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TCC Surface Transportation Reauthorization Recommendations

The Transportation Construction Coalition (TCC) is a partnership of 31 national associations and construction unions representing hundreds of thousands of individuals with a direct market interest in federal transportation programs. TCC activists can be found in virtually every congressional district and provide a vital service to their communities by helping to improve the efficiency and safety of America's transportation infrastructure. TCC member organizations represent contractors, the planning and design community, safety professionals, materials and manufacturing industries, and their employees.

While the TCC's priority is passage of a permanent revenue solution for the Highway Trust Fund (HTF), the coalition has also developed consensus positions on specific policy issues. As the expiration of the current federal surface transportation law, the Fixing America's Surface Transportation (FAST) Act, approaches in September 2020, TCC member associations and labor unions are calling for the following provisions to be included in any surface transportation reauthorization bill Congress produces.

Address the Highway Trust Fund Revenue Shortfall Through a Permanent User-Fee Solution - The magnitude of the looming HTF crisis and the impact of the resulting uncertainty on state transportation improvement plans reinforce the need for proactive congressional action. Any HTF solution should entail a permanent, dedicated, user-based revenue stream to support the increased transportation investments advocated by President Trump and members of Congress from both parties. We urge both houses of Congress to make a permanent HTF solution the basis of any infrastructure package or surface transportation law and pass this legislation as soon as possible.

Improve and Expand Alternative Project Finance Tools - Direct federal investment is critical for state and local partners to run successful highway and public transportation programs. However, the various supplemental financing mechanisms provided through the federal programs have become critical tools for many projects. The next reauthorization law should improve and expand these options, as follows:

- Make significant reforms to the Transportation Infrastructure Finance and Innovation Act (TIFIA), including the improvement of the project application process and the streamlining of certain projects that have substantial non-federal revenue sources.
- Eliminate the federal ban on tolling and prohibit revenue generated from tolls from being diverted to non-transportation uses.
- Remove the cap on Private Activity Bonds for highway projects, bringing them on par with other modes.

Further Advance the Project Delivery and Approval Process - The past four federal surface transportation reauthorization laws have included significant provisions to expedite the review and approval process for transportation improvement projects. While these measures have included multiple reforms intended to cut red tape while preserving environmental protections, the permitting process time horizon has not substantially improved.

Congress should evaluate the status of the project review and approval process with an eye towards identifying areas where further improvements can be made. A number of the existing reforms have been optional (and underutilized), so a logical starting point

would be for Congress to make these procedures mandatory, with states being able to opt out of their use for compelling reasons. The more state and federal agencies use these reforms, the greater their impact will be.

Demand Transparency for the American Taxpayers – In an attempt to improve accountability of the federal programs to the American taxpayer, both the Moving Ahead for Progress in the 21st Century Act (MAP 21) (Sec. 1503 (c)) and the FAST Act (Sec. 1402) included provisions intended to improve transparency by providing real-time public information on the use of core federal highway and transit investments, as was the case for the American Recovery & Reinvestment Act of 2009. However, U.S. DOT has done little to effectively implement these provisions. Congress should order a status report on the Sec. 1402 provision, modify that section to include the creation of visual graphics and other user-friendly features that convey the status of the requested information for each given year (updated quarterly), and require U.S. DOT to provide members of Congress with the same notifications of new project awards for apportioned funds as is currently required for the discretionary grant programs.

Resiliency – The federal government’s 2019 National Climate Assessment, compiled by 13 agencies, found extreme weather events will increasingly disrupt and damage critical infrastructure and property, labor productivity, and the vitality of our communities. As states are building new transportation infrastructure or rebuilding after a disaster, the federal-aid surface transportation programs should focus on improving resiliency so the system can better resist damage, continue to serve its primary function, and minimize recovery time. Reauthorization of the FAST Act should require the Federal Highway Administration and the Federal Transit Administration to develop guidance regarding the design, construction, maintenance, and repair of transportation infrastructure to resist the impact and recover quickly from disasters. Improving the durability and strength of the nation’s transportation infrastructure will provide long-term cost savings.

Safety Contingency Funds – It is unfortunate that occupationally-related roadway construction work zone fatalities remain steady year-over-year. One challenge for stakeholders arises when the contractor and agency determine that enhanced safety equipment or practices are needed beyond those originally specified in the bidding process. Recognizing this shortcoming, some state DOTs have developed innovative contracting methods for road construction work projects whereby a “safety contingency fund,” an amount incidental to the roadway construction project’s total budget, is set aside to cover the cost of needed enhancements to ensure roadway work zone safety. The highway construction industry calls on Congress to explore the use of such innovative contracting methods as an example of Innovative Project Delivery, outlined in 23 USC 120(c)(3)(B), by adding the following clause (vii): “contractual provisions that provide safety contingency funds to incorporate safety enhancements to work zones prior to or during roadway construction and maintenance activities.”

Highway Safety Improvement Program - The TCC supports current language in the FAST Act which ensures that Highway Safety Improvement Program (HSIP) funds are used for HSIP eligible projects and cannot be flexed to other safety programs. Especially with the advent and continued deployment of connected and automated vehicles (CAVs), it is critical that we invest in roadway infrastructure projects that will improve safety for human drivers and CAV technology. Executives from both General Motors and BMW have testified that the one thing that Congress can do to help deployment of CAVs is to invest in good traffic signs and pavement markings.

Exempt Transportation Construction Workers from the Federal Hours of Service (HOS) Rule – In an attempt to prevent unsafe and fatigued driving by long-haul commercial motor vehicle drivers, the federal HOS rule limits the driving time and mandates rest and off-duty breaks for all such operators. In contrast, transportation construction industry drivers do not travel great distances, and often spend significant time waiting in a delivery queue or working on other tasks unrelated to driving. The HOS rule can restrict the most efficient deployment of personnel on a project site, adding to costs without demonstrably improving safety. As has been done for other industries, Congress should exempt transportation construction industry drivers from the HOS rule if they operate within 150 miles of their home base or primary construction project site.