



**14th Annual Conference** of the  
National Association of State Highway  
and Transportation Unions (NASHTU)

# **WE BUILD THE ROADS 2013**

May 6 - May 8, 2013

Washington, D.C.



# WE BUILD THE ROADS

## 14th Annual Conference of the National Association of State Highway and Transportation Unions (NASHTU) 2013

The 14th Annual NASHTU Conference was held May 6-8, 2013 in Washington, D.C. Conference participants discussed efforts to fight wasteful outsourcing policies at the local, state, and federal levels. House Transportation and Infrastructure Ranking Member Nick Rahall (D-WV), as well as Reps. Donna Edwards (D-MD), John Garamendi (D-CA), Rick Larsen (D-WA), and Rick Nolan (D-MN) also addressed the conference. In addition, NASHTU members met with their state's Representatives and Senators in their Capitol offices to advocate safe and cost effective transportation solutions. Other speakers included representatives of the U.S. DOT, League of Women Voters, In the Public Interest, labor unions, and universities.

NASHTU is advocating two legislative proposals that are designed to protect public safety and tax dollars as states undertake federally-funded transportation improvement programs.

The first would require public employees to perform the construction inspection on all state and local transportation projects that utilize federal funds. Public inspectors ensure that construction standards are met, that projects meet safety requirements and that the materials used will stand the test of time. When the construction inspection function is outsourced, there is no representative of the public on

the job site and private companies are responsible for inspecting the work of other private companies. Examples include Boston's \$24 billion "Big Dig" (a concrete slab from a tunnel ceiling fell and killed a woman), the Los Angeles Red Line Subway (Hollywood Boulevard collapsed), the 8-805 Interchange in San Diego (10,000 defective welds on a seismic retrofit project), the Connecticut I-84 project (hundreds of drains that lead nowhere), and many other projects.

NASHTU's second legislative proposal would ensure taxpayers safe, high quality transportation services at the best possible price by requiring state and local transportation agencies to prepare a simple cost comparison prior to contracting for transportation services. Increasingly, transportation agencies are spending hundreds of millions of federal dollars on private contracts for architectural, engineering, construction inspection and related transportation services without determining if these contracts are cost effective, result in the construction of safe projects, or in any way serve the public interest. In state after state, independent and comparative analyses have determined that outsourcing engineering work and other transportation functions costs significantly more than doing the work with public employees.

## About NASHTU

NASHTU's roots extend back to 1999 when a number of unions and employee associations representing engineers and related transportation workers employed by state and local transportation departments began to share information and discuss how to address common issues. NASHTU, the National Association of State Highway and Transportation Unions, has now grown into **a coalition of 38 unions and affiliates from 20 states and the District of Columbia representing hundreds of thousands of state and locally employed public transportation workers throughout the United States.**

The annual conferences have demonstrated that outsourcing for engineering, technical, and other transportation services is a problem in nearly every state. By coming together and sharing strategies and perspectives, NASHTU can help each member union be more successful in its fight to limit wasteful, overpriced outsourcing.

NASHTU Conference attendees have heard from a variety of speakers over the years including: Secretary of Transportation Ray LaHood, Former Transportation Secretary Norm Mineta, Deputy Secretary of Transportation John Porcari, Representatives John Mica, James Oberstar, Nick Rahall, Peter DeFazio, Don Young, Stephen Lynch, Elijah Cummings, Robert Filner, Earl Blumenauer, William

Pascrell, Donna Edwards, Timothy Walz, Judy Chu, John Garamendi, and Senators Amy Klobuchar, James Jeffords and Robert Menendez. John Horsley, Executive Director of AASHTO, and Ed Wytkind, President of the AFL-CIO Transportation Trades Department have also addressed our Conference.

In 2002, NASHTU produced a highly acclaimed report Highway Robbery, which focused on the problems of outsourcing (fraud, inefficiency, and waste) from around the country and brought them together in one document.

In 2007, NASHTU released Highway Robbery II, an update of the 2002 report that highlights the enormous problems, including delays in project delivery, cost overruns, and reduced project safety that have been created in recent years when transportation agencies unnecessarily outsource design, construction management, and inspection on transportation projects.

In recent years, NASHTU has sponsored legislative proposals designed to improve safety and reduce costs of surface transportation projects throughout the nation.

For more information, please visit NASHTU's website at [www.nashtu.us](http://www.nashtu.us) or call 916-446-0584.

**Fourteenth Annual Conference of the  
National Association of State Highway and Transportation Unions (NASHTU)**  
Monday, May 6 through Wednesday, May 8, 2013  
Hyatt Regency Washington Capitol Hill

**AGENDA**

**Monday, May 6, 2013 – Capitol Room A**

- 8:30 a.m. Breakfast - Hosted
- 9:00 Welcome Remarks – **Steve Lee** - Professional Engineers in CA Government (PECG)
- 9:15 **Ed Wytkind** – President, Transportation Trades Department, AFL-CIO
- 9:45 **MAP-21 Outsourcing Provisions and What We Can Do About Them???**  
Presenter: Nadine Westcott, PECG
- 10:15 **Public-Private Partnerships – A Coordinated Response to USDOT’s Request for Comment on “Standard Public-Private Partnership Agreements”**  
Introduction: Ted Toppin, PECG
- **Bruce Blanning**, PECG
  - **Joe Dorant**, Massachusetts Organization of State Engineers and Scientists
- 11:00 **Beth Osborne**, Deputy Assistant Secretary for Transportation Policy, U.S. DOT
- 11:30 **Congressional Discussion: What are the Issues Facing Congress – The Next Transportation Authorization, Implementing MAP-21, Financing, Accountability, and Safety**  
Moderator: **Nadine Westcott**, PECG
- **Brendan Danaher**, Transportation Trades Department, AFL-CIO
  - **Jim Kolb**, Minority Staff, House Transportation and Infrastructure Committee
- 12:30 p.m. Lunch - Hosted
- 2:00 **Panel Discussion: Outsourcing, Privatization, Contracting Out – Current Outsourcing Trends and How to Communicate About the Dangers Effectively**  
Moderator: Dennis Houlihan, AFSCME
- **Scott Amey**, Project on Government Oversight
  - **Axel Aubrun**, TOPOS Partnership
  - **Nancy Tate**, Executive Director, League of Women Voters
- 3:00 **In The Public Interest’s Transportation and Infrastructure Working Group**
- **Shar Habibi**, In The Public Interest
  - **Dennis Houlihan**, AFSCME
  - **Mitch Jones**, Food and Water Watch
- 3:45 BREAK
- 4:00 **Outsourcing Opposition Strategy Session – Identifying Allies and Coalition Partners**  
Facilitators: Dennis Houlihan, AFSCME and Ted Toppin, PECG
- 6:30 NASHTU Group Dinner – We, The Pizza (305 Pennsylvania Avenue, SE)

# AGENDA

## Tuesday, May 7, 2013 – Capitol Room A

- 8:00 a.m. Breakfast – Hosted
- 8:30 **Rep. John Garamendi** (D-CA), Member, House Transportation and Infrastructure Committee
- 9:00 **Rep. Nick Rahall** (D-WV), Ranking Member, House Transportation and Infrastructure Committee
- 9:30 **Rep. Rick Nolan** (D-MN), Member, House Transportation and Infrastructure Committee
- 10:00 **Panel and Discussion: An Educational Perspective – Debunking the Myths of Outsourcing**  
Moderator: Dennis Houlihan, AFSCME
- **Ellen Dannin**, Fannie Weiss Distinguished Faculty Scholar and Professor of Law, Dickinson School of Law, Pennsylvania State University
  - **Elliott Sclar**, Economist, Columbia University
- 11:00 **Rep. Donna Edwards** (D-MD), Member, House Transportation and Infrastructure Committee
- 11:30 *Lobbying NASHTU's Legislative Agenda*
- **Mary Richards** - MOSES
  - **Ted Toppin** - PEGG
- 12:00 p.m. Lunch - On your own
- 1:00-5:00 Lobbying on Capitol Hill
- 5:30-7:30 Congressional Reception – LBJ Room (S-211)

## Wednesday, May 8, 2013 – Columbia Room B

- 8:30 a.m. Breakfast - Hosted
- 9:00 **Rep. Rick Larsen** (D-WA), Member, House Transportation and Infrastructure Committee
- 9:30 **Panel and Discussion: Developments at Highway Departments Throughout the Nation**  
Moderator: Dennis Houlihan - AFSCME
- **Ned Statchen**, Connecticut State Employees Association
  - **Joe Dorant**, Massachusetts Organization of State Engineers and Scientists
  - **Paul Gendron**, New York Public Employees Federation
  - **James Garity**, AFSCME Council 40
  - **Bruce Blanning**, Professional Engineers in California Government
  - **Anissia Goodwin**, OCSEA/AFSCME Local 11
- 10:00 Lobby Day Reports
- 10:45 *Action Plan for NASHTU for 2012-2013*
- **Dennis Houlihan** – AFSCME
  - **Mary Richards** – MOSES
  - **Jimmy Tarlau** – CWA
  - **Ted Toppin** - PEGG
- 11:30 Adjournment

# 2013

## Fourteenth Annual Conference of the National Association of State Highway and Transportation Unions (NASHTU) PROCEEDINGS

### Introductions and Welcomes

**Jimmy Tarlau, Communication Workers of America (CWA)**, welcomed everyone to the 14<sup>th</sup> Annual NASHTU Conference.



Jimmy Tarlau



Steve Lee

**Steve Lee, President of the Professional Engineers in California Government (PECG)**, gave the formal opening remarks. NASHTU is the united voice for tens of thousands of state and local transportation workers who provide cost-effective, safe transportation projects for taxpayers. Mr. Lee also noted that we blocked outsourcing mandates last year and thanked Rep. Donna Edwards (D-MD) for her efforts. It is important to work together and be diligent to ensure that such mandates do not become law.

**Ed Wytkind, President of Transportation Trades Department (TTD), AFL-CIO**, said that NASHTU's voice is vital today and that while the work we've accomplished is incredible, NASHTU needs to do more to stop wasteful spending. NASHTU is a lead advocate of responsible public stewardship. He gave a brief history of TTD and their key issues and challenges. Mr. Wytkind talked about the current dysfunction of Congress and Washington D.C. politics. He also gave labor's perspective on the on-going budget crisis, the current transportation authorization, and what battles we should be expecting for the next authorization. Social media is important to connect with our audience, policy makers, and other key transportation officials. Twitter and Facebook are a new way to communicate and a great way to get real time information.



Ed Wytkind

### MAP-21 Outsourcing Provisions and What We Can Do About Them

**Nadine Westcott, PECG**, gave a presentation about the current transportation authorization, Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), and its provisions that cover outsourcing. NASHTU was successful in defeating a mandate to outsource engineering and design services. This was a huge victory. It shows the value of partnerships, and the NASHTU Coalition. However, there were several provisions included in the final MAP-21 that encourage outsourcing for mapping and surveying services, stating that it is in the "national interest" to encourage greater private sector involvement in transportation project delivery. These provisions encourage or otherwise incentivize the use of design-build, CMGC contracting. Ms. Westcott recommended that NASHTU members educate Members of Congress and their Staff about these outsourcing provisions, continue to advocate for NASHTU priorities, and build coalitions with good government groups, labor unions, and others.

### Public-Private Partnerships – A Coordinated Response to U.S. DOT's Request for Comment on "Standard Public-Private Agreements"

**Ted Toppin, PECG**, introduced the panel discussion. The Federal Highway Administration has requested comments on a "Standard Public-Private Partnership Agreement." This is a good opportunity to voice our concerns with public-private partnerships (P3) for transportation projects and make policy suggestions on how to improve the outcome for taxpayers.

NASHTU will be drafting comments and he encouraged NASHTU member unions to participate in the process. This panel will discuss the P3 experience in their state.

**Bruce Blanning, PEGG**, asked NASHTU members to get vocal and publicize the consequences of recent P3s. The Chicago Skyway and parking meter deals are examples to highlight. Mr. Blanning went through a brief history of California P3s. Route 91 was overbudget and had a non-compete clause that ultimately forced taxpayers to buy back the express lanes at a higher cost. Route 125 in San Diego went bankrupt, becoming the first P3 to default on a federal TIFIA loan, and was ultimately bought out by taxpayers. The Presidio Parkway P3 in San Francisco will cost twice as much as the traditional design-bid-build delivery method. It guarantees excessive profits for the private investor because the contract calls for availability payments out of the State Highway Account, rather than collecting revenue through tolls. PEGG has employed a variety of tactics to fight these deals. Most importantly, PEGG relies on communicating the message to the media and elected officials, and focusing on enabling legislation to include provisions that protect the public interest.



Joe Dorant (left) and Bruce Blanning

**Joe Dorant, Massachusetts Organization of State Engineers and Scientists (MOSES)**, was appointed to a new commission on P3s by the governor. The Public-Private Partnership Infrastructure Oversight Commission will have an important role in Massachusetts P3s. Mr. Dorant will keep NASHTU posted on the commission's activities. The commission was born out of Massachusetts transportation overhaul legislation that gave blanket P3 authority to the department of transportation. MOSES lobbied against the P3 provision in the bill and the creation of the oversight commission was the compromise. MOSES secured a seat on the commission through legislation and is the only voice critical of P3s. Mr. Dorant also discussed the numerous mistakes on the Big Dig.

**Vince Oliveri, Professional and Technical Employees Local 17**, spoke about Washington's Tacoma Narrows Bridge P3 experience. When the state determined that it needed an additional span to accommodate traffic, it chose a P3 delivery method and awarded the contract to Bechtel-Kiewit. The P3 was scuttled after a lawsuit successfully challenged that the deal was illegal. The Washington Department of Transportation (WSDOT) then changed the delivery method from P3 to design-build and released a report that showed that switching from private financing to public financing saved Washington taxpayers \$336 million over 24 years. While this did dampen the push for more P3s in Washington, it also made design-build delivery very attractive to policy and decision makers. A gas tax increase in 2003 provides ample opportunity to utilize design-build. The ultimate consequence is that consultant design work on transportation projects has increased from 15% to 54% of all projects by dollar value.

Since that time, Washington has enacted new P3 legislation that includes some public interest provisions, such as a requirement to do a cost comparison with the department's internal ability to complete the work and a citizen advisory panel for projects over \$300 million.

**Beth Osborne, Deputy Assistant Secretary for Transportation Policy**, U.S. Department of Transportation, gave an overview of MAP-21, the current transportation authorization. MAP-21 contained huge policy changes from previous authorizations, including the consolidation of programs, more discretion allowed to the states, and the development of performance measures. The performance measures cover five areas: safety, state of repair, freight movement, interstate and national highway performance, and congestion reduction/reduced emissions from mobile sources. Ms. Osborne stated that the performance measures will help with public awareness of where and how federal transportation taxes are spent. A challenge for the federal government is that it can't show progress by including a listing of projects that will be built or repaired by funding initiatives as is common practice for state and local jurisdictions. Ms. Osborne said the



Beth Osborne

performance measures will help solve that problem. She also discussed the ongoing budget crisis and how sequestration affected transportation even though it didn't directly affect the Highway Trust Fund. Programs affected by sequestration include TIGER, Amtrak and other annually appropriated transportation programs. She encouraged NASHTU attendees to keep making our points, providing information and educating Members of Congress and their staff.

## Congressional Discussion: What are the Issues Facing Congress – The Next Transportation Authorization, Implementing MAP-21, Financing, Accountability, and Safety

**Nadine Westcott, PEGC**, moderated the discussion.

**Jim Kolb, Democratic Staff for the House Transportation and Infrastructure Committee**, spoke in detail about the Congressional dealings that led to MAP-21. He discussed the outsourcing mandate that House Republicans tried to add via H.R. 7, which was unacceptable to House Democrats on the Committee. House Democrats also objected to cutting transportation investment levels to match Highway Trust Fund revenue levels, which would have amounted to a 33% cut. MAP-21 covered the funding gap with a one-time general fund transfer. A number of members have made it clear that the use of general funds would not be an acceptable means of supplementing the Highway Trust Fund in the future. The biggest challenge with the next surface transportation authorization is coming to an agreement on a sustainable funding source for the highway trust fund. Mr. Kolb is encouraged that the new Chairman, Rep. Bill Shuster (R-PA) is working in a more bipartisan fashion than his predecessor and has said that all options are on the table regarding potential highway funding sources. A vehicle miles traveled (VMT) tax-based system could be a long term solution. It's good because it would return the revenue system to more of a true-user fee. In the short term, however, the political, administrative, and infrastructure challenges of transitioning to a VMT system are just too massive to count on for a quick fix. Mr. Kolb briefly discussed some of the other transportation funding ideas that are circulating including the Republican plan to create revenue from oil and gas royalties, which he said would not generate enough revenue – only \$5 billion over 10 years, according to the Congressional Budget Office. The Highway Trust Fund is facing a revenue shortfall of \$15 billion in fiscal year 2015, which would require Congress to either: zero out the program in fiscal year 2015 (a potential cut of \$53 billion in 2015 alone), increase revenue by the equivalent of a 10 cents-per-gallon gas tax increase, or transfer \$15 billion from the general fund. Mr. Kolb also said that there is a possible opportunity to explore transportation revenue options during consideration of tax reform, but mentioned that there is a long way to go before determining that any tax reform plans are a viable solution.



Brendan Danaher, Jim Kolb, and Nadine Westcott (left to right)

**Brendan Danaher, Senior Legislative Representative, Transportation Trades Department (TTD), AFL-CIO** gave NASHTU attendees a labor perspective on the transportation authorization, potential funding sources, and Washington politics. He stressed the importance of public sector and private sector labor coming together and finding common ground on a set of policies for transportation funding. The TTD supports a gas tax increase as a short term fix for transportation funding shortfalls. They also see potential in the idea of changing the gas tax from a per-gallon tax to a per-dollar tax. As for a longer term solution, TTD is interested in a user-fee based revenue source that can effectively capture advancements in vehicle fuel efficiency. One such approach, the VMT, which assesses charges on roadway use for each mile driven, may be a helpful addition to the highway trust fund. That said, we believe a VMT should be viewed as a complement, and not a substitute, for a gas tax. Similarly, innovative financing proposals, if properly implemented, may also prove helpful as financing mechanisms, but again, are not a substitute for sincerely addressing the chronic underfunding of the highway trust fund. Finally, P3s can serve a purpose in the delivery of transportation projects but their implementation is often complicated and raises a number of serious concerns. TTD believes that any P3 agreement must maintain existing labor protections, serve the public interest, and protect the jobs and rights of public employees. Another challenge is going to be figuring out how to support

innovative financing without hurting public sector employees. Mr. Danaher echoed what Mr. Kolb asserted about the new bipartisan feel under Chairman Bill Shuster (R-PA) and added that Rep. Shuster had reached out to labor and the TTD to discuss the issues. Mr. Danaher also recommended that NASHTU members talk to Republican legislators about NASHTU priorities from a cost perspective. TTD's goals for the next transportation authorization include no roll backs on labor protections, finding new ways of funding transportation, and if that new funding includes P3s, finding a way that it won't threaten public sector workers.

## Panel Discussion: Outsourcing, Privatization, Contracting Out – Current Outsourcing Trends and How to Communicate about the Dangers Effectively

**Dennis Houlihan, American Federation of State, County, and Municipal Employees (AFSCME)** moderated the panel.

**Axel Aubrun, TOPOS Partnership** spoke about effectively framing the conversation about privatizing public assets and services. TOPOS studied what messages on privatization resonated the most with the public and found that the traditional arguments of corruption, kickbacks, and rewarding friends with lucrative government contracts are not as persuasive as we might hope. The most effective messages focus on the transfer of the public's control over assets and services to private interests. Supporting ideas include lack of competition for government contracts and long term contracts that span decades. Dr. Aubrun played a video that illustrated the concept. Members of the public were first filmed stating their opinions that the private sector is better suited to perform government work. After reframing the issue, the same interviewees concluded that government contracts lacked competition, that it was important to retain government control, and that long-term contracts were inadvisable. Dr. Aubrun closed his presentation by reminding NASHTU attendees that it is important to not just educate lawmakers, but to focus on public opinion and public education on privatization as well.



Nancy Tate, Scott Amey, Dennis Houlihan and Axel Aubrun (left to right)

**Scott Amey, Project On Government Oversight (POGO)**, gave a brief history of POGO, which started out as a good government group that focused on military contract spending but now investigates waste, fraud, and abuse in all federal agencies. Mr. Amey clarified that when he used the term outsourcing, he was not talking about privatization whereby a government sells or leases an asset or services, but instead he was referring to government contracts with the private sector to perform work that could be performed by federal employees. Over sixty percent of all federal contract spending is now spent on services. This essentially sets up a shadow government of contractors that is not easily tracked or overseen. Mr. Amey also briefed the group about a POGO study entitled, "Bad Business: Billions of Taxpayer Dollars Wasted on Hiring Contractors". The study compared total annual compensation (salary and benefits) of federal employees in 35 occupational classifications covering 550 activities with contractor billing rates to perform equivalent work. The results found that contractors were more expensive in 33 of the 35 occupational classifications, and that outsourcing costs on average 83% more than the cost of federal employees doing comparable work.

**Nancy Tate, Executive Director, League of Women Voters (LWV)**, discussed the League's recent decision to adopt a formal position on privatization. The position does not address whether you should or should not privatize a public asset or service, but rather lays out criteria that should be met to protect the public interest. These include transparency, accountability, public safety, quality, cost, and adequate oversight. Ms. Tate also gave a brief history of LWV and how they've evolved over the years. They are a grassroots, all volunteer organization. They provide services that include education on societal issues and election-related services such as hosting debates or providing voter guides. The process to adopt a formal position involves LWV chapters at the state and county level before it comes to a vote at an annual convention. Once the LWV formally adopts a position, then LWV members can openly advocate their position on the issue.

# In the Public Interest's Transportation and Infrastructure Working Group

**Dennis Houlihan, AFSCME**, introduced the panelists.

**Shar Habibi, In the Public Interest**, talked about the newly formed Transportation and Infrastructure Working Group, of which NASHTU is a member. The goal of the working group is to improve the way labor groups work with each other to share information, monitor privatization projects, and coordinate efforts to stop privatization deals that don't serve the public interest. *In the Public Interest* has had great success fighting privatization of prisons via a Correctional Working Group. With the ongoing debate about how to fund America's infrastructure needs, any agreed upon investment should not be a code word for privatization or outsourcing. The Transportation and Infrastructure Working Group will meet monthly or as needed via conference call. She encouraged attendees to be more proactive with legislation and education.

**Mitch Jones, Food and Water Watch**, said that Food and Water Watch is a consumer advocacy organization that is against corporate control of essential resources such as food and drinking water. The organization is also a member of the Transportation and Infrastructure Working Group. Mr. Jones said that Food and Water Watch is absolutely against public-private partnerships and spends a great deal of time lobbying for legislation that protects the public interest and opposing legislation that would circumvent the public interest. He urged attendees to fight for NASHTU's goals, and offered to work together to help both organizations achieve our mutual objectives.

**Rep. John Garamendi (D-CA)** expressed concern about the current climate in Washington. He characterized the Republican leadership's plans of austerity and downsizing government as shortsighted and not productive. The Tea Party Congress is continually reducing the ability of government to carry out its basic tasks. Regarding transportation, Rep. Garamendi said that we



Rep. John Garamendi and the California delegation

need to develop a robust transportation bill and "find the courage to raise revenue" for it. He discussed a number of potential transportation funding solutions including restructuring the gas tax, transitioning to a vehicle miles traveled (VMT) system, or the development of an infrastructure bank whereby the government can finance projects efficiently with the help of private capital. Regarding NASHTU's objective of public performance of construction inspection, Rep. Garamendi said that he wants a public inspector to tell him that a project is done right.



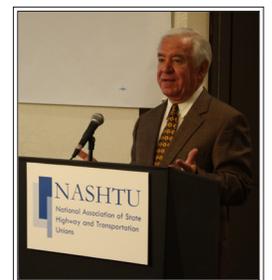
Rep. John Garamendi

**Transportation and Infrastructure Committee Ranking Member, Rep. Nick Rahall (D-WV)** discussed the importance of infrastructure to our economy. He is a strong supporter of Buy America provisions and believes they should apply in all transportation legislation. While passing MAP-21 was important, it was also insufficient. It was only a two year bill and it maintained



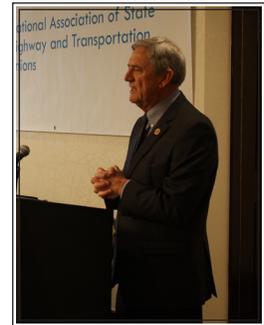
Rep. Nick Rahall with the Ohio delegation

spending levels rather than increase them. We need to invest in our transportation system to remain competitive in a world economy. Rep. Rahall feels strongly about the importance of the federal government's role in transportation and infrastructure. While he acknowledges that there is an appropriate role for the private sector in infrastructure development, that role is limited, and must include public oversight to ensure that the projects advance the public interest, not private profits.



Rep. Nick Rahall

**Rep. Rick Nolan (D-MN)** discussed how different Congress is now compared to when he first served. During his first stint in Congress (1975-1981), the focus was much more on governing compared to the current focus mainly on fundraising. He said that elections are too expensive and we should have public financing of campaigns. Rep. Nolan also pointed to the need to end wars of choice and nation building abroad, and instead reinvest those dollars in America, especially in rebuilding our infrastructure and transportation systems to generate good paying union jobs and help rebuild the middle class. Rep. Nolan said that proposals to mandate outsourcing of engineering services, such as design, surveying and inspection, is a “prescription for nothing but trouble.” It will not only lead to a loss of good jobs, but will also decrease public safety. There is great service when we allow public servants to do public work. Rep. Nolan urged NASHTU attendees to keep coming to Washington and keep making our case to Members of Congress. Being heard is the only way to achieve our objectives at the federal level.



Rep. Rick Nolan

## Panel Discussion: An Education Perspective – Debunking the Myths of Outsourcing

**Dennis Houlihan, AFSCME**, introduced the panelists and moderated the discussion.

**Elliott Sclar, Economist, Columbia University**, said the myths about outsourcing generally fall within two categories: economic and political. The economic myth is based on the premise that markets are inherently competitive and efficient. The worldwide economic controversies of the past few years disprove that notion. The political myth is threefold: that the public sector only absorbs value, it doesn't provide value; that there is no accountability in the public sector; and that unions (public and private) are inherently corrupt institutions. All of these political myths lead to the right wing philosophy that you must shrink government in order to solve problems. Mr. Sclar mentioned that NASHTU attendees already know that these political myths are incredibly misguided and wrong. He also gave two examples of outsourcing problems that he had personal experience with. Working with AFSCME, Mr. Sclar successfully quashed some outsourcing contracts that the Ohio Department of Transportation was trying to implement to have a private firm provide construction inspection services on bridges. Over the course of the dispute, ODOT admitted that they were trying to give the contracts to the same private firm that designed the project. The second example was with the Massachusetts Department of Public Works. The department had awarded a maintenance contract to a private firm that was very task specific. The contract called for the removal of litter and mowed grass. The end result was mowed litter. The contractor had hired subcontractors to perform the work and did not coordinate the order of the tasks to be performed.

**Ellen Dannin, Fannie Weiss Distinguished Faculty Scholar and Professor of Law at Dickinson School of Law, Pennsylvania State University**, asked why some work is done by the public sector and other work is done by the private sector. The answer in both cases is accountability. Robust market competition in the private sector drives businesses to do a better job than their competitors. However, in some cases there can be no market and no competition. The classic example is street lights. We cannot put up a street light without “sharing” that light with others, and there is no way to keep some people from shirking. So to meet the need for streetlights, the government does it.

Some people call government regulations “red tape” and something to be cut out of the system. But that “red tape” holds government accountable through freedom of information laws, open meeting acts, and other transparency measures.

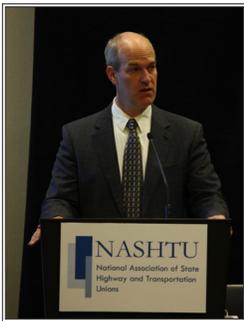
When the government privatizes services or infrastructure, there is no private sector accountability through competition, and FOIA and other public accountability laws do not apply to the private sector. In addition, non-disclosure agreements in privatization contracts protect the private sector from public scrutiny. P3 agreements also often include non-compete, adverse action, and compensation clauses to guarantee private contractor profits. For example, the Chicago parking meter P3 contract includes an adverse action right that forces the city to reimburse the

private contractor for any blocked parking places as a result of street closure. That means that whenever Chicago closes a street for pothole repair, repaving, or a street fair, the private lessee must be compensated by the city for every unusable parking space.

**Rep. Donna Edwards (D-MD)** said that the current push for more private sector involvement in infrastructure projects is misguided. Outsourcing public projects will always cost more and limit job creation. Additionally, outsourcing carries the risk of a lack of accountability, particularly in regards to inspection. Rep. Edwards mentioned that there are local, private projects in her district that had problems because the public sector lacked the authority to properly oversee the work. She also discussed the huge need to increase transportation funding. Congress needs to make critical investments to rebuild our roads and bridges, create jobs, and grow our economy for the 21<sup>st</sup> century. In closing, Rep. Edwards stressed the importance of working together to make infrastructure investments a reality: across party lines, state and regional boundaries, and throughout urban and rural communities.



Rep. Donna Edwards



Rep. Rick Larsen

**Rep. Rick Larsen, (D-WA)** discussed transportation issues that his Washington State district faced regarding freight traffic, commutes, etc. Transportation investment creates jobs – for every billion dollars spent, 30,000 jobs are created. Rep. Larsen supports raising the gas tax, though he acknowledged that is not a long-term solution. He also said that P3s may supplement, but not replace transportation funding. He is also supportive of comparing the costs between the private sector and the public sector.



Rep. Rick Larsen and the Washington state delegation



**The 14<sup>th</sup> Annual NASHTU Conference closed** with NASHTU attendees reporting on their meetings on Capitol Hill. Dennis Houlihan, AFSMCE, moderated a panel discussion during which several NASHTU attendees reported on state and local issues that were affecting their respective departments of transportation. There was also a discussion about the 2013-2014 NASHTU Action Plan.

