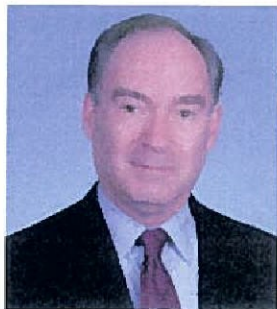


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### PRACTICES

Government Affairs

### INDUSTRIES

Transportation

Telecommunications

### EDUCATION

Georgetown University Law Center, J.D., 1975

Union College, B.S., 1966

### BAR ADMISSIONS

District of Columbia  
Maryland

Jack Schenendorf's practice concentrates on transportation and legislation with a particular focus on legislative strategy, legislative procedure, and the federal budget process. He was recently appointed by Speaker Hastert to the National Surface Transportation Policy and Revenue Study Commission, where he serves as Vice-Chairman.

For nearly 25 years, Mr. Schenendorf served on the staff of the Committee on Transportation and Infrastructure of the U.S. House of Representatives. He was Chief of Staff from 1995 to 2001. In BNA's Daily Report for Executives, Mr. Schenendorf was described "as one of the most powerful staffers on the Hill, [who] has played a large role in crafting every piece of major transportation legislation in the past decade."

Prior to joining the firm in 2001, Mr. Schenendorf served on the Bush/Cheney Transition where he was Chief of the Transition Policy Team for the U.S. Department of Transportation and was responsible for reviewing all transportation policies and issues for the incoming Administration.

### REPRESENTATIVE MATTERS

- Advised Associated General Contractors, American Association of State Highway and Transportation Officials, and Association of Equipment Manufacturers on transportation legislation and transportation financing.
- Advised United Airlines on aviation, pension, tax, and bankruptcy matters.
- Advised Qualcomm on telecommunications, patent, tax, and government contracting matters.
- Advised Ports-to-Plains Trade Corridor Coalition on transportation authorization and appropriations matters.
- Advised Union Pacific on transportation-related matters.
- Advised Friends of the High Line on transportation authorization and appropriations matters.
- Advised the American Automobile Association on legislative strategy.
- Advised Massachusetts Transportation Authority on transportation-related investigations.
- Advised Aloha Airlines on aviation-related matters.
- Advised Koch Industries on transportation-related financing issues.

### PREVIOUS EXPERIENCE

- Committee on Transportation and Infrastructure, U.S. House of Representatives, Chief of Staff (1995-2001)
- Committee on Transportation and Infrastructure, U.S. House of Representatives, Various Staff Positions (1976-1994)
- National Commission on Water Quality, Counsel (1975-1976)
- United States Navy, Nuclear Submarine Program, Officer (1967-1972)

### HONORS AND RANKINGS

- *Best Lawyers in America*, 2007
- Appointed to National Surface Transportation Policy and Revenue Study Commission, elected Vice-Chairman, 2006

### PRO BONO

- Service on National Surface Transportation Revenue and Policy Study Commission, which was established by SAFETEA-LU to study the future of surface transportation programs and financing.
- Advised DC Appleaseed on Anacostia River infrastructure projects.
- Advised National Underground Railroad Freedom Center on transportation financing matters.

### MEMBERSHIPS AND AFFILIATIONS

- Congressional Quarterly's Capitol Net, Instructor (advanced legislature procedures; federal budgeting)
- Sigma Chi, Lifetime Member

### PUBLICATIONS AND SPEECHES

- Testimony before Congress on water infrastructure financing
- Numerous transportation-related speeches

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Testimony of Jack Schenendorf  
Vice Chair, National Surface Transportation Policy and Revenue Study Commission  
Before The Transportation Committee of the  
Pennsylvania House of Representatives  
Monday, April 28, 2008

I am Jack Schenendorf. I am Of Counsel with Covington & Burling LLP in Washington, D.C. Prior to joining Covington, I served on the Republican staff of the House Transportation and Infrastructure Committee for 25 years. I also served on the Bush/Cheney Transition where I was Chief of the Transition Policy Team for the U.S. Department of Transportation and was responsible for reviewing all transportation policies and issues for the incoming Administration.

In 2006, Speaker Hastert appointed me to the National Surface Transportation Policy and Revenue Commission. I was subsequently elected Vice Chair by my fellow Commissioners. It is in that capacity that I am testifying before you today.

In the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU), Congress established the National Surface Transportation Policy and Revenue Study Commission to undertake a thorough review of the Nation's transportation assets, policies, programs, and revenue mechanisms, and to prepare a conceptual plan that would harmonize these elements and outline a coherent, long-term transportation vision that would serve the needs of the Nation and its citizens.

This Commission has worked diligently to fulfill this charge, meeting and holding public hearings across the country during the intensive 20-month study period. On behalf of all of the Commissioners, I would like to thank our Chair, Secretary Mary Peters, who did an outstanding job in guiding us through this effort. She presided over the Commission with graciousness, wisdom, and a great deal of patience. And I would be remiss if I did not also thank all of the Department of Transportation staff assigned to the Commission—especially Chris Bonanti, Lydia Conrad, Ross Crichton, Eric Gabler, James March, David Marks, Mary Moehring, and Darren Timothy. Their professionalism, expertise and dedication were instrumental in our success. And a special thanks goes to our Executive Director, Susan Binder, for her hard work and for the sound guidance and advice she provided during our effort. We would not be here today were it not for her and her team.

Our findings and recommendations—calling for bold changes in policies, programs and institutions—are contained in our report, Transportation for Tomorrow. Our

recommendations are the product of a bipartisan consensus of a diverse group of Commissioners—5 appointed by Republican officeholders and 4 appointed by Democratic officeholders; from both ends of the political spectrum and everywhere in between; from all regions of the country; a CEO of a company that relies on transportation services; a CEO of a trucking company; a CEO of a rail company; a state transportation official; and a local transportation official. But despite our different perspectives, we were able to coalesce around the findings and recommendations in the Commission's report.

My testimony today will focus on our vision and our four key recommendations.

## **Background**

But first a few key findings:

- Conditions on America's surface transportation systems — our roads, bridges and highways, our passenger and freight rail facilities, our public transit networks — are deteriorating. The physical infrastructure itself is showing the signs of age. In almost all cases, the operational efficiency of our key transportation assets is slipping.
- In figures compiled by the Texas Transportation Institute, congestion cost the American economy an estimated \$78 billion in 2005, measured in terms of wasted fuel and workers' lost hours. Congestion causes the average peak-period traveler to spend an extra 38 hours of travel time and consume an additional 26 gallons of fuel.
- Over the next 50 years, the population of the United States will grow by some 120 million people, greatly intensifying the demand for transportation services by private individuals and by businesses. Most of that growth will occur in metropolitan areas. Congestion will increase and spread beyond the traditional morning and evening rush hours to affect ever-lengthening periods of each day.
- If, as expected, the world economy grows and becomes more globally integrated during the next half-century, the U.S. will experience higher trade volumes and greater pressures on its international gateways and domestic freight distribution network. Economic forecasts indicate that freight volumes will be 70 percent higher in 2020 than they were in 1998. Without improvements to key goods-movement networks, freight transportation will become increasingly inefficient and unreliable, hampering the ability of American businesses to compete in the global marketplace.
- Travel on the nation's surface transportation system is far too dangerous. In 2006, over 42,000 people lost their lives on American highways, and almost 2.6

million were injured.

- Overly onerous and procedure-bound environmental review processes can often serve to delay the speedy and cost-conscious delivery of important transportation improvements. Major highway projects take about 13 years from project initiation to completion, according to the Federal Highway Administration, and Federal Transit Administration figures indicate that the average project-development period for New Starts projects is in excess of 10 years.

## Our Vision

Just as it helps to know your destination before starting off on a trip, our Commission believed at the outset that it is important to have in mind a vision of what the national surface transportation system might look like — or at least how we'd like it to function — in the middle of the 21st century.

We decided to aim high. We agreed among ourselves that our fundamental motivation should be to help the United States to “**create and sustain the pre-eminent surface transportation in the world.**” That pledge has in the end allowed us to reach agreement on a surprisingly wide range of sweeping policy proposals.

## Four Key Recommendations

The Commission respectfully makes the following key recommendations:

**First, to keep America competitive, we are recommending a significant increase in investment in our national surface transportation system.**

Any effort to address the future transportation needs of the United States must come to grips with the sobering financial reality of such an undertaking. We estimate that the U.S. needs to invest at least \$225 billion annually for the next 50 years to upgrade our existing transportation network to a good state of repair and to build the more advanced facilities we will require to remain competitive. We are spending less than 40 percent of this amount today.

The existence of an enormous investment gap is indisputable. It has been documented by study after study, including most recently the Urban Land Institute's Infrastructure 2007 Report, DOT's own Conditions and Needs Report, and various state studies. It has been documented by our Commission's analyses. It has been documented by the many witnesses we heard from in our hearings. And it is being documented every day by the American people as they sit in congestion on crumbling roads or ride on crowded and aging buses and trains.

The implications of this underinvestment, which has been going on for decades, are ominous. We saw with Katrina what happens when there is a pattern of underinvestment in infrastructure. Unless we close this investment gap soon, our surface transportation systems will face the same fate as New Orleans' levees. We must not let this happen.

To close this investment gap, we will need increased public funding. We will also need increased private investment. More tolling will need to be implemented and new and innovative ways of funding our future system will need to be employed. And we will need to price for the use of our system, which will help reduce investment needs.

**Second, we are recommending that the federal government be a full partner—with states, local governments and the private sector—in addressing this looming transportation crisis.**

The problem is simply too big for the states and local governments to handle by themselves, even with the help of the private sector. We believe that the federal government must continue to be part of the solution, both in terms of providing leadership and in terms of providing a fair share of the resources.

And it's not just that the problem is big. The federal government has a strong interest in our national transportation system. The system is of vital importance to our economy, our national defense and our emergency preparedness. Our transportation network is critical to the interstate and regional movement of people and goods, economic growth, global competitiveness, environmental sustainability, safety and our overall quality of life.

**Third, we are recommending fundamental and wide-ranging reform of the federal transportation program. We are recommending that the program be transformed into one that is performance-driven, outcome-based, generally mode-neutral, and refocused to pursue objectives of genuine national interest.**

In addition to putting more money into the system, the federal transportation program must be reformed. We do not believe that the federal program should be reauthorized in its current form. Instead, we are calling for A NEW BEGINNING.

No more restrictive categories. No more planning silos. Generally no more modal silos. And no more earmarks.

There are three key elements to this recommendation.

Element One: We believe that a mission or sense of purpose must be restored to the federal program. Since completion of the Interstate System, the program has had no clear mission. It is now essentially a block grant model, with little or no accountability for specific outcomes. We believe that this must change.

We are recommending that the program be transformed into one that is performance-driven, outcome-based, free of earmarking, generally mode-neutral, and refocused to pursue objectives of genuine national interest. More specifically, we are recommending that the 108 existing surface transportation programs in SAFETEA-LU and related laws should be replaced with the following new federal programs:

- A program designed to bring our existing highways, bridges and transit systems into a state-of-good-repair;
- A freight program designed to enhance U.S. global competitiveness;
- A program designed to reduce congestion in our largest metropolitan areas (population greater than one million) (e.g., reduction of 20 percent by 2025);
- A program designed to improve access and mobility in smaller cities and rural areas;
- A program designed to improve safety by cutting fatalities (e.g., by 50 percent by 2025);
- A program designed to provide high speed passenger rail service in the nation's high-growth corridors (300-500 miles);
- A program designed for environmental stewardship;
- An energy security program designed to hasten the development of replacement fuels;
- A federal lands program; and
- A coherent national research and development program.

These programs would give rise to a national surface transportation strategic plan that would guide federal investment.

US DOT, state and regional officials, and other stakeholders would establish performance standards in the federal program areas outlined above and develop detailed plans to achieve those standards. Detailed cost estimates would also be developed. These plans would then be assembled into a national surface transportation strategic plan.

Federal investment would be directed by the national surface transportation strategic plan. Only projects called for in the plans would be eligible for federal funding. And all levels of government would be accountable to the public for achieving the results promised.

The Commission acknowledges that this element of the recommendation represents a major departure from current law. Developing performance standards and integrating them into a performance-driven regimen will be challenging but we believe the rewards will be worth the effort. In addition to making better use of public monies to accomplish critical national objectives, the Commission's recommended approach of performance standards and economic justification would do much to restore public confidence in the transportation decision-making process. In such an environment, we believe Congress and the public would be more amenable to funding the nation's transportation investment needs.

Element Two: The project delivery process must be reformed by retaining all current environmental safeguards, but significantly shortening the time it takes to complete reviews and obtain permits. Projects must be designed, approved and built as quickly as possible if we are to meet the transportation challenges of the 21st Century. This will save both time and money.

Element Three: We are recommending that Congress establish an independent National Surface Transportation Commission (NASTRAC), modeled after aspects of the Postal Regulatory Commission, the Base Closure and Realignment Commission, and state public utility commissions. The new federal commission would perform two principal planning and financial functions:

- The NASTRAC would oversee various aspects of the development of the performance-based performance standards in the federal program areas outlined above and the detailed plans to achieve those standards, and it would approve the national transportation strategic plan.
- Once the national strategic plan has been approved, the NASTRAC would establish a federal share to finance the plan and recommend an increase in the federal fuel tax to fund that share, subject to congressional veto.

**And fourth, to close the investment gap, we are recommending a wide range of revenue enhancements.**

Unfortunately, there is no free lunch when it comes to infrastructure investment. Policy changes, though necessary, will not be enough on their own to produce the transportation system the nation needs in the 21st century. Significant new funding also will be needed.

We are recommending significant changes in the way the program is financed. In the long-term, we envision transitioning from motor fuel taxes to a VMT tax; we include in our recommendations a number of provisions to hasten that transition. And in the interim, we would no longer rely almost exclusively on motor fuel taxes; instead, we would rely on a broad range of user-related fees and charges.



Here are our major revenue recommendations:

General Revenue Recommendations: We are making the following general revenue recommendations:

- It is imperative that all levels of government and the private sector contribute their appropriate shares if the United States is to have the pre-eminent surface transportation system in the world.
- We strongly support the principle of user financing that has been at the core of the nation's transportation funding system for half a century.
- We are recommending continuation of the budgetary protections for the Highway Trust Fund, so that user fees benefit the people and industries that pay them.

Immediate Revenue Recommendations: We recommend that legislation be passed in 2008 to keep the Highway Account of the Highway Trust Fund solvent and prevent highway investment from falling below the levels guaranteed in SAFETEA-LU.

Mid-Term Revenue Recommendations: We are making the following specific recommendations with respect to transportation funding in the period between 2010 and 2025:

- The annual investment requirement to improve the condition and performance of all modes of surface transportation – highway, bridge, public transit, freight rail and intercity passenger rail – ranges between \$225-340 billion. The range depends upon the extent of peak- hour pricing implemented on congested urban highways in lieu of physical capacity expansion. To address this investment target by providing the traditional federal share of 40 percent of total transportation capital funding, the federal fuel tax needs to be raised by 25-40 cents per gallon. This increase should be phased in over a period of 5 years (5 to 8 cents per gallon per year). This rate increase should be indexed to the construction cost index.
- We are also recommending other federal user-based fees to help address the funding shortfall, such as a freight fee for goods movement projects, dedication of a portion of existing customs duties, and ticket taxes for passenger rail improvements. Tax and regulatory policy also can play an incentivizing role in expanding freight and intermodal networks.
- In addition, we are recommending that Congress remove certain barriers to tolling and congestion pricing, under conditions that protect the public interest. This will give states and local governments that wish to make greater use of tolling and pricing the flexibility to do so. More specifically, we are recommending that Congress modify the current federal prohibition against tolling on the Interstate System to allow:

- tolling to fund new capacity on the Interstate System, as well as the flexibility to price the new capacity to manage its performance; and
- congestion pricing on the Interstate System (both new and existing capacity) in metropolitan areas with populations greater than 1 million.
- We are recommending that Congress encourage the use of public-private partnerships, including concessions, for highways and other surface transportation modes. Public-private partnerships can serve as a means of attracting additional private investment to the surface transportation system, provided that conditions are included to protect the public interest and the movement of interstate commerce.
- State and local governments have many different types of revenues to draw upon for their share of new investment. The Commission expects that state and local governments will have to raise motor fuel, motor vehicle, and other related user fees. In addition, many may take advantage of the expanded opportunities in tolling, congestion pricing and public-private partnerships that our recommendations propose.

Long-Term Revenue Recommendations: We are making the following specific recommendations for transportation funding in the post-2025 era:

- The motor fuel tax continues to be a viable revenue source for surface transportation at least through 2025. Thereafter, the most promising alternative revenue measure appears to be a vehicle miles traveled (VMT) fee, provided that substantial privacy and collection cost issues can be addressed. The next surface transportation authorization act should require a major national study to develop the specific mechanisms and strategies for transitioning to the VMT fee or another alternative to the motor fuel tax to fund surface transportation programs.

## **A Failure To Act Would Be Devastating**

The surface transportation system of the United States is at a crossroads. The future of our nation's well being, vitality and global economic leadership is at stake. We must take significant, decisive action now to create and sustain the pre-eminent surface transportation system in the world.

But some will question whether it is realistic to think that Congress will raise the gas tax by 25 to 40 cents per gallon over 5 years, given the current anti-tax increase sentiment in some quarters. The Commission's recommendation is based on our best judgment on what needs to be done to address our investment shortfall, without factoring in the political feasibility.

But it doesn't seem unreasonable to think that the public would be willing to support an increase of this magnitude to finance a reformed program that has a clear mission and is focused on projects in the national interest. In year five, the cost to the average motorist would be 41 cents to 66 cents per day—less than the price of a candy bar or about 1/5 the cost of a cafe latte. This seems like a bargain when you consider that he or she will get for it: substantially reduced fatalities, highway and transit systems in a state of good repair, reduced congestion, a transportation system that can support a strong economy and job growth, and access for all Americans to all parts of our nation. Moreover, forty-one or sixty-six cents a day also seems quite reasonable when you compare it to the projected \$5 to 6 dollar average per trip cost of using a 14-mile stretch of the Capital Beltway during rush hour—a project which some have called a “national model.”

But even more compelling is that a failure to act—that is, a failure to raise sufficient revenue to close the investment gap—would be devastating.

The United States would be unable to compete effectively in the global marketplace. Our status as an economic superpower would be jeopardized. Jobs would be lost. And as U.S. businesses are squeezed by foreign competitors, those jobs that remain would likely be lower paying.

Moreover, our quality of life would suffer substantially. We would have fewer travel options. We would spend more time in congestion. We would have to leave our families earlier in the morning and arrive home later at night. Going to and from the doctor would be more difficult as congestion extends to more and more roads and for longer and longer periods of time. Other errands and trips to school would be similarly affected. And as gridlock became common even in rural areas, vacations would become a nightmare. And the cost of maintaining our vehicles would increase as they are damaged by our crumbling infrastructure.

Eventually we would reach the point of catastrophic failures. Road closures. Bridge collapses. Long detours. Tragedies like the I-35 Bridge collapse in Minnesota would become all too common.

Fatalities and injuries would continue increasing and could reach alarming rates.

We cannot let this happen. We must find the political leadership and the political will to make the necessary reforms and the necessary investment. Raising revenues will not be easy. But we must do it, and we must do it soon.

## **A Call To Action**

President Dwight D. Eisenhower had the foresight to understand how a system of interstate highways would transform the nation. If there was ever a time to take a similarly daring look at a broadened surface transportation network, it is now. The nation faces challenges similar to those of the Eisenhower era. However, the imperative for change due to the global economy is even stronger.

The good news is that we can do it. We believe that our recommendations, if enacted as a package, will give the American people the transportation system they need and deserve. We cannot just reform our way out of the transportation crisis; nor can we get the job done by sending lots more money coursing through a broken project delivery system. We need both reform AND increased investment

We cannot sit back and wait for the next generation to address these ever-increasing needs. It will be too late. The crisis is now and we have a responsibility and obligation to create a safer, more secure, and ever more productive system. We need to create and sustain the pre-eminent surface transportation system in the world. Now.

# Report of the National Surface Transportation Policy and Revenue Study Commission

## *Transportation for Tomorrow*

January 2008 | Executive Summary



### Preamble

A modern, smooth-functioning national surface transportation system is essential for economic success in a global economy and is also a key determinant of the quality of life enjoyed by citizens throughout America. Yet for too long — since substantial completion of the Interstate Highway System in the late 1980s — this country has lacked a clear, comprehensive, well-articulated and widely understood strategic vision to guide transportation policymaking at the national level.

In its last major transportation bill, Congress addressed the need for such a guiding vision directly. Noting that “it is in the National interest to preserve and enhance the surface transportation system to meet the needs of the United States in the 21st century,” Congress established the Na-

**It should be the goal of this nation to create and sustain the pre-eminent surface transportation system in the world.**

tional Surface Transportation Policy and Revenue Study Com-

mission to undertake a thorough review of the nation’s transportation assets, policies, programs and revenue mechanisms, and to prepare a conceptual plan that would harmonize these elements and outline a coherent, long-term transportation vision that would serve the needs of the nation and its citizens.

This Commission has worked diligently to fulfill this charge, meeting and holding public hearings across the country during an intensive 20-month study period. Our findings and recommendations — calling for bold changes in policies, programs and institutions — are contained in our report, *Transportation for Tomorrow*. Here we offer an executive summary of key aspects of the report. The full report can be found on the Commission’s website at [www.transportationfortomorrow.org](http://www.transportationfortomorrow.org).

### A New Vision

Just as it helps to know your destination before starting off on a trip, our Commission believed at the outset that it is important to have in mind a vision of what the national surface transportation system might look like — or at least how we’d like it to function — in the middle of the 21st century. But before we even began to sketch this futuristic picture of the system, we agreed among ourselves that our fundamental motivation should be to help the United States to create and sustain the pre-eminent surface transportation in the world. We decided to aim high, in other words, and that pledge has sustained us through many long and sometimes contentious meetings — and has in the end allowed us to reach agreement on a surprisingly wide range of often sweeping policy proposals.

Our report, *Transportation for Tomorrow*, attempts to chart a course with this lofty goal as a destination. It is an action plan aimed at an ultimate achievement — to be the best — and we offer it with full faith that this goal can be reached and the vision realized.

In our view, the United States could lay claim to best-in-class status in surface transportation when all of the following statements hold true:

- Facilities are well maintained
- Mobility within and between metropolitan areas is reliable
- Transportation systems are appropriately priced
- Traffic volumes are balanced among roads, rails and public transit
- Freight movement is an economic priority
- Safety is assured
- Transportation and resource impacts are integrated



- Travel options are plentiful
- Rational regulatory policies prevail

Speaking more broadly, we envision a surface transportation system where funding and function are inextricably linked. When making investments — and we do believe that substantial new transportation investments will be required — we must demand results, the kind of results that can be estimated in rigorous benefit-cost analyses and tracked by means of performance-based outcomes. We envision a system where needed transportation improvements can be designed, approved and completed quickly, and without unnecessary delays. We see a system that is fully integrated by mode (rail, road and highway), and which provides mobility to all users (urban commuter, rural resident, freight hauler). The transportation system we seek is environmentally sensitive, energy-efficient and technologically up-to-the-minute. And, above all, we envision a transportation system that fosters economic development and spurs output



The collapse of Minnesota's Interstate 35W bridge on August 1, 2007, illustrated the fragile nature of the Nation's surface transportation system. "The country's new and long overdue look at underinvestment in bridges, roads and transit should illustrate that government can't build and maintain infrastructure overnight," noted Minneapolis Mayor R.T. Rybak. "It takes long term, consistent investment, even when there isn't a constituency lobbying for more money."

and productivity growth at levels never seen before in history.

In other words, and as we said initially, we think it should be the goal of this nation to create and sustain the pre-eminent surface transportation system in the world.

## Today's Problems

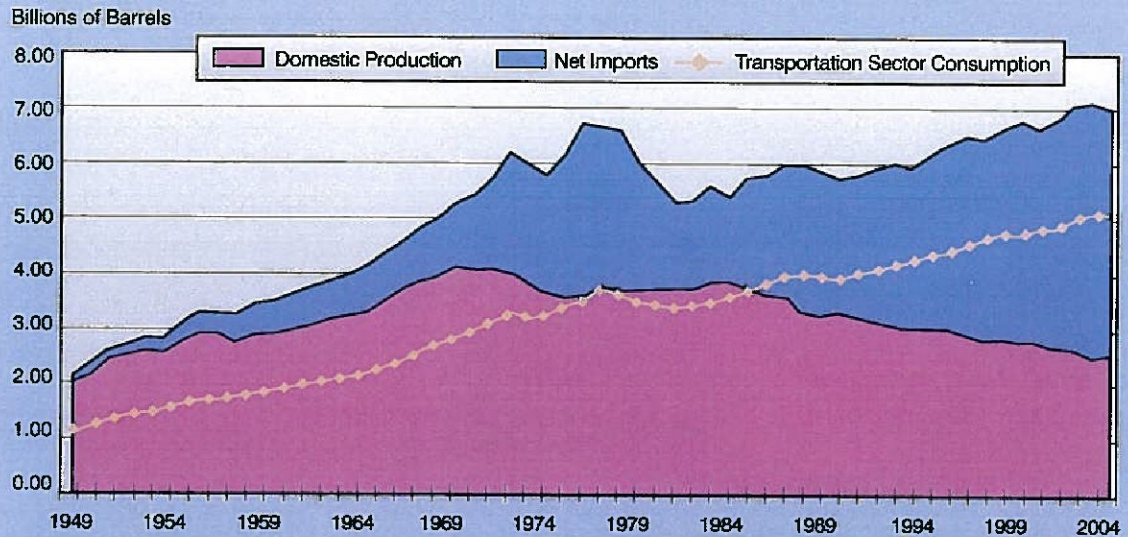
Conditions on America's surface transportation systems — our roads, bridges and highways, our passenger and freight rail facilities, our public transit networks — are deteriorating. In some cases, the physical infrastructure itself is showing the signs of age. In almost all cases, the operational efficiency of our key transportation assets is slipping, and we have no agreed upon methods or solutions to restore them to an optimal level of utility.

Highway congestion, especially in our larger metropolitan regions, exacts a heavy toll on commuters and their families, and on the businesses that rely on highways to get their products to market. In figures compiled by the Texas Transportation Institute, congestion cost the American economy an estimated \$78 billion in 2005, measured in terms of wasted fuel and workers' lost hours. Congestion causes the average peak-period traveler to spend an extra 38 hours of travel time and consume an additional 26 gallons of fuel. Yet, we do not yet have a clear, nationally sanctioned strategy for breaking gridlock's chokehold on our economy and quality of life. Contributing to the scale of the problem is a deeply entrenched over-reliance on the personal automobile for travel in urban corridors. Strategies to shift more trips to public transit will play a large role in any forward-thinking efforts to reduce congestion. Similarly, intercity passenger rail offers opportunities to reduce the reliance on the auto for longer-haul trips. In many places, we also will need new highway capacity as well.

Travel on the nation's surface transportation system is far too dangerous. Highway travel, in particular, must improve its safety record. In 2006,



**Exhibit 1: Annual petroleum production, imports, and consumption in the U.S., 1949-2006**



The chart shows that U.S. petroleum imports have increased rapidly over the last 25 years, as domestic production has declined and consumption has increased, led by the transportation sector.

Source: Energy Information Administration

over 42,000 people lost their lives on American highways, and almost 2.6 million were injured. Highway travel accounts for 94 percent of the fatalities and 99 percent of the injuries that occur on all surface transportation facilities. Although fatality and injury rates have fallen on a total-miles-driven base, these numbers are still unacceptably high.

Energy security has become a critical transportation issue. The nation's mobility is largely dependent on gasoline and diesel fuel, and the transportation sector as a whole accounts for two-thirds of U.S. petroleum use (see Exhibit 1). The steeply rising cost and unreliable supply of oil puts great strains on American households and businesses, and the greenhouse gases emitted when oil products are burned are now recognized as a chief contributor to global warming. Transportation policy must work in tandem with energy policy to reduce reliance on petroleum fuels and promote research on alternatives.

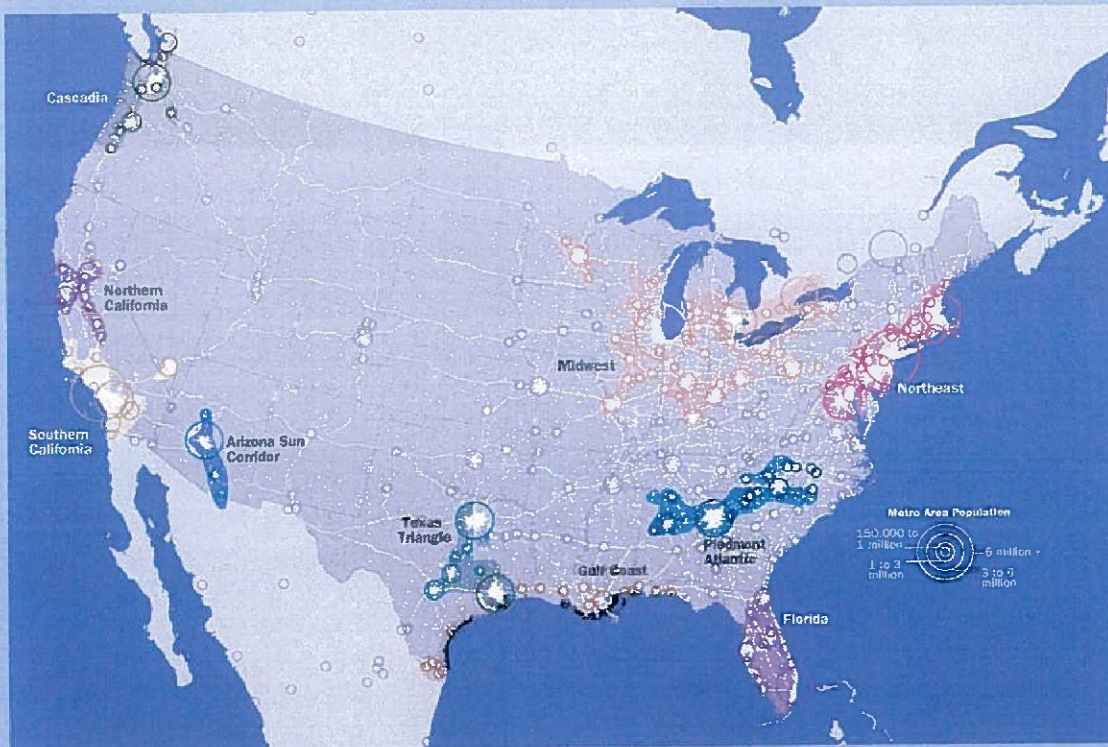
Because the nation lacks a clearly articulated transportation vision to guide investments — and an

objective, performance-based method of assessing individual projects — investment decisions are often made for political rather than good planning reasons. Congressional earmarking of transportation improvements increased from 10 projects in 1982 to more than 6,300 projects in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, for short), passed in 2005. Similarly private sector transactions that affect the nation's publicly owned transportation network must be accomplished in a transparent manner, so that the public is confident their interests are protected.

## Future Challenges

Over the next 50 years, the population of the United States will grow by some 120 million people, greatly intensifying the demand for transportation services by private individuals and by businesses. Most of that growth will occur in metropolitan areas (see Exhibit 2). Because it is unlikely that the transportation supply side can keep up with all of this growth, congestion will in-

## Exhibit 2: Emerging megaregions in the U.S.



**Economic activity in the U.S. is becoming increasingly concentrated in closely linked groups of metropolitan areas, referred to as "megaregions."**

Source: Regional Plan Association

crease and spread beyond the traditional morning and evening rush hours to affect ever-lengthening periods of each day.

If, as expected, the world economy grows and becomes more globally integrated during the next half-century, the U.S. will experience higher trade volumes and greater pressures on its international gateways and domestic freight distribution network. Economic forecasts indicate that freight volumes will be 70 percent higher in 2020 than they were in 1998 (see Exhibit 3). Without improvements to key goods-movement networks, freight transportation will become increasingly inefficient and unreliable, hampering the ability of American businesses to compete in the global marketplace.

Any effort to address the future transportation needs of the United States must come to grips with the sobering financial reality of such an undertaking. Estimates indicate that the U.S. needs to invest at least \$225 billion annually for the next 50 years to upgrade our existing transportation network to a good state of repair and to build the more advanced facilities we will require to remain competitive. We are spending less than 40 percent of this amount today, and the current fuel-

tax-based revenue mechanisms probably cannot be relied upon alone to raise the needed sums.

The impact of transportation projects on the environment will properly be given increased attention in the future. Plans and projects to improve transportation cannot be made at the expense of the nation's environment, and the costs associated with protecting the environment must be considered, and funding for mitigation committed, during the planning and environmental scoping process. The drive for cleaner fuels and greater energy security also will be an increasingly important factor in the development of future transportation plans and programs at the national level.

At the same time, overly onerous and procedure-bound environmental review processes can often serve to delay the speedy and cost-conscious delivery of important transportation improvements. Major highway projects take about 13 years from project initiation to completion, according to the Federal Highway Administration, and Federal Transit Administration figures indicate that the average project-development period for New Starts projects is in excess of 10 years. That is simply too long. Without diminishing environmental safe-





guards, it will be essential to reform and streamline certain environmental review requirements to ensure that the large sums that must be spent to improve transportation are not made larger still due to delay and the consequent inflation of project costs.

## Recommendations for Reform

The surface transportation system of the United States is at a crossroads. The future of our nation's well-being, vitality, and global economic leadership is at stake. We must take significant, decisive action now to create and sustain the pre-eminent surface transportation system in the world. Here are some of the key elements of what needs to happen.

### Increased Investment

To keep America competitive, we are recommending a significant increase in investment in our national surface transportation system. The projected

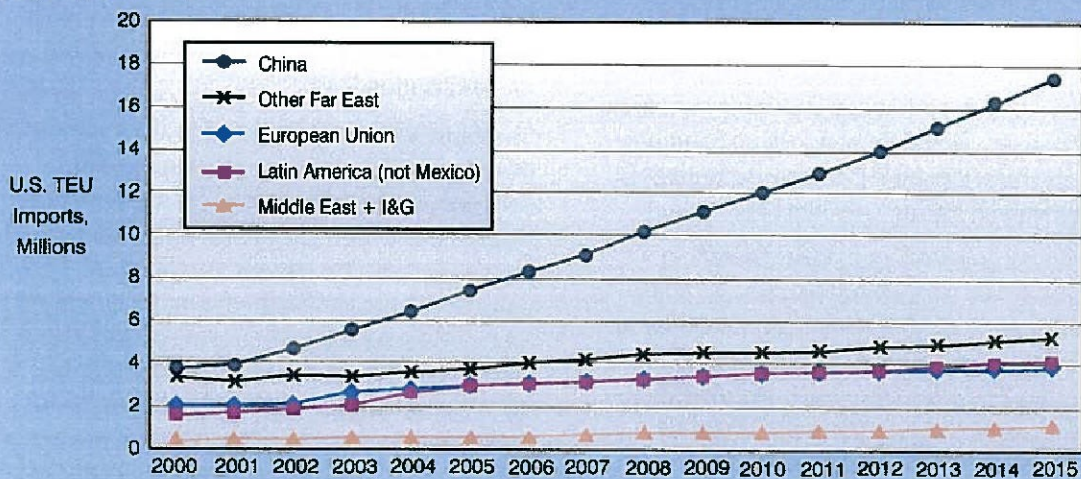
funding shortfalls — to maintain our existing systems and expand capacity where necessary to meet the challenges of the 21st century — are enormous and ominous. To close this investment gap, we will need increased public funding. We will also need increased private investment. More tolling will need to be implemented and new and innovative ways of funding our future system will need to be employed. And we will need to price for the use of our system, which will help reduce investment needs.

### Federal Government A Full Partner

We are recommending that the federal government be a full partner — with states, local governments and the private sector — in addressing the looming transportation crisis. The problem is simply too big for the states and local governments to handle by themselves, even with the help of the private sector. We believe that the federal government must continue to be a major part of the solution.

And it's not just that the problem is big. The federal government has a strong interest in our na-

**Exhibit 3: Projected growth in container imports to the U.S. merchandise trade by export region, 2000–2015**



This chart shows that containerized imports have grown dramatically in recent years, particularly from China. The growing dominance of China in the containerized trade is expected to continue in the future.

Sources: Global Insight World Trade Service



tional surface transportation system. This system is of vital importance to our economy, our national defense and our emergency preparedness. Our transportation network is critical to the interstate and regional movement of people and goods, economic growth, global competitiveness, environmental sustainability, safety, and our overall quality of life.

### **A New Beginning**

In addition to putting more money into the system, we also must create a system where investment is subject to benefit-cost analysis and performance-based outcomes. We need a system that ensures each project is designed, approved and completed quickly; one that provides a fully integrated mobility system that is the best in the world; one that emphasizes modal balance and mobility options; one that dramatically reduces fatalities and injuries; one that is environmentally sensitive and safe; one that minimizes use of our scarce energy resources; one that eases wasteful traffic delays; one that supports just-in-time delivery; and one that allows economic development and output more significant than ever seen before in history.

In order to accomplish these objectives, we have concluded that major changes will be necessary.

We believe that the federal surface transportation program should not be reauthorized in its current form. Instead, we should make a new beginning. Here are the key elements of the new beginning we recommend for the next authorization bill.

First, we are recommending that the federal program should be performance-driven, outcome-based, generally mode-neutral, and refocused to pursue objectives of genuine national interest. More specifically, we are recommending that the 108 existing surface transportation programs in SAFETEA-LU should be replaced with the following 10 new federal programs:

- Rebuilding America – state of good repair
- Global Competitiveness – gateways and goods movement
- Metropolitan Mobility – regions greater than 1 million population
- Connecting America – connections to smaller cities and towns
- Intercity Passenger Rail – new regional networks in high-growth corridors
- Highway Safety – incentives to save lives
- Environmental Stewardship – both human and natural environments
- Energy Security – development of alternative transportation fuels
- Federal Lands – providing public access on federal property
- Research & Development – a coherent national research program

US DOT, state and regional officials, and other stakeholders would establish performance standards in the federal program areas outlined above and develop detailed plans to achieve those standards. Detailed cost estimates would also be developed. These plans would then be assembled into a national surface transportation strategic plan.

Federal investment would be directed by the national surface transportation strategic plan. Only projects called for in the plans would be eligible for federal funding. And all levels of government would be accountable to the public for achieving the results promised.

The Commission acknowledges that these recommendations represent a major departure from current law. The federal program has evolved into what is now essentially a block grant model, with little accountability for specific outcomes. Developing performance standards and integrating them into a performance-driven regimen will be challenging but we believe the rewards will be worth the effort. In addition to making better use of public monies to accomplish critical national objectives, the Commission's recommended approach of performance standards and economic justification would do much to restore public confidence in the transportation decision-making process. In such an environment, we believe Congress and the



public would be more amenable to funding the nation's transportation investment needs.

Second, we are recommending that Congress establish an independent National Surface Transportation Commission (NASTRAC), modeled after aspects of the Postal Regulatory Commission, the Base Closure and Realignment Commission, and state public utility commissions. The new federal commission would perform two principal planning and financial functions:

The NASTRAC would oversee various aspects of the development of the performance-based performance standards in the federal program areas outlined above and the detailed plans to achieve those standards, and it would approve the national transportation strategic plan.

Once the national strategic plan has been approved, the NASTRAC would establish a federal share to finance the plan and recommend an increase in the federal fuel tax to fund that share, subject to congressional veto.

Third, the project delivery process must be reformed by retaining all current environmental safeguards, but significantly shortening the time it takes to complete reviews and obtain permits. Projects must be designed, approved and built as quickly as possible if we are to meet the transportation challenges of the 21st Century.

## Paying the Bill — “There Is No Free Lunch”

Policy changes, though necessary, will not be enough on their own to produce the transportation system the nation needs in the 21st century. Significant new funding also will be needed. We list our major revenue recommendations below.

First, we are making the following general recommendations:

- It is imperative that all levels of government and the private sector contribute their appropriate shares if the United States is to have the

pre-eminent surface transportation system in the world.

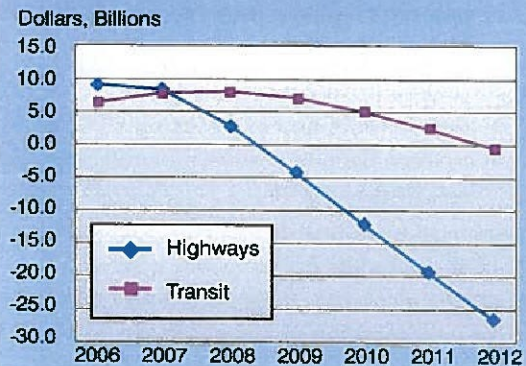
- We strongly support the principle of user financing that has been at the core of the nation's transportation funding system for half a century.
- We are recommending continuation of the budgetary protections for the Highway Trust Fund, so that user fees benefit the people and industries that pay them.

Second, we recommend that legislation be passed in 2008 to keep the Highway Account of the Highway Trust Fund solvent and prevent highway investment from falling below the levels guaranteed in SAFETEA-LU (see Exhibit 4).

Third, we are making the following specific recommendations with respect to transportation funding in the period between 2010 and 2025:

- As noted above in “Future Challenges,” the annual investment requirement to improve the condition and performance of all modes of surface transportation – highway, bridge, public transit, freight rail and intercity passenger rail – ranges between \$225-340 billion. The range depends upon the extent of peak-

**Exhibit 4: Projections of Highway and Transit Account Balances Through 2012**



This exhibit shows projected balances in the Highway and Transit Accounts of the Highway Trust Fund through 2012 assuming no change in revenues or program levels.

Source: U.S. Department of the Treasury projections.



hour pricing implemented on congested urban highways in lieu of physical capacity expansion. To address this investment target by providing the traditional federal share of 40 percent of total transportation capital funding, the federal fuel tax needs to be raised by 25-40 cents per gallon. This increase should be phased in over a period of 5 years (5 to 8 cents per gallon per year). This rate increase should be indexed to the construction cost index.

- We are also recommending other federal user-based fees to help address the funding shortfall, such as a freight fee for goods movement projects, dedication of a portion of existing customs duties, and ticket taxes for passenger rail improvements. Tax and regulatory policy also can play an incentivizing role in expanding freight and intermodal networks.
- In addition, we are recommending that Congress remove certain barriers to tolling and congestion pricing, under conditions that protect the public interest. This will give states and local governments that wish to make greater use of tolling and pricing the flexibility to do so. More specifically, we are recommending that Congress modify the current federal prohibition against tolling on the Interstate System to allow:
  - tolling to fund new capacity on the Interstate System, as well as the flexibility to price the new capacity to manage its performance; and
  - congestion pricing on the Interstate System (both new and existing capacity) in metropolitan areas with populations greater than 1 million.
- We are recommending that Congress encourage the use of public-private partnerships, including concessions, for highways and other surface transportation modes. Public-private partnerships can serve as a means of attracting additional private investment to the surface transportation system, provided that conditions are included to protect the public interest and the movement of interstate commerce.

- State and local governments have many different types of revenues to draw upon for their share of new investment. They likely will have to raise motor fuel, motor vehicle, and other related user fees. In addition, many may take advantage of the expanded opportunities in tolling, congestion pricing and public-private partnerships that our recommendations propose.

Fourth, we are making the following specific recommendations for transportation funding in the post-2025 era:

- The motor fuel tax continues to be a viable revenue source for surface transportation at least through 2025. Thereafter, the most promising alternative revenue measure appears to be a vehicle miles traveled (VMT) fee, provided that substantial privacy and collection cost issues can be addressed. The next surface transportation authorization act should require a major national study to develop the specific mechanisms and strategies for transitioning to the VMT fee or another alternative to the motor fuel tax to fund surface transportation programs.

## “Let’s Get Moving”

We believe that a strong transportation system is important enough to mount a large-scale effort for change; indeed we believe it is vital to the economic future of the nation and the well-being of its citizens. Transportation for Tomorrow presents a case for fundamental reform that we believe is compelling — and that we hope is persuasive. We invite you to join us as we take actions to turn our recommendations into reality. It is time to deliver to the people of this nation a simple but meaningful message: “Let’s get moving.” Together, we can.



[www.transportationfortomorrow.org](http://www.transportationfortomorrow.org)

# Transportation For Tomorrow

National Surface Transportation  
Revenue and Policy  
Study Commission

COVINGTON & BURLING LLP

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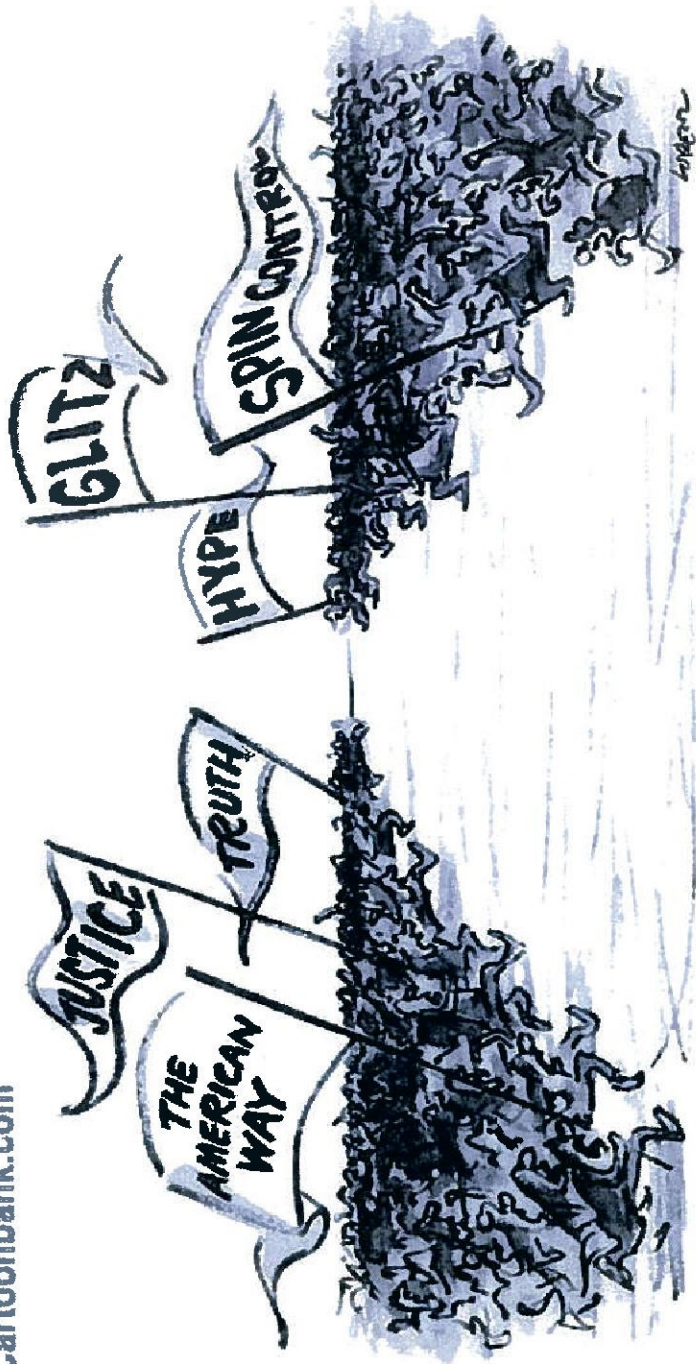
NEW YORK

SAN FRANCISCO

WASHINGTON

# Reauthorizing SAFETEA-LU

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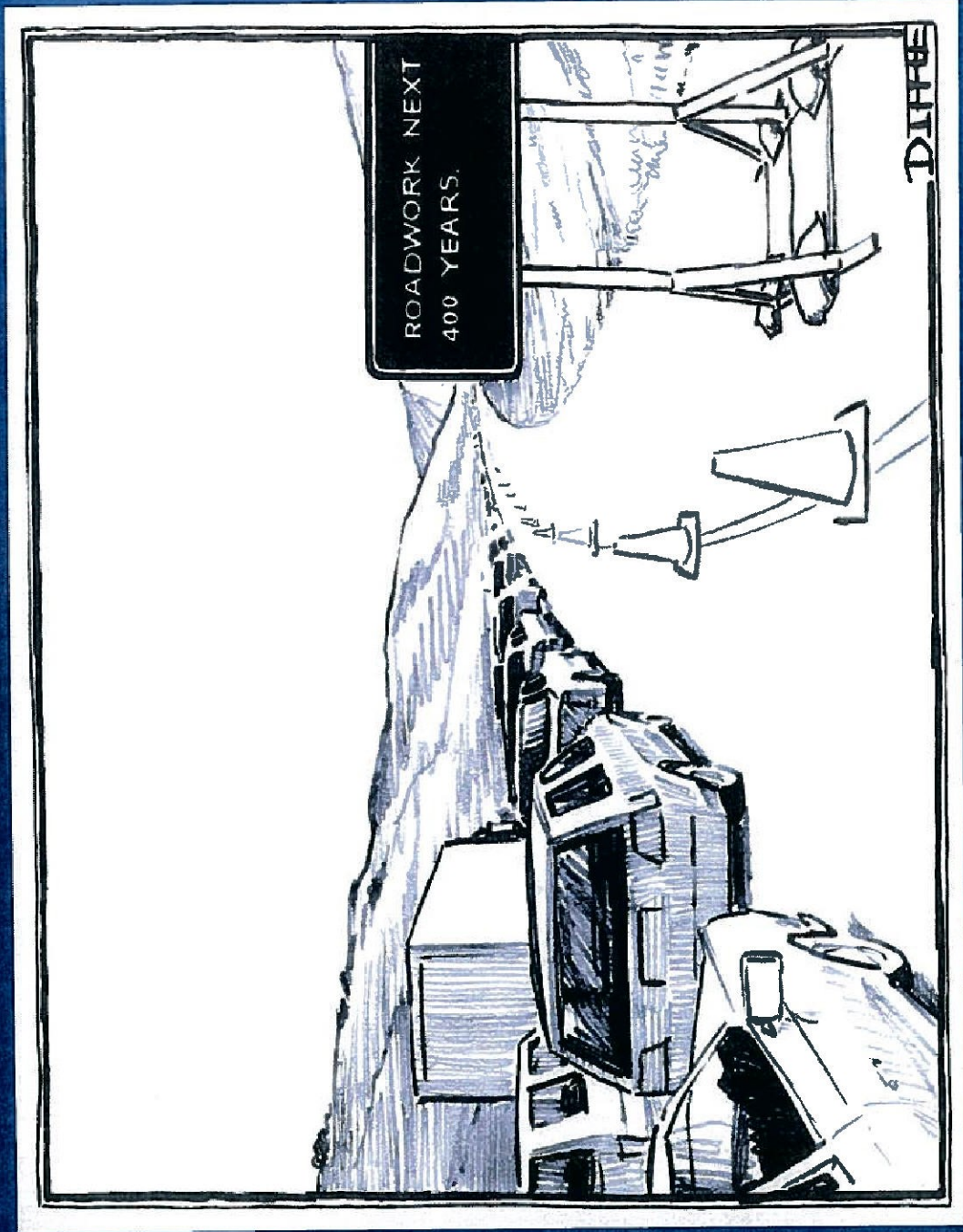


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# The Challenges

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# Aging System

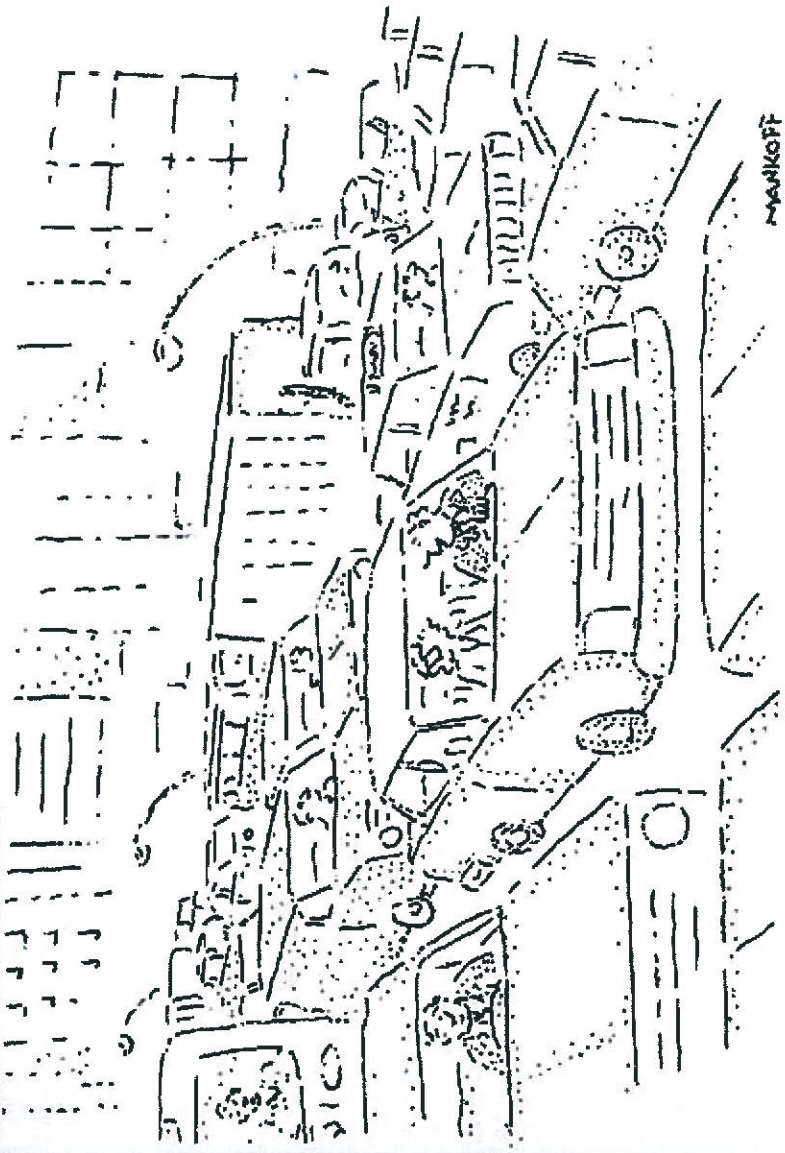


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# Current Levels of Congestion

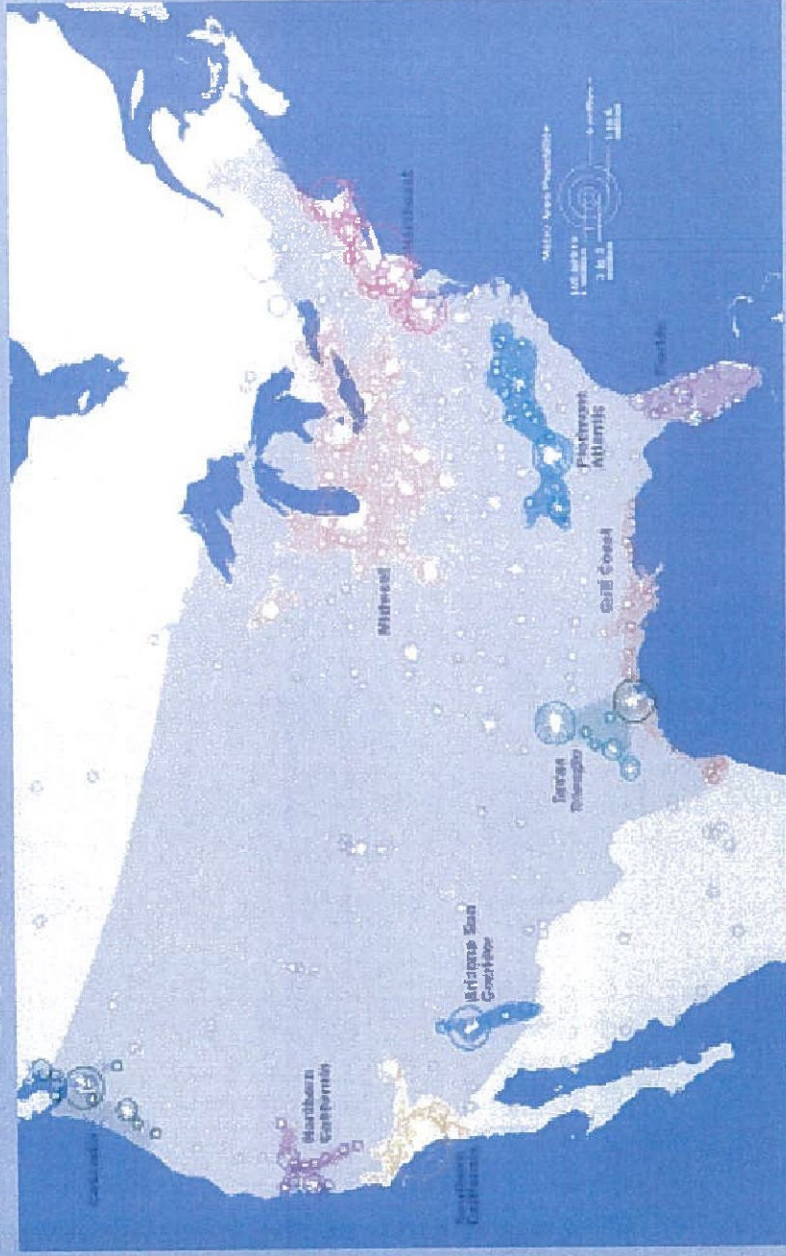
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*"Hey, is this great traffic, or what?"*

# 150,000,000 Population Growth

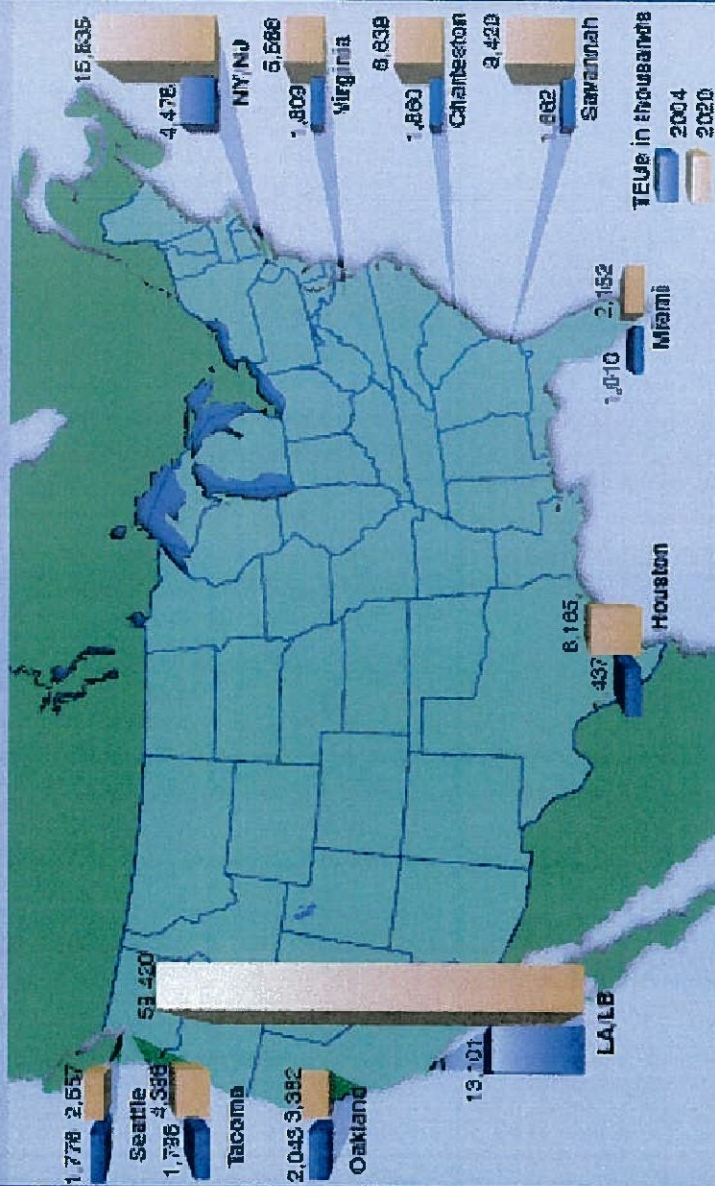
Exhibit 2-4. Emerging megaregions in the U.S.



Economic activity in the U.S. is becoming increasingly concentrated in closely linked groups of metropolitan areas, referred to as "megaregions."

# Freight Growth

Exhibit 2-10. Projected growth in container shipments to U.S. ports, 2004-2020



Forecasted figures are based on 10-year linear regression. This map shows that based on current trends, U.S. ports are expected to see significant increases in container shipments over the next decade and a half, particularly at the West Coast Ports of Los Angeles and Long Beach (LALB). [Note that the forecasts are based on a linear projection of trends over the previous 10 years. They are not constrained by current or expected capacity at existing container ports, and do not account for the planned development of new container ports.]

# Underinvestment Crisis

- Enormous needs—
  - Reconstruct our aging system
  - Provide new capacity for growth
- We need to invest at least \$225 billion per year
- We are currently investing \$87 billion per year

# Business As Usual

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# Give Up

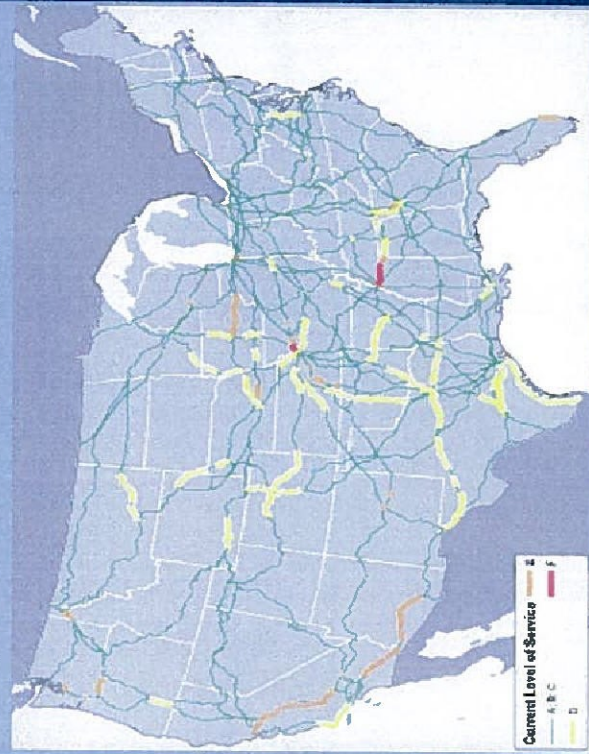
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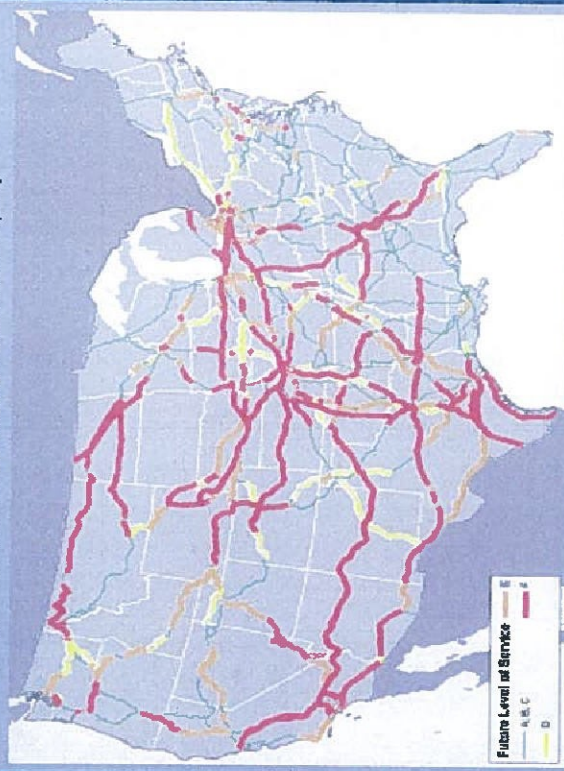
# Freight Rail Gridlock

Exhibit 3-6. Levels of service on the U.S. freight rail network in 2006



The map shows levels of service (LOS) on major U.S. railroads. Rail corridors operating at LOS A, B, or C (shown in green) are below practical capacity. Corridors operating at LOS D (shown in yellow) are near practical capacity, and those operating at LOS E (shown in orange) are at practical capacity. The most severe congestion is on corridors at LOS F (shown in red), where traffic exceeds capacity.

Exhibit 4-13. Projected 2035 train volumes compared to current train capacity



This map identifies the relationship between projected freight train volumes on an 86<sup>th</sup>-percentile day in 2035 with the theoretical capacity of individual rail sections, assuming that no additional capacity expansion occurs before that time. Levels of Service A, B, and C are all considered to be under capacity. Levels of Service D, E, and F are considered to be nearing capacity, at capacity, and over capacity, respectively.

# Recommendations

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# No Easy Answers

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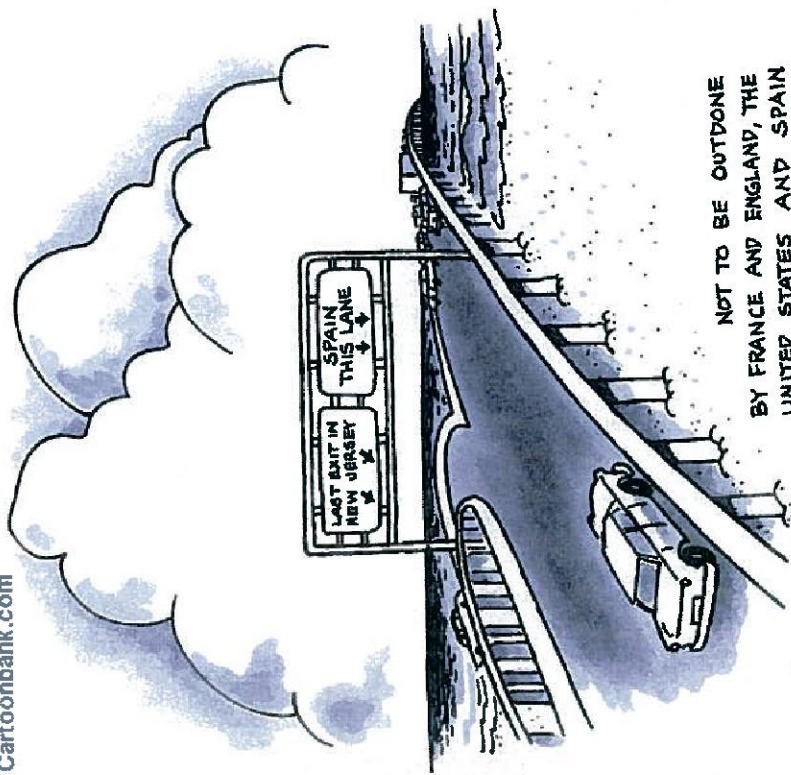


*Freshman*

MOSES CROSSES THE GRAND CENTRAL PARKWAY

# Increase Investment Significantly

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NOT TO BE OUTDONE  
BY FRANCE AND ENGLAND, THE  
UNITED STATES AND SPAIN  
BUILD A BRIDGE.

*Amicus*

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COMING SOON FROM THE UNITED STATES TRANSIT AUTHORITY...

## THE COAST-TO-COAST SUBWAY!



Transfer for the new 65 line at 34th Street and 42nd Street on the 6 and 6 lines. No extra tokens required.

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# Federal Government A Full Partner



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*"Sorry, but all my power's been turned back to the states."*

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# \*\*\*\*\*REFORM\*\*\*\*\*

- Restore vision/sense of purpose
- Replace existing programs with 10 performance-driven, outcome-based, modally-neutral programs
- NASTRAC
- Fix Project Delivery

# Key Performance-Based Programs

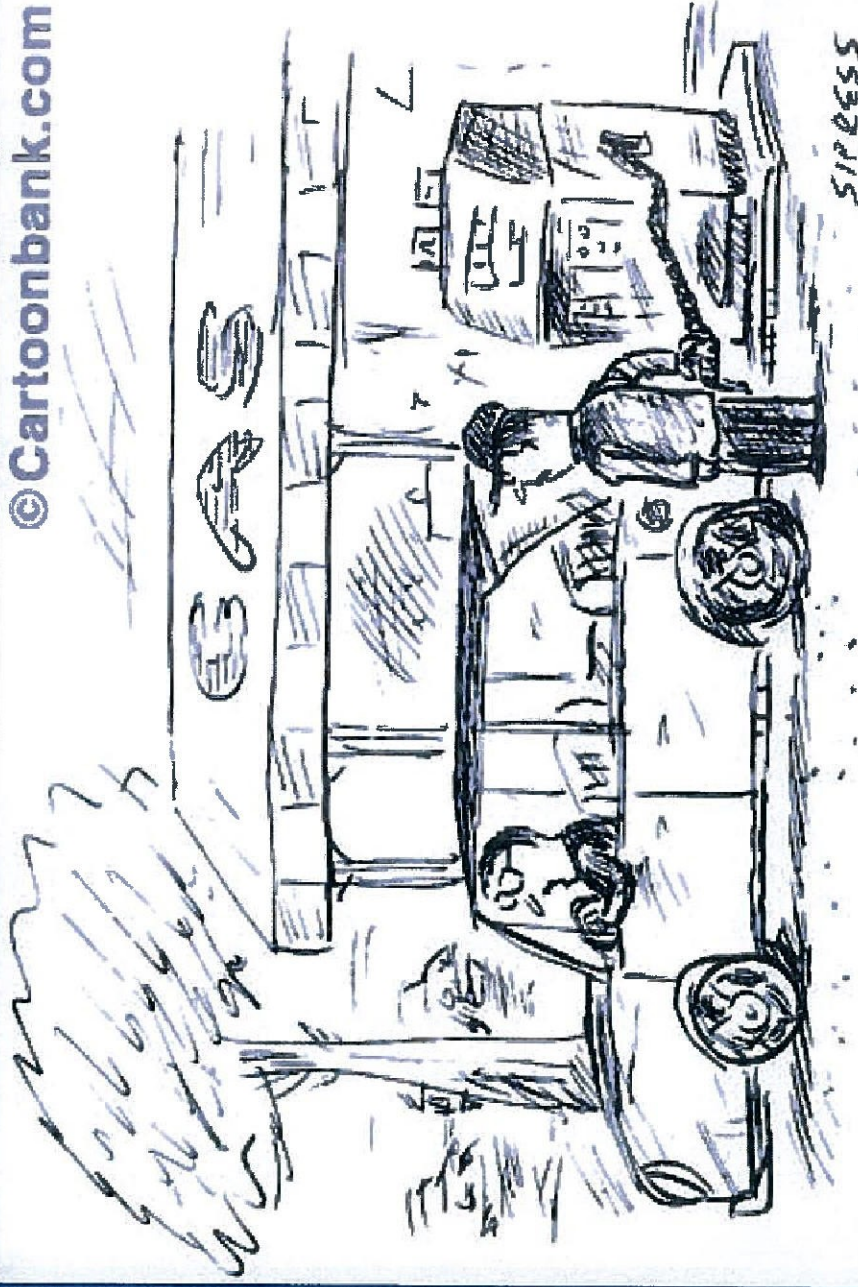
- Bring our existing surface transportation systems into a state-of-good-repair.
- Reduce fatalities by 50 percent by 2025
- Reduce congestion in major metropolitan areas by 20 percent by 2025
- Provide for smooth flow of freight to improve international competitiveness
- Provide access and mobility for rural areas and smaller cities
- Provide world-class intercity passenger rail in dense corridors (300-500 miles)

# Financing Principles

- User Fee Financing
- Pay-As-You-Go
- No Diversion
- Protect Funding Guarantees

# Motor Fuel "User Fee"

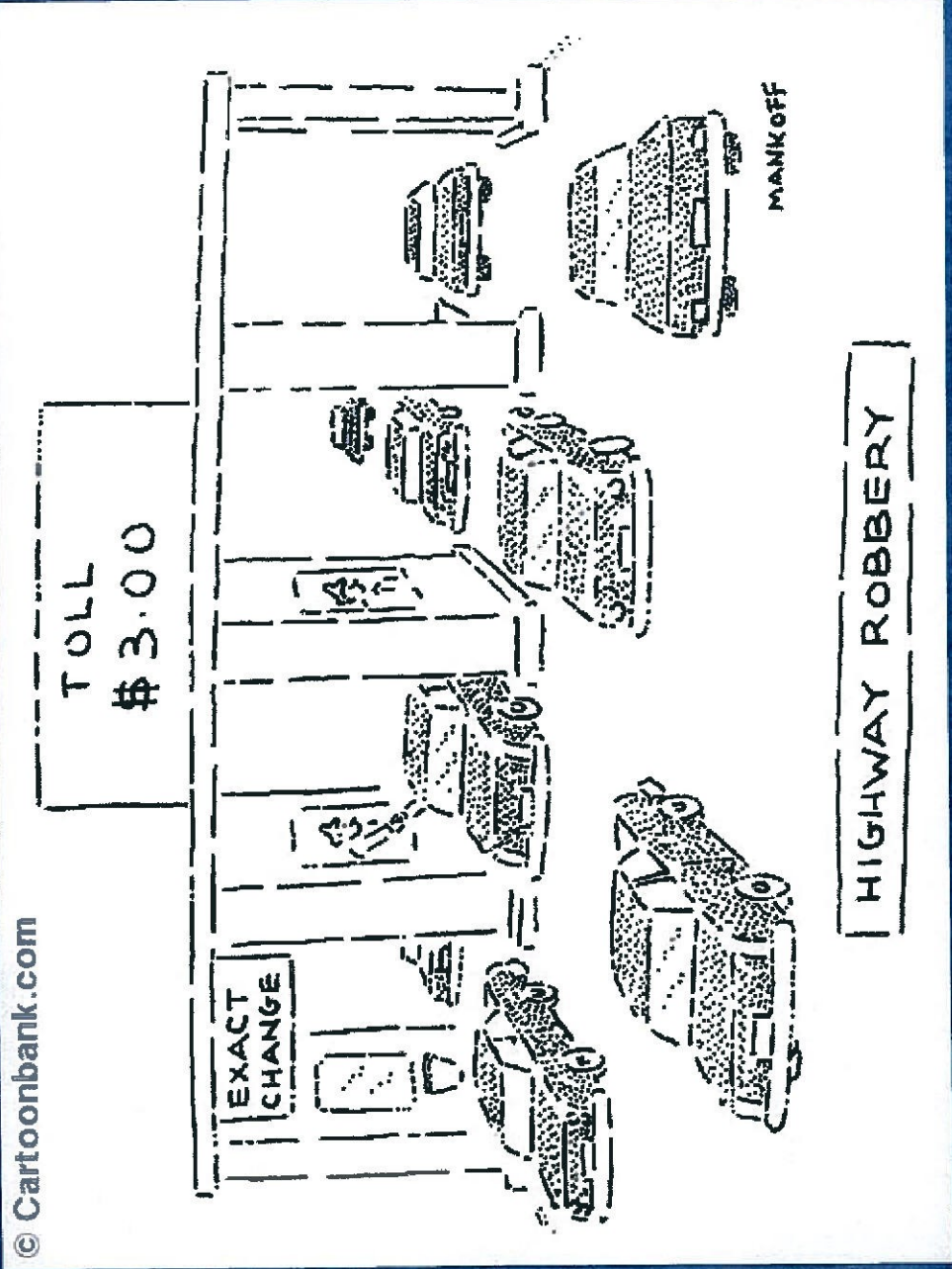
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*"Three hundred dollars' of regular."*

*SIR PESS*

# Tolls

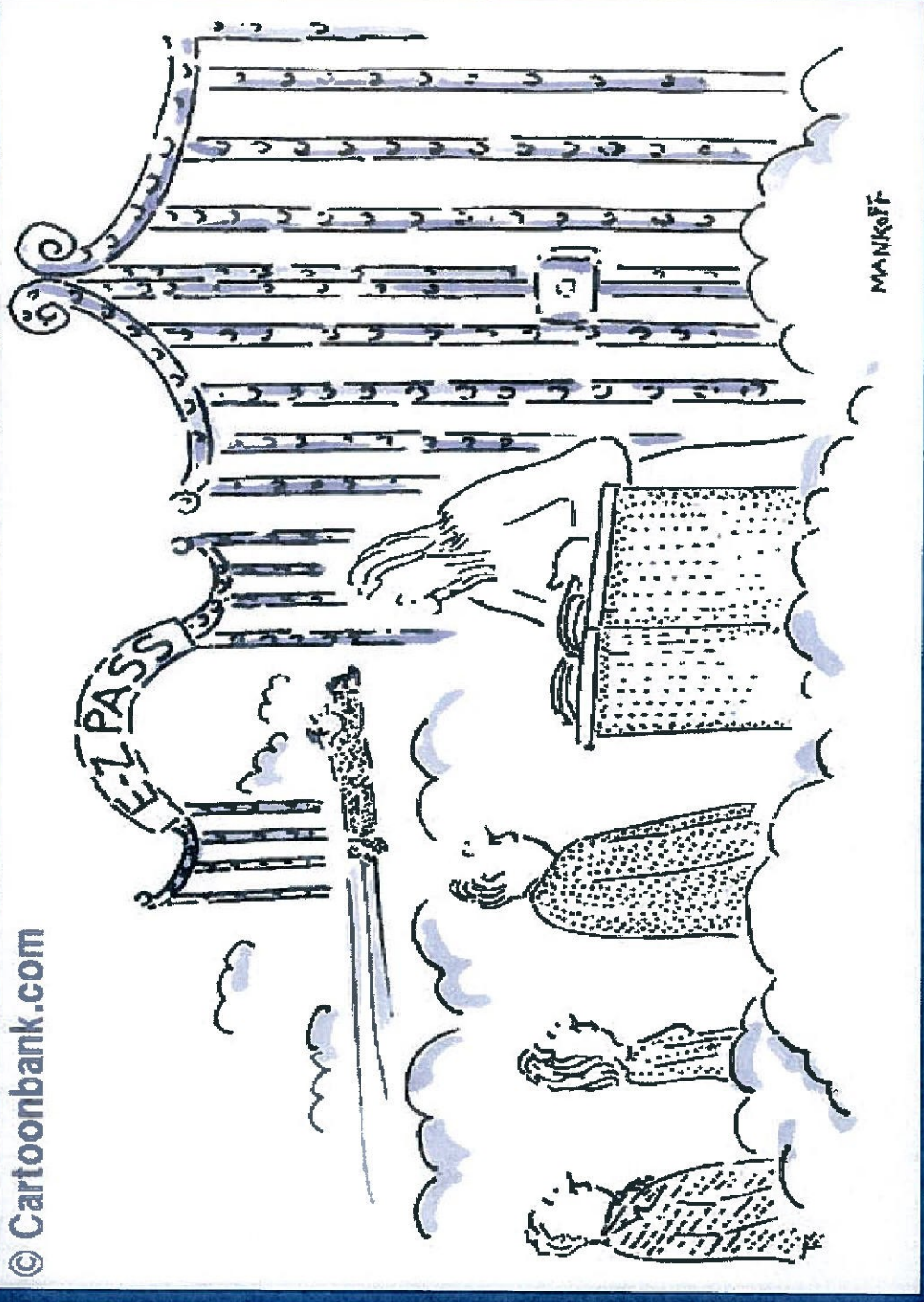


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# Technology

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# Public-Private Partnerships

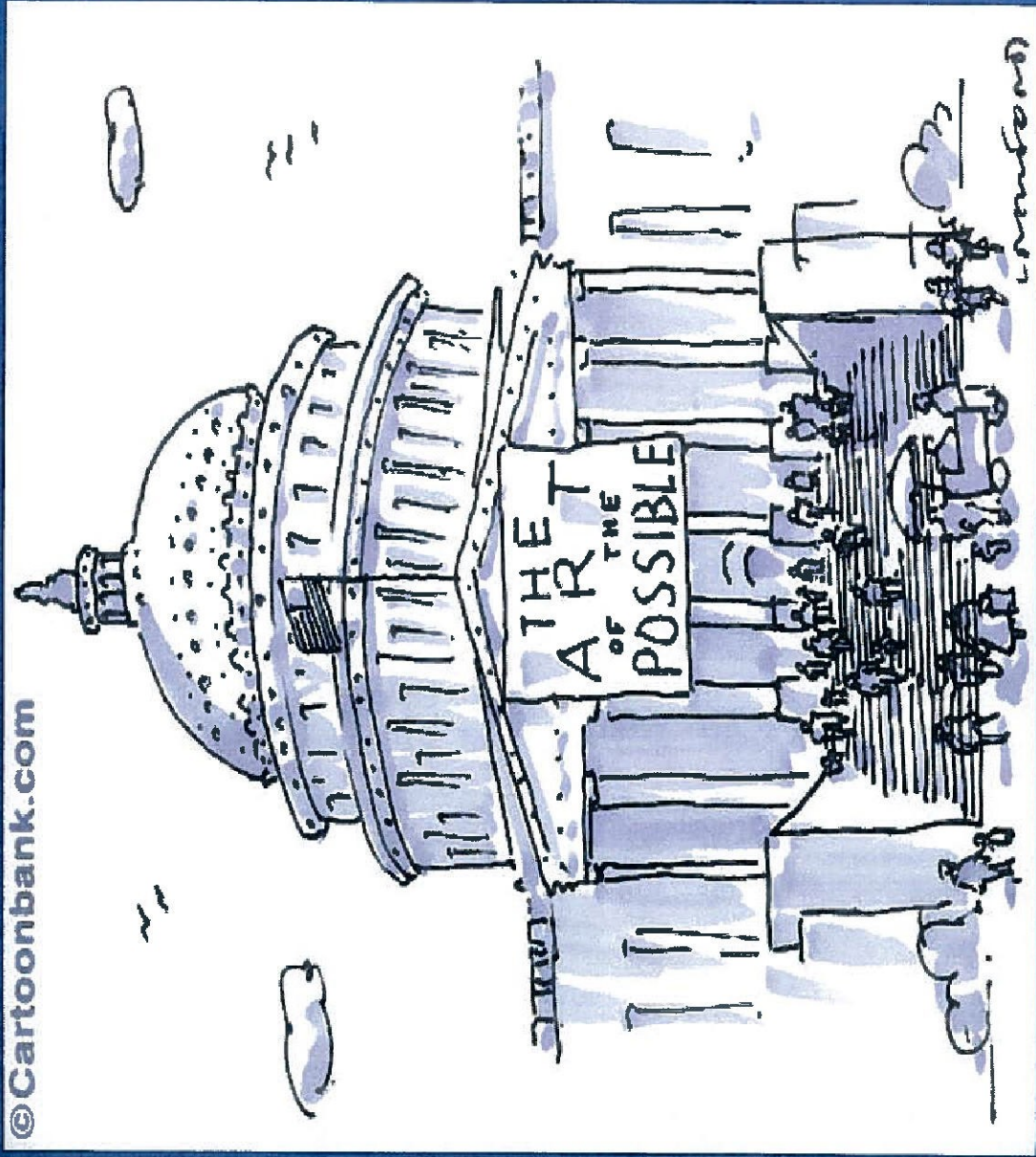
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*“And, in a move sure to attract the attention of regulators, the private sector made a bid to acquire the public sector.”*

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# Raising The Bar



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