

TESTIMONY OF:

NEAL A. McCALEB

PRESIDENT, TRANSPORTATION REVENUES USED STRICTLY FOR TRANSPORTATION (TRUST)

INDIAN RESERVATION ROADS (IRR) PROGRAMS IN NON-RESERVATION STATES

BEFORE:

**THE SUBCOMMITTEE ON HIGHWAYS OF THE COMMITTEE ON TRANSPORTATION AND
INFRASTRUCTURE OF THE UNITED STATES HOUSE OF REPRESENTATIVES**

OKLAHOMA CITY, OKLAHOMA

FEBRUARY 24, 2011

Good morning Mr. Chairman and members of the Committee. My name is Neal McCaleb and I serve as president of the Oklahoma transportation infrastructure advocacy group, "TRUST" which stands for Transportation Revenues Used Strictly for Transportation. I formerly served as Director of the Oklahoma Department of Transportation (ODOT) and Oklahoma Secretary of Transportation. More recently, I served as Assistant Secretary for Indian Affairs at the U. S. Department of Interior. I am present today to testify regarding "Indian Reservation Roads" and its applicability to Oklahoma and other non-reservation states.

Let me begin by thanking you, Mr. Chairman, for holding this field hearing in Oklahoma as a prerequisite to the consideration of the reauthorization of the "Federal Highway Trust Fund". We are honored to have you in our great state.

My remarks will focus on three important areas:

1. The justifiable application of the program to non-reservation tribes.
2. The efficacy of the use of these funds for the safety and opportunities to Native Americans in Oklahoma and the benefits to the general public.

3. The current status of the allocation of these funds established by the “Negotiated Rule Making” process, dictated by the provisions of “SAFTEA-LU” and the necessity of maintaining Congressional intent contained therein.

My comments will additionally focus on Oklahoma’s experience from my personal perspective through my service at ODOT and the Department of Interior–Indian Affairs.

1. The IRR program was intended to enhance the opportunities and safety of all Native Americans provided by good access to all aspects of our great nation and its economy. Although the title indicates its applicability to reservation tribes, there are more Native Americans living off reservation than on. Oklahoma has no surface reservations; however is the second-most populous state for Native Americans. The authorizing language clearly states it applies to “former reservations” as well as current Tribal reservations.

In pursuance of this universal objective, the provisions of SAFTEA-LU required that there would be an established mechanism for consultation with all Federally Recognized Tribes in order to establish the rules and formulas for the distribution of funds authorized for this purpose. In response to this directive, a process known as the “Negotiated Regulation Committee”, composed of representation from tribal governments across America, was established with wide tribal representation meeting throughout “Indian Country”.

This process took several years and resulted in a Tribal consensus for the use and distribution of these programmatic funds. The process was accomplished under the guidance of the Bureau of Indian Affairs (BIA) and the Federal Lands Division of the Federal Highway Administration (FHWA). The rules and formulas were published by the Department of Interior for public comment and became effective in 2004.

These regulations provide for the applicability of such funds to public roads, as well as BIA and tribally-owned roads, which were included in the individual Tribes “Transportation Improvement Program” (TIP) serving Native American populations.

The effective result of this legislation has been for the 39 federally-recognized Tribal governments in Oklahoma to access the IRR funds and apply them to various public roads serving their members. These projects, so authorized, have made possible the improvement of Tribal travel conditions in rural Oklahoma and improved access to Tribal enterprises.

2. The application of IRR funds to various public roads in Oklahoma has permitted county commissioners to fully utilize “off system” bridge replacement funds designated for that purpose. There are 14,882 structurally-deficient or functionally-obsolete bridges (second highest in the nation) on the 84,767 miles of county roads in Oklahoma. Eighty percent of these roads, located in the most rural areas and largely used by Native Americans, are ineligible for federal funding as major or minor collectors. In 2010, Tribes participated in the replacement of 71 deficient county bridges, and over the last decade, have assisted ODOT with over 100 million dollars in safety and access improvement projects. These critically-needed projects were funded in large measure from monies contributed and generated by Tribal enterprises. IRR funding since 2004 has greatly facilitated the cooperation between state and local governments for transportation and other public projects, including public safety, health care and education. Oklahoma is the only state to have enacted special provisions for a “Tribal Transportation Advisory Board” to assist ODOT and county governments in identifying and prioritizing transportation projects. Oklahoma tribes enjoy a synergistic and compatible relationship with state and local governments which benefits both Tribal members and the state’s general citizenry.

3. There is currently a move by the Obama administration, through the BIA and Federal Lands Division of the FHWA, to change the effective IRR eligibility for public roads on Tribal TIPs, and therefore, reduce funds available to tribes in non-reservation states such as Oklahoma. The agencies have held a series of public hearings throughout “Indian Country” for the ostensible purpose of clarifying rule 10 of the “Negotiated–Rule Making” process. They have now published the proposed “clarification” and are moving forward with its adoption in spite of the Congressional intent expressed in the attached letter from Congressman Don Young and Senator Jim Inhofe, chairmen of their respective committees, during the development and passage of SAFTEA-LU. At the time SAFTEA-LU was approved, Congress anticipated an increase of the eligible IRR mileage and increased the funding of the program from \$275 million to \$450 million.

On behalf of TRUST and the Sovereign Tribes of Oklahoma, I respectfully request that the Committee include language in the Re-Authorization bill to instruct all affected parties to respect the provisions approved by the “Negotiated Rule Making” committee, as published by the Department of Interior, and hold the eligibility and allocation formulas harmless from any changes or “clarifications” that would impact the intent and letter of the rules until such time as the Tribes convene an amendatory process under sanctions of the Congress.

Thank you, Mr. Chairman, for the privilege of coming before this committee.

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
Truth in Testimony Disclosure

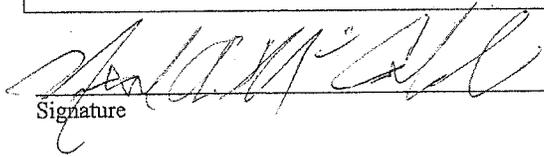
Pursuant to clause 2(g)(5) of House Rule XI, in the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include: (1) a curriculum vitae; and (2) a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by an entity represented by the witness. Such statements, with appropriate redaction to protect the privacy of the witness, shall be made publicly available in electronic form not later than one day after the witness appears.

(1) Name: NEAL A. McCALEB

(2) Other than yourself, name of entity you are representing: TRANSPORTATION REVENUES USED STRICTLY FOR TRANSPORTATION (TRUST

(3) Are you testifying on behalf of an entity other than a Government (federal, state, local) entity?
YES <input checked="" type="checkbox"/> If yes, please provide the information requested below and attach your curriculum vitae.
NO

(4) Please list the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by you or by the entity you are representing:
NONE


Signature

2/21/11
Date

NEAL A. McCALEB

BIOGRAPHICAL INFORMATION

Mr. McCaleb's career as a Civil Engineer spans over fifty years in private practice and public service. He graduated from Oklahoma A&M College in 1957 and was immediately involved in the design and development of the Interstate Highway system in Oklahoma working for a consulting engineering firm for two years. He left to begin public service in the Oklahoma City Engineering Department where he attained the position of Assistant City Engineer prior to commencing his own consulting engineering firm in 1961.

While in private engineering practice he also began to build and develop residential subdivisions in the Oklahoma City area before being elected to the Oklahoma House of Representatives in 1974 serving eight years and four years as the Republican floor Leader.

McCaleb extended his public service in 1987 being appointed the first Secretary of Transportation by Gov. Henry Bellmon while also serving as the Director of the Oklahoma Department of Transportation. During this administration the Oklahoma Turnpike Authority initiated the Urban Turnpikes in Oklahoma City and Tulsa as well as the rural pikes in eastern and southern Oklahoma. He successfully advocated a six cent increase in the state fuel tax to fund highways and bridges.

He returned to public service 1995 serving again as Secretary of Transportation. Director of the OTA and ODOT during the Keating administration until 2001 when he was appointed as Assistant Secretary of the Interior by President Bush. During the Keating years he presided over the completion of the urban pikes in Tulsa and Oklahoma City and the implementation of the \$800 million Highway capital Improvement program passed by the Legislature in 1999.

As Assistant Secretary of the Interior he was in charge of the Bureau of Indian Affairs advocating the improvement of Tribal Nations through the implementation of Tribal Sovereignty, and self determination by economic development. During his tenure the BIA was reorganized to insure improved Trust oversight of Individual and Tribal assets held in trust by the Dept. of Interior.

After leaving government service in 2003 he continued his interest and advocacy of Indian economic development by service to the Chickasaw Nation as a special advisor to Gov. Anoatubby on economic policy and transportation issues. Neal is an enrolled member of the Chickasaw Nation serving as Chairman of the Board of "Chickasaw Nation Industries" and on the Board of Directors of Bank 2, a wholly business of the Chickasaw nation.

McCaleb has continued his interest in public policy by participating in the Oklahoma Academy currently serving as its Chairman. He has also served Oklahoma's transportation policy by organizing and serving as President of TRUST (Transportation Revenues Used Strictly for Transportation) advocating adequate funding for highways and bridges by stopping the diversion of road user taxes from transportation purposes. The result of this advocacy was the passage of HB 2272 which increase funding to ODOT and County roads and bridges.

Other areas of public service and advocacy include the following:

Oklahomans for Indian Opportunity- '66-'67 Vice-President

Oklahoma Indian Affairs Commission- '67-'72 appointed by Gov. Bartlett

National Council on Indian Opportunity- '72-'74 appointed by Pres. Nixon

Presidents Commission on Reservation Economies- '83-'84 appointed by Pres. Regan

Board of Regents "University of Arts & Sciences"- '05 to date appointed by Gov. Henry

"Oklahoma Transportation Center" Interim Executive Director '06-'08

Advisory Board for "Community Development Finance Institutions" for the US Treasury Dept. '08 to current date

Neal has been married to Geotgann McCaleb for 55 years and they four grown children and thirteen Grandchildren.