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November 20, 2015

The Honorable Bill Shuster
Chairman
Transportation and Infrastructure Committee
2251 Rayburn House Office Building
Washington, DC 20515

The Honorable Peter A. DeFazio
Ranking Member
Transportation and Infrastructure Committee
2164 Rayburn House Office Building
Washington, DC 20515

The Honorable Jim Inhofe
Chairman
Environment and Public Works Committee
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member
Environment and Public Works Committee
United States Senate
456 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairmen and Ranking Members:

The California Department of Transportation (Caltrans) would like to thank you for all of your efforts this year to enact comprehensive federal multi-year surface transportation reauthorization legislation, and congratulate you on the U.S. Senate-passage of the "Developing a Reliable and Innovative Vision for the Economy Act" (Senate DRIVE Act) and U.S. House of Representatives-passage of the "Surface Transportation Reauthorization and Reform Act of 2015" (House STRRA 2015).

In January 2015, Caltrans provided a letter to the California U.S. Congressional Delegation, which outlined Caltrans priorities for a multi-year surface transportation bill. In September, Caltrans transmitted the California Statewide Federal Surface Transportation Reauthorization Consensus Principles (California Surface Transportation Consensus Principles) to the Delegation, which represents a statewide consensus transportation policy platform endorsed by California state, local, tribal, industry and labor stakeholders. Both the Senate DRIVE Act and House STRRA 2015 contain provisions that respond to the requests we made this year, thank you, and Caltrans would like to offer its final thoughts on these two bills as you work your way through conference negotiations.

Long-Term Reauthorization Bill and Funding Levels

With regard to overall funding levels, both the Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles articulated California's need for increased federal transportation investment and urged Congress to increase funding for all of MAP-21's core highway formula programs.

The House STRRA 2015 authorizes a total of $242.3 billion in contract authority from fiscal years (FY) 2016–FY 2021 (a six year annual average of $40.4 billion) for Federal Highway Administration (FHWA) apportionment programs, while the Senate DRIVE Act provides $256.2 billion for apportionment funding over the same time period (a six year annual average of $42.7 billion per year). Caltrans notes recent American Road & Transportation Builders Association (ARTBA) analysis that states ". . . the investment contained in the House proposal [STRRA 2015], however, would fail to keep pace with both inflation and project construction material cost increases over the life of the bill." At the same time, ARTBA believes that the larger amount of contract authority provided by the Senate DRIVE Act would be ". . .an amount sufficient to narrowly maintain federal highway program purchasing power over six years." Additionally, in a November 13, 2015, letter to Congress, U.S. Secretary of Transportation Anthony R. Foxx wrote, "Funding levels in the House version set the Nation on a course for worsening traffic and steadily deteriorating roadways. While the Senate version importantly provides an increase over current funding levels, even more is needed to reverse the declining condition of our surface transportation system and enable real improvement."

Therefore, Caltrans supports, at a minimum, the Senate DRIVE Act's larger overall authorization of contract authority for apportionment programs and urges Congress to exceed the Senate DRIVE Act's funding levels if possible.

With regard to the duration of the bill, both the Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles urged Congress to "enact a multi-year Surface Transportation Reauthorization (four to six years) that will provide stability and certainty, and allow for more deliberate investment." The Senate DRIVE Act, as passed by the Senate, is a six-year authorization of highway, transit, rail and safety programs that contained "pay fors" (i.e, offsets for General Fund transfers to the Highway Trust Fund) to support only three years of Highway Trust Fund spending for its proposed funding levels. At the same time, the House STRRA 2015, which is also a six-year authorization, contains additional "pay fors" that could sustain Highway Trust Fund spending at its lower proposed funding levels for six years, or at potentially higher funding levels than the Senate DRIVE Act for a shorter duration.

If Congress does not a adopt user-based, pay-as-you-go funding option (e.g., increasing and indexing to inflation the excise taxes on motor fuels) to support sustained and increased multi-year Highway Trust Fund spending, then Caltrans strongly supports the House STRRA

2015 "pay for" approach, which would provide for greater General Fund support to the Highway Trust Fund.

To be clear, Caltrans supports a six-year surface transportation reauthorization with significantly increased funding levels. However, if Congress is forced to decide the issue, Caltrans would prefer Congress enact a five-year reauthorization with funding levels that exceed the Senate DRIVE Act instead of a six-year reauthorization with House STRRA 2015 funding levels.

FHWA Apportionment Programs

While the Senate DRIVE Act has higher overall funding levels for FHWA apportionment programs, Caltrans notes that the Senate DRIVE Act would actually reduce Highway Safety Improvement Program (HSIP) funding (i.e., the HSIP six year annual average is less than FY 2015 HSIP funding). Additionally, the House STRRA 2015 contains higher authorizations than the Senate DRIVE Act for the Surface Transportation Program (STP) and Railway-Highway Crossings. Therefore, Caltrans respectfully requests that the House STRRA 2015 funding levels for these programs serve as a baseline starting point in conference negotiations, with the hope that Congress will exceed the House STRRA 2015 funding levels for these programs in the final surface transportation conference report.

Moreover, Caltrans supports more flexible, less restrictive federal funding and eligibility requirements to meet federal policy objectives. Therefore, Caltrans notes that both the Senate DRIVE Act and House STRRA 2015 remove current law HSIP eligibility that allows funding to be used for non-infrastructure safety programs, such as education and enforcement activities. Caltrans believes that certain non-infrastructure safety programs provide a safety benefit, and therefore requests that Congress retain current law HSIP eligibility.

Moreover, in California, the Congestion Mitigation and Air Quality Improvement Program (CMAQ) apportionments are sub allocated by Caltrans to eligible Metropolitan Planning Organizations and Regional Planning Agencies for project selection and programming. However, many of Caltrans' local partners have expressed concerns that both the Senate DRIVE Act and the House STRRA 2015 contain language that would place new, more restrictive requirements on CMAQ funding for projects to reduce fine particulate matter (PM) 2.5. Caltrans strongly acknowledges concerns about the health issues associated with PM 2.5, and supports a broad range of multi-modal transportation policy options to improve air quality, including managed lanes, support for active and public transportation projects and the deployment of zero emission vehicle infrastructure. Therefore, Caltrans supports a CMAQ program that allows our local partners the flexibility to select the best projects that address the State's and their congestion reduction and air quality improvement goals.

Both the Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles asked for an increase in funding for the Transportation Alternatives Program (TAP), and requested that TAP continue to be funded from the Highway Trust Fund. Caltrans is thankful that both the Senate DRIVE Act and the House STRRA 2015 maintain Highway Trust Fund support for TAP. Caltrans supports, at a minimum, the TAP funding levels provided by the Senate DRIVE Act, which represent a slight increase above current funding levels, and would respectfully request that Congress consider providing even higher funding levels for this program in the final surface transportation reauthorization conference report.

Caltrans notes that both the Senate DRIVE Act and House STRRA 2015 propose significant cuts to the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, and we would ask that Congress reconsider this approach. If Congress does not increase or fully fund the TIFIA program at current levels, Caltrans supports the Senate DRIVE Act's $300 million per year funding level over the House STRRA 2015 $200 million per year funding level.

Freight

The California Surface Transportation Consensus Principles noted that California is the nation's international trade leader and urged Congress to provide dedicated, sustainable funding for a contract authority freight program. We are pleased that both the Senate DRIVE Act and the House STRRA 2015 contain provisions that will advance national freight policy and create new contract authority freight programs.

With regard to freight policy, we support the Senate DRIVE Act's approach of requiring both State Freight Plans and State Freight Advisory Committees. Pursuant to MAP-21, California formed the California Freight Advisory Committee, and in December 2014, completed the California Freight Mobility Plan. Mandating that other states take similar action will likely facilitate greater comprehension of a nationwide freight system, identify freight system needs and opportunities for integration, yield valuable information for decision makers and result in better multistate coordination on freight projects.

The California Surface Transportation Consensus Principles recommended that the Primary Freight Network be extended beyond the existing 27,000 mile limit. Therefore, Caltrans strongly supports House STRRA 2015 provisions that would increase the Primary Freight Network from 27,000 miles to 41,000 miles and allow states, in consultation with their state Freight Advisory Committees, to increase the number of miles within the state designated as part of the National Highway Freight Network by 10 percent.

Caltrans also supports the Senate DRIVE Act's designation of critical rural and urban freight corridors as part of the National Highway Freight Network, and House STRRA 2015 language that would list improving the movement of goods travelling across rural areas between

population centers and between rural areas and population centers as National Highway Freight Policy goals.

Additionally, Caltrans supports the House STRRA 2015 provisions establishing a National Multimodal Freight Network that looks beyond National Highway Freight Network highway miles and specifically includes freight railroads, public ports based on tonnage, international border crossings, inland and intracoastal waterways, and the top 50 U.S. airports based on annual landed weight.

Caltrans strongly supports the Senate DRIVE Act's National Freight Program and urges Congress to include a contract authority formula apportionment element as part of any overall freight program in the final surface transportation reauthorization conference report. An apportionment program will provide a steady, predictable, annual stream of funding that states can anticipate and use to plan and prioritize multi-year freight projects.

California has also expressed significant interest in a "mega projects" discretionary grant program to fund nationally and regionally significant freight projects: In 2014, Caltrans compiled 53 survey responses totaling $71 billion in California nationally and regionally significant projects for a U.S. Department of Transportation (U.S. DOT) Report to Congress. We are pleased that both the Senate DRIVE Act and the House STRRA 2015 contain contract authority programs for major projects.

Caltrans supports the larger annual funding levels ($725 million to $750 million) provided by the House STRRA 2015's Nationally Significant Freight and Highway Projects (NSFHP) proposal over the Senate DRIVE Act's Assistance for Major Projects (AMP) proposal ($200 million to $400 million annually). Additionally, Caltrans believes that the House STRRA 2015 NSFHP's lower minimum project cost eligibility threshold, $100 million for NSFHP versus $350 million in the Senate DRIVE Act's AMP proposal, will enable a larger, and more diverse cross-section of worthwhile projects to qualify for federal assistance. Additionally, Caltrans appreciates and supports the 20 percent rural project set asides in both the House STRRA 2015 NSFHP and Senate DRIVE Act AMP proposals, as typically, rural freight projects are at a competitive disadvantage when competing for grant funds.

User-based Alternative Revenue Mechanisms

Both the Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles requested that the federal government explore innovative transportation revenue mechanisms, such as a road charge or other user-based revenues, and provide financial support to states willing to research or pilot innovative revenue programs. Therefore, we appreciate that both the Senate DRIVE Act and House STRRA 2015 authorize funding for grants to support alternative user-based revenue mechanisms.

In 2014, the California State Legislature passed Senate Bill 1077 (SB 1077) directing California to conduct a pilot program to examine the feasibility of a road charge as a replacement for the gas tax to pay for road maintenance and repairs. A technical advisory committee, comprised of representatives from diverse interests, is now working to study the potential for a road charge and will soon outline the parameters of a pilot program. Therefore, Caltrans supports the House STRRA 2015 language, which is more streamlined (e.g., does not create an Advisory Council) and more focused on demonstration projects than research.

Performance Management

Both the Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles requested that Congress allow MAP-21 performance management rulemakings to run their course, and avoid enacting new policies that will delay the implementation of these rules or undermine the work that has been already done.

The House STRRA 2015 contains a new "integrated economic development" national performance goal, which would create new performance measures and targets. Additionally, the Senate DRIVE Act would shorten both the period that states have to achieve performance targets and the period after which penalties would be assessed for not meeting those targets. Caltrans notes that none of the MAP-21 performance management rulemakings has been finalized, and urges that Congress allow the current MAP-21 requirements to be implemented and evaluated before altering these requirements or adding new performance measures.

Additionally, Caltrans supports the Senate DRIVE Act provision that replaces the statutory minimum bridge condition term "structurally deficient" with bridges in "poor condition"; this change would make the statutory minimum bridge condition requirement consistent with the national-level bridge performance measure requirements.

Public Transportation

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles cited the California Transportation Commission's *Statewide Transportation System Needs Assessment* and *California Unmet Transit Funding FY 2011–FY 2020 Needs* to articulate California's need for a significant increase federal public transportation investment. Additionally, the Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles noted that U.S. DOT's GROW AMERICA Act includes a 70 percent increase in federal funding for transit programs.

If Congress is unable to significantly increase public transportation funding in a new multi-year surface transportation bill, then Caltrans supports the public transportation funding levels established in the Senate DRIVE Act ($74.9 billion over six years, a $12.5 annual average),

which are higher than the House STRRA 2015 levels ($68.6 billion over six years, a $11.4 annual average).

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles also asked Congress to restore funding for the Bus and Bus Facilities program to pre-MAP-21 levels and include a transparent and efficient discretionary element. Caltrans supports the Senate DRIVE Act's funding levels for Bus and Bus Facilities formula and competitive grants, which are higher than the House STRRA 2015 levels, and also the Senate DRIVE Act's 10 percent rural set aside for competitive grants.

Caltrans notes that the House STRRA 2015 creates new matching restrictions related to the Federal Transit Administration's (FTA) New Starts program that will reduce the federal share of projects and restrict the use of STP funding as an eligible source for New Starts projects. Caltrans asks that Congress retain the current law 80 percent maximum federal share of funding for the New Starts program, and not include House STRRA 2015 language that would restrict the use of STP funding for New Starts in the final surface transportation reauthorization conference report. Additionally, Caltrans supports Senate DRIVE Act language that would expand FTA Capital Investment Grant eligibility to joint public transportation and intercity passenger rail projects.

Rail Reauthorization

Caltrans notes the Senate DRIVE Act includes a passenger rail title and that, in March, the House passed stand-alone rail legislation entitled the "Passenger Rail Reform and Investment Act of 2015" (PRRIA 2015, H.R. 749). Therefore, Caltrans urges Congress to include a passenger rail title in the final surface transportation reauthorization conference report.

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles supported the American Public Transportation Association's call for a dedicated and indexed revenue source, other than the motor fuel taxes that support the Highway Trust Fund, for planning, design and construction of High-Speed and Intercity Passenger Rail; and also the GROW AMERICA Act proposal to create trust funded programs for passenger rail services. Caltrans strongly encourages Congress to continue to consider inclusion of these proposals in the final surface transportation reauthorization conference report.

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles also supported efforts to increase funding for intercity rail capital investment grants (chapter 244 of Title 49), and we appreciate that both the Senate DRIVE Act and the House PRRIA 2015 authorize funding for this purpose.

Caltrans supports the Senate DRIVE Act passenger rail grant funding levels ($350 million in 2016, increasing to $900 million in 2019), which are higher House PRRIA 2015 funding levels (flat-funded at $300 million annually). Moreover, Caltrans notes that PRRIA 2015 creates a Northeast Corridor (NEC) set aside in its passenger rail grant program; Caltrans believes that all grant funding for this program should be made available for eligible projects in every state and respectfully requests that the NEC set aside not be included in the final surface transportation reauthorization conference report. Additionally, Caltrans asks Congress to extend this authorization of funding beyond 2019.

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles supported Congressional efforts to reform the Railroad Rehabilitation and Improvement Financing (RRIF) program to make it more accessible to borrowers, and we appreciate that both the Senate DRIVE Act and the House PRRIA 2015 take steps to reform the RRIF program.

Caltrans also supports the Senate DRIVE Act provision that would expedite rail project delivery by applying the environmental streamlining measures in 23 U.S.C. § 139 to rail projects, and House STRRA 2015 provision that allows U.S. DOT grant recipients to provide funds to federal, state, and tribal agencies for activities that would expedite the environmental review and permitting processes.

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles requested that Congress provide funding for Positive Train Control (PTC) implementation, and therefore Caltrans supports the Senate DRIVE Act's $199 million in funding for commuter rail lines to mitigate the costs associated with the implementing PTC technology.

HOV Degradation

Federal law requires that high-occupancy vehicle (HOV) lanes have a minimum average speed of 45 mph 90 percent of the time over a 180-day period during peak hours. The most recent data indicates that 60 percent of California's HOV network is degraded under the current federal standard, but it also indicates that "recurrent congestion" is not a primary source of degradation in California. Other variables such as inclement weather, traffic incidents, or unforeseeable nonrecurring congestion are having a greater impact on HOV lane performance.

Caltrans requested relief from the current statutory HOV degradation standard in its January 12, 2015, letter, and this issue was also mentioned in the California Surface Transportation Consensus Principles. If Congress does not change the current statutory HOV degradation standard, then Caltrans strongly supports language in the House STRRA 2015 that would allow public entities to apply to U.S. DOT for waivers from the standard.

Right-of-Way Reform

The Caltrans January 12, 2015, letter encouraged Congress to review current federal statutory and regulatory requirements imposed on federal-aid and Interstate right-of ways, and stated that modest policy reforms in this area would foster greater partnership between state, local, and other public agencies and facilitate additional private sector transportation investment. Therefore, Caltrans supports the House STRRA 2015 language authorizing a pilot program allowing states to utilize innovative approaches to maintain federal-aid right of ways. Caltrans also supports the inclusion of two additional proposals that were debated in the House Transportation and Infrastructure Committee and the House Floor: 1) allowing the private sector to deploy zero-emission vehicle infrastructure along Interstate and federal-aid highways; and 2) authorizing a pilot program to acknowledge the contributions of third parties to state roadside maintenance through corporate logos made of live plant materials.

The Caltrans January 12, 2015, letter and the California Surface Transportation Consensus Principles also asked Congress to amend current law to allow states to relinquish Park and Ride lots located on federal-aid highways to local agencies who seek to invest, improve, and integrate them into regional transit systems. We appreciate that both the Senate DRIVE Act and House STRRA 2015 contain provisions to address this issue, and we request that this issue be addressed in the final surface transportation reauthorization conference report.

Tribal Transportation

Caltrans reaffirms its support for the underlying principles represented in the Tribal Transportation Unity Act, which include easing the transfer of federal-aid funds for tribal transportation projects, improving Bureau of Indian Affairs Right of Way management, and improving the speed and efficiency in getting emergency relief funding to tribes.

The California Surface Transportation Consensus Principles supported establishing a Tribal Self-Governance program at U.S. DOT that will streamline grant funding and administration between the federal and tribal governments. Therefore, Caltrans supports the House STRRA 2015 Tribal Transportation Self-Governance program provision. Additionally, Caltrans seeks clarification of the House STRRA 2015 Tribal Self-Governance provision to ensure that existing Tribal Transportation Program authority (23 U.S.C. § 202(a)(9)), that allows State and local governments to contribute transportation funding to tribal transportation projects, is preserved in the final bill.

Caltrans supports the Senate DRIVE Act Tribal Transportation Program, and Tribal Transit Program funding levels, which are higher than the House STRRA 2015 funding levels. Caltrans continues to urge Congress to restore Highway Trust Fund support for the Tribal High Priority Projects Program. Additionally Caltrans supports the House STRRA 2015 provision extending the program's authorization through FY 2021, and also supports the Congress funding this program through its regular appropriations process.

Sincerely,

MALCOLM DOUGHERTY
Director

c: California U.S. Congressional Delegation