



## MEMORANDUM

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**CC:** DeAnn Baker, Director of Legislative Affairs, CSAC  
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**DATE:** May 16, 2014

**SUBJECT:** Key Provisions of Senate MAP-21 Reauthorization Bill (S 2322)

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On May 15, the Senate Environment and Public Works (EPW) Committee unanimously approved legislation – the *MAP-21 Reauthorization Act (S 2322)* – that would reauthorize for six years (through fiscal year 2020) the nation's expiring surface transportation law (MAP-21). The bill is cosponsored by EPW Committee Chairwoman Barbara Boxer (D-CA) and Ranking Member David Vitter (R-LA), as well as Transportation and Infrastructure Subcommittee Chairman Tom Carper (D-DE) and Ranking Member John Barrasso (R-WY).

The legislation, which would provide a total of \$265 billion for highway programs, continues the core program structure put into place by MAP-21. This includes the National Highway Performance Program (NHPP), the Surface Transportation Program (STP), the Highway Safety Improvement Program (HSIP), and the Congestion Mitigation and Air Quality Improvement Program (CMAQ). In addition, the measure would create a new National Freight Program (described in more detail below).

It should be noted that the EPW Committee's bill would only reauthorize the highway title of MAP-21. The Senate Commerce, Science, and Transportation Committee is responsible for provisions related to motor carrier safety; the Banking Committee is in charge of the transit portion of the bill; and, the Finance Committee will face the daunting task of funding the legislation.

As you know, the purchasing power of the federal gasoline tax - once a sufficient source of revenue for transportation program financing - has been eroded due to inflation. Moreover, the advent of more fuel-efficient cars has translated into fewer trips to the pump and decreased gas tax receipts flowing into the Highway Trust Fund (HTF). Chairwoman Boxer has indicated that the Finance panel will need to identify up to \$18 billion per year to make up for the annual shortfalls in the HTF.

Meanwhile, the trust fund is on pace to run dry much earlier than initially anticipated, perhaps as soon as August. In fact, DOT Secretary Anthony Foxx has warned states that they should expect delays in receiving any further transportation disbursements from the HTF until Congress can address the immediate funding shortfall. As the summer construction season approaches, lawmakers will likely need to approve a short-term measure to continue federally-funded transportation projects.

### ***Funding***

The *MAP-21 Reauthorization Act* would authorize funding for the federal-aid highway program through fiscal year 2020 at current levels, with a modest inflationary adjustment. For fiscal year 2015, the highway obligation limit would be set at roughly \$40.91 billion and would gradually increase until it reaches \$45.06 billion in fiscal year 2020.

Funds would be distributed to states in the same proportion as in fiscal year 2014, adjusted to ensure that no state will receive less than 95 percent of its contribution to the HTF.

Incidentally, the legislation would require DOT to study/identify three or more sustainable funding alternatives to maintain the solvency of the trust fund. Among other things, the alternatives are intended to address implementation, interoperability, public acceptance, the protection of personal privacy, equity concerns, ease of compliance, and administrative costs. Pursuant to S 2322, the Transportation Department would provide an update to Congress every two years on the progress of this effort.

### ***Locally-Owned Bridges***

The legislation would expand eligibility under NHPP to include funding for locally-owned on-system bridges. The bill, as introduced, would have capped NHPP funding for such bridges at 10 percent. However, an amendment was accepted during committee consideration that would increase the cap to 15 percent.

In addition, S 2322 would maintain current law's dedicated federal funding stream for off-system bridges. Specifically, the measure would continue to require a State to obligate for local bridge projects not less than 15 percent of the funds that were apportioned to the State under the Highway Bridge Program in fiscal year 2009. Should State and local officials determine that the State has inadequate needs to justify the expenditure, the Transportation Secretary can rescind this requirement.

Finally, the bill clarifies the ability of a State DOT to bundle multiple bridge projects together and issue a contract for those bridges as if they were a single project.

### ***High Risk Rural Roads***

S 2322 would modify the provisions of current law that trigger mandatory spending on high-risk rural roads. Under MAP-21, construction and operational improvements on rural roads is one of a number of allowable project areas within HSIP, with mandatory spending triggered if the fatality rate on rural roads in a State increased over the most recent two-year period.

Pursuant to S 2322, mandatory spending would be triggered if rural road fatality rates in a state *do not decrease* over the most recent two-year reporting period *and* the state's fatality rate exceeds the national rate. In addition, the bill would reduce the amount of funding states would be required to spend on projects that meet the aforementioned criteria (dropping the threshold from 200 percent of 2009 spending to 150 percent).

It should be noted that the aforementioned provisions are expected to increase the number of states that would need to spend HSIP dollars on high-risk rural roads (from seven to between 12 and 19).

### ***National Freight Program***

The *MAP-21 Reauthorization Act* provides \$6 billion over six years for a new, formula-based freight program – the National Freight Program (NFP) – that is designed to improve goods movement on key freight corridors. Funding would need to be directed towards certain eligible highway freight projects on the National Freight Network (NFN), which was initially created and designated under MAP-21.

In addition, the bill would allow state and local governments to designate critical rural and urban freight corridors that match regional goods movement on roads beyond the Primary Freight Highway Network. The legislation also attempts to improve the identification of projects with a high return on investment through state freight plans and advisory committees established under MAP-21.

### ***Transportation Alternatives***

The reauthorization measure would amend the Transportation Alternatives (TA) program – which includes funding for Transportation Enhancements (TE), the Safe Routes to School (SRTS) program, and the Recreational Trails Program (RTP) – to increase the share of funding available to local governments. Specifically, the bill would change the way funds are distributed so that two-thirds of TA funds would be distributed by population to local areas, and one-third would be allocated to the State (compared to a 50/50 split under MAP-21).

With regard to the SRTS program, the measure would allow 100 percent federal funding for such projects. MAP-21 required projects to provide a 20 percent local match. The bill also would allow nonprofit groups responsible for administering local transportation safety programs to be an eligible recipient of TA funding.

### ***Projects of National and Regional Significance (PNRS)***

The bill would establish a competitive grant program — similar to the TIGER grant program — for projects deemed to have a significant impact on a region or the nation. The new \$400 million per-year program would support critical high-cost surface transportation infrastructure projects that are difficult to complete with existing Federal, State, local, and private funds. It should be noted that grant awards would be capped at \$50 million, and at least 20 percent of the funding would be reserved for projects in rural areas. Unlike TIGER grants, which rely on annual appropriations, the new PNRS program would receive contract authority from the HTF.

In addition, the PNRS program would be subject to added congressional oversight. For instance, the legislation would require DOT to notify Congress 30 days before awarding grantees. Lawmakers could also block funding for projects with a joint resolution of disapproval.

### ***TIFIA***

The legislation, as introduced, would have maintained the current funding level of \$1 billion per year for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. However, the program's funding was reduced to \$750 million via an amendment during committee consideration. TIFIA provides direct loans, loan guarantees, and lines of credit to surface transportation projects at favorable terms to leverage private and other non-federal investment in transportation improvements.

The measure also would provide states with the ability to use federal highway funding to capitalize State Infrastructure Banks (SIB) and would allow the DOT Secretary to make TIFIA loans to SIBs. Finally, it would expand program eligibility to public infrastructure projects in transit-oriented developments.

### ***Environmental Streamlining***

The legislation builds on the environmental streamlining provisions of MAP-21 to further expedite project delivery. Among other things, S 2322 would index the financial thresholds for projects with limited federal assistance that qualify for categorical exclusions. Additionally, the measure would expand the multimodal categorical exclusion established in MAP-21 and would require federal resource agencies to give *substantial weight* to the recommendations in programmatic mitigation plans when carrying out NEPA responsibilities.

### ***American Transportation Awards***

The legislation would establish a new competitive grant program, called American Transportation Awards, to support best practices that promote progress, innovation, and efficiency for surface transportation programs at state DOTs and Metropolitan Planning Organizations (MPO). The program would be funded at \$125 million per year.

### ***Transparency and Accountability***

The *MAP-21 Reauthorization Act* would require DOT to provide the public with much more detailed online reports about Highway Trust Fund spending and obligations. The information would include project/summary data and would be organized by state and by program. DOT would also be required to submit a report to Congress about the administrative costs of running the HTF.

### ***Other Issues of Interest***

The transportation measure does *not* include any new tolling provisions and does *not* address the issue of truck size and weight.

We hope this information is useful to you. Please do not hesitate to contact us if you have any questions.