April 15, 2015

The Honorable Orrin Hatch
Chairman
Senate Committee on Finance
Washington, D.C. 20510

The Honorable Ron Wyden
Ranking Member
Senate Committee on Finance
Washington, D.C. 20510

The Honorable Dean Heller
Chairman, Community Development
& Infrastructure Working Group
Senate Committee on Finance
Washington, D.C. 20510

The Honorable Michael Bennet
Vice Chairman, Community Development
& Infrastructure Working Group
Senate Committee on Finance
Washington, D.C. 201510

Dear Chairmen and Ranking Members:

Thank you for the opportunity to submit comments as the Senate Finance Committee and Working Groups develop recommendations for comprehensive tax reform.

NSSGA supports tax reform that would simplify the tax code and result in lower administrative and compliance costs; providing the certainty that allows informed and cost-effective allocation of human and financial resources. The complexities of the tax code have placed an even heavier burden on businesses and their employees who are the drivers of economic growth and job creation.

The following pages detail the aggregates industry key priorities for tax reform. If you have any questions, please feel free to contact me.

Sincerely,

Pamela J. Whitted
Sr. Vice President, Legislative & Regulatory Affairs

Enclosures

NATIONAL STONE, SAND & GRAVEL ASSOCIATION
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INTRODUCTION

NSSGA is the leading voice and advocate for the aggregates industry. Its members - stone, sand and gravel producers and the equipment manufacturers and service providers who support them – produce the essential raw materials found in homes, buildings, roads, bridges and public works projects and represent more than 90 percent of the crushed stone and 70 percent of the sand and gravel mined annually in the United States. Production of aggregates in the U.S. in 2014 totaled 2.17 billion metric tons at a value of $20.3 billion. The aggregates industry employs approximately 100,000 highly-skilled men and women.

There are more than 10,000 construction aggregates operations nationwide. Almost every congressional district is home to a crushed stone, sand or gravel operation. Proximity to market is critical due to high transportation costs, so 70 percent of our nation's counties include an aggregates operation. Approximately 70 percent of NSSGA member companies are considered small businesses.

ENSURE LONG-TERM SOLVENCY OF THE HIGHWAY TRUST FUND

America's roads, highways and bridges are the foundation of the country and essential to economic growth and prosperity. But, the system is old and at capacity. Enhancing critical transportation assets will boost the economy in the short-term by creating jobs in construction and related fields. In the long-term these are national assets that will enhance economic competitiveness and improve quality of life by reducing travel delays and transportation costs, improving access and mobility, improving safety, and stimulating sustained job growth.

Aggregates compose 94 percent of asphalt and 74 percent of concrete. As a result, road and highway building is the number one issue of the aggregates industry. The current law, *Moving Ahead for Progress in the 21st Century* (MAP-21) extends funding for the system through the end of May. Congressional action to assure the long-term solvency and stability of the Highway Trust Fund is long overdue. History shows that fiscal situations such as this are best resolved in the context of broad fiscal reform and have been proposed and implemented by Republicans and Democrats alike.

According to the World Economic Forum's 2014-2015 Global Competitiveness Report, the U.S. ranks 28th in transportation investment and 16th in the quality of our roads. This for a country that once had a surface transportation system that was the envy of the world.

The 2015 AASHTO Transportation Bottom Line Report found that annual investment in the nation's roads, highways and bridges needs to increase from $88 billion to $120 billion to improve conditions and meet the nation's mobility needs. The report also found that the current backlog in needed road, highway and bridge improvements is $740 billion.

The Federal Highway Administration estimates that each dollar spent on road, highway and bridge improvements results in an average benefit of $5.20 in the form of reduced vehicle maintenance costs, reduced delays, reduced fuel consumption, improved safety, reduced road and bridge maintenance costs and reduced emissions as a result of improved traffic flow.

The Road Information Program (TRIP) found that 19 percent of America's major roads are in poor condition. Driving on roads in need of repair costs U.S. motorists $109 billion a year in extra vehicle repairs and operating costs - $516 per motorist.

Additionally, roadway conditions are a significant factor in approximately one-third of traffic fatalities. Motor vehicle crashes cost the U.S. $230 billion per year, $819 for each resident, in medical costs, lost productivity, travel delays, workplace insurance and legal costs.

The system is funded by a fuel user fee – one pays to use the roads. Fuel user fee revenues into the HTF continue to erode due to the increased use of alternative fuels and more fuel efficient vehicles.

The fuel user fee has not been increased since 1993. The past two increases have occurred in the context of comprehensive tax reform. It is appropriate to address this issue in tax reform legislation, but in the absence of tax reform this year, Congress must act to ensure the stability of the HTF for at least six years while a new method for funding the system into the future is developed.

Many funding options have been proposed. Whether it is an increase in the user fee on fuels, which NSSGA supports as the fastest and most efficient method of dealing with this national priority, indexing the user fee, imposing a mandatory tax on foreign held profits, a voluntary repatriation program, or a combination of options, it is imperative that the 114th Congress address this issue. Additional extensions only mean increased costs and borrowing from foreign countries to pay for America's infrastructure; saddling our children and grandchildren with more debt and a system unable to handle the growing population and increasing traffic on the nation's roads and highways.

Attached are NSSGA's recommendations for reauthorization, plus two infographics NSSGA has created to show in understandable ways the costs of the proposed Corker-Murphy gas user fee increase and the costs of doing nothing.

OTHER PRIORITY TAX REFORM ISSUES

Maintain the Percentage Depletion Allowance

Percentage depletion is the capital cost recovery method recognized in the tax code for the aggregates industry and other natural resources industries. It is 5 percent for sand gravel and crushed stone and varying amounts up to 22 percent for other minerals. Percentage depletion is limited to 50 percent of net income, less exploration costs, and is a preference item for the corporate minimum tax.

During earlier tax reform debates, in the search for additional revenues, efforts have been made to eliminate the percentage depletion deduction for hard rock minerals. Although not the target of these efforts, aggregates producers are concerned that there will be attempts to eliminate the percentage depletion deduction for aggregates.

Sold on a competitive basis, crushed stone, sand, and gravel are low-value commodities that are very sensitive to cost-production factors including percentage depletion, with a penny per ton making a significant difference. Repealing percentage depletion for aggregates would increase the cost of constructing public works and infrastructure by raising mining costs that would be passed on, in higher prices, to the end users of aggregates. Further it would disrupt the production of needed construction materials and it would unfairly tax the western states where mining is more prevalent.

NSSGA urges Congress to resist efforts to repeal the percentage depletion for aggregates. NSSGA also urges Congress to eliminate percentage depletion as a tax preference item.

Repeal the Estate Tax

A majority of our members are what would be considered small businesses, and many are family-owned. As such, changes in the federal estate tax fall very heavily on them. NSSGA supports reduction or elimination of the estate tax that was repealed by the *Economic Growth and Tax Relief Reconciliation Act of 2001,* but returned in 2011. Before the tax returned to its pre-2001 rate of 55 percent and a $1 million per person exemption, President Obama and congressional Republicans crafted a compromise top rate of 35 percent with an exemption of $5 million per person for the years 2011 and 2012. The 2013 "fiscal cliff" deal made reform permanent, but increased the top rate to 40 percent while maintaining the exemption levels.

Numerous attempts to repeal or scale back the "death" tax have been introduced in the House and the House Ways and Means Committee has passed a repeal bill in the 114th Congress. The Senate, too, has considered amendments to repeal the tax. Although we recognize that the president is unlikely to sign such a bill, NSSGA believes it is time to finally put the stake in a tax that disadvantages small business owners and family businesses that are the engine of economic growth.

Continue the Depreciation Bonus

The *Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010* provided 50 percent depreciation bonus for capital investment placed in service after December 31, 2011, and through December 31, 2012. The *American Taxpayer Relief Act*, H.R. 8, that temporarily averted the "fiscal cliff," extended the 50 percent bonus depreciation through 2013. ATRA also increased Sec. 179 expensing levels to $500,000 with a $2 million phase-out for 2012 and 2013. Additionally, the law allows companies the option to accelerate AMT credits in lieu of the depreciation bonus and to permit businesses using PCM (percentage completion method of accounting) to benefit from the capital investment incentive.

The bonus depreciation particularly helps natural resources businesses, like aggregates, that require use of large and costly machinery. It allows businesses that cut their tax bill to purchase new equipment.

The increases in Sec. 179 expensing can be used for both new and used equipment and can be combined with the depreciation bonus, which also is very helpful to businesses.

The "tax extenders" legislation passed in December 2014 retroactively enacted the 50 percent bonus depreciation for 2014. Continuation of the 50 percent bonus depreciation and the comparable treatment of AMT in lieu of bonus will accelerate investment, create jobs, and fuel ongoing economic recovery and growth.

Retain the LIFO Accounting Method

There have been earlier recommendations to repeal the last-in, first-out (LIFO) method of accounting for inventories. NSSGA urges that this method of accounting be retained.

The current tax code permits a taxpayer with inventories to determine the value of its inventory and its cost of goods sold using a number of different methods. The first-in, first-out (FIFO) method, which matches current sales with the costs of the earliest acquired (or manufactured) inventory items, is the most frequently used. Alternatively, and a method often used by aggregates producers, is the last-in, first-out method (LIFO), which treats the most recently acquired (or manufactured) goods as having been sold during the year.

The LIFO method can provide a tax benefit for a taxpayer facing rising inventory costs, since the cost of goods sold under this method is based on more recent, higher inventory values, resulting in lower taxable income. Our members understand if inventory levels fall during the year, a LIFO taxpayer must include lower-cost LIFO inventory values (reflecting one or more prior-year inventory accumulations) in the cost of goods sold, and its taxable income will be correspondingly higher.

Maintain Like-Kind Exchanges

Like-kind exchanges (LKEs) are an important capital investment incentive for NSSGA members. LKEs are used in a variety of industries, including construction, agriculture, transportation, energy and manufacturing. Under Internal Revenue Code section 1031, LIKEs allow a taxpayer to defer gain or loss when property is exchanged for 'like-kind" property that will be used in a trade or business for investment. Similar to section 179 expensing, LKE is a permanent part of the tax code that is considered an important capital investment incentive. If LKEs were taxable, the amount of revenue available for capital reinvestment or growth could substantially decline.

LIKEs essentially permit companies to temporarily defer income taxes. This frees up cash and allows businesses to make additional capital investment and hire workers. As the economy continues to recover economically, for many companies in the aggregates industry, this can make a tremendous difference.

Reject Temporary Regulations on Capitalization Rules on Tangible Property

The Treasury and the IRS issued temporary tangible property regulations (the Temporary Regulations) regarding the tax treatment of amounts paid to acquire, produce, or improve tangible property and on the accounting for and disposition of property on Dec. 23, 2011. As originally issued, the Temporary Regulations were applicable to tax years beginning on or after Jan. 1, 2012. In general, these regulations required taxpayers to capitalize and depreciate many items that they were expensing. In addition, the Temporary Regulations contained overly burdensome rules regarding the timing of dispositions.

On Dec. 14, 2012, Treasury and the IRS released technical amendments to the Temporary Regulations that changed the effective date to tax years beginning on or after Jan. 1, 2014. On Sept. 16, 2013, final regulations related to the deduction and capitalization of expenditures were issued. Final regulations related to the disposition of capital assets were issued on Aug. 14, 2014. Both sets of regulations were effective Jan. 1, 2014.

These regulations are very broad and include few examples that are easily interpreted for mining operations, which has prompted the mining industry to seek additional guidance from the IRS. For an asset intensive industry like the aggregates industry, the impact on current cash taxes plus the additional cost of administering the regulations is material and could slow down the industry's recovery, as well as being particularly burdensome on small operators.

Provide Capital Gains Tax Relief

Relief from capital gains taxes is imperative and supported by NSSGA members. Taxes on capital gains have significantly increased since the mid-1980s. Reduction in taxes on capital gains would have a positive impact on the economy through increased domestic investment, real income and revenue for the Treasury.

Reduce the Tax Burden on Business

NSSGA supports lowering the tax burden on business, which helps the crushed stone, sand, and gravel industries contribute to new construction for critical highway and airport projects necessary to ensure safe and cost effective transportation infrastructure.

Reducing the tax rates provides significant tax relief to millions of aggregates businesses that are structured as sole proprietors, partnerships, or S-corporations.

CONCLUSION

NSSGA appreciates the opportunity to submit comments as the committee considers tax reform. The importance of the effort to ensure equity, simplify, and increase the efficiency of the nation's tax system cannot be overstated. If you have any questions or comments, please contact Pam Whitted, Sr. Vice President, Legislative & Regulatory Affairs at [redacted].

NSSGA RECOMMENDATIONS FOR SURFACE TRANSPORTATION REAUTHORIZATION IN 2015

NSSGA Position: America's economic vitality depends on an integrated, national intermodal surface transportation network that moves goods and people to maximize global competitiveness, quality of life, safety and economic prosperity for all citizens. America's surface transportation network should be designed, built, operated, maintained and financed in a cost-effective, safe, efficient and sustainable manner.

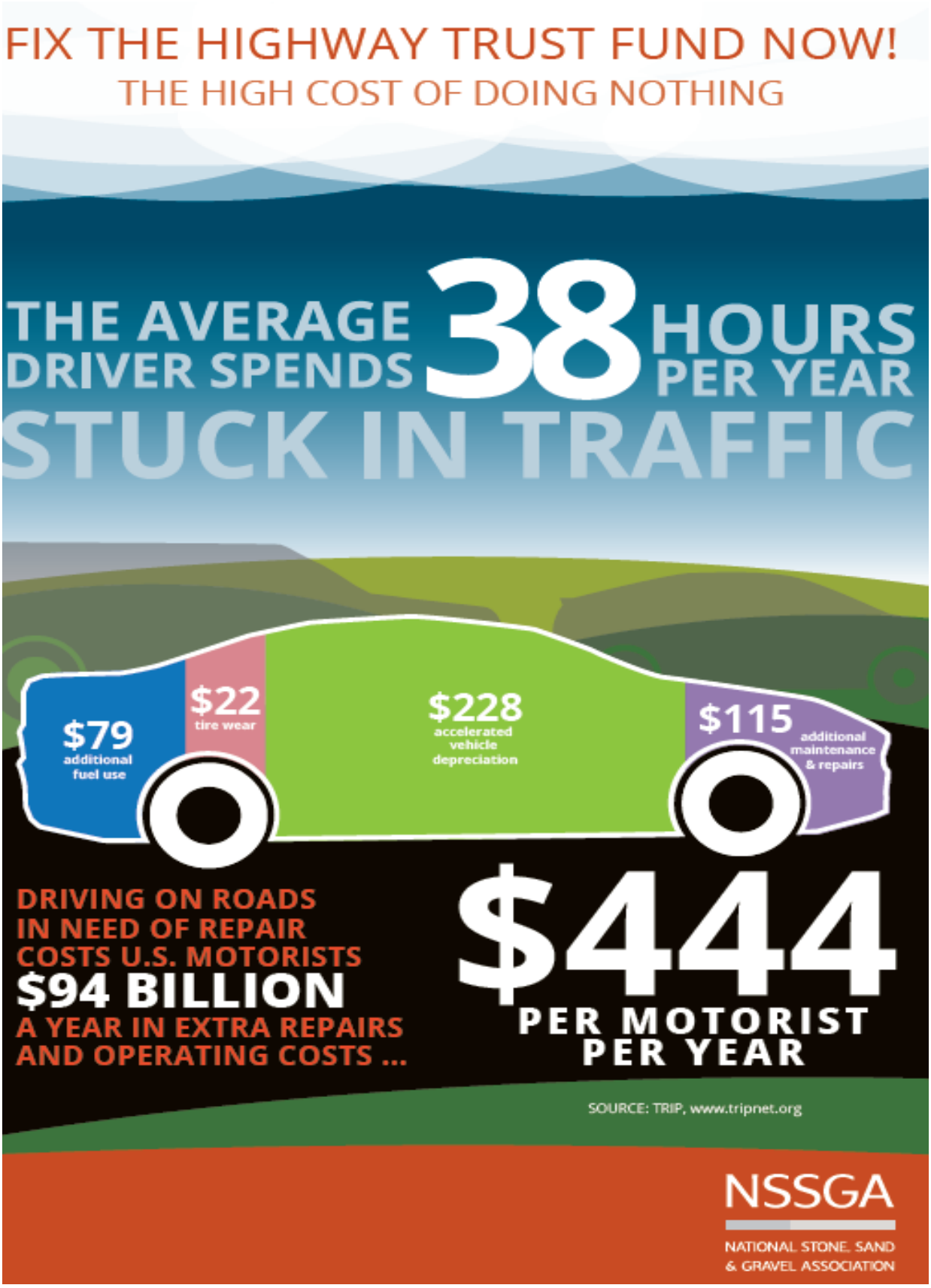
Background: President Obama signed the Moving Ahead for Progress in the 21st Century Act (MAP-21), a 27-month, $105 billion surface transportation reauthorization bill on July 6, 2012. MAP-21 made historic policy reforms to the surface transportation system, including consolidating programs, and expediting project review and permitting. MAP-21 did not address long-term sustainable funding of the system. The law expired on Sept. 30, 2014, but was extended through May 2015. In the absence of further congressional action, the Highway Trust Fund essentially will be insolvent.

NSSGA Recommendations for Reauthorization: A well-designed and properly maintained, national network of roads and highways contributes significantly to America's economic strength and freedom. Accordingly, NSSGA makes the following recommendations for the next surface transportation reauthorization.

- Maintaining economic growth and competitiveness requires sustained investment in America's roads and highways. Focus federal highway funding on the National Highway System.
- Return to a 5-year program (at a minimum) that provides certainty essential to business planning and informed resource allocation. Roads and highways are assets that will be in use for many years, so it is necessary to make long-term, sustained investment. Such investment requires a multi-year reauthorization to provide budgetary certainty.
- Increase investment into surface transportation infrastructure to fill the projected funding shortfall and grow the program to meet the requirements of the system into the future.
- Ensure a short-term funding source to sustain the surface transportation infrastructure network while transitioning to a new long-term funding mechanism.
- Develop a long-term vision for our nation's surface transportation infrastructure that reflects economic imperatives, technological advances, safety and environmental concerns, as well as national security needs. This is critical to ensure the continued prosperity and security of the United States.

Conclusion: The United State demands a vast, interconnected system of roads, highways and bridges in order to move goods and people. Unfortunately, the investments needed to maintain and expand the highway system have been inadequate. As a result, America is ill-prepared to meet the competitive demands of the global economy. NSSGA will be working closely with its members and coalition partners to develop a new transportation vision – one that will ensure the continued prosperity and security of the United States for generations to come.

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THE HIGH COST OF DOING NOTHING
THE AVERAGE DRIVER SPENDS 38 HOURS PER YEAR STUCK IN TRAFFIC
$79 additional fuel use
$22 tire wear
$228 accelerated vehicle depreciation
$115 additional maintenance & repairs
DRIVING ON ROADS IN NEED OF REPAIR COSTS U.S. MOTORISTS $94 BILLION A YEAR IN EXTRA REPAIRS AND OPERATING COSTS ...
$444 PER MOTORIST PER YEAR
SOURCE: TRIP, www.tripnet.org
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SMALL CHANGE

American drivers pay an average $94 a year to access over 11,618 miles of highways, roads and bridges. These funds come from a modest 18.4¢ per gallon tax on each gallon of gasoline. Since the gas tax hasn't changed since 1993 and the cost of building and maintaining roads has risen, the Highway Trust fund is slowly going in the red. With a growing number of potholes, cracked roads and traffic jams plaguing America, we need a common-sense and responsible way to pay for improving our infrastructure.

AVERAGE ANNUAL FUEL TAXES PAID BY PASSENGER VEHICLES

$53* HYBRID @ 40MPG

WHICH IS EQUAL TO



ONE 20 OUNCE HALF-CAF SOY LATTÉ PER MONTH

$96* SEDAN @ 22MPG

WHICH IS EQUAL TO



ONE HAMBURGER AND COLA PER MONTH

$132* SUV @ 16 MPG

WHICH IS EQUAL TO



HALF OF A PORTERHOUSE PER MONTH

HOW WILL A 12¢ INCREASE IN THE GAS TAX IMPACT DRIVERS?

ADDITIONAL **$35** PER YEAR FOR HYBRIDS

WHICH IS EQUAL TO



16 OUNCE BAG OF TORTILLA CHIPS PER MONTH

ADDITIONAL **$63** PER YEAR FOR SEDANS

WHICH IS EQUAL TO



FOUR AA BATTERIES PER MONTH

ADDITIONAL **$87** PER YEAR FOR SUVS

WHICH IS EQUAL TO



ONE MOVIE TICKET PER MONTH

The Murphy-Corker Proposal:
an effective and responsible way to save the Highway Trust Fund

*Source: Government Accountability Office (GAO)

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