

Amendment ____ —To fully provide for our nation’s critical surface transportation needs by prohibiting funds from being used on lower priority projects such as road-kill reduction projects.

Over the last five years up to \$84 million has been spent on 213 projects to work on the “reduction of vehicle-caused wildlife mortality” or the “maintenance of habitat connectivity,” among other activities. These projects are part of what a General Accountability Office (GAO) audit determined were transportation projects for “purposes other than construction and maintenance of highways and bridges.”¹

In addition to the \$84 million in the road-kill reduction 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.”²

These projects are just a sample of those funded through the federal transportation authorization and appropriations bills in areas that may not address the nation’s crumbling transportation infrastructure.

This amendment would prohibit funds in the Transportation appropriations bill from being spent on road-kill reduction projects, so these scarce federal resources may be used by states on critical transportation needs such as fixing roads and repairing bridges.

The road-kill reduction project spending figures were included in a GAO report requested by Senators Tom Coburn and John McCain. The report details how the U.S. Department of Transportation (DOT) has obligated \$78 billion over the last five years for these none highway and bridge purposes.³ The Senators released an accompanying report “Out of Gas: Congress Raids the Highway Trust Fund for Pet Projects While Bridges and Roads Crumble” which further examined DOT’s non-bridge and highway spending.⁴ In their report, the Senators recommended that funding be re-evaluated and re-prioritized.

¹ 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>.

² “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.

³ 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.

⁴ “Out of Gas: Congress Raids the Highway Trust Fund for Pet Projects While Bridges and Roads Crumble,” Senators Tom Coburn, M.D. and John McCain, July 2009,

This amendment addresses one of their report's recommendations. To fully provide for our nation's critical surface transportation needs the amendment will prohibiting funds from being used on these lower priority road-kill reduction projects, thus freeing up the funds for higher-priority infrastructure projects.

Billions Spent on Beautification and Enhancement Projects

By law, and regardless of their other pressing transportation needs, states must spend a certain percentage of their Surface Transportation Program (STP) funding on Transportation Enhancement activities.⁵

As GAO states, "In FHWA's Surface Transportation Program, 10 percent of each state's annual apportionment must be set aside for transportation enhancement activities and made available for distribution toward enhancements."⁶

The 12 eligible Transportation Enhancement categories are as follows⁷:

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;

http://coburn.senate.gov/oversight/index.cfm?FuseAction=FFMOversightIssues.View&ContentRecord_id=c80ca232-802a-23ad-41d4-ae4c1dc2356b.

⁵ "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.

⁶ 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>.

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

11. Environmental mitigation of highway runoff pollution, **reduce vehicle-caused wildlife mortality, maintain habitat connectivity**; and
12. Establishment of transportation museums.

According to GAO, between fiscal years 2004-2008, FHWA obligated \$3.7 billion in Transportation Enhancement funds for 10,857 projects.⁸

An additional \$833.5 million is authorized for Transportation Enhancement projects in fiscal year (FY) 2009.⁹

Congress Authorized \$4.1 Billion for Transportation Enhancement Set Asides

GAO reports the amount DOT agencies obligated in Transportation Enhancement funds for fiscal years 2004-2008, but that amount does not give the entire picture.¹⁰

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.¹¹

⁸ 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.

⁹ “Transportation Enhancement Activities Apportionments for FY 1992-2009,” Department of Transportation website, <http://www.fhwa.dot.gov/environment/te/apportionments.htm>.

¹⁰ 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.

¹¹ “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.

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

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.¹²

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

One eligible area of transportation enhancement projects includes the reduction of “vehicle-caused wildlife mortality” and the maintenance of “habitat connectivity.”¹³ This area also includes the “environmental mitigation of highway runoff pollution.”

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.¹⁴ 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.¹⁵

Helping the Florida Turtle Cross the Road

¹² “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>.

¹³ Department of Transportation website, <http://www.fhwa.dot.gov/environment/te/>.

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.

¹⁵ 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.”¹⁶

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.¹⁷

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.¹⁸

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.¹⁹

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

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.

¹⁷ “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>.

¹⁸ Hohmeister, Mark, “Lake Jackson Ecopassage Advances At A Turtle’s Pace,” *Tallahassee Democrat*, January 10, 2009, <http://www.lakejacksonturtles.org/tdo010909.htm>.

¹⁹ 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.

additional \$6 million and it is still unclear how long it will take to complete the project.²⁰

The Non-Bridge and Highway Projects

According to GAO, the \$78 billion, five-year total for obligated expenditures for non-highway, non-bridge construction or maintenance projects includes:²¹

- 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;
- **\$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.

Upon review, Congress may find some of these expenditures are unnecessary luxuries and others — such as helping turtles cross the road — simply cannot be

²⁰ 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.

²¹ “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, emphasis added, <http://www.gao.gov/new.items/d09729r.pdf>.

justified while the Highway Trust Fund has insufficient funds for repairing dangerous roads and bridges.

States Should be Allowed to Fund Critical Infrastructure Needs Instead of Being Required to Fund “Enhancement” Projects, While Congress Continues to Bailout the Highway Trust Fund

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.

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.

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 would take the first step in reprioritizing transportation funding by prohibiting any funds in this bill from being used to fund road-kill reduction projects.