THE NEW ENGLAND COUNCIL

Committee Update

July 18, 2012

Moving Ahead for Progress in the 21st Century (MAP-21) – Overview

Dear Transportation Policy Committee Member:

On the evening of Friday, July 6th, President Obama signed into law the conference report accompanying H.R. 4348, the Moving Ahead for Progress in the 21st Century (MAP-21). This new surface transportation law (Public Law 112-141) continues the flow of federal dollars to a number of existing federal highway, bridge, transit, safety, and other related programs. It also makes changes to other transportation programs, and includes various non-transportation provisions that were added to this critical piece of legislation, including one that prevents the federal student loan rate from jumping from 3.4 percent to 6.8 percent. The bill also contains a reauthorization of the national flood insurance program (NFIP). According to Senator Barbara Boxer (D-CA), Chairman of the conference committee that negotiated the final bill, "nearly three million American jobs will be saved and created nationwide" due to this new law.

As signed into law, MAP-21 sets the authorization level of federal funding for transportation programs for fiscal year 2012, which is set to expire on September 30. Moreover, the bill authorizes highway funding to each of the individual states for the next two fiscal years, at a total of $37.5 billion in fiscal year 2013 and $37.8 billion in fiscal year 2014.[1] State allocations for fiscal year 2013 would be identical to the level distributed in fiscal year 2012, however the distribution of funds between the two years would be different due to changes in the various highway programs. The law further stipulates that States would be assured that their allocation would meet a minimum 95 percent rate of return on that state's payment to the highway trust fund (HTF). In addition, the bill provides targeted funding to the states for transit programs, again authorizing funds for fiscal year 2012, and approximately $10.58 billion and $10.76 billion for fiscal years 2013 and 2014 respectively in total transit dollars. The Congressional Budget Office (CBO) estimated that as passed by the House and Senate, H.R. 4348 would reduce the deficit by $16.3 billion over 10 years.

MAP-21 Apportionment for Federal Highway Administration programs (Estimated)*

STATE	FISCAL YEAR 2012	FISCAL YEAR 2013	FISCAL YEAR 2014
Connecticut	$486,507,792	$486,507,792	$490,677, 215

[1] These levels represent only the apportionment totals slated under the Federal-Aid Highway Program. The total authorization level is approximately $82 billion for fiscal years 2013 and 2014.

Maine	$178,806,830	$178,806,830	$180,339,224
Massachusetts	$588,290,994	$588,290,994	$593,332,710
New Hampshire	$160,040,568	$160,040,568	$161,412,133
Rhode Island	$211,841,880	$211,841,880	$213,657,387
Vermont	$196,594,817	$196,594,817	$198,279,655

* *To view a comprehensive highway apportionment chart, click on the following LINK*

MAP-21 Transit Formula Grants to States (Estimated)*

STATE	FISCAL YEAR 2012	FISCAL YEAR 2013	FISCAL YEAR 2014
Connecticut	$131,158,983	$144,072,102	$146,076,142
Maine	$12,323,482	$17,865,063	$18,089,346
Massachusetts	$297,745,877	$345,329,934	$350,176,203
New Hampshire	$10,792,226	$13,995,864	$14,180,252
Rhode Island	$24,379,022	$29,336,060	$29,732,367
Vermont	$5,854,671	$9,454,303	$9,573,985

* *To view a comprehensive state transit grant chart, click on this LINK*

Program Consolidation

The law eliminates or combines approximately 60 federal transportation programs and places the pertinent program responsibilities under a smaller number of umbrellas. By consolidating programs, the goal of lawmakers was to provide funding to the states and communities to use on the programs and priorities that best fit their specific needs. As per the new law, the primary highway programs now consist of the National Highway Performance Program – which includes consolidation of the current National Highway System (NHS) and Interstate Maintenance (IM) programs; the Surface Transportation Program; the Highway Safety Improvement Program; and the Congestion Mitigation and Air Qualify Improvement (CMAQ) Program. The Equity Bonus program, which assured minimum funding allocations to the states, is also eliminated due to the rearrangement of funding.

Project Streamlining

The streamlining provisions included in the new law set forth approximately 20 separate methods to help accelerate project delivery. Among these is language to allow states to acquire property with their own funds before completing a NEPA review; up to a 100 percent federal cost share on highway projects that use innovative technology; shortening from 6 to 5 months the time allowed to file a lawsuit meant to challenge a particular project; lets the Transportation Secretary set a lead federal agency on a project; sets a timetable for environmental review decisions to be made and sets a "chain of command" to solve disputes; and sets deadlines for the completion of complex projects. The law also sets certain exclusions from NEPA such as projects that are designated as being along an "operational right of way." It also covers projects that are meant as a repair or replacement project as a result of a natural disaster and are not a major variant of the original project. Also, any highway project that uses less than $5 million in federal funds would be excluded, as would projects up to $30 million that use less than 15 percent in federal dollars.

Transportation Alternatives

The program now known as Transportation Alternatives is a revamp of the Transportation Enhancements program, and which also folds in the Safe Routes to School program as well as Recreational Trails. The program eliminates the requirement that 10 percent of surface transportation program (STP) funds be spent on enhancements. The law authorizes approximately $1.63 billion for fiscal years 2013 and 2014, which critics have assailed as a significant drop in funding compared to previous years. Under the program, generally 50 percent of the funding would be allocated to the states while the remaining half would be allocated to local entities within a state. Though not viewed as comprehensive as the provision it replaced, the funds can be used for such items as bicycle and pedestrian pathways and other traditional activities such as preservation of historic transportation facilities.

Congestion Mitigation

As passed and signed into law, the conference report continues the congestion mitigation and air quality improvement (CMAQ) program, providing a combined level of more than $4.4 billion in FY 13 and FY 14. CMAQ (see-mack) funds are used primarily for air quality improvement activities and congestion relief. A prime example of the usage of CMAQ funds in New England is for Downeaster Amtrak service, connecting Maine, New Hampshire, and Massachusetts. Due to the flexibility of a provision championed by Senator Olympia Snowe (R-ME), approximately $6 million in annual CMAQ funds have been used to help supplement the operating costs of this particular train service which carries more than 500,000 passengers per year. Such funding for the Downeaster is expected to continue under the new law.

TIFIA Program

The new law builds on the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which provides greater access to capital to undertake highly significant transportation projects. Funding is slated to be $750 million in fiscal year 2013. For fiscal year 2014, it rises to $1 billion and will leverage some $10 billion in lending ability. The law also increases the maximum TIFIA-backed share of project costs from 33 percent to 49 percent. In addition, the project selection criteria has been removed. Further, the law authorizes funding to be allocated to projects in rural areas that are provided more favorable terms. The law also institutes a “master credit agreement” which allows “a program of projects secured by a common security pledge.”

Harbor Maintenance

The law does not require the expenditure of funds from the Harbor Maintenance Trust Fund to be used specifically for harbor operation and maintenance projects. It does contain “sense of the Congress” language that expresses the view that “the Administration should request full use of the Harbor Maintenance Trust Fund for operating and maintaining the navigation channels of the United States” and that harbor fund “should be fully expended to operate and maintain the navigation channels of the United States.” The new law also requires that beginning in fiscal year

2014 and extending thereafter, the Administration must submit as part of its budget, the percentage of navigation channels that can be maintained as per its budget request. Further, the Administration would have to estimate what level of funding would be needed “to increase that average availability to 95 percent over a three year period.”

Freight Policy

The new law contains language that establishes an overall national freight policy that has among its goals an investment in infrastructure improvements meant to reduce congestion and expand America’s economic competitiveness, as well as utilizing enhanced safety and security technologies to ensure the efficiency of a national freight network. A national freight network would be established that would have at its heart 27,000 miles of existing roads crucial for the movement of freight, with another 3,000 set-aside for future roads. The Secretary of Transportation may increase the federal-share of a particular highway project up to a level of 95 percent if it is deemed as improving the movement of freight.

Rail

Though both the House and Senate bills as passed by their respective bodies contained some language relative to rail, the new law does not contain a passenger rail title.

Transit Commuter Reimbursement

The new law does not contain a transit commuter reimbursement parity provision. The Senate had proposed a 1 year extension of the program that provides transit commuters the same tax benefit as those who park their cars.

Earmark Ban

Over the last 20 years, transportation earmarks – project specific set-asides – grew from a couple hundred to more than 6,000 in the 2005 surface transportation bill, SAFETEA-LU. Many members of both the House and the Senate in the 112th Congress have eschewed earmarks, believing their inclusion helped to add to the price tag of SAFETEA-LU. Therefore, to help keep costs down, there was a concerted effort to keep specific earmarks out of the bill.

Planning

Within five years, the Secretary of Transportation is required to provide Congress with reports that evaluate “the overall effectiveness of performance-based planning as a tool for guiding transportation investments and the effectiveness of the performance-based planning process of each State” and a report that looks at “the overall effectiveness of performance-based planning as a tool for guiding transportation investments” as well as the effectiveness of each metropolitan planning organization in meeting their performance targets.

Commercial Driver’s License

The law contains a provision sponsored by Senator Olympia Snowe (R-ME) that is aimed at helping America's veterans more easily obtain their commercial driver's license (CDL). A study to be conducted by the Transportation Secretary and the Pentagon will identify difficulties qualified service members and veterans face in getting their CDL, and implementing the policies that will remove those obstacles.

Tunnel Inspection

The new law contains language authored by Representative Michael Capuano (D-MA) that calls on the Secretary to establish minimum inspection standards for tunnels. It sets out the time parameters in which tunnels must be inspected and in what manner, and also puts forth qualification requirements to become an inspector as well as guidelines for a nationwide inspector certification program.

Projects of National and Regional Significance

The new law authorizes $500 million only in fiscal year 2013 that is meant to fund such projects that will improve the highway system either nationally or regionally, reduce congestion, generate national economic benefit, improve safety and generate significant non-federal sources of dollars. This funding would be contingent on Congress appropriating all or a portion of the $500 million. Senator Jack Reed (D-RI) has stated his belief that funding under this program could help in the construction of the I-95 Viaduct in Providence, which has already received some $43 million in TIGER grants to date.

Bus Flexibility

As signed into law, the bill contains a provision pushed by Senator Jeanne Shaheen (D-NH) that would allow small transit operators (those with 75 or fewer buses) to continue to utilize up to 75 percent of their federal funding to alleviate operation costs.

Trucking Industry Fraud

The new law contains a provision authored by Representative Frank Guinta (R-NH) that would raise the surety bond that truckers pay up to a level of $75,000 in an effort to prevent fraud. Representative Guinta also authored a provision to okay the use of 3-D technology in designing and constructing road projects to lower construction costs.

Truck Sizes And Weight Limits

The new law requires the Department of Transportation (DoT) to conduct a study on truck size and weight to ascertain accident frequency and accident risk as it relates to trucks operating in excess of federal limits. The study also must look at the impact excess size and weight has on infrastructure (bridges, roads, etc.) and also whether allowing alternate truck configurations would raise or lower the number of trucks. The law calls for the DoT to compile a list of states that have size and weight limits in excess of federal limits, and how those excesses were authorized. Both studies are required within two years.

Funding

The new law maintains the Highway Trust Fund (HTF) as the primary funding source for transportation programs, extending the HTF authority through the end of fiscal year 2014 and extends the collection of motor fuel taxes through fiscal year 2016. However to make up certain shortfalls in the HTF, Congressional negotiators looked to obtain additional revenues from alternate sources including an “interest rate stabilization” to prevent steep yearly fluctuations relative to pension plans, and the use of an inflation adjustment and a premium adjustment to Pension Benefit Guaranty Corporation (PBGC) backed plans.

Keystone XL Pipeline

No provision in the final version.

Regulation of Coal Ash

No provision in the final version.

Please do not hesitate to call or send an email if you would like any additional information about this new law.

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