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SURFACE TRANSPORTATION ASSISTANCE ACT
1991 REPORT

Thank you for inviting me today, it’s a pleasure being here. I want to talk for a few minutes about some things that have happened recently. These things need to be reflected upon because they provide insight into the future in terms of surface transportation.

As you know, Pee Wee Herman was recently arrested, the asterisk has been removed from Roger Maris’ home-run record, Playboy has a current feature of a young lady who was allegedly involved with a senator, a 39-year-old man recently made it to the semi-finals of a major tennis tournament, a “Porn-Porn” mom just got 15 years in prison for attempted murder, and “90210” is the hottest teen TV show in the nation. All these items were front-page news in the past 30 days. None of them, I might add, are of any great note.

Unfortunately, in the last 30 days you’ve seen no front-page news regarding the subject we’re going to talk about this morning—the future of the nation’s surface transportation legislation. Its current state and its future in the next decade and the next century have not been a hot topic in the media, on TV, radio, etc. That is, in and of itself, a major tragedy—a major tragedy because most of you in this room are involved. Your professional career, perhaps your whole life, has been tied to transportation development, and you’re well aware of many of the things we are
going to talk about in the next 30 minutes. I would venture to say that you see very little in your local papers or the statewide media regarding the status of HR-2950 and what it would mean for Kentucky.

Incidentally, in the current fiscal year, Kentucky’s highway obligation limitation was $186 million. Under the House Bill that’s being debated right now, which includes a 5-cents-per-gallon increase in the fuel tax, Kentucky’s proportion would be as follows: FY1992 would be $245 million, FY1993 would be $275 million, FY1994 would be $310 million, FY1995 would be $350 million, and FY1996 would be $412 million; the total for Kentucky’s proportion would be $1.59 billion. In addition, Kentucky, like all states of course, would be eligible for discretionary funding. Under one of the bills we’re going to talk about today, Kentucky would receive $48 million in interstate construction funds over the next five years and $28 million for what they’re calling “congresional projects of national significance.” So, during this five-year-period, over $2 billion would accrue to Kentucky if this current bill is passed. That, to me, is news.

Today, we are at a stalemate. Over the last few months, you have witnessed the Administration’s proposed national transportation program following a year-long study resulting in a national transportation policy. According to most experts that policy contained very, very good ideas and proposals. They followed that up with a bill in February of this year, which though not exactly dead on arrival, did not go very far. In late spring, you witnessed the emergence of the Senate’s debate on surface transportation, which was somewhat unprecedented in that they started their debate hearings after protest. But they started the action long before the House Public Works Committee, which traditionally has been the first one to act. The Administration’s proposal, incidentally, was for a $105-billion, five-year program: $89 billion for highways and $16 billion for transit. The Senate Bill (which did pass in June) had $103 billion for highways and $21.8 billion for transit. The House Bill, upon which I’m going to dwell, is a $153-billion program over five years ($121 billion for highways and $32 billion for transit).

There is a wide gap, from the highway standpoint, with the Administration at $89 billion and the House at $121 billion—there is a $32-billion difference and there is a $20-billion difference between the Senate and the House just for that one major area. Now, the mix of all of this, the bait, particularly in the Senate and with the Administration’s policy and forwarding of its own legislation through the Congress, there was no discussion of the real needs of the nation’s highway and bridge networks. As many of you in this room have reported over the years (those who work for the Kentucky Department of Transportation were aware of this), every two years the Federal Highway Administration is required to submit a report to Congress on the condition of the nation’s highways. In fact, the last time that was submitted was in 1989 and is
the derivation of the rationale and much of the statistics you'll see in this
grey book that I refer to came from the 1989 study.

The Administration went forward, the Senate went forward, and
(believe it or not) the House started to edge forward without any new
report, which just so happened to be required by law to be submitted to
Congress every two years. That report was due in January of '91 and was
submitted July 2, 1991. Some of the findings in that report include the
following:

• Two hundred and sixty thousand miles of the nation's highways
  are at-or-below acceptable engineering standards.

• On the 43,000-mile interstate system alone, 42 percent of the
  pavement mileage is in poor or fair condition.

• Of the 134,000 bridges that are structurally deficient, more that
  3,800 of them are on the interstate system and are in immediate
  need of repair, and on and on. The point is that this information
  was never made available to the Senate and therefore was not
  utilized in their deliberations. It was not utilized by the General
  Accounting Office in the special studies they prepared for Senate
deliberations. It was not used by the Congressional Budget Office
in the background studies they prepared for both the House and
Senate. It was not used by anyone! These are the numbers and
the assessments that, again, many of you in this room have
probably participated in over the years. This is the information
provided by the 50 state departments of transportation which, as
I hope most of you know, is nothing new. In fact, there are a num­
ber of other studies commissioned by Congress itself by many
third parties (objective sources, besides our own government),
hopefully, that have underscored the needs of our nation's
transportation system. Yet, those needs did not really enter into
the debate until the last 30 days.

This House Bill was pulled from consideration. A vote was not taken
on August 3rd or 4th, as we anticipated. It was pulled for a number of
reasons, and I think it's important to discuss a few of those so that we
know what our problems are with getting our job done within the
immediate weeks ahead of us.

The Bill suffered first off from what we call "thirteenth hour
revelations." Some of you are aware that the five-cent proposal was
changed at the last minute by the House Ways and Means Committee.
They wanted 1.25 cents of the nickel to go to the general revenue and
only 3.75 cents to transportation. This is a debate over gross versus net
revenues of any new programs. Incidentally, the full context of what
we're up against is that this highway legislation is really the first test, it
is the first interpretation of the real meaning of the budget agreement that the Congress and the White House reached last fall. This is virgin territory, there is no precedent, there is no single program that has gone through Congress wherein there has been this type of interpretation. So, for the first time in the history of the highway program, we have the Ways and Means Committee saying that they will treat any new tax that will go through transportation as net revenues, not gross revenues. When many members learned of that (and they learned of it just 24 hours before a vote was scheduled), not only did their support for the nickel tax go out the window, but they were enraged that they were not informed ahead of time about this possibility.

The second factor (and the one that looms as the biggest challenge given the media's attention span, which is about as short as Madonna's skirts these days) is the "Porky Pig" factor. This relates to the demonstration projects that are in the House Bill. I trust that you are aware that there are over 500 of them. There are over $6 billion in the highway program alone (and the cartoonists and editorialist had a field day when they learned about this specific aspect of the Bill). In fact, this was what the opponents of the gas tax attacked more than anything else.

The timing of the legislation wasn't exactly ingenious—they brought it out on the floor at the very time that the House was debating tax fairness legislation. If you've been following the partisan side of what's been going on in Washington these days, you're aware of the debate regarding presidential candidate's proposals to have a new tax bill that would tax the rich and redistribute the gains back to the middle class, etc. This debate was going on, and there was a debate regarding the running out of the unemployment benefits. So the timing for bringing the gas tax issue on the floor wasn't very smart.

There were some other problems that are still with us, you can sum them up as turf problems. Other committees in Congress were concerned that they might lose some of their control over spending because this new nickel was a mandatory pay-as-you-go spending idea in accordance with the budget agreement of last year. But that would have taken it out of the cycle of the normal appropriations process and the Appropriations Committee raised their concerns. The whole debate over formulas notwithstanding, the approach that was taken in the Senate, raised its ugly head again and entire state delegations withdrew support, holding out for a better distribution formula for their own respective state. When you add all of this up, what we had was a fiasco. The House Bill did not get taken to the floor and, as a result, 30 days have gone by and we're sitting here with Congress coming back in session on September 11 with no action out of the House.

There is some good news out of all this. In late spring and early summer, the appropriations committees were meeting and we do
anticipate, no matter what version survives, that the legislation for next year will contain a substantial improvement in annual funding for the national highway program—on the order of $17 billion, which takes on context when you think back just three years ago, we were at $12.5 billion. So, all the efforts of many, many people over the last few years have raised the consciousness of Congress about the need for more spending and we have seen the gains in the annual appropriations process.

Here we are faced with a re-authorization of our nation’s surface transportation program—a program that’s going to influence business location, influence productivity, influence our daily lives for long into the next century—has been held up for all the wrong reasons.

During the recess of the past 30 days, we at ARTBA have not changed our positions. As some of you know, we have been advocating an increase in the motor fuel tax, or excise tax, for over two years. We have not changed our position, the needs are there, they’re justified and we believe that, in fact, Congress (once it has the political will) can get the job done. So, we set up a new coalition over the last 30 days—it’s called the “CENTS Coalition,” which stands for Coalition for Efficient National Transportation System. To date, 30 organizations have joined with us for the express purpose of accomplishing two things: one is to get the House Bill passed at the funding levels as recommended ($153 billion) which would include a clean, clean spendable nickel (meaning that none of the monies would be set aside for general revenues or deficit-reduction purposes). This is contingent on the Ways and Means Committee and the Public Works Committee people working out their differences and coming forth with a spendable five cents to be contributed solely to transportation.

This Coalition (like most coalitions here in Kentucky and other states and Washington) often have some strange bedfellows. You might be interested in knowing the make-up of this Coalition. We’re quite proud of putting together a group with such, at least at first glance, different points of view.

The Coalition includes American Public Transit Association, our own ARTBA, Association of Equipment Distributors, Associated General Contractors, the city of New York, Concrete Reinforcing Steel, Laborers International Union for North America, National Association of Counties, Association of County Engineers, Stone Association, Utilities Contractors, Steel Manufacturers, U.S. Conference of Mayors, AFL-CIO, and on and on. We anticipate the cities of Chicago and Los Angeles joining this week. You may have seen in the press yesterday about the situation that will totally rebut the arguments from the so-called fuel users. United Parcel Service went public with support for the five-cents gas tax, and they happen to be the largest fuel user in the nation since they have the
largest fleet of trucks—it's going to cost them over $12 million a year. They believe that the productivity gains they will realize as a result of better roads and bridges is worth that cost. Those who are saying the fuel users are totally against this are not exactly currently informed.

We are wrapped in some hard-time presidential politics, the gas tax issue in the House Bill has been represented by opponents as a partisan recommendation even though, incidentally, the House Public Works Committee and the voting pattern in the Ways and Means Committee included both Democrats and Republicans. It is not a partisan issue, but it has been cast as such in the media by certain spokesmen and effectively the President again, as you may know, has threatened to veto this legislation if it does contain the gas-tax increase. So what we're involved in, ladies and gentlemen, is the first round of the presidential political race of 1992. You're well aware of the debate regarding the success of the Administration overseas and the alleged failures here domestically, so we have both sides taking advantage of this situation and arguing their point of view more from partisan standpoints than from substance, and that's part of our problem. The irony, of course, is that last year the Administration supported a 10-cent increase in the motor fuel excise for transportation—that has been lost in the debate. It is on public record that they did, in fact, support it, now they are not supporting it. I don't know where that lack of support has gone. If anything, conditions have gotten worse, as verified by their own report that they finally released in July 1992.

The outlook is that we're wrapped around a partisan debate that requires courage for people to go forward—it required quite a bit of courage for those Republicans to vote for the issue, and the Ways and Means Committee and the House Public Works—but no one knows for sure how sustainable that courage and position is. Congress comes back September 11. There are only 9-1/2 legislative days left before October 1, when the current authorization for our programs runs out. And there are some running arguments that we need a bill by October 1, no matter what. We disagree with that position and we believe our members feel this way despite the hardship that might occur in some places. We want a good piece of legislation and we will take as much time as it takes to get that, rather than running against a clock for the mere purpose of getting a bill out. That point will be debated vigorously in the next few weeks. The word we have (as of last night) from the chairman is that they are aiming for a vote within the House by October 1. After that, assuming a vote is favorable and we go to conference, that conference could last a very, very long time. This legislation will be changed significantly in conference. Historically, demonstration projects (as many as half of them in the past) have fallen by the boards within conference. I suspect that, given all the controversy many of these will have, they may come to that same fate again.
There are some other issues I want to call your attention to in this debate. The gasoline tax is one. In our industry, we refer to it as a user fee, which some think is semantics, but the politicians use it when they choose to. I can assure you that once we turn some people around, they will be referring to it as a user fee and not a tax. We have launched a major grass-roots effort over the last days and the unions have joined us. Perhaps you saw the news about the solidarity day that all the unions had in Washington over the Labor Day weekend. Many of them were carrying signs about the highway and transit program and the considerable efforts underway within eight unions to garner support within the House for this program. We also are working with a number of groups. Kentuckians for Better Transportation is one of a half-dozen state and federal roads groups that have joined the Coalition and we commend them for their help. The real issue is over political will—will the Congress, in fact, have the courage to do the right thing when all the information is on our side? The substance of the issue and the merits are on our side. We’re caught up in a political issue that is unfortunately distracting people from the real issue at hand.

There is one thing I left out. Is this debate over the gross and net revenues with the five cents? This has not been reported by the media at all. I think they prefer to talk about PeeWee Herman’s problems. But the precedent is if that committee yields and agrees that they’ll treat revenues on a gross basis and acknowledges the fact that there are off-setting gains, this program we were talking about will generate over 300,000 jobs in its first year. It will generate nearly two million jobs within five years. Obviously, the gains that will be accruing to the business sector from such a program will lead to greater business taxes, will lead to greater taxes by the individuals who have the jobs or whose jobs are expanded. And, we believe that will offset any losses associated with a new tax. Incidentally, the loss is something that you’ve never seen before in the middle-man in the old companies, are able to take deductions on motor fuel taxes. Why is that an issue? The capital gains tax has been around for a number of years and, if you’re familiar with the arguments and logic that is cutting the capital gains tax will introduce other gains in the economy with offsetting revenues taking care of the tax loss. So if the Ways and Means Committee agrees to the calculation of the gas tax on a gross basis, then the arguments that they’ve used against the Administration capital gains proposal for the last two years go out the window.

We’re part of a much larger picture here. Not only are we part of that debate, we’re part of the presidential campaign, and we’re part of the sometimes chaotic situation with changing leaders that is occurring within the U.S. House of Representatives.

Now, for ARTBA’s position—I will think out loud with you for a moment. If the leadership decides (and this will be decided in the next 10
days)—you’re aware that Speaker Foley went public six months ago in favor of this five-cents increase followed by, of course, the leaders of cognizant committees and a number of other members of Congress. If he withdraws his support (and we have no reason to believe he will) and the committee was told to drop the five cents, then we might argue for a two-year extension of the legislation, rather than supporting the Senate version of the Transportation Bill. The primary reason for that, and we could spend all day talking about the structural components of all these bills, but we don’t believe the transportation community will gain, not only the monetary and financial gains that are in the House version. But there are some program elements that are unacceptable to our industry and we would rather see this put into a non-presidential election year. I can assure you, (at least I would venture a pretty strong guess), that in 1993 the debate that we have about the motor fuels tax will be nonexistent. Despite efforts by a number of organizations, part of my message today is that the needs situation and the facts of the case have not sunk into the business community. You’ve heard much about the alleged regressivity associated with motor fuel taxes—we are attempting to knock that down. The facts of the matter are that this proposal would translate to an average impact of $25 to $30 on the average driver. And, of course, these proposals have already been market-tested over the last two years. The price of gasoline went up over 30 cents with the Valdez oil spill two years ago. And, of course, with the Kuwait situation, starting last August, the price of gasoline in most communities went up at least 30 cents. Now it’s dropped down to a record low. In fact, when you adjust for inflation, the price of a gallon of gasoline is less now than it was in World War II. And, of course, if you trace the impact, the continuation of those changes and the change in the consumer price index, or the economy’s performance overall, you’ll see it wasn’t even a burp. So, the argument that this is going to sink the economy doesn’t hold water. Those facts have been communicated, but they haven’t sunk in with the media.

So, where does this take us? Your theme for your conference is “New Directions for the ’90s.” I personally believe that this industry has to become a lot more aggressive and outspoken in its day-to-day activities and a lot fiercer in its fight to get what it deserves. It must ensure that the state legislatures, the business community where you live, and your national representatives know the importance of transportation, know the importance of what you do. You must continuously and religiously communicate that to them. The state of Kentucky has some key people in Congress who will influence the outcome of this legislation. I understand you talked about that yesterday. I mentioned the role of some of the organizations that have worked with us over the years: your own Highway Contractors, Kentuckians for Better Transportation, you have Mr. Bunning who is a Republican on the House Ways and Means Committee. You have Harold Rogers, who is on the House Budget and Appropriations Committee, and Bill Natcher on the Appropriations Committee, and
Wendell Ford on the Commerce Science and Transportation Committee. Mitch McConnell is the transportation supporter; in fact, he cast a key vote in the veto override of 1987. Kentucky is blessed with solid political leadership; some of these individuals are in some very pivotal positions in Congress. If you agree with the program that we've advocated and incidentally, the transportation construction industry is united (you recall the names I read—the major players are all involved in this Coalition, and there is no debate.) The needs are documented, we have to get Congress to use its political willpower to pass the legislation that contains the kind of funding that will address these needs.

Thank you for the opportunity of sharing these points with you.