

United States Senate

WASHINGTON, DC 20510

November 17, 2015

The Honorable Jim Inhofe
Chairman, Committee on Environment &
Public Works
U.S. Senate
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Bill Shuster
Chairman, Committee on Transportation &
Infrastructure
U.S. House of Representatives
2251 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Barbara Boxer
Ranking Member, Committee on
Environment & Public Works
U.S. Senate
456 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Peter DeFazio
Ranking Member, Committee on
Transportation & Infrastructure
U.S. House of Representatives
2164 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Inhofe, Chairman Shuster, Ranking Member Boxer, and Ranking Member DeFazio:

Congratulations on the recent appointment of a House-Senate Conference Committee to produce a final proposal for a multi-year federal transportation bill. I admire your steadfast commitment to this challenging effort. As a strong supporter of investment in our nation's roads, highways, bridges, railroads, and transit systems, I am pleased that, after too many years of short-term extensions, we now have the opportunity to make rebuilding and modernizing our country's transportation system a long-term national priority in a way that will benefit nearly every American business and family.

With this in mind, it is with regret that I must express my deep concerns for how Congress has decided to pay for these investments. User fees in the form of federal excise taxes on gasoline and diesel fuel have supported our nation's transportation system for over half a century, and helped us to build the Interstate Highway System, which can be said without exaggeration to be among the most significant civil works projects in the history of the world. However, since 2008, we've strayed from this user-pays approach, relying on nearly \$75 billion worth of budget gimmicks, unrelated offsets, and debt to prop up the Highway Trust Fund that pays for transportation investments.

This is simply the wrong way to pay for our infrastructure. It's not unfair to ask the individuals and businesses who use our transportation system to help pay for it. In contrast, the offsets currently included in the House and Senate legislation will increase costs for American families and businesses even though they do not directly raise transportation user fees. Millions of Americans will be forced to pay more for airline tickets, international travel, mortgages and a host of other services as a result. Moreover, these offsets are not permanent solutions, and we will be forced to confront this intractable problem again in a few short years. I therefore urge you to move away from these provisions and consider opportunities in this bill to restore the purchasing power of our federal user fees by gradually increasing gas and diesel taxes by a modest amount. This is the fairest, fastest, and most efficient way to raise the revenues we need to embark on a significant nationwide effort to rebuild and renew our country's infrastructure.

In particular, certain offsets are particularly objectionable. Making changes to the dividend payments made to members of the Federal Reserve System would have significant impacts on the Federal Reserve's stock structure and could fundamentally alter how some banks are regulated. Including this offset without any hearings or official consideration could lead to any number of negative unintended consequences, and I urge you to reject this idea.

The House's inclusion of language eliminating the Federal Reserve's surplus capital account is also troubling. This offset is a budgetary gimmick that would not actually provide any new net funding to the Treasury. In fact, instead this provision will ultimately *increase* future budget deficits and lose money for the Treasury.

As Ranking Member of the Committee on Homeland Security and Government Affairs, I am also opposed to provisions in both proposals to extend by two years increased rates for the fees the Transportation Security Administration is authorized to collect to help cover cost of transportation security at airports. While I support extending these rates, the revenue should be dedicated to improving transportation security and reducing wait times at airports, not used for unrelated highway and transit spending. Further, the provisions would use tomorrow's dollars to pay for today's problem. Siphoning off TSA funds for highways will eventually lead to additional airline fee increases to help pay for needed security investments.

Similarly, while I support proposals to index duties and user fees on imports collected by the Customs and Border Protection (CBP), these Customs user revenues should continue to be dedicated to CBP staffing and inspection activities at ports of entry to strengthen border security and decrease wait times in support of robust trade and travel.

All of that being said, there is much to commend in both the House and Senate legislation. As leaders of the Conference, as you begin negotiations to reconcile the House and Senate proposals, I ask that you keep several policies in mind, which should be included to ensure the strongest possible bill to be sent to the president for his signature.

- 1. Prioritize Investment in Freight Mobility and Major Projects** – Our border crossings and highway freight routes, along with seaports, air hubs and freight rails, collectively move \$51 billion worth of goods each day through the complex supply chains where every minute of delay we eliminate gives American businesses a competitive edge. However, projects to improve freight flow, which can be large and complicated, are often overlooked in favor of higher-profile and simpler passenger transportation projects. I urge you to ensure that the conference report includes a robustly funded freight investment program that offers states and cities project support through both formula grants, such as the Freight Division of the Senate bill provides for. To complement this, the final proposal should also include a competitive merit-based, freight-specific discretionary grant program, as is included in proposals from both chambers, however it should be funded with contract authority, as in the House’s version. Such programs should also be flexible and multimodal, and I urge you to remove any restrictions on the amount of funding that can go do any particular freight movement mode. Finally, to maximize return on investment in projects that offer the highest value, I urge that such investments be prioritized based on current, reliable, real-world goods movement data, as the Senate freight proposal provides for.

Similarly, often the transportation projects that can offer the most transformative impacts on our economy are large and complicated, and do not fit neatly into our transportation formula programs. I urge that you include significant funding, such as the level authorized for the House’s Nationally Significant Freight and Highway Projects proposal, for a discretionary major projects program that offers competitively awarded grants to major highway, bridge, transit, rail, freight, or multimodal projects based on clear criteria that support our National Transportation Goals, such as is proposed in the Senate bill’s AMP Program.

- 2. Provide Funding for State User Fee Research Pilots** - One of the biggest hurdles to advancing robust multi-year transportation legislation over the last few years has been finding a fair way to pay for it. While Congress was able to identify sufficient offsets for this proposal, structural flaws with the Highway Trust Fund remain, and will need to be addressed in the future. I believe that what’s worth having is worth paying for. If the federal government is going to continue to invest in transportation infrastructure, new ways of funding and financing transportation must be found. Several states have been leading such efforts, but are hamstrung by limited funding to conduct pilot programs in a way that can produce meaningful, replicable results can would benefit all states. I therefore urge that you provide funding for new research grants, as are proposed in both the House and Senate bills, to states to help them to develop, test, and refine such new user-based funding mechanisms.
- 3. Provide State Tolling Flexibility** – While fuel taxes and other revenue sources are usually be most efficient way to raise transportation funds, as a former governor, I know that under certain circumstances, tolls can be an effective tool for funding transportation. In some cases, tolling of new or existing infrastructure may be the *most* effective option, due to the fact that tolls can be targeted, structured to support debt finance or public-private partnerships, and used to help manage congestion and traffic flow in addition to offering a funding option. I

urge that you adopt the Senate's proposal on tolling authority to provide states with maximum flexibility to explore options for implementing tolls on highways within their borders, including on Interstate Highways and for purposes of reconstruction or rehabilitation of existing assets, with oversight of the Secretary of Transportation to ensure that tolls are not an impediment to interstate commerce or levied unfairly on any one group of travelers.

4. **Reduce Harmful Diesel Emissions** – Particulates are the deadliest form of air pollution due to their ability to penetrate deep into the lungs and blood streams unfiltered, causing permanent DNA mutations, heart attacks, and premature death. Comprehensive international research has shown that there is no safe level of particulate exposure. Fine particulates (PM2.5) are particularly deadly due to the fact that they can penetrate deeper into the lungs, causing a 36 percent increase in lung cancer for every additional 10 micrograms per square meter of airborne concentration. Fortunately, particulate filters combined with ultra-low sulfur diesel fuel can eliminate over 90 percent of particulate matter from diesel exhaust. I urge you to maintain set aside funding under the Congestion Mitigation and Air Quality program to help states and regions with air quality problems ensure that modern pollution control technology is being deployed effectively to reduce fine particulate matter in the most efficient and cost-effective way possible, as is proposed in the Senate bill. I also urge you to retain provision in the Senate bill that would expand eligibility for port related projects under CMAQ, which are a major source of PM2.5 in port-adjacent areas around the country.

5. **Maintain Support For Public Transportation** – Public transportation ridership has been trending upward for years, and annual ridership now exceeds 10.3 billion trips. Particularly in growing metropolitan areas in nearly every state, public transportation is an essential strategy to provide mobility and access, and in areas with heavy congestion and well-developed road networks, it can improve mobility more cost-effectively than highway investments. Investments in expansions of new transit service is essential to meeting our nation's mobility goals. Therefore, I urge you to reject provisions in the House bill that would limit the federal contribution to fixed-guideway capital projects through the New Starts/Small Starts program to 50 percent of net project costs, and that would eliminate the ability of project sponsors to use Surface Transportation Program funds for a portion of its required federal share.

Further, I strongly oppose the House proposal to eliminate funding for the Sec. 5340 High Density Formula program, which provides my state of Delaware and many of our Mid-Atlantic and Northeastern neighbors with critical public transportation funds. While I support efforts to increase funding for bus transit programs, it should not come at the expense of others, especially in states where public transportation ridership is the highest and investment needs are among the greatest.

6. **Support Bicycle and Pedestrian Safety** – With record numbers of Americans travelling by bicycle and on foot, we must ensure that we are providing for their safe and efficient travel. I urge you to retain the fundamental structure of the Transportation Alternatives Program, with targeted changes included in the Senate bill to enhance local control by allocating funds by

population, allowing NGOs to serve as grant recipients, limit the ability to transfer funding out of the TAP program, perhaps most importantly, ensure that the design of federal transportation projects provides for the safety of all users of the transportation network, including non-motorized users. I also urge inclusion of the House provision to create a new bicycle and pedestrian safety priority program within the National Highway Traffic Safety Administration.

Finally, on the matter of the overall size and length of the authorization, I urge you to consider the significant infrastructure investment needs around the country and report a final proposal that can best address these needs by maximizing annual investment levels for all surface transportation programs over a shorter authorization period. While long term predictability is important, when it comes to maximizing the benefits of surface transportation projects for America's businesses and families, having higher annual funding levels is far more important.

Again, while we may not see eye to eye on some major portions of this legislation, I applaud your commitment to infrastructure investment. Our country's needs are great, but the benefits of increasing investment are many. I thank you for your ongoing work, and look forward to future efforts to build on this foundation. Please don't hesitate to contact Colin Peppard on my staff with any questions at 202-224-3022 or colin_peppard@carper.senate.gov.

With best personal regards, I am

Sincerely yours,

A handwritten signature in blue ink that reads "Tom Carper". The signature is fluid and cursive, with the first letters of "Tom" and "Carper" being capitalized and prominent.