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On July 17, 1997, as legislators and their staffs were right in the middle of crafting language for the big new transportation authorization bill that would later be known as “TEA-21,” Pennsylvania Democratic Congressman Robert A. Borski sent a letter to fellow Pennsylvania Cong. Bud Shuster, the Chairman of the House Transportation and Infrastructure Committee on which Borski served. “Dear Bud,” he wrote, writing over the typed words “Chairman Shuster.” “I am writing to respectfully request your support for the attached legislation which provides federal funding for an Intelligent Transportation System (ITS) initiative and associated research program. The language will allow the Secretary of Transportation to carry out a program to advance and expedite the development of an operational ITI [sic] system for the measurement of various transportation system metrics.”

“The legislation I am submitting provides for the mainstreaming of ITS with limited federal funds by requesting the private sector to develop a system which can be deployed to more than 40 metropolitan areas across the nation at a cost not to exceed \$2,000,000 per area,” Borski continued.

His short (slightly over one page) letter read very much like a sales pitch for the newly conceived ITIP program, saying that the legislation would “dramatically improve existing ITS infrastructures” and promote

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“increased operational efficiency and capacity of our national highway system.” Borski’s letter concluded with “Thank you for your support of this essential legislation.”

As is often the case with sales pitches, the “product” didn’t quite live up to its hype. In his letter, Borski touted the creation of a “commercially viable operating ITS system, capable of feeding data into a national transportation system data base for use by all federal agencies.” While that sounded good on paper, in practice “federal agencies” don’t actually operate our nation’s highways—even “federal highways.” That task is left mostly up to state departments of transportation, who in almost all cases cannot use the truly useful traffic data from the ITIP program to provide guidance to their constituents via their own 511 systems, dynamic message signs, Internet sites or other ways to get the word out about traffic conditions. That fact, combined with the inability of other commercial traveler information providers to access the publicly subsidized data from this program, meant that the promise of “increased operational efficiency and capacity” was little more than a bad joke.

With the advantage of hindsight, Borski’s letter invites some interesting questions. How did Cong. Borski get involved in promoting this program in the first place, since Traffic.com’s founder and President David Jannetta, the former Mayor of the largest city in Bud Shuster’s 9th Congressional District (Altoona), was Shuster’s long-time associate, not Borski’s? Had Shuster perhaps asked his fellow Pennsylvania Congressman and long-time Transportation Committee colleague to send this letter as “political cover” to make it seem that Shuster was not actually the wizard behind the curtain?

### **Play... then Pay**

The January 15, 2001 story in *Inside ITS*, “Traffic.com claim to \$50 million ITS earmark raises questions,” made very clear that Chairman Shuster was in fact the key person pushing the earmarked ITIP program that became the basis for Traffic.com’s later monopoly. “A House Appropriations Committee source, who asks not to be identified, says the \$50 million is an earmark sought by Bud Shuster, the chairman of the

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House Transportation Committee and representative from Pennsylvania,” reported *Inside ITS* Editor Mike Curran. “Almost two months after the [FY01 Transportation Appropriations] bill was passed, a spokesman for the House Transportation Committee says the staff was unaware of the provision. ‘It sounds to me like one of those things that was thrown in at the very last minute during negotiations on the conference report,’ he says.”

Despite Cong. Shuster’s best efforts to dedicate \$50 million solely to Traffic.com in the FY2001 Transportation Appropriations Bill, the US-DOT was clearly proceeding slowly. “The DOT, however, has been very cautious since the appropriations bill was passed,” Curran reported. “Jeff Paniati, the deputy director of the ITS Joint Program Office (JPO), says, ‘We are still in the process of trying to understand the congressional intent of that provision.’”

The fact that the USDOT was dragging its feet on dedicating that \$50 million earmark to Traffic.com quickly found its way back to Shuster. On January 17, 2001, Shuster’s Chief of Staff Darryl Wilson would write to outgoing Transportation Secretary Rodney Slater to “clarify the intent” of the language in the FY2001 transportation appropriations bill. Slater would only hold that high office for three more days, soon passing the baton to the new regime headed by incoming Transportation Secretary Norman Mineta.

“This provision was included at the request of Congressman Bud Shuster, Chairman of the House Transportation and Infrastructure Committee,” Wilson wrote. “The intent of this language was to ensure that these funds were used to carry out the project which has already received initial funding by the DOT, expressly the project specified under section 5117(b)(3) and which had already been funded by DOT in Pittsburgh and Philadelphia. In no way was this intended that DOT conduct a competition for the awarding of funds.”

Wilson was—as forcefully as he could—conveying the wishes of his boss, Chairman Shuster, that the whole \$50 million was earmarked for just one company, Traffic.com. Not coincidentally, that was the same company co-founded and headed by Shuster’s old political buddy, former Altoona Mayor Dave Jannetta.

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Unfortunately for Shuster, the Federal Highway Administration was seeing things differently. “After a thorough review, we have concluded that the legislative language in Section 378 [of the FY2001 transportation authorization bill] does not meet the legal requirements necessary to direct the funds to the existing project,” replied FHWA Deputy Director Vince Schimmoller in his response to Wilson on February 20, 2001. Schimmoller said that the FHWA’s analysis had concluded that “adding the \$50 million contained in Section 378 to the existing \$8 million contract implementing section 5117(b)(3) would significantly change the scope of the contract and require recompetition.”

Interestingly, Schimmoller’s letter would go to Bud Shuster’s Chief of Staff Wilson almost three weeks after Shuster retired from Congress on January 31, 2001, following the disastrous fall 2000 expose on 60 Minutes and Shuster’s rebuke from the House Ethics Committee. (Wilson would later go through his own revolving door to become Assistant Vice President of Government Affairs for the big railway Norfolk Southern Corp. Showing that his connection to the Shuster family continues even in recent times, in December 2007 he would contribute \$1,000 to the “Bill Shuster for Congress” committee on behalf of Norfolk Southern.)

Even after his retirement, Bud Shuster’s legislative comrades would continue to champion Traffic.com’s case and put pressure on the USDOT to reverse its stance and devote the \$50 million earmark solely to Traffic.com. Alaska Cong. Don Young, Shuster’s successor as Chairman of the House Transportation and Infrastructure Committee, would play a particularly vocal role on the company’s behalf. Young was not only in the most powerful position in Congress related to transportation issues, but was widely known as someone who could be readily recruited to champion a cause—for a price. (See Sidebar, “The Coin-Operated Politician.”)

On March 26, 2001, Young would write to new Transportation Secretary Mineta expressly to get the USDOT to reverse its earlier decision. “I write concerning an issue that has arisen regarding one portion of Section 378 of the Department of Transportation and Related Agencies Appropriations Act of 2001, P.L. 106-346,” Young wrote. “In the provision in question, Congress earmarked \$50 million for ‘the intelligent transportation system infrastructure program’ as authorized by Section 5117(b) of PL

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### The “Coin-Operated Politician”

One of my advisors from a DC-based government watchdog organization once characterized Alaska Congressman Don Young as a “coin-operated politician.” The more I learn about Cong. Young’s behavior, the more I see how well that shoe fits.

Unlike the case of his predecessor as Chairman of the House Transportation and Infrastructure Committee, Bud Shuster, no evidence I have discovered suggests that Cong. Young was one of Traffic.com’s early supporters. Young seems much more pragmatic than visionary: grease his palm, and he’ll be right there alongside, pushing your cause.

Young’s modus operandi was never more evident than in the case of the Coconut Road interchange off of Interstate 75 near Fort Myers, Florida. In 2006, Lee County, FL, transportation planners discovered that the \$10 million in funding in SAFETEA-LU they had thought was designated to widen I-75 was instead earmarked to study an interchange off of I-75 at Coconut Road.

On June 6, 2007, the *New York Times* would break the strange story that an Alaska politician, Cong. Don Young, had in fact played the lead role in diverting those federal funds to Coconut Road. “It is no secret that campaign contributions sometimes lead to lucrative official favors. Rarely, though, are the tradeoffs quite as obvious as in the twisted case of Coconut Road,” said *Times* reporter David D. Kirkpatrick.

“The Coconut Road money is a boon, however, to Daniel J. Aronoff, a real estate developer who helped raise \$40,000 for Mr. Young at the nearby Hyatt Coconut Point hotel days before he introduced the measure,” the *Times* reported. “Mr. Aronoff owns as much as 4,000 acres along Coconut Road. The \$10 million in federal money would pay for the first steps to connect the road to Interstate 75, multiplying the value of Mr. Aronoff’s land.”

Coming on the heels of the very negative exposure of Cong. Young’s role in promoting the Alaskan “Bridge to Nowhere,” the Coconut Road PR fiasco further tarnished Young’s already sullied reputation. But the carnage wasn’t over yet. Further investigations would reveal that Young had added the Coconut Road earmark after both the House and Senate had

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voted on the final SAFETEA-LU language to be sent to President Bush for his signature.

Inserting a little \$10 million earmark for a friend into a multi-billion dollar transportation bill loaded with thousands of earmarks and “pork” is one thing. Violating congressional protocol and ethics by doing so after everyone has agreed to the final language in that bill is quite another.

In mid April 2008, the U.S. Senate “took the unusual step of asking the Justice Department to investigate Rep. Young’s Coconut Road earmark,” said an article by Erika Bolstad in the April 18 edition of the *Anchorage Daily News*. On a bipartisan basis, the Senate voted 64 to 28 to ask the Justice Department to intervene. The *ADN* quoted Senate Majority Leader Harry Reid (D-NV)—admittedly one to take a partisan shot if it so presented itself—as saying that Young’s earmark had spotlighted “the corruption that permeated the Congress in recent years.”

Ka-ching!

105-178’ (TEA-21). This provision was added at the request of the [sic] Chairman Shuster of the Transportation and Infrastructure Committee. The intent of this provision was clear, that the funds were earmarked for the same exact purpose as were the funds authorized by Section 5117(b) of TEA-21. The intent of Section 5117(b) of TEA-21 is even clearer. That provision provided funding for the deployment of a particular intelligent transportation system. A company named Traffic.com was the successful bidder for this program. The additional funding provided in Section 378 of PL 106-346 was to supplement the deployment in additional metropolitan areas of that exact same intelligent transportation system.”

“It has come to my attention that the agency within the Department of Transportation responsible for implementing these provisions, the Joint Program Office, believe that the funds made available by Section 378 of P.L. 106-346 should be available to be allocated to other intelligent transportation system projects,” Young continued. “This is directly contrary to the language and intent of Section 378. A similar view has been expressed to the Department by Senator Warner and by former Congressman Shuster’s Chief of Staff.”

“I urge you to honor the express language of Section 378 and the

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clear intent of Congress and provide the additional funding to the project awarded the funding made available in Section 5117(b) of TEA 21,” Young concluded.

In this letter, which came just four weeks after FHWA Deputy Director Schimoller had concluded that the nationwide ITIP expansion would require “recompetition,” Young was strongly advocating that the \$50 million in new funds should be allocated only to the “exact same intelligent transportation system.” Translation: the funds should be allocated to Traffic.com on a sole-source basis. It was almost as if Chairman Young were acting as a political clone of his predecessor, Bud Shuster, pushing Traffic.com’s interests to the USDOT.

Had Young taken up the cause because of his friendship with his long-time Transportation and Infrastructure Committee colleague? Surely that friendship might have played some role. However, a check on Traffic.com’s political contributions would provide an even more plausible explanation. A little more than a month after Young’s letter to Secretary Mineta, four individuals who either worked for or were connected to Traffic.com would on the very same day contribute funds to Young’s reelection campaign fund or “Midnight Sun” political action committee (PAC).

On April 30, 2001:

- Brian T. Malewicz, listed as “Traffic.com/Executive,” gave \$1,000 to “Alaskans for Don Young.”
- Michael D. Burns, also listed as “Traffic.com/Executive,” gave \$1,000 to Alaskans for Don Young.
- John Collins, Traffic.com’s Vice President, gave \$500 to Alaskans for Don Young.
- B. Michael Schaul, listed as “ESCEM Group Ltd./Executive,” gave \$500 to Alaskans for Don Young. Schaul was identified in the Jan. 15, 2001 article in *Inside ITS* as a “passive shareholder in Traffic.com” who acknowledged that he “consults with [Traffic.com President David] Jannetta from time to time.”

In a seeming reversal of the phrase “pay-to-play” that’s often used to describe the influence of money on politics, Young appeared to have

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gotten “paid” only after first coming through on behalf of the company. Perhaps the company’s executives had not trusted Young sufficiently to “pay” up front.

### **An (Almost) Immediate Payoff?**

The “pay-to-play” connection involving Congressman Borski and Traffic.com was even more obvious. On April 19, 2001, Traffic.com President David Jannetta would contribute \$1,000 to the “Borski for Congress Committee,” according to federal records. On the very next day, Cong. Robert A. Borski would write to Transportation Secretary Mineta urging that the \$50 million appropriations earmark go directly to Traffic.com.

“I urge you to work with existing tools that have been provided to USDOT and quickly award task orders to build out a national interoperable traveler information system as provided under Section 5117(b)(3) of TEA-21,” he wrote. The key phrase here was “existing tools”: Borski was in effect asking the USDOT to extend its existing contract with Traffic.com in Philadelphia and Pittsburgh nationwide, notwithstanding the fact that the FHWA had earlier said that the new funds would require “recompetition.”

Cong. Borski was even more specific in the next paragraph. “It is time for the Department to use its authority under the Information Technology Omnibus Procurement process to award the next task order to the existing team and get on with this deployment,” he emphatically stated.

It’s truly amazing how quickly a well placed \$1,000 political donation can result in a very strongly worded letter to a Cabinet Secretary demanding that the cornerstone of our free enterprise system, competition, go right out the window.

To put an exclamation point on Traffic.com’s appreciation, Mark DeNino, Traffic.com’s Board Chairman, gave \$500 to the Borski for Congress Committee on May 24, 2001, just over a month after Borski’s letter to Secretary Mineta. The disclosure form didn’t mention that connection, however, instead listing Mr. DeNino as Managing Director of TL Ventures, which collectively through many different partnerships held a majority equity interest in Traffic.com.

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### **Bringing in the Heavyweights**

Despite these very pointed letters from legislators to Transportation Secretaries Slater and Mineta demanding that the USDOT dedicate the \$50 million earmark solely to Traffic.com, the Federal Highway Administration was hanging tough. FHWA Deputy Director Schimmoller’s contention that without more explicit congressional guidance the ITIP program’s national expansion required “recompetition” remained the FHWA’s official stance.

Behind the scenes during the spring and summer of 2001, Traffic.com was working hard to come up with a legislative way to lock in their sole-source arrangement and take that decision away from the FHWA altogether. Mr. Schimmoller’s conclusion that the program required recompetition had put their vision and future plans in severe jeopardy.

Just over two weeks after receiving Schimmoller’s very distressing letter, the company would hire two lobbying heavyweights. On March 6, Pennsylvania Governor Tom Ridge’s former long-time Chief-of-Staff-turned-lobbyist Mark A. Holman with Blank Rome Comisky & McCauley LLP, would register as Traffic.com’s lobbyist. The sole “Specific lobbying issue (current and anticipated)” listed on his registration form: “Transportation Funding.”

The very same day, Traffic.com would reach out to another lobbying firm, Winston & Strawn, located just a half mile away from Blank Rome and, like Blank Rome, just a block off of “K Street” famously known as the hotbed of political influence—and corruption—in Washington, DC. On March 6, James H. Burnley from Winston and Strawn would also register as a lobbyist for the company, to address the issue of “Legislation and appropriations affecting traffic congestion mitigation.” Burnley, who had served as Secretary of Transportation in the Reagan Administration from 1987 to 1989 and Deputy Secretary for four years before that, was clearly a Washington lobbying heavyweight on transportation matters.

Winston & Strawn would disclose lobbying receipts of \$60,000 for their activities through June 30, 2001. The 2001 first half report would list the sole “specific lobbying issues” as “Transportation Appropriations,” and the “Houses of Congress and Federal Agencies contacted” included

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the House, Senate, and USDOT. Three additional Winston & Strawn staffers were listed on that disclosure along with Burnley. The company's work for Traffic.com would wind down in the second half of 2001, as evidenced by its billings of only \$20,000. Apparently, Mr. Burnley and his colleagues had done what Traffic.com asked of them.

### **The Specter Connection**

My search of the Federal Election Committee (FEC) political contributions database would identify the following facts:

- On July 17, 2001, Robert Shuster, with the firm of Klett Lieber Rooney Schorling in Camp Hill, PA and former Cong. Bud Shuster's son, contributed \$500 to "Citizens for Arlen Specter." Specter, of course, was the Senior Senator from the great state of Pennsylvania.

- Four months later, on Nov. 21, 2001, Robert Shuster contributed an additional \$250 to the same reelection campaign fund.

- On September 13, 2001, Kelly Shuster, listed as a "homemaker" from Camp Hill PA, likewise contributed \$500 to "Citizens for Arlen Specter." A \$1,000 contribution six months later from "Kelly H. Shuster" of Camp Hill, PA to Texas Senator John Cornyn would describe her employer as "Government Solutions Group LLC." According to a business entity search on the Pennsylvania Secretary of State's website, "Government Solutions Group LLC" was founded on 5/2/2000 by President Robert L. Shuster. That was the same Robert L. Shuster, of course, who was both Bud Shuster's son and a long-time registered lobbyist for Traffic.com with Klett Lieber et al.

- Also on September 13, 2001, Traffic.com founder David Jannetta, filing on behalf of "The Jannetta Company," contributed \$500 to "Citizens for Arlen Specter."

- Also on September 13, 2001, Brian Malewicz, whose employer was listed as "Mobility.com," contributed \$500 to "Citizens for Arlen Specter." Malewicz was one of the major early stockholders in Traffic.com, and the General Partner of an entity called "Convergence Capital LP" that held over 5% of the company's stock at the time of its initial public offer-

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ing (more information in Chapter 23, “Hidden Payoff.”)

- Also on September 13, 2001, Traffic.com co-founder Michael D. Burns, whose employer was listed as “Mobility.com,” contributed \$500 to “Citizens for Arlen Specter.

Around the same time that “Citizens for Arlen Specter” was tallying these contributions, Senator Specter himself was working hard behind the scenes to remedy the FHWA’s reluctance to devote the \$50 million ITIP earmark solely to Traffic.com. On December 7, 2001, Specter’s amendment (S.AMDT.2443) to the FY2002 Defense Appropriations Act (H.R.3338) whose purpose was to “expedite the deployment of the intelligent transportation infrastructure system” was offered by his colleague, Alaska Senator Ted Stevens. That amendment was agreed to by a voice vote.

The lead story in the January 1, 2002 issue of *Inside ITS* newsletter, “Mobility Technologies puts claim for \$50 million into defense bill,” detailed the consequence of Sen. Specter’s efforts. “As this issue goes to press and fiscal year (FY) 2002 appropriations wrap up, Mobility Technologies in Wayne, Pa., is seeking to include an amendment that would give Congressional backing to its claim on a \$50 million ITS earmark in FY 2001 appropriations,” wrote Editor Mike Curran. “The amendment, introduced by Senator Arlen Specter of Pennsylvania and included in the Senate Transportation Appropriations Bill, was deleted in the House-Senate conference committee. Specter subsequently was able to insert it into the FY 02 Senate defense appropriations. The House and Senate have yet to meet in conference on the defense bill as this issue goes to press.”

“Specter said the amendment is meant to ‘clarify congressional intent’ behind the \$50 million earmark. Throughout the past year, the Department of Transportation has said that it was attempting to discover the legislative intent of the FY 01 earmark,” Curran reported.

“Mobility has claimed the \$50 million earmark as follow-on funding for the original award. Specter backs that up. ‘The intent of the TEA-21 ITS provision was to eventually expand this program beyond Philadelphia and Pittsburgh and award the next phase of the contract to the same team that won the first phase,’ he said.”

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It was truly amazing that Pennsylvania's Senior Senator played such a pivotal role in creating a sole-source (monopoly) arrangement for Traffic.com. After all, Specter was a long-time senior member of the Senate Judiciary Committee's Antitrust, Competition Policy, and Consumer Rights Subcommittee that presumably favored free enterprise over monopolies.

Traffic.com's President, two other founders, registered lobbyist (and principal legislative backer's son), and registered lobbyist's wife had all made financial contributions to the good Senator's cause around the same time that his amendment to provide \$50 million in sole-source funding to the company was being inserted into a huge Defense appropriations bill. The "pay-to-play" trail was clear and unambiguous.

### Exercising Authority

On January 10, 2002, President George W. Bush would sign the FY2002 Defense Appropriations Act at a ceremony at the Pentagon. Section 1101 of that bill—seemingly out of place because it had absolutely nothing to do with funding our nation's defense—would amend Section 5117(b)(3) of the 1998 transportation authorization bill TEA-21. Among other changes, the primary change would be to give the USDOT the authority to extend Traffic.com's original contract for Philadelphia and Pittsburgh for "Follow-on Deployment" awards to 25 additional cities nationwide. Here's the actual language:

*(C) FOLLOW-ON DEPLOYMENT- (i) After an intelligent transportation infrastructure system deployed in an initial deployment area pursuant to a contract entered into under the program under this paragraph has received system acceptance, the Department of Transportation has the authority to extend the original contract that was competitively awarded for the deployment of the system in the follow-on deployment areas under the contract, using the same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment in that initial deployment area under the program.*

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Neither that bill nor Congress actually directed the USDOT to extend the original ITIP contract nationwide, and the USDOT presumably could have still chosen to “recompete” that expansion. However, Transportation Secretary Mineta quickly acted on Traffic.com’s behalf to extend the original pilot contract for Philadelphia and Pittsburgh. That extension would provide the underpinning for Traffic.com’s very counterproductive monopoly that would become painfully apparent several years later.

On February 5, 2002, Transportation Secretary Norman Mineta wrote to Congressman Don Young, finally responding to Young’s earlier letter on March 26, 2001 that had urged the USDOT to earmark all \$50 million to Traffic.com. “New language has been introduced in the FY2002 Defense Appropriations Act that further clarifies congressional intent with regard to the follow-on deployment of the Intelligent Transportation Infrastructure program,” Mineta wrote. “I have decided to exercise this authority [provided by language in the FY2002 Defense Appropriations Act] and facilitate the full expansion of the Intelligent Transportation Infrastructure Program by amending the existing Information Technology Omnibus Procurement contract with the team of Signal Corporation and Mobility Technologies (formerly Traffic.com).”

The next day he sent a similar letter to Congressman Robert Borski.

### **Greasing the Wheels**

Following the passage of the FY2002 Defense Appropriations Act and Secretary Mineta’s decision that Traffic.com would be the sole-source provider of services for the ITIP program, things finally began to move ahead on Traffic.com’s plans to give the ITIP program a national footprint.

On June 20, 2002, shortly after the long-time head of the USDOT’s ITS program, Dr. Christine Johnson, was reassigned to an FHWA field post in Utah, Acting Associate Administrator for Operations Jeff Paniati signed the task order that would let the \$50 million in federal earmarked funding flow to Traffic.com through its administrative partner Signal Corp. The next step in the process was the most time-consuming on Traffic.com’s part: recruiting mostly state transportation agencies representing the big

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cities called out in TEA-21 to participate in the ITIP program.

Over the next almost three years—through the spring of 2005—the following cities/entities in order would sign agreements with Traffic.com to participate in the ITIP program:

- Virginia (statewide agreement with Virginia DOT)
- Chicago (Illinois Tollway Authority)
- Boston (Mass. Highway Admin.)
- Providence (Rhode Island DOT)
- San Diego (San Diego Assoc. of Govts.)
- Tampa (Florida DOT District 7)
- Washington, DC (DC Dept. of Transportation)
- Los Angeles (Caltrans District 8)
- San Francisco (Caltrans District 4)
- Phoenix (Maricopa County DOT)
- St. Louis (Missouri DOT)
- Detroit (Michigan DOT)
- Oklahoma City (Oklahoma DOT)
- Seattle (City of Seattle DOT)

During this same time period, according to FEC records, a number of executives, lobbyists, and other influential individuals with connections to Traffic.com would continue to give generously to the Chairman of the House Transportation & Infrastructure Committee, Alaska Congressman Don Young.

- On July 22, 2003, Robert L. Shuster from Klett Lieber & Schorling, Bud Shuster's son and a long-time lobbyist for Traffic.com, would give \$500 to Alaskans for Don Young.

- On February 2, 2004, Traffic.com's registered Lobbyist C. J. Zane from Blank Rome LLP and Cong. Young's former long-time Chief of Staff would give \$500 to Alaskans for Don Young.

- On May 12, 2004, Robert L. Shuster from Klett Lieber et al would give \$1,000 to Alaskans for Don Young.

- Also On May 12, 2004, Traffic.com President David Jannetta would

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give \$1,000 to Alaskans for Don Young

- On May 28, 2004, Traffic.com’s registered Lobbyist C. J. Zane from Blank Rome LLP would give \$250 to Alaskans for Don Young.

- On August 30, 2004, Robert L. Shuster from Klett Lieber et al would give \$2,500 to Don Young’s leadership PAC, “Midnight Sun.” Shuster is a registered lobbyist (at Klett et al) for Traffic.com during this period.

- Also on August 30, 2004, Traffic.com’s registered lobbyist C.J. Zane of Blank Rome LLP would give \$300 to Don Young’s leadership PAC, “Midnight Sun.” Zane too is registered as a lobbyist for Traffic.com.

- On Sept. 22, 2004, Traffic.com’s registered lobbyist C. J. Zane from Blank Rome LLP would give \$500 to Alaskans for Don Young.

- On March 4, 2005, Traffic.com President David Jannetta would give \$500 to Alaskans for Don Young.

- Also on March 4, 2005, Traffic.com’s registered lobbyist C. J. Zane from Blank Rome LLP would give \$300 to Alaskans for Don Young.

Far from being just “donations,” those contributions surely had a purpose and would soon pay off big-time.

### **Hatching a Big Payoff**

As the final details of the forthcoming big transportation authorization bill (SAFETEA-LU) were being ironed out in early 2005, a number of companies would go to their elected representatives and complain about the federally mandated monopoly for Traffic.com. The lead story in the April 20, 2005 issue of *The Hill*, “Monopoly Money for Pa. Company,” helped put this issue on the political map. Among the most vocal opponents of Traffic.com’s monopoly was Lindon, Utah based Wavetronix LLC, which complained to Utah Senator Hatch. In New York, Internet traveler information provider Metrocommute complained to their own Congressman, Rep. Anthony Weiner.

Wavetronix’ complaint would resonate strongly with Senator Hatch, a long-time advocate of free markets and open competition. Hatch would take the lead on the Senate side to add new “Part II” legislation to SAFE-TEA-LU designed to open up the old ITIP program to competition. At the

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same time, the ITIP program was renamed to the Transportation Technology Innovation and Demonstration (TTID) program. At one point Cong. Weiner led a group of eleven Congressmen who all signed a letter to the four top legislative leaders of both the House and Senate Transportation Committees, urging adoption of the Senate's (that is, Hatch's) version of the language so as to open up the TTID program to competition.

Senator Hatch's staff would play a lead role in the negotiations with Senator Specter's staff to add this new "Part II" language to the final version of SAFETEA-LU to be sent to both the House and Senate for passage. (See more details about this negotiation process in Chapter 7.) On July 29, 2005, both the House and Senate passed the final language ironed out for SAFETEA-LU, and the bill was moved on to President Bush for his signature. On that same day, Hatch's office issued a press release titled "Hatch Puts the Brakes on Traffic.com." Here's an excerpt:

*The multi-year transportation bill set to pass Congress includes a provision sponsored by Sen. Orrin Hatch (R-Utah) that levels the playing field for small businesses in Utah to compete for federal money to collect traffic data. "One large company should not have a monopoly on traffic data collection," Hatch said. "Commuters should benefit from the innovative solutions coming from small businesses in Utah and in other states, not funnel millions of dollars each year to a company that doesn't have to compete for the money."*

*Hatch's provision opens the doors for qualified companies, including Lindon, Utah-based Wavetronix, to receive Federal funding to help collect real-time data on traffic conditions. Currently, a Pennsylvania-based company, Traffic.com, has sole discretion over the funds to develop infrastructure to collect traffic data. Hatch altered the program to allow state departments of transportation to access these funds without requiring them to work with Traffic.com.*

On that same day, Cong. Anthony Weiner of New York issued a similar press release announcing the demise of Traffic.com's monopoly, entitled "Federal Highway Legislation Creates Competitive Bidding Process

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for Traffic Data Collection: Traffic.com Loses Monopoly.” Cong. Weiner was quoted as follows:

*“As technology advances, it is crucial that states and localities are given a full array of options to best serve their communities. By opening these services to competitive bidding, we are essentially untying the hands of states and localities. Now, companies will compete to provide the best services at the best price to taxpayers. Drivers, passengers, and all taxpayers win.”*

Unfortunately, the celebrations by Senator Hatch, Cong. Weiner and their staffs would be premature. On the very same day they were heralding their hard-won success in breaking up Traffic.com’s monopoly, Cong Don Young was making a statement for the U.S. House record intentionally designed to undercut Senator Hatch’s new “Part II” provisions in SAFETEA-LU.

“I believe it was the conferees intent that all of the existing \$54 million that has been provided for the current contracting team would be used to carry out the existing contract to deploy the current highway congestion information system under Part I,” Young stated, adding “I believe it was our intention that Part I funds would stay in Part I.”

Young concluded his statement with a directive: “Because there is a 180-day clock running for areas to consent to participate in the program, I respectfully urge that USDOT quickly get implementing guidance to the field that is consistent with this intent.”

On its face, Chairman Young’s statement that it was the “conferees intent” to apply all of the funds to the sole-source Part I of the TTID program was, if not an outright lie, a gross misrepresentation. Sen. Orrin Hatch was one of the House-Senate “conferees” to whom Young was referring, and certainly Hatch had no intention of making the remaining \$22 million in funds for the TTID program off-limits to the new “Part II” provision that he had worked so hard to implement in SAFETEA-LU.

By effectively restricting the \$22 million in remaining TTID program funds for Part I only, Young was effectively starving funding for any city that wanted to participate in this new and open competition Part II. True

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to form, all eleven city agreements signed following the passage of SAF-E TEA-LU and approved by the USDOT would be with Traffic.com under the original sole-source (monopoly) provisions of the law. Once again, one of Traffic.com's influential legislative benefactors had succeeded in sustaining the company's monopoly.

In digging through online databases of political contributions, a sizeable contribution to Cong. Young shortly before his July 29 House speech on Traffic.com's behalf caught my eye. On May 24, 2005, the political action committee (PAC) for Traffic.com lobbyist Blank Rome would give a whopping \$5,000 contribution to Young. When I mentioned this contribution to one of my advisors from a DC-based non-profit government watchdog, he said that contributions by lobbyist PACs to legislators on behalf of their clients were often sneaky ways to hide the actual sources of those funds. I had no illusion that Blank Rome PAC's \$5,000 contribution was designed solely to curry Young's favor on Traffic.com's behalf. After all, the company's "Senior Legislative Advisor" C.J. Zane undoubtedly had many transportation clients wanting to exploit the considerable influence that Cong. Young's long-time former Chief of Staff had with the Congressman.

Perhaps to underscore the Traffic.com/Zane connection, however, on August 22, 2005 – less than a month after Cong. Young directed the USDOT in his House speech to preserve Traffic.com's monopoly – C.J. Zane would give \$1,100 to Don Young's leadership PAC, "Midnight Sun."

Young had certainly "played" like a fine street musician and, to continue the analogy, the tips had followed.