

**395 John Ireland Blvd  
St. Paul, Minnesota 55155**

May 9, 2022

Members of the Conference Committee on HF4293/SF3975:

On behalf of the Minnesota Department of Transportation, thank you for the opportunity to share MnDOT's perspective on the transportation provisions of HF4293/SF3975.

### **HF4293—Transportation Provisions**

**We appreciate the House's inclusion of several items from the Governor's policy and budget proposals, including those related to:**

- Indian employment preference
- North Star Bikeway
- Drones/insurance requirements
- Turn backs
- State aid needs calculation
- Municipal Screening Board
- Reporting requirements for transit grant recipients
- Funding for small cities' assistance
- Allowing the installation of electric vehicle charging infrastructure at certain rest areas
- Funding for the Northern Lights Express passenger rail line between Minneapolis and Duluth
- Operating funds for the second daily train to Chicago
- Funding for Safe Routes to Schools and active transportation
- \$80M in trunk highway bonds for high priority bridges
- Funding for the facilities capital improvement program
- Allied Radio Matrix for Emergency Response funding
- Rail grade crossing safety funds
- Utility aircraft replacement

We are also pleased to see the inclusion of policy changes to the **Corridors of Commerce program**, which provide clarification on how the program is to be administered. Delaying the solicitation date to February 1, 2023, is also appreciated, as it will provide the agency time to successfully implement the proposed changes.

The bill **includes state matching funds to leverage federal funds provided by the Infrastructure Investment and Jobs Act (IIJA)**. These funds will support the installation of electric vehicle charging infrastructure, county State Aid highways, municipal State Aid streets, multimodal transportation, and maximize federal transportation funding to combat climate change. The bill also includes additional program planning and delivery and agency services funding as recommended by the Governor, to help deliver and manage the significant increase in federal funds from IIJA. Unfortunately, the **Governor's proposal to use new, ongoing trunk highway funding, transferred from the state general fund**, is not included in the bill. Additional matching funds for state road

construction and additional funds for operations and maintenance are included, but only funded for the current biennium and from the existing trunk highway fund balance.

The bill **does not include the Governor's budget request for operating pressures** to help offset increasing costs across the agency.

We appreciate the intent of the creation of the **Highways for Habitat Program**, including the report due January 15, 2025, but are **concerned that the lack of ongoing funding for the Highway for Habitat Program could jeopardize its long-term success.**

While we recognize the intent of the agency assisting with federal grant applications related to IJJA, we have **suggestions on how to implement the Federal Funds Local Assistance Program.** We are working with the author and stakeholders on language to help ensure successful implementation of the proposed program.

### **SF3975—Transportation Provisions**

**We appreciate the Senate's inclusion of several items from the Governor's policy and budget proposals, including those related to drones, turn backs, state aid needs calculation, reporting requirements for transit grant recipients, and funding for small cities.**

We are also pleased to see the inclusion of policy changes to the **Corridors of Commerce program**, which provide clarification on how the program is to be administered. However, the significant trunk highway fund base increase for Corridors of Commerce reduces resources available for other MnDOT projects. Instead, any base funding increase for the program should come from the general fund. Additionally, the bill eliminates any involvement of the Metropolitan Council in selecting metro-area projects. The Metropolitan Council should have a role in screening projects since they are the federally-designated metropolitan planning organization for the Twin Cities region.

We are pleased that **MnDOT's request for operations and maintenance funding is included in the bill, along with a base increase for the Safe Routes to Schools program.**

There are several provisions that provide funding to enhance Minnesota's transportation infrastructure, including **trunk highway budget authority to access federal funds** provided under the IJJA. While we appreciate IJJA matching funds for many of the modes, including Greater Minnesota transit, aeronautics and other discretionary funds, **there are several restrictions on how those funds can be used.**

Unfortunately, the **Senate's bill prohibits expending federal funds, except by direct appropriation.** For example, lines 19.14-19.25 eliminate the existing process for spending federal funds under the Legislative Advisory Commission and only allow spending IJJA funds by direct appropriation. This prohibition severely restricts MnDOT's ability to quickly access federal funds, which could negatively impact communities across the state. Furthermore, these provisions were not heard prior to their inclusion in the omnibus bill, thereby minimizing the opportunity for MnDOT and others to provide input into how this change would adversely impact Minnesotans. There are also no corresponding direct appropriations in this bill that would allow us to spend anticipated federal funds, which, under current law, are authorized via statutory appropriations.

There are other prohibitions that unnecessarily restrict MnDOT's ability to develop statewide transportation infrastructure. The Senate's bill **does not provide funding for electric vehicle charging infrastructure;** instead, it puts in place **several restrictions on how federal funds can be used for EV charging.** The Senate's bill, as amended on the Senate floor, removes MnDOT's authority to place EV charging stations at rest areas and

replaces it with a **prohibition on spending IJA funds for EV charging on any public land**. This would prevent MnDOT and local governments from pursuing \$2.5B available nationally for competitive National Electric Vehicle Infrastructure funding.

**The significant increase in electric vehicle fees (from \$75 to \$229) might discourage people from purchasing electric vehicles when we should be doing everything we can to encourage people to adopt this technology.** This legislation does not provide the resources needed to expand the state's electric vehicle charging network.

The Senate's bill also **prohibits MnDOT from funding the ReConnect Rondo** project in St. Paul, even with funds already appropriated by the Legislature. This important project seeks to address past injustices from the construction of Interstate 94 and has already been recognized at the federal level as a project that likely will compete well for IJA grant opportunities.

**MnDOT is concerned about the provision in the Senate's bill that would raise the speed limit on I-35E from West 7th Street to I-94 in St. Paul to 55 mph.** I-35E, between West 7th Street and I-94 in St. Paul, is a unique 3.7-mile section of the interstate system in Minnesota. It is the only part of the system designated as a "parkway" and as a result of a 1984 lawsuit settlement, carries two stipulations:

- Trucks and commercial vehicles more than 9,000 pounds licensed gross weight, with certain exceptions, are not allowed on the parkway; and
- The speed limit is set at 45 mph.

With a posted speed of 45 mph, the parkway was not designed to accommodate speeds greater than 50 mph.

MnDOT is concerned about **language directing additional use of changeable message signs for the purpose of directing slower traffic to move right**. Overuse of messaging on these signs can lead to drivers ignoring them, which can cause additional safety issues if alerts are not heeded. MnDOT has limited safety messages to specific days of the week, including messages about slower traffic moving right and not camping in the left lane. Additionally, the Metro area has several left entrances/exits and congestion issues, which require use of all lanes.

**MnDOT has significant concerns about the prohibition on spending any money for study, planning, preliminary engineering, final design, or construction of the Northern Lights Express (NLX) passenger rail project between Duluth and Minneapolis.** Minnesota Statutes, section 174.01 establishes goals of the state transportation system which include: providing multimodal transportation services to increase access for all persons and businesses; encouraging tourism by providing appropriate transportation to Minnesota facilities designed to attract tourists; ensuring that the planning and implementation of all modes of transportation are consistent with the environmental and energy goals of the state; and reducing greenhouse gas emissions from the state's transportation sector. Additionally, Minnesota Statutes, section 174.03, subd. 1b provides that the Commissioner must develop a comprehensive, statewide rail plan that evaluates, scores, and prioritizes future passenger rail capital improvement projects. If MnDOT is unable to study or plan with respect to NLX, it would be nearly impossible to put together the state rail plan, or move forward with other related projects, such as the Grassy Point Bridge. Although this language specifically addresses the NLX project, it could ultimately impact the entire passenger rail program, and would put the agency out of compliance with certain statutory requirements.

The bill **eliminates funding for passenger rail and shuts down the Northstar commuter rail line**, which would negatively impact numerous communities. These actions could also jeopardize existing and future federal funds coming to Minnesota. The elimination of the annual \$500,000 passenger rail appropriation will stop all

passenger rail development in Minnesota, including the development of the State Rail Plan, as required by Minnesota Statutes, section 174.03, subd. 1b.

**Trunk highway earmarks divert resources from projects that have been identified through an objective planning process.** Earmarks can negatively impact fairness in project selection and funding. The bill includes more than 20 earmarks, and in some cases, may direct the use of trunk highway funds for local roads. These earmarks utilize almost all existing trunk highway bond capacity. MnDOT recently completed a report on meaningful legislative input in project selection. We recommend implementing the recommendations from this report instead of earmarking projects.

**MnDOT and its local agency partners, including the City Engineers Association of Minnesota and the Minnesota County Engineers Association, are very concerned about any language that would eliminate the use of funding through the State Aid System for lane reductions.** This provision removes the ability of engineers to redesign roadways to better fit the context and safety needs of the area. It is not always the case that lane conversions result in more congestion or less throughput. For example, a four to three lane conversion that adds a center left turn lane can result in additional safety and capacity benefits by eliminating left turns from a through lane and increasing safety for pedestrians by reducing the crossing length and introducing the opportunity for a two-phased crossing (e.g., crossing eastbound traffic, waiting in a median refuge, then crossing westbound traffic when safe). Reducing lanes needs to be a tool in the toolbox for vehicle safety, and it is a way to effectively address speed issues at a time where speeding is rampant.

We have some suggestions related to the **highway purpose report** in Article 7, Sec. 8. Instead of using the term “nonhighway purpose,” which implies the purpose is unconstitutional, an alternate term like “unauthorized purpose” or “prohibited purpose” is more appropriate. Additionally, the bill implies that expenditures prohibited by section 161.20 are unconstitutional. The Dedicated Funds Expenditures Task Force met for several months and was unable to resolve this issue. A better approach would be to create a second sentence that does not imply the prohibited items in section 161.20 are unconstitutional (e.g., “Commissioners of state agencies also must not include in a biennial budget any expenditures from the trunk highway fund or the highway user tax distribution fund for any purpose prohibited by section 161.20.”).

We have additional concerns with **changes to the pavement life cycle cost analysis** included in the bill. MnDOT’s life cycle cost analysis was developed over many years using experience gained from past methods and the review of other state DOT processes, Federal Highway Administration guidance and academic papers, along with input from industry stakeholders. The current process, based on substantial research and stakeholder input, allows MnDOT districts discretion to use an alternate bid process and select pavement types based on factors like constructability, type continuity, traffic control issues, and effect on businesses. Our recommendation is to direct the Department to work with stakeholders to study issues related to pavement selection, especially related to using an excess fuel consumption calculation, and report back to the Legislature with consensus recommendations for changes to this process.

Several MnDOT agency initiatives were not included in the bill, including those related to **Indian employment preference, climate funding, the Allied Radio Matrix for Emergency Response, rail grade crossing safety, utility aircraft, a technical change to membership on the municipal screening board, North Star Bikeway, and operating funds for the second daily train to Chicago.**

The Senate’s bill **does not account for increased debt service costs** from the proposed \$300 million of additional trunk highway bonds, and the additional needs for fund balance reserve (six percent of new state funds per policy goes to reserve). The bill also **does not include increases for program planning and delivery or agency**

**services**, including operating pressures. These activities are essential to plan, deliver and manage the additional federal funds coming to Minnesota from the bipartisan infrastructure law.

Thank you for the opportunity to share MnDOT's perspective on the transportation provisions of HF4293/SF3975. We appreciate your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Daubenberger".

Nancy Daubenberger, P.E.  
Interim Commissioner

*Equal Opportunity Employer*