

December 8, 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

The Honorable Mitch McConnell  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Charles Schumer  
Minority Leader  
United States Senate  
Washington, DC 20510

The Honorable Orrin G. Hatch  
Chairman  
Committee on Finance  
United States Senate  
Washington, DC 20510

The Honorable Ron Wyden  
Ranking Member  
Committee on Finance  
United States Senate  
Washington, DC 20510

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

Dear Congressional Leaders and Members of the H.R. 1 Conference Committee:

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," now being considered in a conference committee.

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 you know, this is the most significant tax reform effort in 31 years. We continue to be extremely dismayed that Congress has failed to use this unique opportunity to address the looming solvency crisis facing the federal Highway Trust Fund (HTF), which provides much needed transportation investments across the country. 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. Congress cannot allow these kinds of draconian cuts to take place. Moving forward with comprehensive tax reform without addressing this serious issue of federal transportation revenue into the HTF is profoundly disappointing and may have serious implications for fixing the HTF in the future.

In addition, neither the House nor Senate version of H.R. 1 includes any kind of funding allocation or fiscal space for a future infrastructure investment proposal. Given this, it is unclear how Congress and the Administration will be able to fund a significant infrastructure initiative next year. Any successful infrastructure investment plan must include additional federal funds and we remain concerned that Congress will not have the appetite nor ability to raise those funds once the tax reform effort concludes.

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 neither the House nor Senate version of H.R. 1 eliminates the use of municipal tax-exempt debt, which is the foundation of public infrastructure financing in this country. But the bills do 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 was disappointed to see the proposed termination of tax-exempt private activity bonds (PABs) in the House version of H.R.1. 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 both the House and Senate versions of 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, the House version of 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 urgent need to address the nation's transportation investment crisis 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](mailto:jlee@aaashto.org).

Sincerely,

A handwritten signature in black ink, appearing to read 'Bud Wright', with a stylized flourish at the end.

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

CC: Members of the Conference Committee to H.R. 1