

TESTIMONY

Before the

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
U.S. HOUSE OF REPRESENTATIVES

by

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## **Introduction**

Mr. Chairman, my name is Robert McBride. I am the president of the Taxicab, Limousine & Paratransit Association located in Rockville, Maryland.

The Taxicab, Limousine & Paratransit Association (TLPA), formed in 1917, serves as the national organization that represents the owners and managers of taxicab, limousine, sedan, airport shuttle, paratransit, and non-emergency medical fleets. TLPA has over 1,000 member companies that operate more than 100,000 passenger vehicles. TLPA member companies transport well over 2 million passengers each day, which is more than 900 million passengers annually.

The taxicab, limousine and paratransit industry is an essential part of public transportation that is vital to this country's commerce and mobility, to the relief of traffic congestion, and to improving the environment. Our full industry transports 2 billion passengers annually, compared to the 10 billion passengers transported by public transit; provides half of all the specialized paratransit services furnished to persons with disabilities; serves as a feeder service to major transit stations and airports; and provides about half of its service to transportation disadvantaged people, such as the elderly, who are either not able to drive or do not have a car.

While I am speaking to you today as the elected leader of the TLPA for 2011, I am also owner of Metro Taxi in Denver, Colorado. Metro Taxi is the largest private sector ground transportation company in Denver. In addition to taxicab service, Metro Taxi also provides non-emergency medical transportation through a broker for the state Medicaid program.

## **TLPA Priorities in the Federal Public Transportation Authorization**

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), signed into law on August 10, 2005, began the re-inclusion of private operators as a partner in federal transit programs. TLPA's legislative priorities for the new transportation reauthorization bill are to work within federal transit programs to expand the public's mobility options by maintaining the gains for private operator inclusion that were realized in SAFETEA-LU, and to ensure that new provisions are adopted to enhance private operator rights and opportunities to participate. TLPA respectfully requests that the following legislative policies and initiatives be taken into account in the transportation reauthorization bill.

**TRANSIT FUNDING** — Support maximum funding for public transit service from the transit trust fund and from the general fund, or any new funding mechanism.

**SERVICE DELIVERY FLEXIBILITY** — Enhance the right of public transit authorities to have a wide range of service delivery options available to them, including the unfettered right to contract with private providers of public transportation service and to be able to implement public-private participation ventures.

**PRIVATE OPERATOR RIGHTS** — Support all current provisions pertaining to the rights of private operators of public transportation services to participate in both the planning and the provision of public transportation services to the maximum extent feasible.

**PRIVATE ENTERPRISE PARTICIPATION**— SAFETEA-LU weakened the long-standing requirement (found in USC Section 5306(a)) that planners must encourage private sector participation to “the maximum extent feasible” by limiting such encouragement to “as determined by local policies, criteria, and decision making”. Transit law should be returned to its more rigorous 41-year history. Since its inception, the Federal Transit Act has recognized the importance of private operator participation in federal mass transportation programs. Section 5323(a)(1)(B) provides that grants of financial assistance may be used only if the Secretary of Transportation finds that the program, to the maximum extent feasible, provides for the participation of private mass transportation companies. Section 5306(a) directs FTA grant recipients to encourage, to the maximum extent feasible, private operator participation in plans and programs required by Sections 5303, 5304, and 5305. Section 5307 funding requires the participation of private enterprise in the development of a program of projects to be financed with federal funds, and consideration of the comments and views of private operators in accordance with the policies outlined in 5307(c). This participation is necessary to ensure the leveraging of public investment with private equity, which is essential to attract additional mass transportation infrastructure investment to (1) avoid duplicative expenditures, (2) prevent unfair government subsidized competition, and (3) assure efficiency and effectiveness in the expenditure of mass transportation assistance through competition.

**FAIRNESS IN COMPETITION** — Support a level playing field for all competitively bid transportation services by requiring the utilization of fully allocated costs by private non-profit agencies/operators and public agencies/operators when bidding to provide transportation services.

**PLANNING PROCESS** — Support the collaborative planning process where all public and private providers of public transportation services are required participants; include incentives to promote the implementation of the mobility management concept; and give private transportation providers access to more fully and effectively participate in the Metropolitan Planning Organization.

**METROPOLITAN AND STATEWIDE PLANNING UPDATE AND EXPANSION** — Federal law mandating Metropolitan Planning Organization and state plans should be updated to fully comport with what is currently eligible for an FTA grant, and should be expanded to include consideration of taxicab facilities. This leveling of the playing field would enhance transportation efficiencies and the intermodal experience in general.

**VOTING SEAT ON MPO BOARDS FOR PRIVATE OPERATORS** — Require that a private operator representative have a voting seat on each Metropolitan Planning Organization.

**PROGRAM CONSOLIDATION** — Support consolidation of the Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute Formula Grants (JARC, Section 5316) and the New Freedom Program (Section 5317) into the coordinated mobility initiative, while maintaining current law pertaining to each program in regard to funding eligibility, labor protections, private operator subrecipient eligibility, and that projects be selected from the locally developed coordinated human services transportation plan.

**PRIVATE OPERATORS AS DIRECT GRANT RECIPIENTS** — Make private operators eligible to be direct recipients of FTA grants under a demonstration project applicable only to the Consolidated Human Service Transportation Programs — the elderly and disabled program (Section 5310), JARC (Section 5316), and New Freedom (Section 5317).

**PRIVATE OPERATOR SIGN OFF ON SECTION 5310 GRANT REQUESTS** — Require that private operators be notified of any elderly and disabled program (Section 5310) grant requests from non-profit operators being proposed in the private operator's service area. To assure this notice is accomplished, a private operator sign off should be obtained to show that the operator has been notified and had a fair opportunity to participate in the development of the transportation program being proposed in the grant request.

**PRIVATE OPERATOR PARTICIPATION IN THE SECTION 5310 PROGRAM** — Emphasis should be added to the elderly and disabled program (Section 5310) whereby this is not just a vehicle replacement program, but it can be used to buy trips from private operators and to purchase vehicles, including wheelchair accessible vehicles, that could then be leased to private companies to operate.

**OFFICE OF SURFACE TRANSPORTATION INNOVATIVE SOLUTIONS (STIS)** — Congress should create an Office of Surface Transportation Innovative Solutions within DOT. The STIS should be a contact point for the innovative financing of highway, transit and other infrastructure projects utilizing existing financing programs such as TIFIA and other programs to be developed, including, but not limited to, public private partnerships. In addition, innovative transportation service delivery projects should be under the supervision of this office and should work with each mode to encourage innovation, competition and public private partnerships. Regulatory barriers to the utilization of innovative transportation solutions should be eliminated, and an annual progress report on the status of eliminating those barriers should be reported to the House and Senate Transportation Authorization and Appropriations Committees.

**RIDE ACT AMENDMENT** — Support modifying the law such that an operator of a transportation terminal (airport, train station, sea port, etc.) who is the recipient of any federal funds may not charge a fee to any provider of pre-arranged ground transportation service except for 1) a fee that is charged to the general public, or 2) a fee that is determined by a DOT rulemaking for the availability of ancillary facilities at the transportation terminal, such as restrooms or vending machines made available to the drivers.

**REINSTATE OVERTIME WAGE EXEMPTION** — Reinstate the overtime wage exemption for drivers of smaller vehicles (designed to transport 8 or fewer passengers including the driver and that weigh 10,000 pounds or less) who are licensed under Federal Motor Carrier Safety Administration (FMCSA) regulations so that drivers of smaller vehicles are again treated the same as drivers of larger vehicles in regards to overtime wages.

**DISTRACTED DRIVING LEGISLATION** — Congress should explicitly recognize in the legislation that state or locally licensed commercial drivers providing for-hire passenger transportation services may continue to have access to their dispatch communication service that is necessary for the ordinary conduct of their business of serving the public's mobility needs, just as DOT has already done for federally licensed drivers of commercial motor vehicles. The current state of the art dispatch technology (a computer dispatch system), which was first placed into taxicab service in the early 1980s, is less distracting than the old two-way radio system used safely by our industry since World War II. While technically the messages are text messages, they are very short and require no action by the driver other than pushing a single button to respond with a predetermined canned message. There is no typing out a message on a keyboard. This is the type of driver communication allowed by the new DOT regulation, and the text ban laws in Virginia and New York City.

**FUNDING OF MANDATES** — Funding and incentives should be provided to cover the costs of implementing federal mandates placed on private providers of public transportation services. In particular, for the for-hire vehicle industry, there should be no new or expanded federal mandates regarding accessible vehicles or alternative fuel vehicles without full federal financial support.

- **ACCESSIBLE VEHICLE MANDATES:** Due primarily to the competition from publicly funded complementary paratransit services provided by transit authorities, as required under the Americans with Disabilities Act, the market for taxicab companies providing accessible paratransit vehicles is incredibly small. Anyone who is ADA eligible is not going to pay a \$26 taxicab fare when he/she can use ADA complementary paratransit and take the same trip for \$2.60. TLPA urges Congress not to impose unfunded and unneeded mandates such as requiring taxicab services to fundamentally alter the service they provide from affordable sedan service to costly paratransit (wheelchair accessible) service.
- **FUEL ECONOMY & EMISSIONS MANDATES:** TLPA urges Congress not to adopt any legislation that unfairly singles out one small industry that represents approximately one tenth of one percent of all automobiles in the United States to meet locally developed, specialized vehicle standards rather than meeting the existing federal standards. Our industry does not control, nor does it have any significant influence over, the designers and manufacturers of the vehicles the industry has to choose from to meet the public's mobility needs.

**TRANSPORTATION TAXES** — Support the exemption of all public and private providers of public transportation services from any increase in the federal fuel tax or a vehicle miles traveled tax.

**CONGESTION MITIGATION** — Support the equal treatment of all public and private providers of public transportation services in regards to congestion pricing initiatives, including the payment of tolls, high occupancy vehicle lane fees and access, and other congestion mitigation programs.

**COMMUTER FRINGE BENEFITS** — Support maintaining parity between the commuter and the parking fringe benefit, and clarify that the employer provided public transportation commuter benefit applies equally to all public and private providers of public transportation services.

**ADA DEMONSTRATION PROGRAM** — Support having the DOT fund demonstration programs to evaluate the provision of same day demand response service in the Federal Transit Administration's (FTA) complementary ADA paratransit program.

**INFORMATION COLLECTION** — Support having the DOT fund a national survey of the size and service delivery characteristics of private sector providers of public transportation services to help assure a better and more complete understanding of private sector operator capabilities by the public sector.

**INTERMODAL TERMINALS** — Support maximum federal funding of intermodal transportation terminals and ensure that all public and private providers of transportation services available to the general public have access to these terminals.

**TAXICAB ACCESS TO TRANSIT** — Federal law that provides for funding of non-transit elements of a project physically or functionally related to public transportation facilities has become more and more expansive since ISTEA. Intercity bus facilities, for instance, are the most recent addition to this “list”. The taxicab industry should be provided the same opportunities to enhance access to public transportation as Amtrak, Greyhound and commuter bus companies.

**COMPETITIVE BIDDING OF PUBLIC TRANSIT SERVICE STUDY** — It has been 13 years since the Congress sought to better understand the benefits of transit agencies competitive bidding of transit service and other aspects of the provision of public transportation. There have been many developments since then, such as those in Las Vegas and the Foothill area north of Los Angeles. TLPA seeks to revisit this important issue through a study to quantify the benefits of competitive bidding transit service.

**ENHANCED PARATRANSIT SERVICE** — Currently, transit agencies may only expend 10% of their 5307 Urbanized Area Formula and 5311 rural monies on non-fixed route paratransit service. This amount should be increased to at least 15% to meet growing demand for such service.

**REPEAL OF FEDERAL LABOR PROTECTIONS** — The Federal Transit Act of 1964 was the congressional response to the dismal condition of the private transit industry in the 1960s. In considering the transit labor issue, Congress had established the precedent of the previously adopted statutory employee protection provisions for the railroad industry to address labor problems arising from mergers and acquisitions. It is against this backdrop that Congress enacted Section 13(c), the transit labor protection provision of the 1964 Act, as amended, in an attempt to maintain employee rights, privileges and benefits as they existed prior to federal assistance, and to protect employees against any adverse effects that might result from the provision of federal assistance. Given these original policy objectives, we think it is clear that Section 1333(b) labor protections outlived their purpose and usefulness long ago. Most of the public buyout cases were concluded more than 40 years ago. The goal of Congress in enacting Section 13(c) was to protect the rights, privileges, and benefits of employees as they existed prior to receipt of federal funds, **not** to create a new series of employee rights, privileges, and benefits. Unfortunately, the application of Section 13(c) has extended its impact well beyond its original intent. It has become the key obstacle that has prevented many public transit agencies from even considering the economic benefit of competitive contracting. These labor protections are no longer needed, and intrude into local decision-making and collective bargaining. In nearly every other industry where such labor protections existed, such protections have been eliminated. It is estimated that transit operating costs could be reduced by hundreds of millions of

dollars if this provision is repealed. Section 5333(b) is an unfunded mandate that is too expensive to keep on the books.

Public transit agencies, private operators, local governments, and most importantly, the public itself, can realize significant benefits from contracting some public transportation services to private operators.

- Benefits for the riding public include additional transportation services, increased convenience, and improved service quality.
- Private operators can realize increased income, productivity and exposure in their communities.
- Benefits for public transit agencies can include cost savings, the ability to serve a greater number and types of trip needs, and allow a more productive allocation of union labor.
- Local governments can realize cost savings and a higher level of public transportation services.

### **Transportation Efficiency Coalition**

We would be remiss if we did not point out that the members of the Transportation Efficiency Coalition (TEC) have agreed to a number of the legislative priorities listed above. The TEC is a diverse group of national associations representing public and private transportation operators with one purpose, and that is to advance the transit mobility of the public as efficiently and effectively as possible. The TEC consists of the following national associations: American Bus Association (ABA), American Public Transportation Association (APTA), Community Transportation Association of America (CTAA), Taxicab, Limousine & Paratransit Association (TLPA), and the organization of national transit service contractors represented by Veolia Transportation.

We are proud that, for the first time in the history of the federal transit program, the public and private transportation sectors have gotten together and agreed upon a broad set of principles to present to you, the authorizers of federal transit programs. The seven policy principles that the member organizations of the TEC have unanimously agreed upon include: Transit Funding, Federal Mandates, Planning Process, Program Consolidation, Private Operators' Rights, Service Delivery Flexibility, and Intermodal Terminals (see attached list of the seven TEC legislative principles).

### **Conclusion**

We believe implementation of all of the above TLPA recommendations, including those endorsed by the TEC, would go a long way toward bringing a more level playing field to federal transportation programs, which would lead to a more efficient allocation and use of assets, more diversified transportation service options, and greater overall public mobility.

Mr. Chairman, thank you again for this opportunity to present our views to you as your Subcommittee considers the appropriate policy direction of the federal transportation program. As the Administration, the House, and the Senate release their respective Reauthorization proposals, TLPA may revise, expand or add to its reauthorization recommendations.

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## **Transportation Efficiency Coalition (TEC) Federal Public Transportation Authorization Priorities**

The members of the Transportation Efficiency Coalition (TEC) are the major national associations representing the public and private providers of public transportation services that are open to the general public — including public transit service, private bus service, private taxicab service and other transportation services open to the general public.

The founding members of the TEC are: American Bus Association (ABA), American Public Transportation Association (APTA), Community Transportation Association of American (CTAA), Taxicab, Limousine & Paratransit Association (TLPA) and the association of national transit service contractors (led by Veolia Transportation).

**TRANSIT FUNDING:** Support maximum funding for public transit service from the transit trust fund and from the general fund.

**FEDERAL MANDATES:** Funding and incentives should be provided to cover the costs of implementing federal mandates placed on public and private providers of public transportation services.

**PLANNING PROCESS:** Support the collaborative planning process where public and private providers of public transportation services are required participants; include incentives to promote implementation of the mobility management concept; and give public and private providers of public transportation service access to more fully and effectively participate in the Metropolitan Planning Organization.

**PROGRAM CONSOLIDATION:** Support consolidation of the Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities (Section 5310), JARC (Section 5316) and the New Freedom Program (Section 5317) into the Coordinated Mobility Initiative while maintaining current law pertaining to each program in regards to funding eligibility, labor protection, private operator subrecipient eligibility, and that projects be selected from the locally developed coordinated human services transportation plan.

**PRIVATE OPERATORS:** Support all current provisions pertaining to the rights of private operators of public transportation services to participate in both the planning and the provision of public transit services to the maximum extent feasible.

**SERVICE DELIVERY FLEXIBILITY:** Enhance, consistent with current labor provisions, the right of public transit authorities to have a wide range of service delivery options available to them, including the unfettered right to contract with private providers of public transportation service and to be able to implement public-private participation ventures.

**INTERMODAL TERMINALS:** Support maximum federal funding of intermodal transportation terminals and ensure that all public and private providers of public transportation services have access to the terminals.

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