobility. All of the objectives that the Commission established for an effective transportation program apply to both urban and rural areas. These include making goods more convenient and accessible, improving international competitiveness, developing markets within the United States, enhancing personal mobility, supporting national defense and homeland security, reducing energy use and improving transportation safety. The Commission's recommendations for rural accessibility are important to meeting those transportation policy objectives.