STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HEARING ON "INVESTING IN INFRASTRUCTURE: THE ROAD TO RECOVERY"
JANUARY 22, 2009

For more than a year now, the Committee on Transportation and Infrastructure has worked to ensure that infrastructure investment programs play a key role in our nation's economic recovery. Today's hearing is but the latest step along what has turned out to be a long road to recovery. On October 29, 2008, the Committee held a hearing on these issues with 19 witnesses testifying and an additional 60 witnesses submitting statements for the record. However, given that some Members were unable to attend that hearing and the Committee has new Members, I have scheduled this hearing to continue the open process under which we have examined economic recovery proposals.

Yesterday, the House Appropriations Committee marked up the "American Recovery and Reinvestment Act of 2009". Although Chairman Obey consulted with me extensively on the provisions related to Transportation and Infrastructure Committee programs, the legislation does not include everything I had proposed, in terms of either funding levels or provisions to ensure the timely and transparent use of funds. Therefore, there are still areas within the legislation that I hope can be improved before floor consideration next week.

In December 2008, I proposed to House Leadership that the economic recovery and jobs creation legislation include at least $85 billion for infrastructure investment, including $30 billion for highways and bridges; $12 billion for transit; $5 billion for rail; $5 billion for aviation; $14 billion for environmental infrastructure; $7 billion for the U.S. Army Corps of Engineers; and $10 billion for Federal buildings.

In contrast, the Recovery and Reinvestment Act marked up by the Appropriations Committee yesterday includes approximately $63.5 billion for programs within the jurisdiction of this Committee, including $30 billion for highways and bridges; $9 billion for transit; $1.1 billion for rail; $3 billion for aviation; $6.9 billion for environmental infrastructure; $4.5 billion for the Corps of Engineers; and $7.7 billion for Federal buildings.

Regarding the timely and transparent use of funds, I proposed an aggressive timetable for the use of funds, including a **<u>90-day, use-it-or-lose-it requirement</u>** for a percentage of the funds. This is intended to produce a "quick hit" that will jump-start our economy and create a substantial number of new construction jobs by June.

On December 18th, I had a lengthy conference call with 14 State Secretaries of Transportation and Chief Executive Officers of public transit agencies. I outlined for them my proposal to ensure transparency and accountability in the use of the economic recovery funds, including the 90-day, use-it-or-lose-it requirement for a percentage of the funds.

Specifically, I proposed to the participants on the conference call that 50 percent of the economic recovery funds must be obligated, with contracts awarded, within 90 days of when the U.S. Department of Transportation allocates the funds via formula to the State or transit agency. If the State or transit agency does not use its funds, the funds will be redistributed to other States and transit agencies.

Every one of the participants on the conference call enthusiastically affirmed that they are ready to go within 90 days to meet the use-it-or-lose-it requirement.

According to an AASHTO survey of State DOTs, there are $66 billion in ready-to-go highway and bridge projects. According to APTA, there are $15.9 billion in ready-to-go transit projects. These are good projects, and they are "shovel-ready".

Despite the ready-to-go project lists, and the assurances I have received from State and local transportation officials, some here in Washington are skeptical that a 90-day deadline can be met. This skepticism is why the use-it-or-lose-it deadline was weakened in yesterday's Appropriations Committee mark-up to, I believe, a simple 180-day deadline, with no penalty for failure to meet the deadline.

I realize 90 days is a tight deadline. However, this is a national emergency, and business as usual is not good enough anymore. If the purpose of this legislation is to be achieved, then we must set tight deadlines, and hold everyone accountable to them, both the Federal agencies and the State and local grant recipients.

I am certain that Federal agencies, under President Obama's leadership, will make the distribution of economic recovery grant funds one of their highest priorities. We will not be operating business as usual.

The Federal Highway Administration ("FHWA") and the Federal Transit Administration are already taking steps to ensure the highway and transit economic recovery funds are spent quickly.

FHWA staff has been preparing for passage of economic recovery legislation since late last fall. In November 2008, FHWA officials requested information from all FHWA Division Administrators regarding “ready-to-go” projects and encouraged the Administrators to work with state officials to initiate the development of project lists and to ensure compliance with all necessary federal requirements. In December

2008 and January 2009, FHWA repeatedly issued "questions and answers" on economic recovery issues and held videoconferences and teleconferences with Division Administrators and AASHTO to work through specific economic recovery issues and concerns that have arisen during this process. The objective was to make certain that all projects identified were "ready-to-go" shortly after enactment of a stimulus package.

FHWA encouraged States in November 2008 to determine whether their Statewide Transportation Improvement Program ("STIP") or Transportation Improvement Program ("TIP") needed to be amended in preparation for an economic recovery package, and if so, to start the process immediately. If States began the process last fall, they will have completed the process of amending their STIP or TIP. Even a State that is just starting the process now could complete it by the time economic recovery funds are likely to be distributed to the States in mid-February.

Another concern that has been raised with the STIP process is the requirement that plans be "financially constrained". All projects receiving federal funds must have funding sources identified, available, and committed. To address this concern, FHWA has been informing States that for necessary STIP amendments, States should assume that they would receive double their FY 2008 apportionment for FY 2009.

The FY 2008 obligation ceiling for federal-aid highways was $41.2 billion. This amended process allows States to complete the STIP process prior to enactment of the economic recovery bill.

Additional concerns have been raised regarding the minimum time periods necessary for the advertising and bids submission process as a potential delay in awarding contracts involving economic recovery funds. Generally, FHWA regulations require authorization of projects by the Division Administrator prior to advertisement and that bids remain sealed for a minimum of 21-days after advertisement, approved plans and specifications are made available. Division Administrators do have the authority to allow for shorter timeframes in certain circumstances. With respect to recovery funds, FHWA has notified States that they can begin the process of advance advertising. Given that States cannot be reimbursed until projects are approved by FHWA, the cost of such advertisements would be "at risk", and would be contingent on the receipt of stimulus funds and final project approval.

In addition, FHWA has recommended that Division Administrators work with States to shorten the bid process from 21 days to 14 days, as appropriate. Although FHWA is working to shorten the timeframe for advertising and bid process, some States, pursuant to state law, mandate longer advertising and bid processes. In these circumstances, States are considering changing or waiving the state requirement for the economic recovery funds.

If we do not create the proper incentives for the use of the economic recovery funds, we should not be surprised when we learn that the funds did not have the intended effect.

I look forward to hearing the testimony of today's witnesses and discussing how we can ensure that the economic recovery funds do have the intended effect -- of creating good, family-wage jobs as quickly as possible, while also improving our deteriorating infrastructure and laying the foundation for our future economic growth.