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BEFORE THE SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT OF THE HOUSE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

ON INFRASTRUCTURE INNOVATIVE FINANCING

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Introduction

Mr. Chairman and members of the Subcommittee, I am very pleased to appear before you today to continue the discussion on the condition of our Nation's transportation infrastructure. I and my colleague Jane Garvey, Deputy Administrator of the Federal Highway Administration, will describe today the steps DOT is taking to utilize Federal transportation dollars more effectively to address the disparity between the needs and current investment in America's transportation system. This Administration has moved expeditiously to do this. In January of this year the President issued Executive Order 12893 on infrastructure investment. This mandate required rigorous cost benefit analysis for federal investment in infrastructure projects, more effective management of our infrastructure and increased private participation in its financing. In February, Secretary Peña issued his strategic plan which identified infrastructure investment as a primary goal of the Department. In March, he established the Task Force on Innovative Financing for Infrastructure Investment that Jane Garvey and I co-chair. Shortly thereafter, Rodney Slater, Administrator of the Federal

Highway Administration, solicited pilot projects from the states' transportation departments. By April project proposals were received from all over the country. For the past two months we have been evaluating these projects, working with their sponsors and testing their appropriateness to move forward.

I applaud this Subcommittee's initiative for addressing the complex and yet important issue of needed transportation capital investment. These hearings underscore the significance of transportation infrastructure to our economic vitality and the effect that its operational efficiency has on the price and availability of goods both at home and in markets abroad. The hearings have also highlighted the nature of the public trust we hold: Americans expect their roads, airports, rail and transit systems to work - and work well, and they hold us accountable when they don't.

Federal Transportation Infrastructure

In previous testimony before this committee, DOT officials have reported the degree of underinvestment in the nation's transportation infrastructure. The gap between federal revenues available for investment and those needed to maintain the condition and performance of the system results in a backlog of unaddressed needs: highway pavement reconstruction, airport facility improvements, inadequate capacity and bridge and transit deficiencies. Consequently, our transportation system's performance is affected by long delays and traffic congestion.

Highway congestion in 50 of our nation's most populous urban areas costs our nation over $39 billion a year in fuel wasted and lost productivity. Air traffic delays are escalating: twenty-three (23) airports are already experiencing delays of more than 20,000 hours per year and this is worsening annually.

Available resources continue to fall short of the $55.5 billion per year needed from all sources - federal, state, local - to maintain our highways and transit systems and the $7 billion per year needed for airport capital improvements. With a 5-year outlook of deficit reduction and straight-line budget caps on discretionary spending, federal infrastructure investment is not likely to grow substantially.

The vehicle of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Administration's 1995 budget requesting full funding of its core programs is an important step forward. We hope that this '95 Budget request receives support from you, in the final stages of deliberation. The President's Executive Order requiring rigorous cost benefit analysis and better management of infrastructure facilities further advances our efforts to both invest strategically in, and maximize the effectiveness of, our infrastructure. We will exploit the flexibility that exists in ISTEA to utilize and leverage federal funds to speed up investment and, as a nation, benefit from the economic return of having an efficient distribution system for people and goods.

All of this helps: strategic investment; careful management of operations and facilities; a good legislative foundation for federal funds; a comprehensive approach to helping states and Metropolitan Planning Organizations use the flexible financing potential available to them. The common goal is to increase the investment capital available to transportation in order to drive the economy forward by attracting private sector investment and leveraging the availability of federal funds.

DOT's Investment Program

Although we have moved into high gear with innovative financing alternatives, these approaches and tools are not "new" to the federal government. Financing techniques were used to foster joint development projects with both public and private participants involving private bond financing. Transit properties in areas such as Washington, D.C., Dade County, Florida and New York City used joint development to help finance the construction of new rail station facilities. This technique involved a commitment of private dollars to construct public infrastructure, such as a portion of a new transit system or rail station, in exchange for the rights to develop on top of or around the new facilities.

In addition, toll roads and bridges and other state and locally-owned roads were financed by leveraging private capital. Credit enhancement techniques involving the Federal Government have also had a positive effect in stimulating new bond issues for infrastructure. The San Diego Metropolitan Transit Development Board, for instance, dedicated future federal transit Section 9 funds as a credit enhancement to back the issuance of bonds for the purchase of new buses. The San Joaquin Hills Transportation Corridor Agency, on the other hand, received $1.2 billion in bonds for a new toll road backed by toll revenues. A federal guarantee of a backup line of credit to pay debt service was extended to cover the first five years of operation of the toll road, a start up period when toll revenues might be insufficient to service debt. These are just some examples of the instruments that are available and have been used successfully, but not widely, to involve the private sector in building transportation infrastructure.

Intermodal Surface Transportation Efficiency Act

With the passage of ISTEA in 1991, the states were given additional flexibility for funding their surface transportation capital programs. The Act provided new revenue options in the form of tolls; a waiver of state match; an ability to use toll revenues that are generated and used by public, quasi-public, and private agencies as the match to federal highways and transit funds; and the ability to recycle transportation-related grant funds through a state highway revolving fund, to be used for further highway and transit projects. ISTEA also allowed greater private involvement in building, maintaining, and operating toll roads and bridges, and allowed federal funds to be spent on private toll roads. It gave the states unprecedented flexibility in using the federal highway and transit funds they received based on their own priorities. To date, for instance, over $1 billion of Federal Aid Highway funds have been "flexed" - that is, used for public transit projects. State transportation departments have been strong supporters of the flexibility provided by ISTEA, and have demonstrated an increase in its applications. Unfortunately, they have been far less interested in using its innovative financing provisions. They have reported concerns about several issues including the complexity of the new ISTEA-provided opportunities, impacts of state laws and regulations and the effects of environmental and planning requirements. Further, we understand that some states are concerned about their ability to issue tax free bonds if they want to enter a management contract with a private entity to operate a toll facility. Current tax codes limit the term of such management contracts to five years.

To address these issues we in the Department of Transportation embarked upon an extensive outreach and education effort to simplify for states the use of ISTEA provisions. The goal was to make the role of federal funds more effective in leveraging additional dollars from other sources. The Federal Highway Administration, for example, issued a handbook, "Guidance for State Implementation of ISTEA Toll Provisions in Creating Public-Private Partnerships", to the states with practical guidance on how to carry out the law and suggested language for changes in state laws to allow both private equity capital and debt to finance projects. We have held a number of symposia to highlight and discuss existing barriers to public-private partnerships and assess use of the law.

Alternate Financing

Secretary Peña realized that if we were to expand the uses of infrastructure funds and the available capital for infrastructure investment, we had to make the ISTEA process clearer to the states and the specific projects more attractive to the private sector. As a primary player in transportation investment, the federal government would act as a catalyst in leveraging additional state and private capital to reduce the infrastructure "deficit". To initiate this effort, Secretary Peña formed a task force co-chaired by me and Jane Garvey, Deputy Administrator for FHWA. We were charged with spearheading an approach to infrastructure financing that cut across all transportation modes and would better leverage traditional grant programs, attract new capital and create a reliable funding program, given constrained federal budget resources, for America's transportation system. In the Department we have educated ourselves through a series of seminars on financing techniques to foster a better understanding of how the private markets work; and we have created a common vocabulary across the modes and throughout the Department so we can address the full spectrum of transportation projects. We have reviewed case studies to learn from their financial failures and successes.

The Department of Transportation Task Force is exploring the feasibility of various techniques such as using Federal grant funds as a capital reserve or to buy bond insurance, provide loans which might be repaid based on interest only for the first several years, and allow short term lines of credit using Federal dollars collateralized by future apportionment monies within a State.

At the policy level, we are reviewing with each mode administrative, regulatory and legislative processes to eliminate obstacles which may limit a state's ability to develop financial solutions to capital financing under ISTEA. We are also developing specific promising financing approaches for select capital projects. Our intent is to develop a cadre of success stories - projects which have gone through the ISTEA planning process and been advanced to construction sooner than would have otherwise been the case, by the effective leveraging of federal funds and/or the infusion of new capital.

Each modal Administrator with an infrastructure program has, in turn, as part of our initiative, established an Infrastructure Finance Task Force parallelling the Department's Task Force, of upper level, interested people to examine the unique circumstances of the mode, including impediments in law, practice or habit to attracting outside capital. We have asked these modes to remove, within the existing law, obstacles that the Federal Government may inadvertently be laying in the path of investment arrangements. In addition, each mode, in consultation with its regional offices, transportation providers and industry, has developed a list of projects as candidates for innovative financing techniques and, for each, we are working to develop a strategy to carrying the projects forward.

In the process, we have invited Governor's offices and State Treasurers to join our efforts and work with the traditional transportation providers and interest groups in thinking creatively about financing their infrastructure needs. Many states are, in fact, pushing the envelope and implementing innovative approaches to infrastructure investments. Virginia, California, Missouri, Arizona, Florida, Washington, Minnesota, Pennsylvania, and Texas, for example, have moved to enhance the potential for public/private partnerships, including passage of laws to allow such partnerships. While many states are focusing first on highways and looking to expanding traditional toll systems, some, notably Washington state, have included transit, maritime, rail and airport projects in their approach. Most states are seeking to involve the private sector to a greater extent in order to bring new capital to the field.

Closing

Federal, state and local governments share responsibility in ensuring that the infrastructure is adequate to meet the nation's critical transportation needs. A 1% improvement in overall efficiency of our transportation system translates into $100 billion in savings across the economy within a decade, with improved safety and quality of life for all Americans.

ISTEA made many more projects possible and gave the States unprecedented flexibility to their application of alternate financing instruments. Secretary Peña and the Department are now capitalizing upon this flexibility. This Innovative Financing Action Plan is not a replacement of federal participation - the federal commitment must remain strong and consistent as the cornerstone of the Plan - but rather it is an augmentation of the federal financing assistance program to enable us truly to build America for the 21st century.