Committee on Transportation and Infrastructure
U.S. House of Representatives

Peter A. DeFazio
Chairman

Washington, DC 20515

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May 08, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Republican Leader
House of Representatives
Washington, DC 20515

Dear Speaker Pelosi and Leader McCarthy:

As you begin discussions on a bicameral, bipartisan budget agreement, we write to request that you address two significant budget issues facing our nation's infrastructure.

First, we request that any budget agreement repeal the rescission contained in the most recent surface transportation law, the Fixing America's Surface Transportation Act (FAST Act; P.L. 114-94). Section 1438 of the FAST Act rescinds approximately $7.6 billion in Federal-aid Highway Program contract authority on July 1, 2020. All 50 states and the District of Columbia will be impacted by the rescission. According to the Federal Highway Administration, States collectively had approximately $7.9 billion in unobligated balances in programs subject to the rescission as of the close of business on September 30, 2018. If the FAST Act rescission of $7.6 billion had been executed on that day, it would have nearly wiped out all remaining contract authority available to States nationwide in those programs.

The amount rescinded from each State, however, will vary. For example, $693 million of the total is projected to come out of California's remaining contract authority, $731 million would be rescinded from Texas, New York would face $487 million in reduced contract authority, and $83 million of the rescission would come from Kentucky. Regardless of the amount rescinded from each state, the rescission will significantly limit the flexibility of all states and impact the ability to plan and execute highway and bridge projects. These projects are necessary in order to grow the U.S. economy, create jobs, and ensure the Nation's global competitiveness. We therefore request that the rescission be repealed as part of any budget agreement.

Second, we ask that you incorporate into any budget agreement a mechanism for full utilization of annual Harbor Maintenance Tax (HMT) collections and access to the remaining balance in the Harbor Maintenance Trust Fund (HMTF) for their intended purpose of maintenance dredging. Enactment of such a provision would immediately improve the infrastructure of our nation's harbors while honoring our Nation's long-term commitment to U.S. shippers and taxpayers, maintaining and improving the competitiveness of U.S. businesses, and creating thousands of additional jobs. H.R. 2440 provides a bipartisan solution through the use of a discretionary cap adjustment to ensure full utilization of the HMTF does not detrimentally affect other programs.

Congress created the HMTF to pay for the operations and maintenance (O&M) needs of the nation's roughly 1,067 harbors and shipping channels under the jurisdiction of the Army Corps of Engineers (Corps). The HMTF is funded by the HMT, which is directly levied against the value of imports and domestic cargo arriving at U.S. ports. The HMT is intended to recover 100% of the O&M costs for federally maintained ports, harbors, and channels. These ports, harbors, and channels account for 80 percent of the total merchandise trade volume for the country, yet are woefully neglected, not because of a lack of federal funding, but due to lack of access to HMTF dollars.

Over the past decades, Congress has appropriated to the Corps far less revenue than has been collected from shippers. As a result, $9.3 billion in already-collected revenue sits unused for its intended purpose – enough to cover the entire maintenance backlog without raising a dime in taxes or borrowing from the Treasury. Consequently, while shippers continue to pay into the HMTF for promised maintenance activities, the Federal Government does not expend the funding to carry out many of those activities. The Transportation and Infrastructure Committee intends to address this inequity and report out H.R. 2440 in a bipartisan manner. However, given that a budget agreement will be looking at discretionary spending on the whole, it would be appropriate to include a discretionary cap adjustment for the HMTF in any such deal. This would be the only such adjustment covered by actual revenues.

We greatly appreciate your time and dedication to addressing these significant infrastructure issues as you begin discussions on the budget and annual appropriations bills. If you have any questions, please call Jill Harrelson of the majority staff at 202-225-4472 or Fred Miller of the minority staff at 202-225-9446.

Sincerely,

Peter A. DeFazio
Chairman

Sam Graves
Ranking Member

Eleanor Holmes Norton
Chair
Subcommittee on Highways and Transit

Rodney Davis
Ranking Member
Subcommittee on Highways and Transit

Grace F. Napolitano
Chairwoman
Subcommittee on Water Resources
and Environment

Bruce Westerman
Ranking Member
Subcommittee on Water Resources
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CC: John A. Yarmuth, Chairman
Committee on the Budget

Steve Womack, Ranking Member
Committee on the Budget