

United States Senate

WASHINGTON, DC 20510

July 25, 2016

The Honorable Anthony Foxx
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Re: Docket No. FHWA-2013-0054

Dear Secretary Foxx:

Thank you for your leadership and effective implementation of both the Fixing America's Surface Transportation (FAST) Act and the Moving Ahead for Progress in the 21st Century Act (MAP-21). One of the hallmarks of MAP-21 was the creation of national performance goals and measures to improve decision making and accountability of state departments of transportation (DOTs) and Metropolitan Planning Organizations (MPOs), and overall to ensure the most beneficial investment of our limited federal transportation funds. This transition to a performance-based transportation system was long-overdue, and delays in promulgating the performance measure rules have made it even more so. As you work to finalize the performance measure rules in a timely fashion, we write to respectfully request changes to the U.S. DOT's most recent proposed rulemaking, which establishes performance measures for the National Highway System (NHS), freight movement on the Interstate system, congestion, and on-road mobile source emissions.¹

How we measure performance and outcomes directly affects the choice of investments that will be made. If we focus, as this proposed rule does, on keeping traffic moving at high speeds at all times of day on all types of roads and streets, then the result is easy to predict: States and MPOs will prioritize investments to increase average speeds for cars, at the expense of goals to provide safe, reliable, environmentally-sensitive, multimodal transportation options for all users of the transportation system, despite those goals being stated in federal statute.² This singular focus on moving vehicles undermines the progress that this Administration has made on multimodal planning and investments through the TIGER program. Encouraging faster speeds on roadways undermines the safety of roads for all road users, as well as the economic vitality of our communities. With this in mind, we request the following changes to the proposed rule:

- The excessive congestion performance measure should be amended to assess *people* hours of delay and not just vehicles. This change is critical to account for the many non-single occupancy vehicle users, including transit bus riders and bicyclists and pedestrians travelling along the corridor, which provide

¹ Docket No. FHWA-2013-0054 released on April 22, 2016

² See section 1404(a)(1)(A)(i) of FAST Act

critical congestion relief that could be undercounted or even penalized in this measure.

- The National Highway System (NHS) performance measure should consider all users of the system, especially given the expansion of the NHS to encompass far more state highways, arterials and main streets in MAP-21. The FAST Act further clarified that states must consider all transportation options and all users in NHS projects, making it inconsistent for this measure to only consider vehicles.³

Another challenge with the proposed rule is the inclusion of several separate but similar measures of vehicle speed and travel time reliability for truck travel and for general travel time. The truck travel time reliability would require state DOTs to set targets and plan for the 95th percentile of reliability for truck travel. In comparison, a similar measure for general travel time reliability would require state DOTs to set targets for only the 80th percentile. These measures are essentially duplicative, and therefore represent potentially burdensome data collection costs while adding only marginal additional benefits. Further, of even greater concern is that the 95th percentile of reliability represents an inappropriately high bar that may lead state DOTs to overbuild highways. The 80th percentile, as proposed in the general travel time reliability measure, is a more appropriate expectation of reliability, which will achieve the goal of reliable travel on the interstates without incentivizing and justifying unnecessary expansion of highway capacity. For that reason, we request:

- The truck travel time reliability performance measures should be removed from the list of required measures, or should be made identical to the general travel time reliability measure.

At its core, the goal of our transportation system is to provide access to essential destinations such as jobs, education, food, and health care. This concept is referred to as “accessibility” or “connectivity”, and it is a critical component of how well the roads, rail, transit, sidewalks, and all elements of the transportation system work for all people, whether they are traveling on it or living next to it. Yet, for far too long our transportation investments have focused solely on moving vehicles *through* a community rather than *to* a community, and without regard for the impacts to the community. In the process we have created real barriers for millions of Americans to access essential destinations. These barriers are most present for low-income communities and communities of color. Performance management is an opportunity for U.S. DOT to institutionalize the Ladders of Opportunity program, and therefore we request:

- A measure of accessibility should be included. That measure should assess the ease of accessing destinations with a range of transportation modes. We are aware that the Department has not yet completed ongoing research to create an accessibility measure, therefore we recommend that the final rule include a specific timeline to implement an accessibility performance measure.

Finally, we commend the Department for also proposing to establish a requirement to measure greenhouse gas (GHG) emissions and to set emissions targets. This would be an historic opportunity for the future of transportation and the environment and a necessary step to meet the

³ See Title 23 U.S. Code 109 (c)

goals agreed upon at the landmark Paris Climate Change Conference in 2015. Our transportation system produces more than 30 percent of total U.S. carbon emissions and generates more greenhouse gas pollution than any other country except China, India, and Russia.

- The final rule must include a measure for states and MPOs to track performance in achieving specific GHG emissions targets that implement regional, state, and national GHGs emission policies. Many states and MPOs already benchmark GHG performance outcomes for plans and programs, and we urge you to model the final rule's GHG performance measure on these best practices.

We stand with you in prioritizing transportation planning and programming that provide opportunity for *all* Americans, but we urge you to strengthen this rule to encourage future investments that will benefit all people while also meeting national goals of economic vitality, safety, and environmental sustainability. The performance-based system developed by U.S. DOT will be a legacy for our Federal-Aid Highway program. We thank you for your efforts to deliver an equitable, healthy transportation system for the American people, and we look forward to working with you to finalize this important program before the end of this Administration.

Sincerely,



Thomas R. Carper
United States Senator



Robert Menendez
United States Senator



Al Franken
United States Senator



Jeffrey A. Merkley
United States Senator



Sherrod Brown
United States Senator



Edward J. Markey
United States Senator



Maria Cantwell
United States Senator



Christopher A. Coons
United States Senator



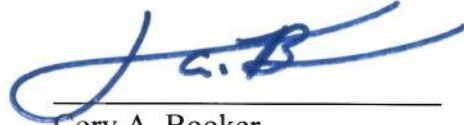
Ron Wyden
United States Senator



Richard J. Durbin
United States Senator



Dianne Feinstein
United States Senator



Cory A. Booker
United States Senator



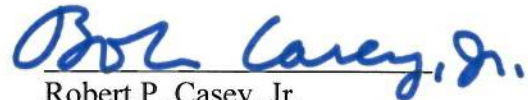
Bernard Sanders
United States Senator




Amy Klobuchar
United States Senator



Barbara A. Mikulski
United States Senator



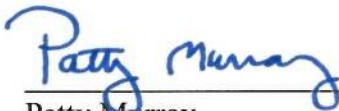
Robert P. Casey, Jr.
United States Senator



Benjamin L. Cardin
United States Senator



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United States Senator



Patty Murray
United States Senator