

Testimony of

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Regarding

Improving and Reforming the Nation's Surface Transportation Programs

Before the

**Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
United States House of Representatives**

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Chairman Duncan and Members of the Committee, thank you for the opportunity to testify in regard to improving and reforming the nation's surface transportation program. My name is John Njord, I am the Executive Director of the Utah Department of Transportation and am a registered professional engineer.

I. Need for a Long-Term Authorization Bill

The Utah Department of Transportation (DOT) strongly supports a six-year authorization of the federal transportation program. A multi-year authorization of the federal transportation program will enable Utah to pursue long-term planning and programming strategies that best meet Utah's needs. Next month, the Utah DOT and the Utah Transportation Commission will hold a day-long session to develop a draft of the annual Statewide Transportation Improvement Program (STIP). Having a six-year federal authorizing program in place will help us make better long-term planning and programming decisions.

II. Program Consolidation

Discussion has occurred for many years about the need to consolidate numerous federal funding silos. Working with the Utah Transportation Commission, the Utah DOT identifies project needs based on extensive data collection and analysis, and on-going discussions with local government representatives and various transportation stakeholders. Projects are ranked and prioritized based on statewide strategic goals, asset management principles, engineering analysis, and extensive traffic and safety data. However, we can't always fund our highest ranked needs due to the complexities and restrictions associated with the various federal funding categories and numerous set-asides. With funds divided into so many separate silos, each with their own eligibility criteria, the highest ranked needs can't always be funded since projects must match available funding sources.

Consolidation of funding silos – such as a single program for Interstate Maintenance, the National Highway System and Bridges – around broad categories and elimination of set-asides within program categories would significantly help Utah apply our limited federal dollars to the highest transportation need. This factor would be of critical importance if expenditures from the Highway Trust Fund are aligned with revenues. In such circumstances, it will be especially important for states to have the flexibility to apply limited federal dollars to the greatest need.

Ideally, Utah would like to see a pilot program allowing states to demonstrate how a performance-based block grant program might work. Like many other states, the Utah DOT develops an annual statewide strategic plan that identifies goals, driving our transportation investment decisions and we strive to balance the need for preservation of the existing system with safety priorities and capacity improvements needed to address growing congestion. A performance-based block grant, perhaps tested on a smaller scale, could demonstrate how federal funds may be used to promote programmatic goals using performance measures.

III. Consideration of Cost

Allow consideration of cost when retaining consultants. Under the Brooks Act and the Federal Acquisition Regulations, consideration of cost, such as overhead rates, can't be factored when retaining consultants on federal-aid projects. While the Utah DOT agrees with the concept that qualified engineering firms should be the driver when selecting consultants as opposed to low bid, the process should allow for some consideration of cost when comparing qualified, eligible consultants. As it is now, consulting firms have little motivation to hold down overhead costs since those costs are just passed onto the public entity.

Allow consideration of cost along with engineering judgment when determining deviations from a national standard or adoption of an optional standard within a state. While we agree that national traffic control standards are an important safety factor, regulations further erode the value of limited transportation dollars by imposing unnecessary standards when a less costly solution can work. For example, several states, including Utah, have successfully used one type of "optional exit sign" on the interstate for many, many years without any adverse safety impact. Under the new 2009 Manual on Uniform Traffic Control Devices states must instead use a new, more costly standard for optional exit signing. The FHWA has denied Utah's request to adopt an optional standard for these types of signs, which would have allowed us to continue using existing less-costly signing standards where warranted. We estimate this new signing standard will cost Utah more than \$78 million to implement with negligible safety improvements.

It's possible to secure deviations from federal standards after conducting a separate engineering study and (hopefully) securing approval from the FHWA on a case-by-case basis. Each engineering study is costly and it's unknown whether the FHWA will approve the deviation. In an engineering study only engineering reasons may be factored, with no consideration for cost. To help stretch limited highway dollars, it would be helpful to allow consideration of cost along with engineering judgment when determining deviations from a national standard or adoption of an optional standard within the state. Cost certainly shouldn't be a driving factor, but if a traffic control device is safe, meets needs and is less costly, that consideration should be factored into a decision.

IV. Streamline Project Delivery

For many years, the Utah DOT has made a concerted effort to streamline project delivery to save money and to reduce construction impacts to the public and business. Utah has successfully used many innovative contracting techniques such as design-build, construction manager-general contractor, accelerated bridge construction, price plus time bidding, lane rentals, and contractor completion incentives/disincentives. In addition, Utah is one of three states with full delegation authority to approve Categorical Exclusion projects. While we will continue to seek ways to deliver projects faster, saving time and money, there are additional steps Congress can take to

help streamline the process by eliminating duplicative reviews and approvals by the Federal Highway Administration (FHWA). States, including Utah, are capable performing studies, reviews and approvals that then require duplicative reviews and approvals by the FHWA. Project delivery can be further streamlined by eliminating duplicative federal reviews, emphasizing programmatic reviews at the federal level, rather than project-level reviews. The following are examples of reviews that can be streamlined.

Air-quality conformity determination. Allow USDOT to delegate to states authority to approve project-level air quality conformity determinations. These types of determinations are relatively simple and straight forward, but the federal review adds at minimum another 30 days to the process.

Eliminate Section 4(f) and Section 106 duplications. Allow a Section 106 approval to meet 4(f) historical requirements. Section 4(f) applies to historical and archeological resources that are already protected by Section 106 of the National Historic Preservation Act. As such, a single resource is covered by two different laws which are sometimes in conflict with one another. Currently, a transportation project sponsor secures Section 106 clearances for historic properties through negotiations with the State Historic Preservation Office (SHPO) and the Advisory Council on Historic Preservation (ACHP). Then, a separate 4(f) approval is needed for the same historic property from the Department of Interior. Since SHPO and ACHP are the experts on historical properties, it's redundant and time consuming to seek a second approval from another agency less versed in historical properties. It would streamline the process if a Section 106 approval for historic properties is sufficient to meet 4(f) requirements.

Delegation of interchange justification reports. Allow and encourage the United States Department of Transportation to delegate approval of interchange justification reports (sometimes called access justification reports) for the access to the interstate. If delegation of interchange approvals can't be secured for the main interstate system, perhaps delegation could at least be considered for beltway routes since those routes generally serve a different purpose (community access) compared to the main interstate system (interstate travel), particularly for beltways contained within a single state, as compared to beltways that cross state boundaries.

Quicker approval of experimental contracting techniques. Innovative contracting techniques are currently approved through the SEP-14 process. Two modifications may speed use and implementation of successful innovative contracting. First, allowing approval of an innovative contracting technique in one state to be the basis for another state to use the same technique without securing duplicative approval from that state's local FHWA administrator. Since SEP-14 agreements are already approved by FHWA's headquarters, it seems appropriate that approval for one state should apply to any state that may want to experiment with the same technique.

Secondly, speeding final regulatory approval of successful innovative contracting techniques. Currently, it takes many years to finalize approval of a successful innovative contracting technique as an operational (non-experimental) technique. Annual reporting and analysis of the experimental technique by the state DOT to the FHWA is time consuming and costly. For example, Utah has used Construction Management/General Contractor (CMGC) for many years and is very comfortable with this process. But, it's still considered an experimental process and requires annual reporting. It would be helpful to have some kind of statement from Congress encouraging the FHWA to finalize successful innovative contracting techniques, paving the way for wider acceptance of newer techniques.

Allow self-certification of legal sufficiency. Allow states to self-certify legal sufficiency on environmental documents (EIS, 4(f), etc.). Generally, the federal review adds another 30-60 days to the process and provides little benefit since states have already completed a legal sufficiency review before sending documents to the FHWA for approval. A legal sufficiency review is a relatively straight forward process and can easily be conducted and self-certified by the states.

Value engineering thresholds. Current federal regulations require states to perform a value engineering analysis on every federal aid project above a certain dollar level (\$25 million highways, \$20 million bridges). Some of the large maintenance and rehabilitation projects exceed that dollar value. These are very simple, straight forward projects that do not benefit from a VE study, it's simply another federal requirement that must be checked. The process can be streamlined without compromising the concept of value engineering by either waiving VE analysis for certain types of projects (such as maintenance or pavement rehabilitation projects) or allowing similar types of analyses already completed by the states to be considered as meeting the VE requirement.

V. Lift the Longer Combination Vehicle Freeze

Lift the freeze on longer combination vehicles in the western states, giving states the flexibility to conduct pilot programs to test LCV routes, configurations and operating conditions that increase vehicle efficiency and freight movement.

LCVs have been permitted by the Utah DOT since 1973 without compromising safety. LCVs exceeding 81 feet to a maximum of 95 feet of cargo carrying length are allowed on approved interstate travel routes and secondary access routes of limited length. LCV combinations most commonly used in Utah are Rocky Mountain Doubles (a tractor and two trailers consisting of a long and short trailer), Turnpike Doubles (a tractor and two trailers of the same approximate length), and Triple Trailer combinations (a tractor and three trailers of the same approximate length).

The motor carrier industry is highly motivated to maintain safe LCV operations due to the special privilege of operating these types of vehicles. Carriers understand that oversize vehicle operations constitute a privilege and work extremely hard to safe guard this privilege. For example, we have voluntary participation in the “Winter Weather Command” set up through the Utah Trucking Association, Utah Highway Patrol and the Motor Carrier Division of the Utah DOT to assist LCV operators decide when and where LCVs can safely operate in adverse weather conditions.

LCVs have successfully operated in Utah for many years. By lifting the LCV freeze, states could work together to identify and test specific routes and operating conditions for LCVs, increasing efficient movement of freight through key corridors.

VI Summary

Thank you for the opportunity to testify. The Utah Department of Transportation will continue to look for better and innovative ways to administer, operate and deliver an effective transportation program. However, as part of a multi-year authorization bill, we need assistance from Congress to help us streamline project delivery, consolidate programs to allow for greater flexibility to align limited transportation dollars with our most pressing transportation needs, and ensure proper consideration of costs when developing and delivering projects and programs.