

November 9, 2017

The Honorable Paul Ryan
Speaker
United States House of Representatives
H-232, The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
Minority Leader
United States House of Representatives
H-204, The Capitol
Washington, DC 20515

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
United States House of Representatives
1102 Longworth HOB
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
United States House of Representatives
1139E Longworth HOB
Washington, DC 20515

Subject: Tax Cuts and Jobs Act, H.R. 1

The American Association of State Highway and Transportation Officials (AASHTO) write to express our serious concerns regarding the provisions of H.R. 1, the “Tax Cuts and Jobs Act,” as passed by the House Ways and Means Committee today. AASHTO is a nonprofit, nonpartisan association representing the state transportation departments (state DOTs) in the 50 states, the District of Columbia, and Puerto Rico. We represent our member departments with respect to all transportation modes. Our primary goal is to foster the development, operation, and maintenance of an integrated national transportation system.

As the most significant tax reform effort in 31 years, this is the prime opportunity to address the looming solvency crisis facing the federal Highway Trust Fund (HTF), which provides much needed transportation investments across the country. We believe Congress must provide a long-term, sustainable revenue solution facing the HTF given that our national transportation investment backlog continues to grow, now standing at \$836 billion for highways and bridges and \$122 billion for transit according to the US Department of Transportation. Despite this infrastructure deficit, the HTF is currently on a trajectory to cut federal highway funding by 40 percent in 2021 and zero out federal transit funding completely from 2021 to 2023. Addressing the HTF funding crisis is AASHTO’s highest priority in any tax reform legislation, and we view it as a missed opportunity to leave this out in H.R. 1.

In addition, while H.R. 1 does not include a separate infrastructure proposal, it is important that any tax reform vehicle provides the fiscal space necessary to fund such a proposal in the near future. Failure to set aside funding for an infrastructure package will adversely impact the likelihood of Congress to successfully enact this much-needed boost for our economy and quality of life.

Federal funding for transportation infrastructure is vital to every state in the country, but financing tools that leverage dollars and accelerate project delivery are important as well. AASHTO is grateful that H.R. 1 does not eliminate the use of municipal tax-exempt debt, which is the foundation of public infrastructure financing in this country. But the bill does make significant changes to some of the federally-supported financing mechanisms used for transportation projects. Rather than making project financing more difficult, Congress should instead encourage the leveraging of scarce resources wherever appropriate.

Specifically, AASHTO is disappointed to see the proposed termination of tax-exempt private activity bonds (PABs). Serving as an important infrastructure financing tool that attracts private sector investment to public-purpose facilities, PABs have catalyzed successful financing of large transportation projects across the country. Such public-private partnerships allow states to undertake larger and more complex projects and enable them to be delivered more innovatively and with potentially less risk for the public sector. For multiple modes of transportation and their facilities, PABs are a key ingredient in lieu of bank debt when used for publicly beneficial purposes. At the time when the Administration and many in Congress are looking for ways to encourage private sector participation in meeting the transportation investment gap, eliminating this option is short-sighted.

In addition, AASHTO is concerned with provisions in H.R. 1 that would prohibit the advance refunding of governmental bonds. The ability to utilize advance refunding helps communities and states to achieve savings on debt service—which can be substantial in the current low-interest rate environment—that can be reinvested in other transportation and infrastructure projects. H.R. 1 does not currently include any transition rules for this repeal, and therefore the proposed prohibition would prevent any tax-exempt advance refunding of outstanding bonds outside of the 90 day window.

Finally, H.R. 1 would delete the sections of the Internal Revenue Code that authorize tax credit bonds. This is another example of the bill eliminating beneficial financing options that can supplement existing tax-exempt municipal bonds. By providing more investment options through the tax code, tax credit bonds hold the potential to further encourage institutional and individual investors to put their money into building and rebuilding America's infrastructure.

In closing, we reiterate the need to address the nation's transportation investment crisis through tax reform, and we ask you to carefully reconsider taking steps that impede the ability to do so. Thank you for the opportunity to provide the perspective of the nation's state departments of transportation. If you would like to further discuss, please contact Joung Lee, AASHTO's Policy Director, at 202-624-5818 or jlee@aaashto.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Bud Wright". The signature is fluid and cursive, with the first name "Bud" and last name "Wright" clearly distinguishable.

Bud Wright
Executive Director
American Association of State Highway and Transportation Officials