

April 6, 2017

The Honorable Paul Torkelson, Chair
House Transportation Finance Committee
3105 State Office Building
Saint Paul, MN 55155

RE: HF 861 (Omnibus Transportation Bill)

Dear Chair Torkelson:

I have had an opportunity to review the Omnibus Transportation Finance Bill, House File 861, and appreciate the effort the committee invested in crafting this piece of legislation. This letter contains my reactions to the provisions in the bill and I hope you will consider them as the legislation moves forward.

Thank you for your efforts to increase funding for roads and bridges across the state. The funding provisions in the bill seem to reflect your understanding of the need to increase funding to preserve and improve the existing system and the magnitude of that need. Thank you, too, for including several of the policy initiatives the Governor recommended for the department. They will support improvements in department operations.

Unfortunately in our view the new resources provided in the bill fall short of what is needed in several areas. It also relies too heavily on funds that history has shown to be unreliable sources of ongoing funding for infrastructure.

Below I have listed specific concerns about the bill.

HF 861 Lacks the Funds Necessary to Preserve, Modernize and Strategically Expand Our System

While I do acknowledge and appreciate your efforts to fund the gap for the state highway system. The overall funding level for the trunk highway system will force MnDOT to prioritize more short-term fixes focused on preserving the system in its current state, rather than modernizing bridges and pavements for the long term. We will also be extremely limited in our ability to strategically expand the system along key regional corridors, address bottlenecks, and keep us economically competitive given the funding constraints in HF 861. Comparatively, the overall funding level in your bill for the trunk highway system is significantly less than the amount the Governor requested.

HF 861 Lacks Sustainable and Dedicated Funding Sources for Transportation

The complete lack of a long-term dedicated funding source for roads and bridges is a significant concern. The Governor's proposal provides constitutionally dedicated funding increases that can be relied on over the long term and can only be used for transportation purposes. While some have suggested the legislature can reduce gas taxes just as easily as it can reduce general funds, it is a fundamentally different question. The gas tax has not been reduced since it was first collected in 1925. However, there are recent examples of general funds and MVST dollars being designated for transportation during one biennium, only to be

recaptured and used for non-transportation purposes in the next biennium. While it is true that the funds shifted from the general fund to transportation in your plan are statutorily dedicated, as history has demonstrated it is entirely possible that these funds can be shifted to other priorities. However, it is constitutionally prohibited to divert gas tax or registration tax funds for any purpose other than roads and bridges.

A dependable funding stream is critically important for the efficient management and improvement of our transportation system. Projects to maintain and improve the system have significant lead times for development and design before they can be constructed. Funding fluctuations create inefficiencies when significant funds are invested to develop projects that then have to be delayed. This inefficiency has financial impacts for MnDOT, but also contractors who invest in equipment and employees in expectation of projects being out for bid and local governments who participate in most MnDOT projects. That is why, nationwide, ninety-six percent of transportation funds come from non-general fund sources.

The general fund money in your plan comes at the expense of education, nursing homes and other priorities.

HF 861 Adding an Additional Fund-Transportation Priorities Fund

The creation of another fund for transportation that allocates out monies through statutory percentages will add another layer of complexity to an already complex funding structure. It will require additional transactions, making reporting and project tracking even more complex. The fact that the money in this fund is not constitutionally dedicated may mean that this layer will exist for a short period, again adding complexity to tracking historical costs.

HF 861 Reaches Bond Capacity

Based on rough estimates, the \$1.3B in bonds would push debt service essentially to the 20 percent debt policy limit. If revenue does not meet forecast or if interest rates increase unexpectedly, adjustments will have to be made to future spending to offset this impact. In addition, there is concern that taking on 20 year obligations for debt service with only a two year commitment of resources to cover the debt adds significant additional risk to the availability of these funds to preserve and operate the highway system.

HF 861 Eliminates Funding for Passenger Rail Office & MRSI Funding

The complete lack of funding for passenger rail operations is a concern. Considerable work has been done on passenger rail over the last several years. A minimal state investment has attracted considerable federal funds and prepared the state to implement additional passenger rail service to Chicago in the relatively near future. This effort has been supported by a partnership with Wisconsin. All of the information available indicates a relatively high demand for this service.

We do appreciate the \$1M in funds for the rail service improvement program, but we do have some concern that the provision to forgive an outstanding loan by changing it to a grant will deplete the funds available for future rail improvements, while setting bad precedent. Most Minnesota families could not expect to have a loan forgiven under any circumstances. It is hard to see the public benefit in a unilateral change that gives taxpayer funds to benefit one private company.

HF 861 No Funds for State Plane Purchases

MnDOT aging aircraft are reaching the end of their useful service lives and need to be replaced. The airplanes are used by state agencies and elected officials to perform their duties effectively and efficiently. In

addition, MnDOT pilots often perform necessary inspections of airports and helipads across the state with these planes. The current aircraft face increasing maintenance costs and down time.

HF 861 Lack of a General Fund Increase for Freight

There was no base increase to support Freight Office activities due to the increased complexity of freight programs and increased volume of rail issues. A general fund appropriation is needed for stable funding to address safety issues, complete project development, planning and responding to questions from constituents and elected officials. This funding would help address issues with the overall state rail safety, rail service and rail impacts on communities.

HF 861 No Funding for the Working Capital Loan Fund

The Working Capital Loan Fund Program supports the goal of equity and reducing disparities in contracting by providing loans to small businesses. These loans would be used to acquire the necessary operating capital to participate in MnDOT projects. The omnibus bill does not provide any funding for this important program. The Governor's recommendation of a onetime infusion of \$1.5M for this program is a minimal amount of funding for a program with so many positive outcomes.

HF 861 Local Assistance Not Included

The Governor's recommendation to provide \$2.5M for tribal roads, \$19M for aid to larger cities and \$4M for Americans with Disabilities Act projects on local roads allows communities and Minnesotans an opportunity to gain relief and fix their infrastructure. The lack of funding for these programs means lack of progress on these important areas.

HF 861 Workforce Optimization Not Included

A base increase to hire approximately 260 operations and maintenance staff would provide a full complement of snow plow truck operators to cover two shifts per day. This increase in staff would also perform critical spring and summer maintenance work and replace current cross-over positions in program planning and delivery now used for plowing. We strongly believe this increase would make the organization more efficient and effective. The prohibition on implementing workforce optimization essentially prohibits the agency from making changes that increase efficiency in one of the most essential safety related services we provide the traveling public--plowing snow.

HF 861 Inadequately Funds Building Services

Although you did fund half of the Governor's recommended increase for Building Services, the full amount is necessary to adequately maintain MnDOT facilities. These funds are used to renovate, and replace MnDOT facilities critical to MnDOT operations. Funding for these activities has not kept pace with needs. Some of these buildings are rest areas that provide crucial services to travelers across the state and need the funding to be maintained and repaired.

HF 861 Highway Sponsorship Program Not Included

This proposal gives MnDOT the authority to enter into agreements with businesses, civic groups or individuals for the maintenance and improvement of Trunk Highway property. Examples include sponsoring plantings to enhance pollinator habitat, the Adopt-A-Highway program, and highway beautification projects. The legislation also gives MnDOT authority to give recognition (such as signage) to the program participants. This simple highly cost effective change can create effective partnerships between the state and business or other organizations and help MnDOT to better the roadsides without increasing costs.

HF 861 Utility Relocation on the Interstates Not Included

This proposal means utilities must relocate their facilities at company expense rather than the state paying the cost. Utility relocations on all other roadways have to be paid for by the utility companies. When the Interstates were first being constructed it was common to encounter utilities already located within the proposed right-of-way. Because of this, it made sense to compensate utility companies for the relocations. Now, utilities are often placed within Interstate right-of-way fully aware that they may be required to move in the future. This proposal only applies to utilities placed after passage of this change, grandfathering in all existing utilities.

HF 861 Truck Permits Cleanup Language Not Included

This proposal repeals two sets of changes made to oversize/overweight permit statutes that are not being used. One relates to linking the expiration date of an oversize/overweight permit to a vehicle registration, and the other cancels a \$30,000 appropriation made in 2012 to tie the MnDOT permit system to the DPS vehicle registration system. Both of these provisions would be costly and impracticable for MnDOT and DPS to implement. This provision only seeks to create efficient delivery of services yet was left out of the bill.

HF 861 Aeronautics Fund

The appropriations from the State Airports Fund will leave the fund with a negative balance. The fund also has a fund balance policy minimum of \$2.1M. The fund cannot support this without increasing the airline flight property tax.

HF 861 Needed Rail Provisions Not Included

Rail Safety Inspectors

This provision includes hiring up to five additional rail inspectors, plus a program manager. The State Rail Safety Inspection Program ensures compliance with federal and state safety regulations which will help reduce the number of rail accidents. Class I & II railroads would be assessed annually for the actual costs of the program. This important safety provision ensures that railroads are operating safely within our state.

Grade Crossing Safety Improvements

Rail Safety Account

Increased funding estimated at about \$3.725M would allow for a significant increase in the number of small grade crossing safety projects that can be programmed and delivered rapidly.

Railroad Assessment for Safety Improvements on Priority Rail Corridors

The intent of this investment program is to reduce or eliminate grade crossing crashes, fatalities and injuries, and the release of hazardous materials causing environmental damage. The Governor's recommendations were for funding that would be provided from an annual assessment on Class I railroads.

HF 861 Prohibition on MnDOT Attorneys for Data Practices Requests

Prohibiting MnDOT attorneys from performing their duties is not efficient. Contracting with the Attorney General's Office to perform legal functions has slowly been discontinued in favor of agencies doing their own legal work because that is where data is stored and maintained. This prohibition would create an inefficient, more costly process and will lengthen the time to fulfill the requests for data.

HF 861 Milk Truck Weight Increase Will Damage Road and Bridge Infrastructure with No Enforcement

Laws regarding allowable weight limits, lengths and widths of commercial motor vehicles are designed to ensure safe vehicle operation on Minnesota roadways and to preserve the state investment in highway and bridge infrastructure. This proposal allows over weight trucks that would inflict 46 percent more damage to pavements than trucks operating at current legal weights, while removing effective civil enforcement of overweight milk hauling vehicles.

HF 861 Construction Materials Truck Weight Increase

This provision permits trucks carrying construction materials to exceed current legal maximum weights and provides that a permit issued by the commissioner is valid for operation on highways regardless of jurisdiction. Recent studies of trucks that exceed current limits raise questions about the safety of heavier trucks on highways. The recent federal study recommended that no changes be enacted to increase legal truck weights because there is insufficient data and analysis to identify the effects of overweight vehicles at this time. In addition, the sections of the bill regarding MnDOT requirements to issue permits and provide information to local road authorities is vague and unworkable. It provides no meaningful protection against excessive damage to local roads from heavier trucks.

HF 861 Motor Vehicle Title Transfer Fee Change

The revenue currently collected during a motor vehicle title transfer is deposited into the Environmental Fund; however, the language of the omnibus bill changes where this is deposited and instead moves the money to the newly created transportation priorities fund. These funds are important and should continue to be deposited into the Environmental Fund which mitigates the environmental impacts of road and bridge construction and maintenance projects. This is important to reduce the impact road projects have on the environment.

HF 861 Red Wing Project

The bill provides additional local funding for the Highway 61 project in Red Wing. In addition to being an earmark for a specific project, this provision changes the terms of an agreement the department entered into with the city under which both parties agreed to limit state participation. The department already paid \$500,000 above the limit in the agreement. Legislating changes to contract terms sets a very troubling precedent.

HF 861 Excessive Number of New Reports and Report Changes

In the bill, there are 6 new reports and studies, most with no funding attached, and two expanded reports. MnDOT currently produces over 30 statutorily mandated reports, depending on the year (odd or even, 2 year cycle, 4 year cycle, etc.). Adding more reports or increasing reporting demands detracts from efficiency.

Posting the project information on the website is done with many projects but maintaining those sites and updating the information is inefficient for project managers and engineers. The benefit to the public will be minimal compared to the amount of time it will take to maintain the websites.

HF 861 Conveyance of Property to Duxbury

This provision transfers property purchased and improved with state 911 ARMER funds to the Duxbury fire department. This land was acquired for \$28K and improved for a total investment of \$750K and this

provision gifts it to the fire department for \$100. The department currently has a 20 year lease with the fire department that provides use of most of the site and buildings for a nominal fee.

MnDOT needs full control of the property to operate and maintain the ARMER tower which provides access for local law enforcement and first responders to the statewide public safety radio system. The site is crucial to the ARMER system. Any change in ownership would be detrimental to the ARMER system and could lead to the decommissioning of the site.

HF 861 Corridors of Commerce

These projects are capital projects so all funding must be encumbered at the time of letting. The appropriation does not provide carryforward language on encumbered funds similar to State Road Construction funds. This would mean Corridors of Commerce funds would cancel at the end of the biennium making funding prohibitive for the large Corridors of Commerce projects.

HF 861 Corridors of Commerce Bond Funding for Right of Way Acquisition

Based on federal arbitrage rules, trunk highway bond funds cannot be used to acquire right of way, so this provision may not deliver the results intended within the legislation. Even though the amendment to convert some funding to cash addresses this concern, it is uncertain whether the amount is sufficient.

We do appreciate your work on this bill and your inclusion of many of the Governor's recommendations.

Thank you for the opportunity to provide comments on HF 861. We look forward to working with you in the coming weeks on these important issues.

Sincerely,



Charles A. Zelle
Commissioner