



May 11, 2016

The Honorable Hal Rogers
Chairman
Committee on Appropriations
U.S. House of Representatives
H-305, The Capitol
Washington, DC 20515

The Honorable Nita Lowey
Ranking Member
Committee on Appropriations
U.S. House of Representatives
1016 Longworth House Office Building
Washington, DC 20515

The Honorable Mario Diaz-Balart
Chairman
Subcommittee on Transportation, Housing and
Development, and Related Agencies
U.S. House of Representatives
2358A, Rayburn House Office Building
Washington, DC 20515

The Honorable David Price
Ranking Member
Subcommittee on Transportation, Housing and
Development, and Related Agencies
U.S. House of Representatives
2358A, Rayburn House Office Building
Washington, DC 20515

Dear Chairman Rogers, Ranking Member Lowey, Chairman Diaz-Balart, and Ranking Member Price:

The National Governors Association (NGA), the National Conference of State Legislatures (NCSL), and the American Association of State Highway and Transportation Officials (AASHTO) reiterate our gratitude to Congress for the bipartisan passage of the Fixing America's Surface Transportation (FAST) Act last year, however, we have serious concerns with language in both the FAST Act and the Senate's FY 2017 Transportation, Housing and Urban Development Appropriations (THUD) bill which would reclaim critical federal transportation dollars through rescissions of unobligated Highway Trust Fund (HTF) contract authority. We urge the House to fully honor the HTF Fund contract authority contained in the FAST Act by not resorting to the use of rescission.

Section 1438 of the FAST Act requires the rescission of \$7.6 billion of contract authority on July 1, 2020 and the Senate's proposed FY 2017 THUD bill would rescind an additional \$2.2 billion, resulting in a total rescission of \$9.8 billion by 2020. These rescissions would come entirely from apportioned HTF programs used by the State Departments of Transportation (State DOTs).

Although dollars in the Federal-aid Highway Program are initially provided via HTF contract authority in long-term authorizing legislation like the FAST Act, spending in any given fiscal year is capped by an annual obligation limitation. Prior to the Moving Ahead for Progress in the 21st Century (MAP-21) Act, continuous accumulation of the difference between authorized funding levels and annual obligation limitation will result in approximately \$24 billion in unobligated contract authority balances by the end of FY 2016. These balances represent commitments to the states and have traditionally provided states with

flexibility to apply the obligation limitation to each state's unique needs and top priority highway programs.

The state elected and appointed officials that our organizations represent are concerned not only about these rescissions, but also that certain highway program categories are protected from rescission. Requiring the rescissions to come from only a portion of the unobligated contract authority balances means that programs important to State DOTs will bear the brunt of these cuts. In other words, the entire \$9.8 billion rescission will have to be absorbed by a total balance of just \$11 billion available in the remaining formula apportionments to states. Furthermore, both rescissions require states to cut their share of contract authority in a proportional manner across all applicable highway program categories regardless of the relative balance contained, which ignores states' funding priorities reflected in the balance. As the attached table shows, this is not a simple and harmless budgetary maneuver.

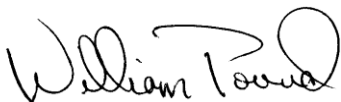
Altogether, these rescissions will significantly hamper a State DOT's flexibility to program Federal dollars. They could go so far as to force states to cut actual highway expenditures at a time when we need to be investing in our nation's infrastructure, potentially eliminating the modest investment gains made in the FAST Act. Therefore, we urge the House to fully honor the Highway Trust Fund contract authority contained in the FAST Act by not resorting to the use of rescissions.

Thank you for your consideration, and please don't hesitate to contact Joung Lee of AASHTO (jlee@aaashto.org), Caroline Sevier of NGA (csevier@nga.org), or Ben Husch of NCSL (ben.husch@ncsl.org) if you have any questions.

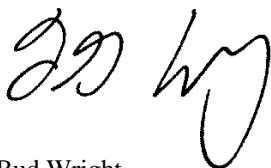
Sincerely,



Scott Pattison
Executive Director
National Governors Association



William T. Pound
Executive Director
National Conference of State Legislatures



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

CC:
U.S. Secretary of Transportation, Anthony Foxx
Federal Highway Administrator, Greg Nadeau

Rescissions of Highway Contract Authority

| Enactment Date | Amount | Legislation |
|----------------|-------------------------|--|
| 9/24/2002 | \$320,000,000 | FY 2002 Supplemental Appropriations Act (P.L. 107-206) |
| 6/10/2003 | \$250,000,000 | Consolidated Appropriations Resolution, 2003 (P.L. 108-7) |
| 2/20/2004 | \$207,000,000 | Consolidated Appropriations Act, 2004, Public Law (P.L.) 108-199 |
| 1/25/2005 | \$1,261,277,000 | Consolidated Appropriations Act, 2005, Public Law (P.L.) 108-447 |
| 12/28/2005 | \$1,999,999,000 | Department of Transportation Appropriations Act, 2006, Public Law (Pub. L. No.) 109-115 |
| 3/21/2006 | \$1,143,000,000 | Division B, Chapter 7 of the Department of Defense Appropriations Act, 2006, Public Law (Pub. L. No.) 109-148 |
| 7/5/2006 | \$702,362,500 | Chapter 9 of the Emergency Supplemental Appropriations Act, 2006, Public Law (Pub. L. No.) 109-234 |
| 3/19/2007 | \$3,471,582,000 | Division B, Title 1, Chapter 10 of the Continuing Appropriations Resolution, 2007, Public Law (Pub. L. No.) 110-5 |
| 6/20/2007 | \$871,022,000 | Title IV, Chapter 8 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Public Law (Pub. L. No.) 110-28 |
| 3/4/2008 | \$3,150,000,000 | Division K, Title I of the Consolidated Appropriations Act, 2008, Public Law (Pub. L. No.) 110-161 |
| 4/13/2009 | \$3,150,000,000 | Division I, Title I of the Omnibus Appropriations Act, 2009, Public Law (Pub. L. No.) 111-8 |
| 9/30/2009 | \$8,708,000,000 | Section 10212 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law (Pub. L.) 109-59, as amended by section 1302(b) of the Pension Protection Act of 2006, Pub. L. 109-280 and section 112 of the SAFETEA-LU Technical Corrections Act of 2008, Pub. L. 110-244, as affected by title XI, subtitle D, section 1132(a) of the Energy Independence and Security Act of 2007 (EISA), Pub. L. 110-140 |
| 4/20/2010 | -\$8,708,000,000 | Restoration of Rescinded Contract Authority Pursuant to Section 413 of the Surface Transportation Extension Act of 2010, Title IV of Public Law 111-147 |
| 8/13/2010 | \$2,200,000,000 | Section 330 of Public Law (Pub. L.) 111-226 (FAA Air Transportation Modernization and Safety Improvement Act / HR 1586) |
| 6/30/2011 | \$2,500,000,000 | Section 2207 of the Full-Year Continuing Appropriations Act, 2011, division B of Public Law (Pub. L.) 112-10 |
| 10/1/2016 | \$2,211,000,000 | <i>S. 2844, FY 2017 Senate Appropriations for Departments of Transportation, and Housing and Urban Development, and related agencies</i> |
| 7/1/2020 | \$7,569,000,000 | <i>Section 1438 of the Fixing America's Surface Transportation Act</i> |
| TOTAL | \$31,006,242,500 | |