

Amendment ___ — To fully provide for the critical surface transportation needs of the United States by prohibiting funds from being used on lower-priority projects, such as road kill reduction programs, transportation museums, scenic beautification projects, or bicycle paths, if the Highway Trust Fund does not contain amounts sufficient to cover unfunded highway authorizations.

The amendment would prevent any transportation funds from being used on (1) the reduction of vehicle-caused wildlife mortality or the maintenance of habitat connectivity; (2) transportation museums; (3) scenic beautification projects; or (4) pedestrian or bicycle facility projects, until the Transportation Secretary certifies that for the next four fiscal years (FY2010-2013) the Highway Trust Fund contains or will contain sufficient funds to cover unfunded highway authorizations.

The Highway Trust Fund is on the Verge of Bankruptcy

Highways are built, repaired, and maintained largely with payments from the federal Highway Trust Fund. The Fund collects most of its revenues from motor fuel taxes paid when Americans buy gas.

The Trust Fund has teetered on the brink of insolvency over the past year. Congress approved legislation in September of 2008 transferring \$8 billion from the Treasury's general fund to the Highway Trust Fund to delay its bankruptcy. Since that time, Congress has done nothing to address the Fund's fiscal problems and the Trust Fund is expected to go bankrupt before the end of August. If this happens, there would be delayed or reduced reimbursements to the States for costs incurred under the Federal-aid Highway Program. To remedy this shortfall, both the White House and Congress are proposing billion-dollar bailouts.

The Department of Transportation says three cash shortfall amounts will need to be transferred into the Highway Account:

- "\$5.1 billion to pay anticipated bills through the end of FY 2009 and maintain a 'prudent balance' of \$4 billion.
- "\$7.0 billion to make payments through the week ending December 11, 2009, and maintain a \$4 billion cash balance.

- “\$14.6 billion to make payments through the end of FY 2010 and maintain a \$4 billion cash balance.”¹

This summer the U.S. House of Representatives voted to transfer \$7 billion of taxpayers’ money from general revenues to the Highway Trust Fund, just to keep the Fund temporarily afloat, and the U.S. Senate is poised to do the same. These actions came days after the chairman of the House Transportation and Infrastructure Committee publicly called for a \$3 billion transfer (to ensure funds remained available for the remainder of the year), while the chairman of the Senate Finance Committee called for a \$26 billion bailout (to extend the solvency of the trust fund by 18 months).²

All of these proposals are temporary and rely on the same shortsighted borrow-and-spend mentality that has bankrupted the Trust Fund to begin with and now threatens to bankrupt the nation. The DOT Inspector General notes, “Transferring the minimum projected cash requirement into the Highway Account for FY 2009 will result in a new cash shortfall early in FY 2010.”³ This will likely require a third bailout of the Trust Fund in as many years.

Clearly, borrowing and bailouts are not providing the needed fix to ensure the long-term solvency of the Highway Trust Fund, which means Congress must eventually make tough choices to increase revenues or reduce spending. Are all of the projects being funded by the Highway Trust Fund essential priorities? If so, then motorists may be forced to sacrifice by paying higher taxes as some in Congress are proposing. If not, then Members of Congress may be required to sacrifice by eliminating or postponing funding for projects that are not necessary or are unaffordable at this time.

The Federal Government Requires Spending on Enhancement and Beatification Projects Despite Near-Bankruptcy for Highway Trust Fund

The Surface Transportation Program is funded at over \$6 billion annually and provides flexible funding to states for projects on any federal-aid highway, bridge, public road, or transit capital projects.

¹ Correspondence from Calvin L. Scovel III, Inspector General of the U.S. DOT, to Senator Judd Gregg, June 24, 2009, http://www.oig.dot.gov/StreamFile?file=/data/pdfdocs/HTF_Gregg_Letter_Final_6-24-09.pdf.

² Koss, Geof, “Oberstar Maps a Course for Full Highway Bill,” *Roll Call*, July 27, 2009, page 8, http://www.rollcall.com/issues/55_13/news/37201-1.html.

³ Correspondence from Calvin L. Scovel III, Inspector General of the U.S. DOT, to Senator Judd Gregg, June 24, 2009, http://www.oig.dot.gov/StreamFile?file=/data/pdfdocs/HTF_Gregg_Letter_Final_6-24-09.pdf.

By law, and *regardless of their other pressing transportation needs*, states must spend approximately 10 percent of their annual Surface Transportation Program funding on “transportation enhancement activities.”⁴

\$3.7 billion in transportation funding was obligated to 10,857 “transportation enhancement” projects between fiscal years 2004-2008.⁵ An additional \$833.5 million was authorized for Transportation Enhancement projects in FY 2009.⁶

There are 12 eligible transportation enhancement categories which states can use this mandatory 10% funding for:⁷

1. Provision of pedestrian and bicycle facilities;
2. Provision of pedestrian and bicycle safety and education activities;
3. Acquisition of scenic or historic easements and sites;
4. Scenic or historic highway programs including tourist and welcome centers;
5. Landscaping and scenic beautification;
6. Historic preservation;
7. Rehabilitation and operation of historic transportation buildings, structures, or facilities;
8. Conversion of abandoned railway corridors to trails;
9. Control and removal of outdoor advertising;
10. Archaeological planning and research;
11. Environmental mitigation of highway runoff pollution, reduce vehicle-caused wildlife mortality, maintain habitat connectivity; and
12. Establishment of transportation museums.

⁴ “Transportation Enhancement (TE) funds are apportioned to the States by formula, based on amounts made available from the Surface Transportation Program (STP) under 23 U.S.C. 104(b)(3), which includes several adjustments, such as adjustments for metropolitan planning, open container and driving while intoxicated laws, highway safety, and safety belt and motorcycle helmet laws,” “Transportation Enhancement Activities Apportionments, Rescissions, and Obligations,” Department of Transportation website, http://www.fhwa.dot.gov/environment/TE/app_resc_ob.htm; GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, Page 6, <http://www.gao.gov/new.items/d09729r.pdf>.

⁵ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, <http://www.gao.gov/new.items/d09729r.pdf>. According to GAO, “Total [Transportation Enhancement] project count may be overstated because a single project may be listed under more than one project type,” GAO Report GAO-09-729R, Page 7, Table 2, footnote a.

⁶ “Transportation Enhancement Activities Apportionments for FY 1992-2009,” Department of Transportation website, <http://www.fhwa.dot.gov/environment/te/apportionments.htm>.

⁷ Department of Transportation website, <http://www.fhwa.dot.gov/environment/te/>.

Flowers, bike paths, and even road-kill reduction programs, are just some of the many examples of extraneous expenditures (some of which are legally required) funded by Congress through federal transportation bills. Many of these projects are funded as earmarks, while others are born from legislators turning their private passions into public programs. Congress instead should allow states greater flexibility to allocate their highway dollars to their most pressing transportation needs. If Congress fails to reprioritize transportation spending, then crumbling bridges, congested highways, and poor road conditions will continue to deteriorate much to the detriment of all Americans.

Congress must also curb its addiction to earmarking and setting aside transportation funding for legislators' pet projects and programs. If history is any guide, though, the next highway bill will not be earmark free. Congress has increased significantly the earmarking of federal highway funding:

- The 1982 highway bill included 10 demonstration projects totaling \$386 million;
- The 1987 highway bill included 152 demonstration projects totaling \$1.4 billion;
- The 1991 highway bill included 538 location-specific projects totaling \$6.1 billion;
- The 1998 highway bill included 1,850 earmarked projects totaling \$9.3 billion; and
- The 2005 highway bill included over 5,634 earmarked projects totaling \$21.6 billion.

The amendment will prohibit the federal government from continuing to spend transportation funds on bike paths and roadside flowers as long as the Highway Trust Fund is in danger of going bankrupt. If the Secretary of Treasury, who collects the gas tax receipts, can certify that the Highway Trust Fund has the necessary amounts to pay for the highway authorizations, then the federal government could once again begin funding those four types of projects.

Meanwhile, according to the U.S. Department of Transportation (DOT), of the 601,396 bridges in the U.S. in 2008, 151,394 (25 percent) were deficient. This includes 71,461 (12 percent) "structurally deficient" bridges (those that show significant deterioration and have a reduced load-carrying capacity) and 79,933

(13 percent) “functionally obsolete” bridges (bridges that do not meet current design standards).⁸

These figures expose a nationwide problem of deficient bridges as well as the misplaced priorities of Congress, which has focused more on funding politicians’ pet projects than improving aging infrastructure.

Congress Authorized \$4.1 Billion for Transportation Enhancement Set Asides

Congress authorizes a certain level of funding and, in the case of transportation funding, sometimes it takes years for the authorized funds to be obligated and then paid out. The authorized funds essentially sit in a “pipeline” waiting to be obligated and drawn down when the projects are ready to break ground. For the last five years, from fiscal years 2005-2009, Congress has authorized (not obligated) \$4.1 billion for Transportation Enhancement funding, according to a report published by the National Transportation Enhancements Clearinghouse and funded by Department of Transportation.⁹

Fiscal Year of Authorization	Transportation Enhancement Funds
2005	\$803.2 million
2006	\$804.3 million
2007	\$815.3 million
2008	\$818.4 million
2009	\$833.5 million
Total	\$4.1 billion

⁸ Department of Transportation, Research and Innovative Technology Administration, Bureau of Transportation Statistics, *National Transportation Statistics*, “Conditions of U.S. Highway Bridges,” 2008, Table 1-27, http://www.bts.gov/publications/national_transportation_statistics/html/table_01_27.html.

⁹ “Transportation Enhancements Summary of Nationwide Spending as of FY 2008,” National Transportation Enhancements Clearinghouse, May 2009, http://www.enhancements.org/download/Spending_Report/TE_Spending_Report_FY08.pdf. The report notes the “material is based upon work supported by the Federal Highway Administration [FHA] under cooperative agreement No. DTFH61-02-X-00055 with Rails-to-Trails Conservancy.” The Conservancy is listed under www.usaspending.gov as having a seven-year grant with FHA regarding transportation enhancements starting in FY08 at \$100,000. If the grant is level funded over its seven-year course, the Department will spend \$700,000 in taxpayer funds for this one entity just to study projects such as flowers and bike paths, http://www.usaspending.gov/faads/faads.php?federal_award_id=dtfh6108f00033&federal_award_mod=0000&agencyITcode=DOT%20-%20Federal%20Highway%20Administration&dollar_tot=100000.0&fiscal_year=2008&recipient_name=Rails%20to%20Trails%20Conservancy&fromITSearch=true; As defined in the GAO report, “An obligation is a definite commitment that creates a legal liability of the government for payment. Once an obligation is made, the federal government must reimburse the states when they submit a voucher for completed work, which, because of the length of time it takes to complete projects, could be months or years after the obligation is made,” GAO Report GAO-09-729R, page 2, footnote 2.

Most of the Transportation Enhancement projects come out of a 10 percent set-aside requirement in FHWA's Surface Transportation Program, but other programs also allow federal funds to be used for "enhancement-type projects," according to the GAO. The Congestion Mitigation and Air Quality Improvement Program and the National Scenic Byways Program, for example, both also have projects focused on pedestrians and bicycles.¹⁰

Government Audit Finds \$78 Billion in Transportation Funds Spent on Non-Bridge and Non-Highway Projects

A new U.S. Government Accountability Office (GAO) report, compiled at the request of Senators Tom Coburn and John McCain, details how the U.S. Department of Transportation (DOT) has obligated \$78 billion over the last five years for "purposes other than construction and maintenance of highways and bridges."¹¹ This \$78 billion figure does not fully capture how much has been promised, or authorized, by Congress over the last five years for these "other purposes," it just reflects how much has been released for spending, or obligated, so far.

The \$78 billion, five-year total for obligated expenditures for non-highway, non-bridge construction or maintenance projects includes:

- Over \$2 billion on 5,547 projects for bike paths and pedestrian walkways and facilities;
- \$850 million for 2,772 "scenic beautification" and landscaping projects;
- \$488 million for behavioral research;
- \$313 million for safety belt performance grants;
- \$224 million for 366 projects to rehabilitate and operate historic transportation buildings, structures, and facilities;
- \$215 million for 859 projects under scenic or historic highway programs;
- \$121 million on 63 projects for ferryboats and ferry terminal facilities;
- \$110 million for occupant protection incentive grants;
- \$84 million for 398 projects for safety and education of pedestrians and bicyclists;

¹⁰ GAO Report "GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008," dated June 30, 2009 and restricted, released July 30, 2009, Page 6, <http://www.gao.gov/new.items/d09729r.pdf>.

¹¹ GAO Report "GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008," dated June 30, 2009 and restricted, released July 30, 2009, <http://www.gao.gov/new.items/d09729r.pdf>.

- \$84 million for 213 road-kill prevention, wildlife habitat connectivity, and highway runoff pollution mitigation projects;
- \$28 million to establish 55 transportation museums;
- \$19 million for 25 projects to control and remove outdoor advertising;
- \$18 million for motorcyclist safety grants; and
- \$13 million on 50 projects for youth conservation service.

While some of these expenditures may merit funding, periodic congressional review is essential to determine if all merit continued funding, if measurable outcomes are demonstrating their success, and if their goals could be accomplished with fewer dollars.

The federal government should not require states to fund these enhancement expenditures until it can be determined that the Highway Trust Fund will be financially solvent until 2013.

Road-Kill Prevention and Habitat Connectivity Projects Among 213 Projects Costing \$84 Million

One eligible area of transportation enhancement projects that the federal government would not be able to fund until bankruptcy for the Highway Trust Fund is ruled out are projects for the reduction of “vehicle-caused wildlife mortality,” the maintenance of “habitat connectivity,” and “environmental mitigation of highway runoff pollution.”¹²

In response to congressional inquiry, the federal Department of Transportation reported that states are not required to report how many projects or funds are spent on each of these three project subtypes.¹³ Because of this reporting method, it is not possible, according to DOT, to determine how many of the GAO’s reported 213 projects or how much of the \$84 million obligated in this funding area was specifically for road-kill reduction projects, though these types of projects are among the 213 projects costing \$84 million.¹⁴

¹² Department of Transportation website, <http://www.fhwa.dot.gov/environment/te/>.

¹³ DOT e-mail correspondences from the Office of the Secretary of Transportation and FHA, dated July 22, 2009, in response to July 17, 2009 congressional inquiry from the Office of Senator Tom Coburn.

¹⁴ DOT e-mail correspondences from the Office of the Secretary of Transportation and FHA, dated July 22, 2009, in response to July 17, 2009 congressional inquiry from the Office of Senator Tom Coburn; “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, page 6, <http://www.gao.gov/new.items/d09729r.pdf>.

In addition to the \$84 million in this category of spending from fiscal years 2004-2008, another \$3.4 million from the 2009 federal stimulus bill is being spent by the Florida Department of Transportation for wildlife crossings, otherwise known as “eco-passages.”¹⁵

One regional transportation official described the stimulus-funded project as three culverts (the retrofitting of an existing culvert and the construction of two large “box culverts”) along with “a specialized wall” of fencing for about a mile north and south of the tunnels, to make the animals move toward them. These eco-passages are intended to serve as underground wildlife road-crossings for turtles and other animals that live in Lake Jackson, Florida, in an effort to reduce vehicle-caused wildlife deaths, according to local news reports.¹⁶

Over 60 species have become road kill on U.S.-27, the road that the eco-passage would go under, one local activist told a Tallahassee, Florida newspaper. Alligators, otters, snakes, lizards and even beavers have been killed on this stretch of road, he said.¹⁷

Turtles seem to get “squished” more than any other species, according to one local group advocating for the eco-passage. The group reports the area has the highest road-kill mortality rate for turtles in the world — 2,070 turtles killed per mile per year.¹⁸

But, even though they are getting millions in stimulus funds, the permanent eco-passage is only in the design stage, and is not fully funded. It needs at least an additional \$6 million and it is still unclear how long it will take to complete the project.¹⁹

¹⁵ “100 Stimulus Projects: A Second Opinion,” June 2009,

http://coburn.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=59af3ebd-7bf9-4933-8279-8091b533464f.

¹⁶ “100 Stimulus Projects: A Second Opinion,” June 2009,

http://coburn.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=59af3ebd-7bf9-4933-8279-8091b533464f;

The Florida Office of Economic Recovery, “List of State of Florida Transportation Enhancement,”

<http://flarecovery.com/resources/documents/fdot-hwys-enhancement-list-4-15-09.pdf>, accessed June 2, 2009; Collette, Christopher, “\$3.4 million turtle ‘eco-passage’ designed to protect animals and people,” WTSP News, 10connects.com, June 21, 2009, <http://www.wtsp.com/news/local/story.aspx?storyid=108131&catid=8>.

¹⁷ Hohmeister, Mark, “Lake Jackson Ecopassage Advances At A Turtle’s Pace,” *Tallahassee Democrat*, January 10, 2009,

<http://www.lakejacksonturtles.org/tdo010909.htm>.

¹⁸ Lake Jackson Ecopassage Alliance, Inc., <http://www.lakejacksonturtles.org/top5.htm>, quoting Aresco, M.J. 2003. “Highway mortality of turtles and other herpetofauna at Lake Jackson, Florida, USA and the efficacy of a temporary fence/culvert system to reduce roadkills.” In: C. L. Irwin, P. Garrett, and K. P. McDermott (eds.), 2003 Proceedings of the International Conference on Ecology and Transportation, pp. 433-449. Center for Transportation and the Environment, North Carolina State University, Raleigh, N. C.

¹⁹ The Florida Office of Economic Recovery, “List of State of Florida Transportation Enhancement,”

<http://flarecovery.com/resources/documents/fdot-hwys-enhancement-list-4-15-09.pdf>, accessed June 2, 2009.

\$28 million in federal transportation funds were set aside for 55 transportation museums from fiscal years 2004-2008.²⁰ These projects are among what a General Accountability Office (GAO) audit determined were \$78 billion dollars worth of transportation projects for “purposes other than construction and maintenance of highways and bridges.”²¹

\$28 Million to Establish 55 Transportation Museums

The federal government could not use transportation funds to establish any more transportation museums, until bankruptcy for the Highway Trust Fund is ruled out, under this amendment.²²

The Federal Highway Administration obligated \$28 million to establish 55 transportation museums between fiscal years 2004-2008, according to the GAO analysis of FHWA data.²³

In its official guidance, FHWA notes that these “funds may be used to build a new facility, add on a transportation wing to an existing facility, or convert an existing building for use as a transportation museum.” Funds are not “intended to reconstruct, refurbish, or rehabilitate existing museums, nor portions of museums, that are not for transportation purposes” nor to cover operations or maintenance of the facility. The costs of the structure and “the purchase of artifacts necessary for the creation and operation of the facility” are allowable expenses under this category of funding, though displays, segments of buildings, or objects not directly related to transportation may not be funded with these federal enhancement museum funds.²⁴

In addition to the \$28 million GAO reported for transportation museum funding from FY2004-2008, in 2009 the New York State Museum received \$3.1 million in

²⁰ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, Page 6 and Table 2, <http://www.gao.gov/new.items/d09729r.pdf>.

²¹ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, <http://www.gao.gov/new.items/d09729r.pdf>.

²² Department of Transportation website, <http://www.fhwa.dot.gov/environment/te/>.

²³ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, Page 7, Table 2, <http://www.gao.gov/new.items/d09729r.pdf>.

²⁴ “Guidance for Transportation Enhancement (TE) Activities: Establishment of Transportation Museums,” FHWA guidance, issued December 17, 1999 updated October 22, 2008, <http://www.fhwa.dot.gov/environment/te/1999guidance.htm#estab>.

federal stimulus funds “to make mechanical upgrades to the Day Peckinpaugh,” a motorship put into service in 1921 that transported bulk cargoes between the Midwest and the port of New York. The millions in federal stimulus funds will be used for “paving the way for the historic canal boat’s transformation into a permanent floating museum,” according to the Museum’s press release.²⁵

\$2 Billion for 5,500 Enhancement Projects on Facilities for Pedestrians and Bicycles

Forced to set aside approximately 10 percent of their surface transportation funds for enhancement projects, states tend to spend significant funds on bike and pedestrian paths and facilities. In fact, \$5.2 billion in federal transportation funds were spent on 15,559 bike and pedestrian projects between fiscal years 1992-2008.²⁶

Under the amendment, this spending would be put on hold until the Transportation Secretary could certify that the Highway Trust Fund was and is not in the next four years going bankrupt.

From 1992 to 2004, states and counties implemented 10,012 bicycle- and pedestrian-related projects costing taxpayers \$3.17 billion.²⁷ From FY2004-2008, \$2 billion was set aside for 5,547 pedestrian and bicycle facility projects.²⁸ These 5,547 projects are among what a General Accountability Office (GAO) audit determined were \$78 billion dollars worth of transportation projects for “purposes other than construction and maintenance of highways and bridges.”²⁹

²⁵ “\$3.1 Million Grant Will Pave Way for Canal/Boat Museum,” New York State Museum Press Release, April 3, 2009, <http://www.nysm.nysed.gov/press/releases/peckgrant.cfm>; Photo by chocolatepoint, uploaded January 19, 2008, http://www.flickr.com/photos/windy_valley/2204542017/.

²⁶ “Transportation Enhancements Summary of Nationwide Spending as of FY 2008,” National Transportation Enhancements Clearinghouse, May 2009, http://www.enhancements.org/download/Spending_Report/TE_Spending_Report_FY08.pdf; Cradock AL, Troped PJ, Fields B, Melly SJ, Simms SV, Gimmler F, Fowler M., “Factors associated with federal transportation funding for local pedestrian and bicycle programming and facilities,” *Journal of Public Health Policy*. 2009; 30 Suppl 1:S38-72, <http://www.palgrave-journals.com/jphp/journal/v30/nS1/pdf/jphp200860a.pdf>.

²⁷ Cradock AL, Troped PJ, Fields B, Melly SJ, Simms SV, Gimmler F, Fowler M., “Factors associated with federal transportation funding for local pedestrian and bicycle programming and facilities,” *Journal of Public Health Policy*. 2009; 30 Suppl 1:S38-72, <http://www.palgrave-journals.com/jphp/journal/v30/nS1/pdf/jphp200860a.pdf>.

²⁸ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, Page 6 and Table 2, <http://www.gao.gov/new.items/d09729r.pdf>.

²⁹ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, <http://www.gao.gov/new.items/d09729r.pdf>.

In addition \$2 million in federal stimulus funds are going to a local Pennsylvania contractor to pave bicycle lanes along roadways that themselves are in dire need of repair, according to a local news report.³⁰ A local office said, “The bike lane is going to be a lot better than Route 6, maybe the cars will drive along the shoulder.”³¹

According to GAO, from fiscal years 2004-2008, “FHWA obligated over \$2 billion in federal funds for pedestrian and bicycle facility projects, which can include trails for transportation purposes, sidewalk construction and improvements, on-road bicycle lanes, and pedestrian lighting, among other activities.” These funds paid for 5,547 projects.³²

One such project, funded by an earmark of over \$800,000 inserted by the then-ranking member on the House Transportation and Infrastructure Committee, was a “pedestrian and bicycle bridge” in Onamia, Minnesota, which had a population of 847 at the time of the earmark.³³ This Soo Line trail overpass extends over Trunk Highway 169.³⁴

The Chairman of the House Transportation Committee, himself an “avid cyclist,” has a “zest for cycling [that] is as great as his enthusiasm for funding public infrastructure,” according to one newspaper that noted “the two passions often merge.” The Chairman “estimated that he has helped win funding and approval for at least 60 trails nationwide.”³⁵

In the 2005 federal highway funding bill, 70 percent of Members in the U.S. House of Representatives requested bicycling facilities.³⁶ Ultimately, over \$17

³⁰ Camuso, Pat, “Citizen Road Complaints Frustrate Supervisors,” *Pike County Press* (Pennsylvania), July 23, 2009, <http://pikecountypress.com/wordpress/2009/07/23/citizen-road-complaints-frustrate-supervisors/>.

³¹ Camuso, Pat, “Citizen Road Complaints Frustrate Supervisors,” *Pike County Press* (Pennsylvania), July 23, 2009, <http://pikecountypress.com/wordpress/2009/07/23/citizen-road-complaints-frustrate-supervisors/>.

³² GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, pages 6-7 and Table 2, <http://www.gao.gov/new.items/d09729r.pdf>.

³³ Office of Management and Budget, Earmark website, http://earmarks.omb.gov/authorization_earmarks/earmark_187435.html; Photo by nsteffenson, dated April 17, 2008, posted on <http://www.flickr.com/photos/natezone/2422847064/>; Carpenter, Amanda B., “Highway Bill Spends \$255 Million on Bike Paths,” *Human Events*, August 12, 2005, <http://www.humanevents.com/article.php?id=8536>.

³⁴ Minnesota Department of Transportation website, http://www.dot.state.mn.us/d3/newsrels/08/03/18_hwy169.html.

³⁵ Sherman, Jake, “Cycling’s political tour de finance,” *Minnesota Star Tribune*, July 29, 2007; Kersten, Katherine, “Until I-35W disaster, Oberstar’s funding focus wasn’t on bridges,” *Star Tribune* (Minnesota), August 22, 2007, <http://www.startribune.com/local/11552401.html>.

³⁶ Sherman, Jake, “Cycling’s political tour de finance,” *Minnesota Star Tribune*, July 29, 2007.

million was spent on bike path earmarks in Fiscal Year 2005, according to the Office of Management and Budget's earmark database.³⁷

\$850 Million for 2,772 Scenic Beautification and Landscaping Projects

\$850 million in federal transportation funds were set aside for 2,772 landscaping and other scenic beautification projects from fiscal years 2004-2008, under the mandatory transportation enhancement set-aside.³⁸ The amendment would prohibit this spending until the solvency of the Highway Trust Fund is assured.

According to the federal agency that oversees scenic beautification projects:

“A landscaping or scenic beautification project must enhance the aesthetic or visual character of a site, corridor, or community along a surface transportation facility. The project may include plantings, vegetation management³⁹ (including removal of invasive plants and revegetation with native plants), or other landscaping that respects the natural heritage and regional character ... The project also may include built elements or innovative design features, including public art, to enhance the landscape.”⁴⁰

Project planners are encouraged by federal workers to consider the following “guiding questions for eligibility and viability”:

- “How does the project enhance the landscape for the traveling public?”
- “How would the project offer the traveling public a **pleasing and memorable visual experience?**”
- “How would the natural and built elements work in harmony to enhance the natural, aesthetic, or visual character of a site, corridor, or community along a surface transportation facility and demonstrate sensitivity to the integrity of the place and context?”

³⁷ Office of Management and Budget website, <http://earmarks.omb.gov/>, accessed September 9, 2007.

³⁸ GAO Report “GAO-09-729R Highway Trust Fund Expenditures on Purposes Other Than Construction and Maintenance of Highways and Bridges During Fiscal Years 2004-2008,” dated June 30, 2009 and restricted, released July 30, 2009, Page 6 and Table 2, <http://www.gao.gov/new.items/d09729r.pdf>.

³⁹ Roadside Vegetation Management website, <http://www.fhwa.dot.gov/environment/vegmgmt/index.htm>.

⁴⁰ “Guiding Principles and Questions for Transportation Enhancement Activities (cont.): Specific Principles and Questions for Each of the 12 Eligible Categories,” Federal Highway Administration (FHWA), updated September 23, 2008, http://www.fhwa.dot.gov/environment/TE/principles_pt2.htm.

- “What best practices does the project use for vegetation management (such as using native plants and removing invasive species)?
- “What best practices or innovative designs does the project use for built elements?
- “What impact does the project have on transportation safety?” (emphasis added)⁴¹

The Status of America’s Bridges

While museums and bike paths were being built and wildflower seeds were being planted with federal transportation funds on August 1, 2007, the Interstate 35 West bridge over the Mississippi River in Minneapolis, Minnesota, collapsed during rush hour, killing 13 people and injuring another 123.

This tragedy exposed both a nationwide problem of deficient bridges as well as misplaced priorities of Congress, which has focused more on funding politicians’ pet projects than improving aging infrastructure.

According to the U.S. DOT, of the 601,396 bridges in the U.S. in 2008, 151,394 (25 percent) were deficient. This includes 71,461 (12 percent) “structurally deficient” bridges (those that show significant deterioration and have a reduced load-carrying capacity) and 79,933 (13 percent) “functionally obsolete” bridges (bridges that do not meet current design standards).⁴²

According to the Congressional Research Service (CRS):

“The most recent [DOT] needs assessment shows that in 2004, \$70.3 billion was spent on capital improvements to the nation’s highways and bridges. Of that amount, \$58.3 billion was spent on roadways and \$12.0 billion was spent on bridges. The expenditures on bridges are composed of \$10.5 billion on the rehabilitation of existing bridges and \$1.6 billion on the building of new bridges. . . . **DOT estimates that it would cost a total of \$65.3 billion to fix all existing bridge deficiencies (in 2004 dollars), which is called the**

⁴¹ “Guiding Principles and Questions for Transportation Enhancement Activities (cont.): Specific Principles and Questions for Each of the 12 Eligible Categories,” Federal Highway Administration (FHWA), updated September 23, 2008, http://www.fhwa.dot.gov/environment/TE/principles_pt2.htm.

⁴² Department of Transportation, Research and Innovative Technology Administration, Bureau of Transportation Statistics, *National Transportation Statistics*, “Conditions of U.S. Highway Bridges,” 2008, Table I-27, http://www.bts.gov/publications/national_transportation_statistics/html/table_01_27.html.

existing bridge investment backlog.⁴³ This figure includes dealing with bridges classified as structurally deficient and functionally obsolete as well as other deficiencies, if the benefits outweigh the costs” (emphasis added).⁴⁴

“Dozens of the nation’s highway bridges that fell into disrepair 25 years ago still need overhauls to fix cracks, corrosion and other long-festering problems,” according to a *USA TODAY* analysis of federal inspection records.

“At least 96 interstate highway bridges rated ‘structurally deficient’ by government inspectors in 1982 had the same rating [in 2006], suggesting they weren’t fixed or had lapsed and again require repair, according to the records. Those spans carry 3.8 million cars and trucks every day.”⁴⁵

Repairing deficient roads is not just about money, substandard road conditions take the lives of more than 13,000 Americans every year, according to the American Society of Civil Engineers.⁴⁶

States Should Not Be Allowed to Fund “Enhancement” Projects While the Highway Trust Fund Faces Bankruptcy

One of the many recent government bailouts consisted of \$8 billion for the bankrupt Highway Trust Fund (HTF) — a fund set up to support, through federal gasoline and other taxes, all federal transportation programs and projects.

However, the \$8 billion did not solve the problem and in July of 2009 Congress voted to spend \$7 billion of taxpayers’ money, just to keep the Highway Trust Fund temporarily afloat and out of bankruptcy. In addition, mere months ago, Congress provided over \$27 billion for highway and infrastructure projects as part of the American Recovery and Reinvestment Act of 2009.

Billion-dollar government bailouts are not the solution to protect our nation’s infrastructure. Congress must begin by reprioritizing funds.

⁴³ DOT, *Conditions and Performance*, 2007, 9-13.

⁴⁴ Robert S. Kirk and William J. Mallett. “Highway Bridges: Conditions and the Federal/State Role,” CRS, September 19, 2008, <http://apps.crs.gov/products/rl/html/RL34127.html>.

⁴⁵ Heath, Brad, “Scores of bridges ‘deficient’ since ‘80s,” *USA Today*, August 29, 2007; http://www.usatoday.com/news/nation/2007-08-29-bridges_N.htm?csp=34.

⁴⁶ Jim Davis, executive director and CEO of the American Society of Civil Engineers, <http://www.asce.org/reportcard/index.cfm?reaction=news&page=6>.

Flowers, bike paths, and even road-kill reduction programs, are just some of the many examples of extraneous expenditures (some of which are legally required) funded by Congress through federal transportation bills. Many of these projects are funded as earmarks, while others are born from legislators turning their private passions into public programs. If Congress fails to reprioritize transportation spending, then crumbling bridges, congested highways, and poor road conditions will continue to deteriorate much to the detriment of all Americans.

As Congress continues debating how to “refill” (by deficit spending) the soon-to-be-empty Highway Trust Fund, it should first look at ways to reprioritize areas of current spending that may not reflect the realities of a decaying national transportation infrastructure. Many politicians are quick to defend spending millions in federal funds on their districts’ bike paths, transportation museums, road-side flowers, and even the “bridge to nowhere.” Yet, Congress needs to evaluate whether such projects merit federal funding in light of our current trillion-dollar deficit, the economic downturn, and the realities of a collapsing transportation infrastructure that literally is costing American lives.

Critics will claim these examples are but a small portion of overall transportation spending and do not begin to address the long-term Trust Fund shortfall.

Yet, we cannot continue to spend \$78 billion in areas other than crucial road and bridge construction and maintenance and beg Congress to steal from our nation’s children and grandchildren when the Highway Trust Fund runs dry. We cannot spend hundreds of millions of tax dollars to renovate “historic facilities” such as gas stations and then complain that history will look poorly on a nation that let its vital interstate transportation system fall into disrepair.

Over the last five years almost \$3 billion has been funded through the federal transportation authorization and appropriations bills in areas that may not address the nation’s crumbling transportation infrastructure.

This amendment will address this problem and force Congress and the states to prioritize by prohibiting transportation dollars from being spent on these low-priority projects until the Transportation Secretary certifies that the Trust Fund is no longer in danger of going bankrupt.