

August 13, 2004

COMMENTS ON THE CALIFORNIA PERFORMANCE REVIEW

AUTOMOBILE CLUB OF SOUTHERN CALIFORNIA

The Automobile Club of Southern California (Auto Club) appreciates the opportunity to make initial comments on a number of the infrastructure-related recommendations offered in the California Performance Review (CPR). The Auto Club applauds the effort and expertise that went into crafting the CPR and believes that many of its goals and recommendations will improve California governance, decision-making and project delivery.

The Auto Club is a nonprofit motor club that has been providing services to members since 1900. Some of those early services included providing signage for newly developed roads and assisting in the creation of our transportation network. Mobility for our members has been a priority since our founding, and the ability to move about the state – and the adverse impact our worsening congestion has on our ability to do so easily – remains a significant concern for our over 5.5 million Southern California members.

While we recognize the diversity of interests and views represented by these recommendations, we note that motorists – those who pay for and use our transportation system (and the other components of the state's infrastructure as well) – have not had significant input into the report. Many of the recommendations have the potential to affect our members' daily lives because congestion is a reality that most of us live with every day. Auto Club members are by far the largest group of individuals who both use and pay for our transportation systems. They need, expect, and deserve improved transportation services and better transportation alternatives and have strong feelings about how this can be accomplished.

Following are our preliminary thoughts about some of the recommendations in the CPR most likely to affect our members. In addition, we have provided suggestions on topics not included in the CPR but which we believe would complement and enhance this effort.

A. Comments on Transportation-Related Recommendations

Creation of a Comprehensive Infrastructure Agency (Page 690 and Chapter 7)

We agree that taking a comprehensive approach to the state's infrastructure needs and challenges will help avoid some of the disjointed and disconnected planning that goes on today. Decisions regarding housing, roads, water and other necessities, if made independently, can result in a less efficient and effective use of scarce and often expensive resources. However, care must be taken to assure that the various infrastructure needs do not find themselves in competition for funding. The state

constitution provides dedicated funding (primarily through the state motor vehicle fuel excise tax) for certain transportation purposes. However, during recent years, that funding source has been diverted to other uses. We are concerned that combining transportation within an Infrastructure Agency could result in similar diversion and may lessen focus on critical transportation issues. This does not have to, and must not be allowed to, happen.

INF01 - Project Delivery (page 695)

We support the recommendation to permit the use of a variety of innovative contracting models to reduce costs and shorten project delivery times. The narrative acknowledges the problems resulting from non-compete clauses included in the AB 680 projects – specifically related to SR 91 – but the recommendation should be expanded to not only require functional definitions of non-compete clauses but also to require that public-private franchises not preclude public construction necessary to protect public safety. The safety of our transportation system must never be subordinate to private gain.

INF02 – Performance and Warranty Specifications (page 701)

We support these recommendations.

INF03 – Reducing the Cost of Construction Contracts (page 707)

We support these recommendations.

INF04 – Performance Measures in Traffic Operations (page 713)

Generally, we support these recommendations. However, the effect on other high-priority projects of increasing priority for TMS projects (Recommendation B) should be evaluated.

INF05 – High-Occupancy/Toll Facilities (page 791)

While in principle we agree that “HOT lanes” should be examined as a means to increase real and effective highway capacity, we are concerned with some of the content of this section. For example, the statement “In HOV lanes where ample space is available and travel time can be reduced, HOT lanes can provide an alternative source of revenue...” assumes that there is HOV space available (which in most of Southern California is not the case) and that the primary purpose of HOT lanes is to raise revenue (which should not be the case.)

The report asserts that adding an HOT lane may offer more benefits than adding either a HOT lanes or a general-purpose lane, and that a new freeway can be built with fewer lanes when HOT lanes are included. These statements are not documented. Also, the discussion focuses on HOT lanes and not on traditional toll lanes or roads, which should also be considered in appropriate circumstances.

We appreciate that the recommendations take a cautious, deliberate and case-by-case approach to HOT lanes. We would like to offer the following principles for inclusion in discussions of tolling and HOT lanes:

- Existing general-purpose highway facilities and lanes should not be tolled. The public has, in effect, already paid for them through fuel excise and other taxes and has established an expectation of use without direct payment. Public opposition to tolling existing capacity may adversely affect the prospects of tolling new capacity.
- There should be reasonable free alternatives to tolled facilities.
- As a general principle, to better protect the public interest, tolled facilities should be publicly owned and operated.
- If toll facilities are privately owned and operated, they must ensure that the public interest is protected, including assuring that critical safety and capacity improvements can always be made.
- Variable pricing should not be set to levels that have the effect of “pricing out” the less economically advantaged, nor to coercive levels intended to forcibly modify traveler behavior.
- Each proposal must take into account and propose effective mitigation for adverse effects, such as the diversion of traffic onto secondary routes to avoid tolls.
- Each proposal must be fully and separately evaluated on its own merits. We strongly recommend that each proposal be approved by the Legislature. Only a few carefully selected pilot projects should proceed at this time, with evaluation providing insights into whether the public approves of road pricing.

INF06 – High Performance Building Design (page 725)

The recommendation in this section for life-cycle costing for state buildings should be applied to transportation infrastructure as well.

INF11 – Tapping Surplus Property Assets (page 757)

We generally support this recommendation. However, we urge caution in identification and disposition of property acquired for transportation projects to assure that it will not be needed for any transportation use in future. Unlike some other infrastructure, the linear and extensive right of way needs for transportation corridors make it extremely difficult to acquire property and once disposed of, it cannot be required without enormous expense, effort and time. Also, all proceeds of sale of properties acquired with State Highway Account funds should be returned to the State Highway Account.

INF12 – Extra Enforcement in Highway Work Zones

We believe that enhanced enforcement by the California Highway Patrol and other agencies is needed on all roadways, not just in construction and maintenance areas. The narrative makes no particular case for concentrating on these areas. We question whether stationing a uniformed CHP officer at every construction site is a reasonable use of a limited resource. More officers patrolling the highways would seem to offer

greater protection to a broader number of people, including highway workers. We also recommend that the CHP's role in congestion relief (by rapidly clearing incidents) be incorporated into the report.

Automated enforcement is no substitute for enhanced policing to deter violations and is of no use in congestion relief. Finally, we strongly caution against waiving established and reliable requirements for engineering and traffic speed surveys in construction and maintenance areas (or anywhere else), without creating adequate safeguards to protect motorists from the imposition of "speed traps" that set unjustifiably low speeds and generate revenue by fining motorists caught in the "trap." Existing law has protected both public safety and motorists' interests and deterred speed traps effectively for many years. We recognize that there may be good reason to reduce speeds in active construction or maintenance zones and if existing law does not include adequate provision to do so, amendments may be appropriate. However, any change in the law must assure the establishment of reasonable parameters as to location of the zone, time of day and duration of the reduced speed, and a basis for determining what a reasonable speed would be under the prevailing circumstances.

INF13 – State Highway Route Relinquishment (page 781)

State Highway Account savings of \$108 million per year are projected. These costs would necessarily be imposed on local agencies. There is no discussion of how local agencies would be able to assume this financial responsibility.

INF15 – Transportation Revenues (page 793)

We agree with the need for additional resources for transportation and with protecting Proposition 42 and other existing revenues. We also appreciate that in several instances the CPR seeks to maximize the effective and efficient use of existing transportation resources – a concept that we whole-heartedly agree with.

However, the recommendations could be improved as follows –

- Recommendation A-1, to “protect the deposit of the sales tax on fuels...” should be revised to clearly indicate that it is recommending amendment of Proposition 42 to remove the clause allowing diversion of funds to the General Fund.
- Recommendation A-3 should not include reference to bonds for transportation maintenance improvements. Bonds should be utilized for capital, not ongoing operating, purposes.
- Add a recommendation (referenced in the narrative on page 794) regarding retaining investment revenue from motor vehicle fuel excise taxes in the State Highway Account. This would be consistent with the constitutional limitations on the use of the underlying revenue.
- Elaborate on the recommendation for a pilot project to test the feasibility of implementing a user fee, that in the longer term a user fee should be a partial or complete replacement for motor vehicle fuel excise taxes, not an addition to them.

INF16 – Federal Funding for California Highways (page 801)

We support a higher return of federal funding to California; however, Recommendation A should be expanded to recommend additional formula funds as well as additional project funds. We also suggest that Recommendation B be expanded to also seek additional funding for trade corridors of national significance.

INF17 - Infrastructure Research and Development Programs (page 805)

We have the same concerns with INF17 (and INF18, following) as with the larger issue of creation of an Infrastructure Agency – that by subsuming the critical issue of transportation infrastructure within a very large agency with additional layers of approval, transportation issues will not receive adequate focus and resources. Also, since transportation funding involves a variety of dedicated funding that cannot be used for other purposes, transportation programs should not have to compete for priority with other programs. If they do, utilization of these dedicated transportation resources and completion of critical projects might be delayed.

Recommendation B should be amended to include representatives of those who pay for and use the infrastructure, including the transportation system, in the Infrastructure Advisory Council.

INF18 – State Infrastructure Planning and Programming

Recommendation E appears to propose a shift away from the principles of SB 45, which transferred much of the responsibility for transportation planning and programming authority to local and regional agencies. Under this proposal, local general plans must be approved by the state as congruent with state policy in order to receive higher priority for state infrastructure funding.

INF20 – Deteriorating Highway Quality

While we certainly agree with the assessment of the deteriorating quality of California's roads, the statement that "...transportation resources have been increasingly directed to developing additional highway capacity, while available resources for protecting existing infrastructure have declined" does not appear to be accurate nor an appropriate basis for policy decisions. Resources for both capacity enhancement and maintenance have declined and neither is keeping pace with demand.

Recommendation A should be amended in two respects –

- Full lifecycle costs should be identified for transit as well as highway projects, for the same reasons – to assure that long-term implications are addressed and resources provided for operations and maintenance.
- Analysis should concentrate on direct lifecycle costs. Including indirect costs or "externalities" results in endless and inconclusive debates on what factors to include and how to weigh them.

We do not believe, as suggested, that all roadside rest areas should be commercialized. Each such proposal should be analyzed on its merits, with consideration of individual circumstances such as location in a scenic or otherwise sensitive area. The intent of commercializing roadside rest stops should be to assure that they remain open and well-maintained. Their numbers should be expanded, and certainly not reduced, as a result of commercialization.

INF24 – Fuel Market

We agree that the California fuel market is beset with a number of problems. However, we are concerned that the discussion of “boutique” fuels, while not resulting in a recommendation, gives the impression that the CPR favors weakening California’s stringent reformulated gasoline (RFG) standards. California RFG has led to reduced emissions, increased health and helped set national and international goals for cleaner air. We strongly support maintaining and enhancing these high standards and, in fact, would prefer to see them established nationwide to ease supply problems, lower fuel prices and reduce emissions across the country.

While we also support emerging fuels, the Carl Moyer program may not be the appropriate vehicle for doing so. Action taken in connection with the recently-adopted state budget identifies a “smog impact” fee imposed on new car owners as the funding source for Carl Moyer programs. Article XIX of the state constitution restricts the use of fees collected on motor vehicles to motor vehicle-related purposes, including the impact of emissions. In addition, the language adopted in the budget limits the use of these fees to programs to address emissions resulting from the same type of vehicles as those on which the fee is collected. The Carl Moyer program is intended to clean up heavy-duty and farm equipment, stationary and other diesel engines – not the type of vehicle on which the fee is imposed. It is doubtful that using these funds to support emerging fuels would meet either the statutory or constitutional standard regarding the use of such funds.

INF32 – Management of Caltrans Projects

We agree with the intent to improve Caltrans project management and delivery. However, the narrative (page 915) states that Proposition 35 (allowing private contracting for engineering and design services) resulted in improved project delivery workload management. Proposition 35 has not yet been fully implemented. In fact, we believe that very little of the “contracting out” authorized by this voter-approved measure has taken place. A recommendation should be added directing Caltrans to fully implement Proposition 35.

Department of Environmental Protection (Chapter 6)

We are concerned that the creation of an environmental “superagency” may dilute the focus and success of the California Air Resources Board. CARB has been responsible for innovative and successful emissions controls and fuels that have greatly reduced air pollution in California and served as a national and even international model and

catalyst for change. Although we have not always agreed with CARB, it has been influential and respected, an important asset to California, and an effective forum for public discussion. The proposal for a Department of Environmental Protection should be assessed in light of the ongoing need to maintain progress in air quality improvement.

B. Additional Subject Areas

Based on our 2002 report *The Quiet Crisis – Transportation and Mobility in Southern California*, we offer the following recommendations that we believe would complement and augment the CPR's transportation recommendations (except where we have indicated disagreement in the preceding, the CPR's recommendations are compatible with *The Quiet Crisis*.)

- Expand consideration of innovative, non-traditional ways to increase roadway capacity such as auto-only, bus-only and truck-only lanes, freeway-to-freeway and freeway-to-arterial street HOV/transit connectors; "super streets"; below-grade lane additions; and urban vehicle tunnels.
- Establish an aggressive program of safety-related improvements, which will not only save lives and mitigate property damage but also increase capacity and efficiency.
- Emphasize development and implementation of Intelligent Transportation Systems (ITS) technologies and projects that increase safety and effective roadway capacity and improve public transit operations.
- Perform assessments of transportation system needs and deficiencies and report to the Governor and Legislature, with recommendations to address them, at regular intervals.
- Establish and expand ongoing public involvement programs, including electronic outreach, and conduct research to establish public expectations and preferences in transportation.
- Explore a mechanism for alternative fuel vehicles to pay an appropriate share of road construction and maintenance costs.
- Evaluate whether heavy truck fees could be more appropriately assessed through a weight, distance and configuration-based truck taxation system.

We will be providing the complete *Quiet Crisis* package at the hearing.

Again, we appreciate the opportunity to participate in this important effort and look forward to continuing to contribute.

