

August 10, 2010

The Honorable Barbara Boxer
Chairman
Senate Committee on Environment
and Public Works
U.S. Senate
Washington, DC 20510

The Honorable James Inhofe
Ranking Member
Senate Committee on Environment
and Public Works
U.S. Senate
Washington, DC 20510

The Honorable Max Baucus
Chairman
Senate Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Charles Grassley
Ranking Member
Senate Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Chris Dodd
Chairman
Senate Committee on Banking,
Housing and Urban Affairs
U.S. Senate
Washington, DC 20510

The Honorable Richard Shelby
Ranking Member
Senate Committee on Banking,
Housing and Urban Affairs
U.S. Senate
Washington, DC 20510

Dear Senators:

As the Senate prepares draft legislation to revise federal surface transportation policies, we write to share with you our concerns about legislation reported by the House Transportation and Infrastructure Subcommittee on Highway and Transit last year. We are concerned that some provisions of the House proposal, if included in the Senate bill, would discourage much needed innovative financing options for States and local governments. We urge you not to include these provisions or similar items in your draft.

We believe the federal-state-local transportation partnership worked well to complete the interstate highway system. We support state and local responsibility for implementing national transportation policy.

A number of sections of the House subcommittee proposal, taken together, would go against this partnership approach. Sections 1204, 1205, 1301 and 1504 would impose federal micromanagement of state and local authorities, fundamentally changing the relationship among governing bodies that deal with transportation delivery.

Section 1204 and 1205 would create a new USDOT office to review and approve all toll rate schedules and public private partnership agreements. Section 1301 would repeal current law that enables states to toll and place new limits on tolled facilities. Section 1504 would impose new restrictions on the ability of states and local government to enter into public-private partnerships.

These restrictions on state and local governments would be a major setback to the partnership that has built our national transportation system . In these challenging times, we need to welcome innovative financing and delivery methods that improve mobility in our nation. We can't afford to ignore new opportunities to advance critically needed projects.

We suggest that a range of transportation financing mechanisms, such as tolling, bonding, public-private partnerships and revolving funds, should be encouraged to fund transportation infrastructure projects when tax and user fee revenues are not sufficient to meet demand. No single approach will solve every problem and we recognize that different options have distinctive virtues and drawbacks. The proposed House subcommittee legislation severely restricts the options available to solve problems at a time when we should be exploring more ways to answer the problems of congestion and mobility.

Highway partnerships created to date, whether they're public-private or public-public, have resulted in advantages from the perspective of state and local governments, such as the construction of new infrastructure with less public funding or public debt. Today, most states have public-private partnership enabling statutes to protect the public interest. While each statute is unique, common features to protect the public interest include strict oversight of performance standards, toll policies, labor protections, revenue sharing, risk allocation, use of toll proceeds, transparency, public participation, length of concession, and bidding procedures.

Ultimately the extent to which innovative partnerships can be used to help meet the nation's transportation funding challenges will depend on the ability of states and local authorities to structure project agreements that provide both public benefits and protections. We believe state and local leaders have been meeting this test and will continue to do so, to the benefit of local and national transportation consumers. The proposed legislation appears intent on punishing past inventive solutions and frustrating future innovation.

When the Senate drafts legislation to revise federal surface transportation policies, we urge provisions that encourage private sector partners to invest in infrastructure, providing a level playing field for American enterprise with the rest of the industrialized world where private infrastructure investment is embraced.

Thank you for this opportunity to share our concerns with you. We look forward to working with you and your staff to continue shaping a measure that will meet America's transportation challenges.

Sincerely,

The Transportation Transformation Group*

Associated General Contractors

National Council for Public-Private Partnerships

Florida Department of Transportation

Indiana Department of Transportation

New Hampshire Department of Transportation

Texas Department of Transportation

Utah Department of Transportation

Alamo Regional Mobility Authority

Cameron County Regional Mobility Authority

Camino Real Regional Mobility Authority

Central Texas Regional Mobility Authority

Grayson County Regional Mobility Authority

Harris County Toll Road Authority

North East Texas Regional Mobility Authority

North Texas Tollway Authority

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Zachry American Infrastructure

*The Transportation Transformation Group is an alliance of state government, toll authority, finance, academic and private industry leaders with the goal of transforming U.S. transportation policy whose members include:

- Bank of America-Merrill Lynch
- Barclays Capital
- Dannenbaum Engineering
- Goldman, Sachs & Co.
- HDR Engineering, Inc.
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