

**Statement of Neil Pedersen
On Behalf of the
Governors Highway Safety Association (GHSA)
For the Senate Consumer Protection, Product Safety and
Insurance Subcommittee
Senate Commerce, Science and Transportation Committee
September 28, 2010**

I. Introduction

Good morning. My name is Neil Pedersen and I am Administrator of the Maryland State Highway Administration and Governor's Highway Safety Representative for Maryland. This morning I am representing the Governors Highway Safety Association. GHSA is a nonprofit association that represents state highway safety agencies. Its members administer federal behavioral highway safety grant programs that are authorized under Title II of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). They are appointed by their governors to administer these grant programs and implement statewide highway safety programs. Areas of focus include: impaired driving; occupant protection; speeding and aggressive driving; distracted driving; younger and older drivers; bicycle, motorcycle and pedestrian safety; traffic records and highway safety workforce development.

As you know, traffic-related fatalities and injuries continue to be a major public health problem in this country. Although we have made some progress, there were still more than 33,000 fatalities and 2.2 million injuries in 2009 – the last year for which complete statistics are available. Traffic crashes not only cause devastation to families and individuals, but they also cost the nation an estimated \$230 billion annually. Unfortunately, these crashes happen in one's and two's, so there is little public awareness about them and even less public outcry against them.

To address this problem, the federal government must make the reduction of highway fatalities and injuries a national priority and play a strong role in developing highway safety policies and programs. The federal government has played such a role since the enactment of the Highway Safety Act of 1966. This Act solidified the federal leadership position on highway safety while also establishing a partnership with state governments. The Act created the Section 402 State and Community Highway Safety grant program (23 U.S.C. 402) which provided funding to states on a formula basis for developing and implementing state highway safety programs. As the Congress develops the highway safety programs under the next reauthorization, it is important to maintain this strong federal role. Just as the federal government deems it important to prevent tobacco and drug use, underage drinking or obesity, it must also protect the public on the roadways. Without federal assistance and leadership, especially in these difficult economic times, it is unlikely that states would be able to provide the necessary resources to enhance roadway safety and prevent injuries and fatalities.

II. National Strategic Highway Safety Plan

As noted above, the federal behavioral highway safety program has grown since the Highway Safety Act was first enacted in 1966. New programs have been added, others dropped. Under the Transportation Equity Act of the 21st Century (TEA-21), five new incentive programs and two penalty transfer programs were added to the existing Section 402 program and the Section 410 (23 U.S.C. 410) impaired driving incentive grant program. Under SAFETEA-LU, four of those incentive programs were dropped and five new incentive programs were added. Since enactment of SAFETEA-LU, two new incentive programs have been proposed: one addressing distracted driving and one supporting teen empowerment programs. Vocal constituencies have pressured Congress to authorize new federal behavioral incentive grant programs that meet the narrow needs of those constituencies. As a result, the federal highway safety program has been developed in a piecemeal fashion without an overall plan, resulting in tremendous fragmentation of federal behavioral highway safety resources at the federal level and administrative and programmatic difficulties at the state level.

It is time, as the National Surface Transportation and Revenue Policy Study Commission recommended in its 2009 report, to develop a national highway safety strategic plan with national highway safety goals. Other countries, such as Canada and Australia, have developed national strategic highway safety plans that involved all levels of government and the private sector in the development process. Each state has its own Strategic Highway Safety Plans (SHSP), as

required by Section 148 of SAFETEA-LU. The missing component is a national plan. **GHSA supports the development of a comprehensive national strategic highway safety plan and recommends that the next reauthorization bill should call for the creation of such a plan.**

GHSA also supports a vision of zero highway safety fatalities. The loss of one life is one too many. Over time, and with education, enforcement, safety infrastructure improvements, vehicle improvements, and technological advances, such an ambitious goal can be achieved.

Further, GHSA supports the interim goal recommended by the American Association of State Highway and Transportation Officials (AASHTO) and others of **halving fatalities by 2030**. This interim goal would require annual reductions of 1,000 fatalities a year. In 2006, the country nearly reduced fatalities by that amount, demonstrating that yearly reductions of this magnitude are possible. Since that time, fatalities have been reduced by more than 1,000 per year, culminating in the most recent reduction of more than 3,000 fatalities in 2009 alone. While the poor economy has played a major role, these reductions cannot be explained solely by the economic downturn. Implementation of effective countermeasures, vehicle and roadway improvements and greater coordination among state agencies involved in highway safety have all contributed to the declines in fatalities. **GHSA recommends that the next reauthorization should support this vision and interim goal and should provide both the resources and the programs to enable achievement of the interim goal.**

GHSA is part of an informal State Highway Safety Alliance comprised of the American Association of Motor Vehicle Administrators (AAMVA), AASHTO, the Association of State and Territorial Health Officials (ASTHO), the Commercial Vehicle Safety Alliance (CVSA), the International Association of Chiefs of Police (IACP) and the National Association of State Emergency Medical Service Officials (NASEMSO) who are participating in the development of a national strategic highway safety plan. These groups have issued a set of principles for the next reauthorization of federal highway safety programs including behavioral, commercial motor vehicle and safety infrastructure. ([Please see attachment](#)).

II. Performance Measures

The Government Accountability Office (GAO), the U.S. Department of Transportation Inspector General (IG) and the National Surface Transportation Study Commission all recommended the federal behavioral highway safety programs become more performance-based. In fact, the behavioral programs are already more performance-based than other federal surface transportation programs. States are currently required to identify their highway safety problems using various data, set annual performance goals for reducing fatalities and injuries, and then report at the end of the year on whether they have reached those goals.

GHSA concurs that the behavioral highway safety programs should be more performance-based and sees that as the next step in enhancing the state planning process. Beginning in 2004, GHSA took steps on its own to enhance state highway safety planning and encourage more performance- and research-based decision-making. The Association developed a template for state Highway Safety Plans and Annual Reports that strengthens the goal-setting and reporting processes. In 2006, GHSA, with funding from the National Highway Traffic Safety Administration (NHTSA), produced a report summarizing all the current research on effective highway safety countermeasures. The report, *Countermeasures That Work*, has been updated annually by NHTSA and has been used by states to select research-based, effective countermeasures for their annual Highway Safety Plans.

In 2008, to address the concerns raised by GAO and others, NHTSA and GHSA embarked on a process to identify, by consensus, a common set of performance measures that all levels of government will use in their highway safety planning processes. Currently, there is agreement on ten outcome measures, two behavioral measures and three activity measures. States began to

use the first fourteen measures in their FY 2010 Highway Safety Plans (HSP) and year-end Annual Reports (AR) and will continue to do so annually. States have begun to use the 15th measure with their FY 2011 HSPs and ARs and will do so annually (Please see the reports and materials located here: www.ghsa.org/html/projects/perf_msr/index.html). A similar consensus process has been undertaken to identify a common set of performance measures for traffic records systems. **GHSA recommends that if Congress should create a performance-based behavioral highway safety grant program, that it should use the performance measures already developed cooperatively between GHSA and DOT and currently in use by the states.**

For states that are under-performing, the House Transportation and Infrastructure bill proposes that the Department of Transportation should have the authority to reprogram a state's funds. There is already a process for DOT to review a state's performance annually and recommend improvements. This process, known as the Special Management Review (SMR) process, is a collaborative one between the underperforming state and NHTSA's regional office in which the state is located. The decision to reprogram funding could be an adjunct to that process but should be a mutual decision between the state and federal agency. The House bill also continues but reduces the size of the penalties for states failing to submit an adequate plan that were authorized under the Highway Safety Act of 1966. It is unclear when those penalties would ever be used against an under-performing state if its funds are reprogrammed and a revised HSP is submitted. **GHSA recommends that the penalties should be repealed.**

If Congress concurs that the behavioral highway safety programs should be more performance-based, it **must** provide the resources to states to collect the necessary performance data. The current Section 408 data improvement program (23 U.S.C. 408), which is primarily focused on improvements to crash data systems, is only funded at \$34.5 million a year. The average grant to states is only \$500,000. Improvements to traffic records systems are extremely expensive. Pennsylvania's enhancements to its crash data system, for example, cost the state more than \$10 million. The federal government cannot be expected to pay the entire cost of improving state data systems; however, it is clear that funding for the 408 program is woefully inadequate.

Further, states are increasingly funding improvements in the other components of traffic records systems, particularly e-citation systems, DWI information tracking systems and emergency medical services (EMS) information systems. If states are expected to collect performance data such as statewide citation data or more precise injury data, then they need the funding to automate data collection and make other improvements to the data systems that would yield the requisite performance data. **GHSA urges that the funding for the 408 program should be increased substantially to \$100 million a year. The Association further recommends that no programmatic changes should be made to the Section 408 program.**

Another problem is that there is no uniform definition of serious injuries, so it is difficult to determine improvements in performance on this issue. Most states use an injury measurement scale called KABCO (killed, incapacitating injury, non-incapacitating injury, etc.). The KABCO scale is a measure of the functional injury level of the victim at the crash scene. The codes are selected based on the on-site judgment of the investigating police officer completing the crash report.

However, KABCO is imprecise and relies on overworked law enforcement officials at the scene of a crash to make a determination of the extent of injury. A more precise serious injury surveillance system must be put in place. There is unanimity in the highway safety community that there is a need for greater uniformity in the definition of serious injuries. **GHSA recommends that NHTSA should be directed to use a portion of its Section 403 Research and Demonstration funding (23 U.S.C. 403) to develop, by consensus, a more accurate definition of serious injuries.**

IV. Program Consolidation

Another concern is the proliferation of incentive grant programs. The difficulty is that the funding streams are stove-piped, which causes fragmentation and impedes comprehensive, performance-based planning and programmatic implementation. The National Study Commission, the Bipartisan Policy Group, Transportation 4 America and others have all called for greater consolidation of federal surface transportation programs. It is expected that the Administration's reauthorization bill will include greater consolidation of surface transportation programs.

In the House bill, all of the behavioral grant programs (except the Section 408 data improvement program) are consolidated into a single program with earmarks for impaired driving, occupant protection and motorcycle safety. **GHSA strongly supports the House program consolidation proposal and urges that it should be enacted.**

GHSA believes that if Congress is pressured by constituent groups to continue separate grant programs, then it must streamline the administration of those programs and give states more flexibility on the use of the funding. Currently, there are different applications and application deadlines for each incentive program. One application is due in February, one in June, three in July, two in August and one in September. Some of the applications are for funding in the current fiscal year, others for funding in the upcoming fiscal year. Half of the incentive funding isn't given out until the end of the fiscal year. States are forced to carry over funding until the next fiscal year, yet they are criticized for having too much carryover money. Such a fragmented approach makes it extremely difficult for states to plan or implement their annual programs effectively.

Whether there is a consolidated program or not, GHSA strongly recommends that there should be a single grant application deadline as well as a single application and that all of the grant funding should be allocated on October 1. We recognize there will be a transition in which states that enact certain qualifying legislation won't receive grant funding until the following fiscal year. GHSA recommends that the current deadlines and applications should continue in the first year of the reauthorization to give the states a chance to get used to a new process. Following that, the single application, deadline and grant allocation should go into effect.

If separate behavioral highway safety grant programs are authorized, GHSA strongly recommends that there should be greater flexibility between those programs. Currently, states have no flexibility to move funding between programs. States should be allowed to flex a portion of their behavioral highway safety grant funds based upon their demonstrated needs. As part of their annual HSP, states are required to submit data indicating their main highway safety problems. This assessment can be used to justify spending more funding in a particular area such as impaired driving, occupant protection or motorcycle safety. It is Congress' interest to ensure that states spend their federal funding in the areas where it will have the most impact and address the greatest need.

GHSA further recommends states should be given the authority to pool a small portion of their highway safety grant funds. Currently, states are not allowed to pool any NHTSA-administered state grants. When an initiative is undertaken on a regional basis with 402 funds (such as the Smooth Operator aggressive driving program in Pennsylvania, Washington D.C., northern Virginia and the Maryland suburbs), the participating states must go through a cumbersome process of transferring funds from one jurisdiction to another. A mechanism should be set up to allow states to work together regionally on law enforcement activities or paid media and other educational campaigns. States also should be able to pool funds to support specific highway safety research projects, as is allowed with federal-aid highway funding. Similarly, a mechanism should be established to allow states to work together on data improvements. Multiple states, for example, may want to fund specific enhancements to software programs jointly used by those states. Or, they may want to hire a data contractor who can serve all the

states in a region. There may be substantial savings by allowing states to pool their funds in this manner.

V Program Improvements

The current incentive grant programs have provided needed funding to states to address a range of highway safety issues. However, in at least two of the incentive programs, the eligible uses of incentive funds are too restrictive.

While the Section 410 program has been a valuable tool for enhancing state resources to address drunk driving, some of the 410 criteria have proven too difficult to implement (e.g. the BAC testing requirement), and others (e.g. the self-sufficiency requirement) have not encouraged any state action. GHSA expects that a number of states will fall out of compliance with the program because the requirements are too stringent. This is counterproductive. If the program is continued as a separate categorical grant program, GHSA recommends the program be refocused on those countermeasures that are known to be effective (e.g., high visibility enforcement, DUI courts and judicial education) or have the potential to be extremely effective (e.g., interlocks for first time offenders). GHSA supports the MADD Campaign to Eliminate Drunk Driving. These changes in the 410 program are very much in line with the Campaign and would help to realize the Campaign's goals.

The Section 406 primary seat belt incentive grant program (23 U.S.C 406) has only been modestly successful. Only a handful of states have enacted primary seat belt laws since the programs' inception. If there is separate funding for occupant protection, GHSA recommends that the 406 program should be combined with the Section 405 program (23 U.S.C. 405) and the Section 2011 child passenger protection program to form a single occupant protection program. Funds should be allocated to states based on a number of criteria such as seat belt use rates, fatality rates of unbelted drivers and primary seat belt and booster seat law enactment. Funding should be used to support a range of occupant protection activities such as high visibility and sustained enforcement, paid media, education programs, seat belt usage surveys, child passenger technician training, child restraint usage surveys, and child passenger protection education and enforcement programs.

States that do not have primary belt laws or very high belt usage do not currently qualify for 406 funds. This has put tremendous pressure on their 402 allocations to fund the annual law enforcement mobilization and paid media. If the 406 program were restructured, it would provide a base of funding for occupant protection activities (including the annual high visibility mobilization) while allowing states to use their 402 funding for other safety purposes.

If the 2010 motorcyclist incentive grant program is continued as a separate grant program, changes need to be made to it. It is also too restrictive and too small to have an impact. As GHSA's recent *Survey of the States: Motorcycle Safety Programs* showed, many states are no longer able to support their motorcycle safety programs based on licensing and training user fees alone. More federal assistance is needed -- funding for the 2010 program should be increased substantially, to \$20 or \$25 million.

NHTSA's National Agenda for Motorcycle Safety (NAMS) has shown that the best way to advance motorcycle safety is to address the problem comprehensively by focusing on such areas as licensing, education and training, protective gear, roadway safety, public information programs on speeding and impairment, conspicuity, enforcement, vehicle improvements, and sharing the road. The current 2010 program prohibits states from addressing the problem of motorcycle safety comprehensively. Eligible states should be allowed to use the funding for additional purposes such as licensing improvements, helmet education and enforcement programs, and impaired motorcycling programs. States should also be required to designate a lead state motorcycle safety agency and prepare a motorcycle safety strategic plan.

GHSA also recommends that there should be a focus on aggressive driving and speed management in the next reauthorization. Speeding is a factor in an estimated one-third of all crashes – a figure that has remained unchanged over the last decade. Speeding costs society an estimated \$40 billion annually. According to the NHTSA-funded 2005 Speed Forum report, “speeding dilutes the effectiveness of other priority traffic safety programs, including efforts to reduce impaired driving, increase safety belt use, and improve pedestrian and motorcycle safety. Speeding and speed-related crashes occur on all road types, from limited-access divided highways to local streets. Drivers speed in all types of vehicles. Speeding is a local, state, and national problem.” Speeding is one of the three primary factors in fatalities and injuries (along with impairment and failure to wear occupant protection devices) and is a major factor in aggressive driving, yet there are no federal funds specifically to address the problem.

A 2005 study published by the Transportation Research Board (TRB) found that a 1% decrease in travel speed reduces injury crashes by about 2%, serious injury crashes by about 3%, and fatal crashes by about 4%. On a street with an average travel speed of 40 mph, a reduction to 38 mph is a 5% decrease. Crashes would be reduced by about 10%, serious injury crashes by about 14%, and fatal crashes by about 19%. Clearly, a small reduction in speeds can have a big impact.

GHSA recommends that states should be encouraged to undertake speed and aggressive driving enforcement, conduct speed management workshops in their states, implement automated speed enforcement programs, or conduct public information campaigns about speeding and aggressive driving. In addition, GHSA recommends Congress fund a national campaign to re-educate the public about the dangerous consequences of speeding and aggressive driving, a biennial national speed monitoring data collection study to determine how fast the traveling public is actually going and research into emerging technological applications for measuring and controlling speed and aggressive driving.

Another area of concern not addressed by SAFETEA-LU is teen driving. Although teen driver fatalities have decreased by 20% between 1988 and 2008, teens are still over-represented in fatal crashes. Motor vehicle-related fatalities are the leading cause of death for teenagers, and nearly 3,000 teens were killed in 2008. One of the most effective countermeasures is the graduated driver license law. Forty-nine states (excluding North Dakota) have graduated driver licensing laws. However, some states do not limit (or have high limits) on the number of passengers allowed in the vehicle and have lenient restrictions on nighttime driving. Research has shown that a teen's risk of crashing increases substantially with each passenger. (That is, with one passenger, the risk is doubled. With two passengers, the risk is quadrupled.) Similarly, research has shown that there is a peak of teen crashes at night. By limiting driving to earlier nighttime hours, the risk of a teen crash is reduced. GHSA recommends that the next reauthorization should address teen driving and provide positive encouragement to states to strengthen the nighttime and passenger restrictions.

A final area not addressed by SAFETEA-LU is distracted driving. According to NHTSA, nearly 6,000 persons were killed in crashes related to driver inattention and distraction in 2008. S. 1938, the Distracted Driving Prevention Act of 2009, would provide incentives to states that satisfy certain eligibility criteria. States must have a hand-held cell phone ban, a texting ban and satisfy a number of other criteria. Eight states are currently potentially eligible for grants. However, none of the states will qualify because the criteria are too stringent. The bill addresses distracted driving as if it were a mature highway safety issue. In fact, it is an emerging issue on which there is relatively little research on the effectiveness of certain countermeasures to address distracted driving. State legislatures are enacting more simple and straightforward legislation than they would if the issue were a more mature one like impaired driving. Hence, the criteria for increasingly stringent penalties and the one for making a crash involving a fatality a criminal penalty are particularly problematic. Further, the criteria to require states to include distracted driving in the driver's manual and test are not supported by research at all. If anything, research on driver education shows that it is not an effective way to enhance driver safety. In the next

reauthorization, these criteria should be examined very closely and adjustments made accordingly.

VI. Program Management, Research and Training

SAFETEA-LU authorized NHTSA to conduct management reviews (MR) of states every three years and programmatic management reviews (SMRs) of underperforming states. NHTSA initiated these processes in 2005 and has been reviewing state programs since then.

In 2007, however, GHSA grew concerned about the consistency of the reviews from state-to-state. The Association hired a contractor to review the MR's and identify areas of inconsistency. In June of 2007, representatives from NHTSA and GHSA met and worked collaboratively to develop a more standardized approach to the MR's. The following year, the contractor undertook a similar review of state SMR's. Another collaborative meeting was held to develop a more standardized approach to the SMR's. Both NHTSA and GHSA have established their own quality control task forces to review the MR's and SMR's and ensure that the 2007 and 2008 agreements are being followed.

GHSA has also undertaken its own efforts to enhance the management of state highway safety programs. It has developed a monitoring advisory to help states enhance the monitoring of sub-grantees. It has also developed a model Policies and Procedures Manual covering all of the relevant federal regulations and guidance for federal behavioral highway safety programs. GHSA's consultant will also begin working on a self-assessment protocol so that state highway safety offices can improve their management practices between Management Reviews.

The Management Reviews and Special Management Reviews have been helpful to states and have identified issues that need to be addressed by the state highway safety offices. The partnership between NHTSA and GHSA has helped ensure that the MR and SMR criteria are applied consistently across the country. **GHSA recommends that the NHTSA oversight requirements should be continued in the next reauthorization unchanged.**

SAFETEA-LU also authorized funding for research under 23 U.S.C. 403. However, the amount of funding devoted solely to behavioral research is small – only \$7.7 million in FY 2011 – and partially earmarked for specific research projects. NHTSA's behavioral research budget has remained unchanged for more than a decade. This means that research on the effectiveness of specific highway safety countermeasures can be undertaken only if and when such research reaches the top of NHTSA's priority research list. In fact, the November 2008 National Cooperative Highway Research Program (NCHRP) report on the effectiveness of highway safety programs found that, of 104 behavioral countermeasures, only 23 had sufficient research with which to be able to determine cost-effectiveness. Without sufficient research to indicate what works and what doesn't, states are forced to implement best practices rather than appropriate research-based programs. **GHSA recommends that NHTSA's behavioral research budget should be substantially increased.**

Training is another area of concern for GHSA. There is tremendous turnover among the Governor's Representatives and Highway Safety Coordinators who run the state highway safety agencies, particularly as baby boomers retire. It is critical that incoming leaders of state highway safety offices and their staffs receive appropriate training so that they can understand the complexities of highway safety and run effective programs. As noted in the TRB Special Report 289, *Building the Road Safety Profession in the Public Sector*, there is an urgent need to improve the training for safety professionals and ensure that it is multi-disciplinary. **GHSA supports dedicated funding for NHTSA training so that the agency can enhance all of its training, including developing distance-based learning.** Further, there is a need for NHTSA to work more closely with the Federal Highway Administration and the Federal Motor Carrier Safety Administration training operations. Presently, there is no process for administering multi-disciplinary training such as the Highway Safety 101 course that was developed and pilot tested

under an NCHRP grant. As a result, the course, which provides basic training for anyone (not just highway safety offices) involved in highway safety, is languishing. **GHSA recommends that a small amount of funding should be authorized to support a safety training coordination function within DOT.**

GHSA appreciates the opportunity to testify before the Consumer Subcommittee and looks forward to working with the Subcommittee and full Committee on the next surface transportation legislation.