MAP - 21
Reauthorization
Resolutions:
October 21, 2013
AASHTO supports the following MAP-21 Reauthorization Core Principles:

1. **Continue a vibrant and stable federal funding role in investing in, maintaining, and operating an integrated and multimodal national surface transportation system.** To meet the Nation's surface transportation system needs, the federal government must continue to play a strong funding role. Historically, the federal government has contributed approximately 45 percent of the total capital investment in both highways and transit. All rural and urban areas need to have adequate funding to support access and connectivity to the national transportation system to advance the national economic well-being and global competitiveness. This level of commitment must be maintained which will require a substantial increase in the level of federal capital investment in the nation's highway and transit systems.

2. **Support the roles and responsibilities of States, transit agencies and local governments—the owners, managers and operators of the nation's highway and transit systems.** Maintain, and where appropriate, increase State authority in the administration of the Federal Highway Program. States, transit agencies and local governments own, construct, maintain, operate, manage, and report on the performance of the nation's highway and transit systems. U.S. DOT's collaboration with States as partners is absolutely essential in delivering a safe, economic, efficient and environmentally sound surface transportation system.

3. **Maintain the core principle of a federally assisted, state administered highway program and extend this principle to the transit program and its owners and operators.** The States are the owners, operators and managers of the highway system which carries 80% of truck traffic and interstate commerce and a majority of all travel. Therefore, the historic principle of a federally-assisted, State-administered program must be preserved, where the federal government is responsible for defining national policies, and the States and their local government and transit agency partners are responsible for program and project delivery.

4. **Maintain at least the current share of total highway program funding in MAP-21 provided to states via apportioned core programs by continuing the current prohibition on earmarks.** Under SAFETEA-LU, an average of 83% of Federal Highway funds were apportioned to the States by formula. Under MAP-21 the average of Federal Highway funds apportioned to the States by formula grew to 92.6%. By limiting discretionary programs and administrative allocations, and by eliminating earmarks, funding is largely distributed to the States in a more stable and predictable manner. States should be provided with maximum flexibility to use these core formula funds to meet their unique and diverse transportation system needs.

5. **Preserve the fundamental program and policy reforms in MAP-21 and support additional opportunities to streamline and simplify the Federal surface transportation programs.** MAP-21's reforms – program consolidation, further project delivery streamlining, performance measurement, and an expanded innovative finance program – will help produce a better surface transportation system. Additional project delivery streamlining and program simplification would provide further benefits.

APPROVED BY THE AASHTO BOARD OF DIRECTORS – OCTOBER 21, 2013
6. **Coalesce around practical funding options, including any user-fee based revenue options, to sustain Federal highway, highway safety and transit program funding and to supplement revenues from existing sources.** In order to place funding for highway, highway safety and transit programs and the solvency of the Highway Trust Fund on a short and long term, sustainable basis, Congress should consider a portfolio of tools, including user-based revenue options.

7. **Protect and further expand policies that support flexible use of conventional and innovative funding and financing tools.** Congress should grant States maximum access and flexibility to use a mix of funding and financing tools most appropriate for each State. This includes use of public-private partnership opportunities that combine the management efficiency and innovation of the private sector with public sector social responsibility and job generation concerns. Where government policies, laws and regulations impede private investment, acceptable alternatives for reducing these impediments should be developed.

8. **Provide dedicated funding, funding guarantees and budgetary firewalls for all modes.** The Highway Trust Fund provides a dedicated funding stream for federal investment in highways, highway safety and transit systems and services, an essential function of the federal government. In 1998 Congress provided the federal highway and transit programs with funding guarantees and budgetary firewalls to ensure revenues accruing to the Highway Trust Fund were being used for their intended purposes rather than being used to offset deficits in other domestic discretionary programs. In 2011 the U.S. House of Representatives established new procedural rules which includes eliminating the funding guarantees and firewalls. Because these protections allow for much-needed stability in program and delivery of long-term capital projects which are vital to the improvement of economic competitiveness and quality of life, the funding guarantees and firewalls should be reinstalled. Similar guarantees should be established for other modal programs funded through the Aviation Trust Funds, the Harbor Maintenance Trust Fund, and the Inland Waterways Trust Fund.
WHEREAS, Article I, Section 8 of the United States Constitution states the duty of the federal government to provide support for a national transportation system; and

WHEREAS, historical federal investment in transportation through the development of post roads, canals, railroads, highways, and airways has created jobs and supported robust economic growth in all parts of the nation; and

WHEREAS, federal investment in transportation has averaged 0.39 percent of the Gross Domestic Product over the last five years—well below 0.50 percent that was achieved during the peak years of construction of the Interstate Highway System, a system which now needs major reconstruction and reinvestment; and

WHEREAS, the Moving Ahead for Progress in the 21st Century Act (MAP-21) enacted in July 2012 provided a general fund transfer of $18.8 billion to preserve Highway Trust Fund solvency only through Fiscal Year 2014, and general fund transfers amounting to $53.3 billion will have been necessary to support federal highway and transit program levels between 2008 and 2014; and

WHEREAS, the motor fuel taxes which comprise about 90 percent of Highway Trust Fund receipts are facing challenges to their long-term sustainability due to gradual loss of purchasing power resulting from inflation, stagnation in vehicle miles traveled, improved average vehicle fuel economy, and introduction of alternative-fuel vehicle fleets; and

WHEREAS, the Highway Trust Fund is currently experiencing a deficit between receipts and outlays averaging $15 billion per year, which is estimated to increase gradually over time; and

WHEREAS, no action by Congress to either increase the Highway Trust Fund revenues or provide additional general fund support in FY 2015 would result in virtual elimination of federal funding commitments that year; and

WHEREAS, a significant portion of much-needed highway and transit projects—projects that underpin economic development and improve the quality of life, and support jobs in and beyond the construction industry—in every community and Congressional district would either be delayed or cancelled outright, leading to cutbacks on contract lettings and missed opportunities to pare down the already significant backlog of investment needs; and

WHEREAS, uncertainty and volatility in construction activities—including equipment and labor resource management—due to the instability of the federal program would impose heavy opportunity costs on productivity and employment; and

WHEREAS, in addition to cessation of new federal program commitments, the Highway Trust Fund cash shortfall in FY 2015 could potentially cause delays in federal reimbursements to states for costs already incurred on highway and transit investments;

NOW, THEREFORE BE IT RESOLVED, the federal government must continue to play a vibrant and stable funding role in investing in, maintaining, and operating an integrated and multi-modal national surface transportation system in order to meet the nation's surface transportation system needs. Historically, the federal government has contributed approximately 45 percent of the total capital investment in both highways and transit. All rural and urban areas need to have adequate funding to support access and connectivity to the national transportation system to advance the national economic well-being and global competitiveness. This level of commitment must be maintained which will require a
substantial increase in the level of federal capital investment in the nation's highway and transit systems; and

BE IT FURTHER RESOLVED, at a minimum, Congress must at least maintain the existing MAP-21 highway and transit program investment level in real terms (an average of $57.1 billion per year between 2015 and 2020). On a monthly basis, the amount of additional federal funding needed to support this level of expenditure is estimated to be $10.23 per household; and

BE IT FURTHER RESOLVED, Congress must also consider an investment level that meets the needs identified by US Department of Transportation's Conditions and Performance report which provides an objective appraisal of the nation's highway, bridge, and transit conditions and future investment needs (an average of $63.1 billion per year between 2015 and 2020). This level of investment is required to maintain current highway, bridge, and transit conditions and performance and to allow transit agencies to continue accommodating recent historical growth rates. It represents an 11 percent increase in program funding over maintenance of current investment levels adjusted for inflation. On a monthly basis, the amount of additional federal funding needed to support this level of expenditure is estimated to be $13.52 per household; and

BE IT FURTHER RESOLVED, Congress must also consider an investment level that would be required to equal and maintain—in real terms—the revenue levels that were achieved in 1993 from federal motor fuel taxes and other Highway Trust Fund revenue sources, which was the last time federal motor fuel taxes were increased (an average of $73.3 billion per year between 2015 and 2020). This investment level will enable the nation's transportation infrastructure to once again help enhance America's global competitiveness. It represents a 28.4 percent increase in program funding over maintenance of current investment levels adjusted for inflation. On a monthly basis, the amount of additional federal funding needed to support this level of expenditure is estimated to be $19.06 per household; and

BE IT FURTHER RESOLVED, that Congress could achieve the aforementioned federal program funding levels through a variety of existing and proposed revenue mechanisms which should strive to provide program revenues that are sustainable and will thus not substantially lose purchasing power or decline over time due to inflation or other factors; and

BE IT FURTHER RESOLVED, in order to provide policy reforms in MAP-21 ample time for implementation and to enable a long-term planning and investment horizon needed to effectively manage state transportation departments' capital programs, the subsequent surface transportation authorization should be for a period of six years; and

BE IT FURTHER RESOLVED, that funding frameworks and associated options discussed in AASHTO's Funding and Financing Background Paper neither explicitly nor implicitly identify any single approach for recommendation over others, and that they are intended to provide direction to AASHTO staff as they assist Congress in adopting politically feasible funding and financing solutions in line with AASHTO's overall reauthorization recommendations.
MAP-21 Surface Transportation Reauthorization Background Paper on 
FUNDING AND FINANCING

Adopted by the AASHTO Board of Directors on 21 October 2013

INTRODUCTION

The Moving Ahead for Progress in the 21st Century Act (MAP-21), enacted in July 2012, reflected bipartisan and bicameral agreement on a common set of surface transportation policy objectives and program reforms. These policy enhancements include consolidation and reduction of program categories, environmental streamlining, performance and accountability, and expanded opportunities for leveraging existing dollars.

The result was a two-year reauthorization bill that gives some short-term funding stability including preservation of the Highway Trust Fund’s (HTF) solvency with a general fund transfer of $18.8 billion through FY 2014. In the longer term, investment needs will continue to grow while HTF revenues derived from fuel taxes will decline due to increased vehicle fuel efficiency and growing use of alternative fuel vehicles. Consequently, the surface transportation community must assist Congress in identifying sustainable revenues and mechanisms to fund vital transportation investments.

The Finance Work Group of the AASHTO Reauthorization Steering Committee is charged with developing strategies for achieving AASHTO’s goals for funding and financing a robust national surface transportation system. This document aims to provide contextual information to policymakers—ranging from a synthesis of technical analyses, visual illustrations, and updated projections, among others—when considering options that could generate additional revenues for the federal Highway Trust Fund.

CORE PRINCIPLES FOR MAP-21 REAUTHORIZATION

First and foremost, Congress must identify a long-term revenue solution to the HTF that provides predictable and sustainable funding for the surface transportation program. At a minimum, Congress is urged to maintain the current investment level of $53 billion per year and adjust for inflation in future years as outlined in the Congressional Budget Office (CBO) baseline.

In addition, AASHTO Reauthorization Steering Committee’s core principles that are directly related to the development of potential funding and finance strategies include:

- Continue a vibrant and stable federal funding role in investing in, maintaining, and operating an integrated and multimodal national surface transportation system. To meet the Nation’s surface transportation system needs, the federal government must continue to play a strong funding role. Historically, the federal government has contributed approximately 45 percent of the total capital investment in both highways and transit. All rural and urban areas need to have
adequate funding to support access and connectivity to the national transportation system to advance the national economic well-being and global competitiveness. This level of commitment must be maintained which will require a substantial increase in the level of federal capital investment in the nation’s highway and transit systems.

- Maintain at least the current share of total highway program funding in MAP-21 provided to states via apportioned core programs by continuing the current prohibition on earmarks. Under SAFETEA-LU, an average of 83 percent of Federal Highway funds were apportioned to the States by formula. Under MAP-21, the average of Federal Highway funds apportioned to the States by formula grew to 92.6%. By limiting discretionary programs and administrative allocations, and by eliminating earmarks, funding is largely distributed to the States in a more stable and predictable manner. States should be provided with maximum flexibility to use these core formula funds to meet their unique and diverse transportation system needs.

- Coalesce around practical funding options, including any user-fee based revenue options, to sustain Federal highway, highway safety and transit program funding and to supplement revenues from existing sources. In order to place funding for highway, highway safety and transit programs and the solvency of the Highway Trust Fund on a short and long term, sustainable basis, Congress should consider a portfolio of tools, including user-fee based revenue options.

- Protect and further expand policies that support flexible use of conventional and innovative funding and financing tools. Congress should grant States maximum access and flexibility to use a mix of funding and financing tools most appropriate for each State. This includes use of public-private partnership opportunities that combine the management efficiency and innovation of the private sector with public sector social responsibility and job generation concerns. Where government policies, laws and regulations impede private investment, acceptable alternatives for reducing these impediments should be developed.

- Provide dedicated funding, funding guarantees and budgetary firewalls for all modes. The Highway Trust Fund provides a dedicated funding stream for federal investment in highways, highway safety and transit systems and services, an essential function of the federal government. In 1998 Congress provided the federal highway and transit programs with funding guarantees and budgetary firewalls to ensure revenues accruing to the Highway Trust Fund were being used for their intended purposes rather than being used to offset deficits in other domestic discretionary programs. In 2011 the US House of Representatives established new procedural rules which included eliminating the funding guarantees and firewalls. Because these protections allow for much-needed stability in program and delivery of long-term capital projects which are vital to the improvement of economic competitiveness and quality of life, the funding guarantees and firewalls should be reinstituted. Similar guarantees should be established for other modal programs funded through the Aviation Trust Funds, the Harbor Maintenance Trust Fund, and the Inland Waterways Trust Fund.
ADDITIONAL POLICY CONSIDERATIONS FOR FUNDING AND FINANCING

Beyond aligning with AASHTO’s core reauthorization principles, the Finance Work Group has considered specific concepts and concerns that emerged from past AASHTO efforts to establish funding- and finance-related reauthorization positions, including input from the final reports of the Congressionally-chartered National Surface Transportation Infrastructure Financing Commission and the National Surface Transportation Policy and Revenue Study Commission.

**Funding and Finance Considerations**

- **Funding Sustainability** – Recommended funding options should strive to provide HTF revenue streams that are sustainable and will thus not lose purchasing power and/or decline over time due to inflation, changes in fuel consumption, or other factors.
- **Funding Sufficiency** – Recommended funding options should provide substantial revenue levels that can have a meaningful impact on closing the investment needs gap.
- **Universal Applicability** – The overall package of recommended funding options should be able to support all types of needed surface transportation investment including improvements in both urban and rural areas.
- **Promote Efficient System Use** – To the extent applicable, recommended funding options should create economic incentives that encourage efficient use of the system by influencing vehicle choice and travel decisions.

**Modal Considerations**

- **Support Emergency Relief funding from both the Highway Trust Fund and General Fund** – Congress should continue to fund highway Emergency Relief program costs above $100 million per year from the General Fund. The Emergency Relief program eligibility should be expanded to include the costs for providing expanded transit and passenger rail service during the loss of use of the highway facilities.
- **As an on-going principle, Congress should maintain the 20 percent share of General Fund support for Transit** – Congress should continue to recognize that providing adequate funding for transit while also allocating sufficient Highway Trust Fund resources to highways will require an on-going contribution of General Fund revenues to transit.
- **Transit program funding should be increased at a growth rate comparable to that of the highway program** – The current ratio of federal spending on the highway program to the transit program (roughly 4 to 1) reflects both the interrelationship between the two modes and an appropriate balance in how the federal government invests in different transportation solutions.

**ADDRESSING THE IMPENDING FISCAL CLIFF FOR SURFACE TRANSPORTATION**

While the Highway Trust Fund has served as the backbone of federal surface transportation programs since 1956, it is now expected to reach a shortfall situation where virtually all new obligations will be eliminated in FY 2015. This is due to the structural deficit between receipts and outlays, illustrated below, which will average around $15 billion between 2015 and 2020, and continue to increase over time.
Note: This chart is an illustrative device to show the difference between forecasted annual cash flow into and out of the Highway Trust Fund—excluding the impact of recent General Fund transfers—based on current real spending levels. As such, this chart is distinct from the “cliff chart” below which shows actual and estimated spending levels, or obligations. While it demonstrates the unsustainability of the current cash flow trajectory, it does not depict adjustments to annual obligation levels that would be required to prevent the HTF from running a negative balance. (By law, the HTF cannot incur a negative balance.)

If no new revenues are identified for the Highway Trust Fund, highway obligations are expected to be reduced by almost 100 percent from $40 billion in FY 2014 to $0.2 billion the following year. Transit obligations are expected to also experience a significant funding reduction. (The scenario below shows a federal transit program that assumes most of its funding from the General Fund in FY 2015, at about the same level as all other years.)
In light of the recent *Global Competitiveness Report* rankings from the World Economic Forum on infrastructure quality which has listed the United States at 26th place—down from 9th place in 2009—such a major disruption to federal transportation investment will produce serious losses that threaten the gradual macroeconomic recovery seen in the last few years.

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It is also important to recognize that our national spending on highways and transit is not only falling in terms of purchasing power, but also relative to the size of our economy. While total federal highway and transit funding as a percent of GDP has fluctuated over time, it has averaged about 0.39 percent over the last five years, which is well below the 0.50 percent that was achieved during the peak of the Interstate construction period (average level from 1959-1973). Given that much of the Interstate system has now reached the end of its design life and must be reconstructed or replaced, and there is considerable need for additional capital improvements to the broader Federal-aid highway network and the country's transit system, there is a strong argument that the federal government should strive to return to this prior level of investment relative to the national economy.

**DEFINING FEDERAL INVESTMENT LEVELS**

The AASHTO core principles for MAP-21 reauthorization envision a continuing strong federal role in transportation investment that can be sustained through dedicated HTF revenue sources. Under current law, however, this is simply not achievable. Based on AASHTO projections, inaction by Congress to either increase HTF revenues or provide additional General Fund support would result in a federal surface transportation program of only $36.1 billion per year over the next six-year (2015-2020) reauthorization period, the annual average funding level that is supportable under existing HTF revenues (the "Cliff Scenario"). In real terms, this would represent a 37% reduction from the $57.1 billion average annual AASHTO Reauthorization Background Paper on FUNDING AND FINANCING
funding needed to sustain the purchasing power of current Federal-aid spending levels over the same period (derived from Congressional Budget Office Baseline projections).

To continue the vibrant federal commitment to surface transportation investment—which will require states to maintain their current share of overall investments as well—consideration should be given to the following potential funding scenarios for reauthorization:

- **Scenario 1: Sustain Current Investment in Real Terms (Average of $57.1 billion per year between 2015 and 2020)** – This scenario maintains the existing MAP-21 investment level, adjusted for inflation. **At minimum, it is imperative to identify solutions that will enable Congress to sustain this current level of surface transportation investment in real terms.** On a monthly basis, the amount of additional federal funding needed to support this level of expenditure is estimated to be $10.23 per household.

- **Scenario 2: Investment Needs Identified by USDOT Conditions and Performance Report (Average of $63.1 billion per year between 2015 and 2020)** – USDOT’s *2010 Conditions and Performance report* to Congress (C&P report) provides an objective appraisal of the nation’s highway, bridge, and transit conditions and future investment needs. This scenario shows the minimum levels of investment needed to maintain current highway, bridge, and transit conditions and performance and to allow transit agencies to continue accommodating recent historical growth rates. The resulting spending level represents an 11 percent increase in program funding over Scenario 1. On a monthly basis, the amount of additional federal funding needed to support this level of expenditure is estimated to be $13.52 per household.

- **Scenario 3: Return Program to 1993 Purchasing Power (Average of $73.3 billion per year between 2015 and 2020)** – This scenario represents the annual Federal-aid Highway funding levels that would be required to equal and maintain in real terms, the revenue levels that were achieved in 1993 from federal motor fuel taxes and the other HTF funding sources (the last time federal motor fuel taxes were increased). This scenario will place us on the path to restoring the contribution of our infrastructure in enhancing our global competitiveness. The resulting spending level represents a 28.4 percent increase in program funding over Scenario 1. On a monthly basis, the amount of additional federal funding needed to support this level of expenditure is estimated to be $19.06 per household.

According to a survey result published by the American Road and Transportation Builders Association in May 2013, the average US household paid $46 per month in federal and state gas taxes in 2011. Even with the additional federal contributions illustrated above that range from $10.23 to $19.06 per household, the average American family’s expenditures to fund the surface transportation program appear favorable to their monthly spending on electricity and natural gas service ($160), landline and cell phone service ($161), and cable and satellite television, radio and internet access ($124).

A comparison table and accompanying visual illustration of the three enhanced funding scenarios set against the untenable “no action” or “cliff” scenario that provides no net new revenues are provided in the following pages.

AASHTO Reauthorization Background Paper on
FUNDING AND FINANCING
## Summary of Highway Trust Fund Revenue and Investment Scenarios

($ in billions)

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### Percent decrease in Funding Levels from Scenario 1

-93% -27% -26% -26% -26% -37%

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### Percent increase in Funding Levels from Scenario 1

11% 11% 11% 10% 10% 10% 10% 11% 11%

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### Percent increase in Funding Levels from Scenario 1

11% 11% 11% 10% 10% 10% 10% 11% 11%

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<td>75.5</td>
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### Percent increase in Funding Levels from Scenario 1

29% 29% 29% 28% 28% 28% 28% 28% 28%

| Note: Funding levels for highways and transit are inclusive of the effect of “flexing.” Generally, CBO estimates that $1 billion of highway funds are flexed, or transferred, for transit purposes each year. In the Cliff Scenario, no highway-to-transit flex is assumed to take place in FY 2015. |

AASHTO Reauthorization Background Paper on FUNDING AND FINANCING
ILLUSTRATION OF POTENTIAL REVENUE OPTIONS

Congress could achieve the federal program funding levels described in the three scenarios through a variety of existing and proposed funding mechanisms. In accordance with the charge of the Finance Work Group, the funding frameworks and associated options contained herein neither explicitly nor implicitly identify any single approach for recommendation over others. Rather, they provide direction to AASHTO staff as they assist Congress in adopting politically feasible funding and financing solutions in line with AASHTO’s recommendations.

The following section provides a matrix of revenue options with estimated revenue yields that could be achieved through various candidate options, along with a brief description and assessment of each potential mechanism.

<table>
<thead>
<tr>
<th>Funding Mechanisms</th>
<th>Mechanism Yield 2014</th>
<th>Illustrative Rate</th>
<th>Revenues 2014</th>
<th>Average Revenues 2015-2020</th>
<th>Total Revenues 2015-2020</th>
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<tr>
<td>Container Tax</td>
<td>$1.00 per TEU= $</td>
<td>421</td>
<td>$15.00</td>
<td>$6,317</td>
<td>$6,893</td>
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<tr>
<td>Customs Revenues (Partial Dedication)</td>
<td>$0.01 of Receipts =</td>
<td>357</td>
<td>1.0%</td>
<td>$357</td>
<td>$408</td>
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<tr>
<td>Drivers License Surcharge (Annual)</td>
<td>$0.01 Surcharge = $</td>
<td>222</td>
<td>5.00</td>
<td>$1,109</td>
<td>$1,154</td>
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<tr>
<td>Excise Tax on Diesel (Increase)</td>
<td>1c per Gallon = $</td>
<td>399</td>
<td>15.0c</td>
<td>$5,983</td>
<td>$6,480</td>
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<tr>
<td>Excise Tax on Diesel (Indexing)</td>
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<tr>
<td>Excise Tax on Gasoline (Increase)</td>
<td>1c per Gallon = $</td>
<td>1,282</td>
<td>10.0c</td>
<td>$12,823</td>
<td>$13,367</td>
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<td>Excise Tax on Gasoline (Indexing)</td>
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<tr>
<td>Freight Bill - All Modes</td>
<td>1.0% of Sales = $</td>
<td>8,318</td>
<td>1.0%</td>
<td>$8,318</td>
<td>$9,236</td>
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<tr>
<td>Freight Bill - Truck Only</td>
<td>1.0% of Sales = $</td>
<td>7,221</td>
<td>1.0%</td>
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<td>$8,018</td>
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<td>Freight Charge - All Modes (Ton)</td>
<td>1c per Ton = $</td>
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<td>Freight Charge - All Modes (Ton-Mile)</td>
<td>1c per Ton-mile = $</td>
<td>47,530</td>
<td>0.5c</td>
<td>$23,765</td>
<td>$26,389</td>
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<td>Freight Charge - Truck Only (Ton)</td>
<td>1c per Ton = $</td>
<td>124</td>
<td>25.0c</td>
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<td>Freight Charge - Truck Only (Ton-Mile)</td>
<td>1c per Ton-mile = $</td>
<td>13,011</td>
<td>0.5c</td>
<td>$6,556</td>
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<td>Harbor Maintenance Tax (Increase)</td>
<td>0.1% Tax = $</td>
<td>1,331</td>
<td>0.5%</td>
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<tr>
<td>Heavy Vehicle Use Tax (Increase)</td>
<td>100% Increase = $</td>
<td>852</td>
<td>15.0%</td>
<td>$128</td>
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<tr>
<td>Imported Oil Tax</td>
<td>$0.10 per Barrel = $</td>
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<td>Income Tax - Business (Partial Dedication)</td>
<td>0.1% of Current Taxes=</td>
<td>440</td>
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<td>Income Tax - Personal (Partial Dedication)</td>
<td>0.1% of Current Taxes=</td>
<td>1,508</td>
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<td>$15,084</td>
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<td>Oil, Gas, Minerals Lease - Rent, Bonus, and Other Income (Partial Dedication)</td>
<td>1.0% of GF Revenues =</td>
<td>15</td>
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<td>$750</td>
<td>$750</td>
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<td>Oil, Gas, Minerals Lease - Royalties (Partial Dedication)</td>
<td>1.0% of GF Revenues =</td>
<td>55</td>
<td>50.0%</td>
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<td>Registration Fee on Light Duty Vehicles (Annual)</td>
<td>$1.00 Fee =</td>
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<td>Registration Fee on Trucks (Annual)</td>
<td>$1.00 Fee = $</td>
<td>9</td>
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<td>Sales Tax on Auto-related Parts and Services</td>
<td>1.0% of Sales =</td>
<td>2,567</td>
<td>1.0%</td>
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<td>Sales Tax on Fuel - Diesel</td>
<td>1.0% of Sales = $</td>
<td>1,253</td>
<td>11.0%</td>
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<td>Sales Tax on Fuel - Gasoline</td>
<td>1.0% of Sales = $</td>
<td>3,711</td>
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<td>Sales Tax on New and Used Light Duty Vehicles</td>
<td>1.0% of Sales =</td>
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<td>Sales Tax on Trucks and Trailers (Increase)</td>
<td>1.0% of Sales =</td>
<td>266</td>
<td>5.0%</td>
<td>$1,340</td>
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<td>Tire Tax on Light Duty Vehicles</td>
<td>$1.00 Fee = $</td>
<td>195</td>
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<td>$584</td>
<td>$615</td>
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<td>Tire Tax on Trucks (Increase)</td>
<td>100% Increase = $</td>
<td>434</td>
<td>10.0%</td>
<td>$43</td>
<td>$54</td>
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<td>Vehicle Miles Traveled Fee on Light Duty Vehicles (All Miles)</td>
<td>1c per VMT =</td>
<td>26,891</td>
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<td>$53,781</td>
<td>$55,852</td>
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</table>
Description of Potential Revenue Options

- **Container Tax** – A national fee imposed on some or all containers moving through the US. If the charge is only assessed on imports, it can be expected to raise approximately one-third less revenues. Revenues from such a fee would be strictly dedicated to fund freight investment activities.
  - **Pros** – Raises a decent level of funding relative to freight needs; moderate implementation, administration, and compliance costs; strong sustainability
  - **Cons** – Does little to promote efficient system use; potential international trade laws conflicts; could have regional equity issues

- **Customs Revenues (Partial Dedication)** – Customs duties are imposed at varying rates on various imported goods passing through US international gateways and currently go to the General Fund of the US Treasury. A number of interest groups, as well as the Policy Commission, have suggested that given the role transportation infrastructure plays in facilitating the import of goods, a portion of current customs duties should be allocated to support transportation investment.
  - **Pros** – Small percentage of current revenues provides significant revenues; highly sustainable
  - **Cons** – Diverts or expands a mechanism that is currently used and viewed as an important US General Fund revenue source

- **Drivers License Surcharge (Annual)** – States charge a fee for issuing drivers’ licenses. In some cases, the fee simply recovers the cost of administering the licensing programs. In many states, however, license fees also are used as a source of funding for transportation or other purposes.
  - **Pros** – Significant revenue yield; well-established in each state with minimal additional administrative cost
  - **Cons** – Strong public and political opposition; different licensing practices in each state; infringes on states’ reliance on this fee; poor social equity

- **Excise Tax on Motor Fuels (Increase)** – Federal motor fuel tax rates are currently 18.4 cents per gallon for gasoline, gasohol and special fuels (rates on special fuels vary, but average about 18.4 cents), and 24.4 cents per gallon for diesel. Federal motor fuels taxes were last increased for transportation purposes by five cents per gallon in 1982. Additional revenues were added to the Highway Trust Fund by recapturing 2.5 cents per gallon in 1996 and another 4.3 cents per gallon in 1998 that were previously allocated to the General Fund for deficit reduction purposes.
  - **Pros** – Large revenue yield with small rate change; a tried-and-true user fee; ease of administration
  - **Cons** – Long-term sustainability issues; strong public opposition; somewhat regressive

- **Excise Tax on Motor Fuels (Indexing)** – Establishes an annual adjustment to motor fuel tax rates to sustain purchasing power based on a gauge of inflation such as CPI-U (Consumer Price Index – Urban) or GDP (Gross Domestic Product) Price Index.
  - **Pros** – Maintains purchasing power
  - **Cons** – Likely unpopular during high inflation periods; perpetuates dependence on motor fuels as the primary HTF funding source

AASHTO Reauthorization Background Paper on FUNDING AND FINANCING
- **Freight Bill** – A freight waybill tax would serve as a sales tax on the shipping costs for freight. Such a tax could be modeled on the aviation system tax, in which passenger and freight users who rely on the same infrastructure and carriers all contribute to fund the system. The air-freight waybill tax currently provides 5 percent of contributions to the federal Airport and Airway Trust Fund.
  - **Pros** – Large revenue yield potential; reasonably equitable
  - **Cons** – Expensive to administer and enforce; more of an indirect user fee, as not directly related to system use

- **Freight Charge: Ton or Ton-Mile** – Freight-related taxes could be imposed on a pure tonnage or ton-mile basis. A ton-based tax would charge shippers a flat fee for every ton of freight moved. Variations of these taxes have been imposed by a few states in the past, but there has not been an equivalent tax imposed at the federal level.
  - **Pros** – Decent revenue yield potential; justifiable as a transportation user fee; potential positive impact on efficient system use
  - **Cons** – Strong trucker/rail opposition; impact of tax heaviest on low-value bulk items; significant implementation, administration, and compliance issues; not a viable short-term option

- **Harbor Maintenance Tax (Increase)** – This is an existing revenue mechanism, similar to customs duties and fees, that supports the federal Harbor Maintenance Trust Fund through an ad valorem tax on the value of passenger tickets and declaring commercial cargo loaded onto or unloaded from vessels using federally maintained harbors. The current tax is largely used to pay for harbor dredging and thus primarily benefits deep-draft oceangoing vessels carrying cargo on trans-oceanic routes.
  - **Pros** – Largely sustainable; would not require major administrative effort or expansion of legal authority
  - **Cons** – Portion levied on imports could increase international trade laws conflicts; tax is not levied on US exporters that use much of the local highway system around ports

- **Heavy Vehicle Use Tax (Increase)** – An annual fee is currently imposed on all trucks 55,000 pounds Gross Vehicle Weight (GVW) or greater. The tax rate is $100 plus $22 for each 1,000 pounds of GVW in excess of 55,000 pounds, up to a maximum annual fee of $550 (thus, all trucks with GVW greater than 75,000 pounds pay the maximum).
  - **Pros** – Strong correlation between tax and user benefit/impact; easy and cost-effective to administer
  - **Cons** – Does not raise a lot of revenue

- **Imported Oil Tax** – A tax on imported oil charged as either a fixed amount per barrel of oil or as a percentage on the value of imported oil.
  - **Pros** – Small fee could raise significant revenue; can help to promote US energy independence
  - **Cons** – Broad nature of tax creates limited user pay/benefit relationship (e.g., home heating oil would be taxed for transportation); raises geographical equity issues; could raise broader free trade issues

- **Income Tax: Business and/or Personal (Partial Dedication)** – A national income tax for transportation could be created fairly easily and inexpensively by dedicating a portion of the
existing tax or by adding an across-the-board increase to current personal and/or corporate income tax rates.

- **Pros** – Small percentage tax yields significant revenue; strong sustainability; inflation-neutral; easy to administer and enforce; relatively progressive

- **Cons** – Support for dedicating revenues to transportation needed though good transportation aids income growth; strong political opposition; weak link to economic efficiency and equity; negative impacts on the federal budget

**Oil, Gas, Minerals Lease - Rent, Bonus, and Other Income (Partial Dedication)** – The federal government receives various income comprised of rent, bonus bids, and other payments from the extraction of oil, natural gas, and minerals from federal lands and offshore mining activities. Aside from a portion designated for the states, the remaining amount of these revenues currently goes to the federal General Fund which could be redirected for transportation purposes.

- **Pros** – Sustainable; can help to promote US energy independence

- **Cons** – Diverts funds from US General Fund; link to transportation is not as strong as user fees; revenues could be volatile

**Oil, Gas, Minerals Lease - Royalties (Partial Dedication)** – The federal government collects royalties from the extraction of oil, natural gas, and minerals from federal lands and offshore mining activities. Aside from a portion designated for the states, the remaining amount of these revenues currently goes to the federal General Fund which could be redirected for transportation purposes.

- **Pros** – Sustainable; can help to promote US energy independence

- **Cons** – Diverts funds from US General Fund; link to transportation is not as strong as user fees; revenues could be volatile

**Registration Fee on Light Duty Vehicles and/or Trucks** – All states impose annual vehicle registration and related fees, and at least half the states raise more than a quarter of their dedicated transportation revenues through this mechanism. The structure of registration fees varies widely, from a flat per vehicle fee to a schedule of rates based on factors such as vehicle type, weight, age, horsepower, and value.

- **Pros** – Small federal fee; sustainable; well-established; little additional administrative cost; could charge for indirect impacts such as carbon emissions

- **Cons** – No relation to system use; could be viewed as double taxation at the federal level due to the existing Heavy Vehicle Use Tax; infringes on states’ reliance on this fee

**Sales Tax on Auto-related Parts and Services** – Similar to the vehicle sales tax, a national sales tax could be established on all products and services related to vehicle use, including part and accessories, lubricants, and repairs.

- **Pros** – Small tax rate could yield relatively large revenues; strong sustainability; justifiable as a flexible, dedicated source for transportation

- **Cons** – Significant administrative and compliance issues; social equity issues; little relationship with system use; limited public acceptance; potential to disincentive repairs and create safety issues

**Sales Tax on Motor Fuels** – A national sales tax on motor fuels could be imposed as a percentage of motor fuel costs. A handful of states currently impose a motor fuels sales tax, most in the 4 to 6 percent range, as a supplement to a traditional cent per gallon tax (note: not all states that impose a motor fuels sales tax dedicate all of the resulting revenues to
transportation). The revenue generation capabilities of a national motor fuels sales tax would be driven by several variables, including the price of fuel, the tax collection point (e.g., at the pump vs. points along the distribution network), the basis for the tax (e.g., inclusion vs. exclusion of state and local taxes), and the imposition of tax ceilings or floors.

- **Pros** – Small percentage tax raises significant revenues; sustainable in the short term; provides flexible, dedicated transportation funding
- **Cons** – Fuel price volatility could lead to unpredictable revenue levels; unsustainable in the long-term; political/public resistance can build during price spikes

**Sales Tax on New and/or Used Light Duty Vehicles** – Most likely levied as a percentage of the total sales price for either all new or new/used vehicle purchases (similar to the existing sales tax on trucks and trailers).

- **Pros** – Small fee could raise significant revenue; highly sustainable, captures revenues from alternative fuel vehicle users; could likely be implemented through either existing state tax mechanisms or imposed through vehicle manufacturers
- **Cons** – Could cannibalize a traditionally important state/local transportation and general fund revenue source; limited user-benefit correlation

**Sales Tax on Trucks and Trailers (Increase)** – A federal sales tax of 12 percent is imposed on the retail sales price for the first sale of all tractors and trucks over 33,000 pounds in gross vehicle weight (GVW) and trailers over 26,000 pounds in GVW, including parts and accessories associated with the sale.

- **Pros** – Strong sustainability that tracks with inflation; strong history that is easy to administer; reasonably acceptable from a public/political perspective; tax at national level creates even playing field; recover heavy vehicles’ cost to the system
- **Cons** – Revenue potential is limited; unstable and highly cyclical; no relationship with system use; disincentive to purchase newer vehicles

**Tire Tax on Light Duty Vehicles** – A national tax on light-duty vehicle tires for both tires on new vehicles and replacement tires. Would likely be implemented in conjunction with the current federal truck tire tax.

- **Pros** – Provides a counter LDV balance to the current truck tire tax; highly sustainable; strong user-benefit correlation
- **Cons** – Does not raise significant revenues; may discourage timely replacement of worn tires

**Tire Tax on Heavy Trucks (Increase)** – A federal tax is imposed on the purchase of all tires with a maximum rated load over 3,500 pounds. The tax is justified in part because it helps to recover some of the additional system damage costs caused by heavier vehicles. The current tax rate is 9.45¢ for every 10 pounds of maximum capacity that exceeds 3,500 pounds.

- **Pros** – Strong correlation between tax and user benefit/impact; easy and cost-effective to administer
- **Cons** – Does not raise a lot of revenue

**Vehicle Miles Traveled Fee on All Light Duty Vehicles** – Drivers can be charged for the total number of miles traveled, regardless of the road used or the time of day. The fee can be charged in a number of ways. With the recent passage of a bill by the Oregon Legislature, Oregon will be implementing the nation’s first VMT fee. Oregon DOT will build a system that will allow up to 5000 voluntary participants to choose from a number of methods of collecting data on miles driven and paying fees, including means that do not require GPS systems to address privacy
concerns. Germany has a system of charging trucks tolls for miles traveled, exhaust emissions, and number of axles. The charges are calculated using on-board GPS equipment and wireless communication devices. A related method is pay-as-you-drive insurance.

- **Pros** – Large revenue yield potential; highly sustainable; appropriate user fee; leads to more efficient use of system

- **Cons** – Public and political opposition is high, especially on privacy grounds; considerable costs and challenges (institutional, administrative, and cultural); not enough real-world experience with implementation; not a viable short-term option
Policy Resolution PR-5-13
Title: MAP-21 Surface Transportation Reauthorization Policy Resolution on Performance Management

WHEREAS, the Moving Ahead for Progress in the 21st Century Act (MAP 21) was enacted on July 6, 2012 and amended Section 150 of title 23, United States Code, to focus the Federal-aid highway program on seven national goals; and

WHEREAS, Section 150, National Goals and Performance Management Measures, sets deadlines and requirements for the establishment of a limited number of performance measures, the establishment of state and MPO-driven performance targets and reporting on performance targets; and

WHEREAS, state performance reports to USDOT are required no later than October 1, 2016 and every two years thereafter; and

WHEREAS, MAP 21 funding authorizations expire on October 1, 2014; and

WHEREAS, states vary widely in the extent and current condition of their transportation systems, their dependency on federal funding and other factors that impact the performance of the highway system in each state; and

WHEREAS, the implementation of the national performance measures is dependent on the availability of quality, consistent and compatible data; and

WHEREAS, all states are committed to improving their transportation systems to meet the mobility and access needs of millions of individual and business users.

NOW, THEREFORE BE IT RESOLVED while the member states of AASHTO support the use of performance management to improve the transportation system, we remain opposed to using performance measures as the basis for apportioning or allocating federal funds among the states; and

BE IT FURTHER RESOLVED that AASHTO recommends that no additional measures be established until multiple reporting cycles by states have occurred. In the interim, states will continue to advance the application of performance management and performance measurement tools to further improve our delivery of transportation facilities and services; and

BE IT FURTHER RESOLVED that U.S. DOT should work collaboratively with state DOTs in an effort to establish more consistent methodologies for collecting data related to implementation of the performance management requirements in MAP-21 and without imposing unnecessary requirements or undue burdens upon States.
Standing Committee on Performance Management
Performance Management Background Paper

Introduction
MAP-21 contains performance measures that will transform the federal-aid highway program and provide a means to the most efficient investment of federal funds. This is done by refocusing on national transportation goals, increasing the accountability and transparency of the federal-aid highway program and improving program decision making through performance-based planning and project decision-making.

The Secretary, in consultation with States, MPOs, and other stakeholders, will establish performance measures for pavement conditions and performance for the Interstate and NHS, bridge conditions, injuries and fatalities, traffic congestion, on-road mobile source emissions, and freight movement on the Interstate System. States (and MPOs, where applicable) will set performance targets in support of those measures, and State and metropolitan plans will describe how program and project selection will help achieve the targets.

Previous Policies versus MAP-21
MAP-21 includes a lot of the policies that AASHTO adopted in 2011. As seen in the table below, of the five policy positions related to performance management, MAP-21 essentially included all five recommendations. The only exception is for sanctions and penalties and these are minor. For example, if states fail to demonstrate making significant progress towards their targets, they must develop a report that demonstrates how the state is working to make progress. If states do not meet targets in the area of safety, bridges, and pavement, then there is less flexibility given to states in using their funds.

<table>
<thead>
<tr>
<th>AASHTO</th>
<th>MAP-21</th>
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<tbody>
<tr>
<td>1. Performance measures should <em>not be used to apportion or allocate funds</em></td>
<td>YES</td>
</tr>
<tr>
<td>2. Focus on <em>achieving progress</em> toward a few national goals</td>
<td>YES</td>
</tr>
<tr>
<td>3. <em>Limited set</em> of performance measures developed by cooperation</td>
<td>YES</td>
</tr>
<tr>
<td>4. Targets established by States <em>without</em> approval of U.S. DOT</td>
<td>YES</td>
</tr>
<tr>
<td>5. Require regular public reports but <em>no sanctions or penalties</em> to punish or reward States</td>
<td>YES and NO</td>
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Issue Areas

- **National-Level Measures**—U.S. DOT is responsible for establishing the performance measures used for use in measuring progress in four areas: the National Highway Performance Program (NHPP); the Highway Safety Improvement Program (HSIP); the Congestion Management and Air Quality (CMAQ) program; and Freight. The legislation specifies the types of measures to be
established, and does not allow USDOT to establish additional measures. The USDOT is required to establish the measures through a rulemaking within 18 months after enactment.

The AASHTO Standing Committee on Performance Management (SCOPM) created a Task Force on Performance Measure Development, Coordination and Reporting charged to “assist SCOPM and AASHTO to develop a limited number of national performance measures and help prepare AASHTO members to meet new Federal performance management requirements.” The Task Force includes representatives from each performance management area and other leaders within the AASHTO organization and is chaired by Paul Degges, Chief Engineer of Tennessee Department of Transportation. The purpose of this Task Force is to serve as a single clearinghouse for recommended national-level performance measures identified by those AASHTO committees with in-depth knowledge of the technical aspects of the individual performance measure areas. In November 2012, the Task Force issued its Findings on National-Level Performance Measures to the AASHTO Board of Directors. These recommendations are available at http://scopm.transortation.org.

- **Target Setting**—The States are required to establish performance targets correlated to each of the performance measures established by the U.S. DOT. The States’ are required to adopt these performance targets within 1 year after U.S. DOT issues the final rule establishing the performance measures. The States must establish their targets in “coordination” with MPOs and with public transit operators in areas not represented by MPOs. The MPOs are required to establish performance targets in each of the areas addressed by the performance measures adopted by U.S. DOT. The MPOs are required to adopt their targets in “coordination” with the State and with the public transit operator in the MPO area. The MPOs are required to adopt their targets within 180 days after the adoption of targets by the State or public transit operator.

Since the submittal of the SCOPM Task Force Findings on National-Level Performance Measures, the Task Force identified the need for additional guidance on the specific topic of target setting related to national-level performance measures. Through a series of meetings, a subgroup of the SCOPM Task Force met to develop findings with regard to MAP-21 Performance Target-Setting. The subgroup developed a document that represents the findings on target setting related to the national-level performance measures. These recommendations are available at http://scopm.transortation.org.

- **Reporting**—The States are required to report progress being made towards established targets on a regular basis. Within this report, States will have to indicate how they have made progress towards meeting their targets. If significant progress has not been made, as defined by U.S. DOT, there are consequences to States.

- **Data**—The foundation of MAP-21 are the various performance management requirements which will transform the federal aid highway program to a data-driven program. By definition, these new requirements create a data intensive environment where State DOTs will be forced to collect, store, analyze, and report significantly more data and information. Implementation of the national-level performance measures is dependent on the availability of quality data. In some situations, State DOTs are already collecting data that could be used to report on the national-level measures. However, in many situations, the data may not be consistent across states nor does a consistent data set exist for an entire state or region. In order for the national-
level performance measures to be consistent across all State DOTs, consistency in terms of data sources, analysis, and calculation will need to be addressed. In all likelihood, a combination of State DOT data, FHWA-provided data sets and nationwide private sector speed data will need to be provided to states in a ready-to-use format. As we move to a more data-driven program, AASHTO encourages U.S. DOT adopt a core set of data principles to guide data collection efforts such that the resources needed to acquire the data and information are minimized. These resources would include time, manpower, financial, IT, etc.

Discussion
AASHTO recommends that MAP-21 be given time to work, especially in the implementation of the performance management requirements, before substantive changes are considered. The issues discussed previously are ones that SCOPM is currently working with FHWA on addressing through the rule-making process. It is important that SCOPM continue to work with FHWA and let the performance management provisions of MAP-21 have time to be implemented. As the various NPRMs are issued by U.S. DOT, SCOPM, working with many other AASHTO committees and subcommittees, will provide comments and take action as necessary.

AASHTO's primary focus with regard to performance management is on implementation and many of the concerns can be addressed in the rule-making process. However, there are a number of areas that are of concern to the State DOTs. These include the following:

- **Any type of linkage to apportionment**—MAP-21 does not link performance achievement to funding or apportionment and this should remain the case. While MAP-21 does have some sanctions if State DOTs do not make significant progress towards the achievement of targets, no new or additional sanctions or penalties should be included. The transportation community needs time to let the existing MAP-21 performance management requirements be implemented.

- **Growth or expansion of more performance measures**—No new national-level performance measures should be established beyond what is included in MAP-21. The transportation community has worked diligently with U.S. DOT to identify national-level measures that will work with existing data sources, technologies and processes.

- **Use a collaborative approach to develop more consistent data practices**—U.S. DOT should work collaboratively with state DOTs in an effort to establish more consistent methodologies for collecting data related to implementation of the performance management requirements in MAP-21.
WHEREAS, MAP-21 enacted a comprehensive set of reforms to accelerate project delivery while maintaining environmental protections;

WHEREAS, these reforms have the potential to significantly reduce project delivery times, but effective implementation is critical to their success;

WHEREAS, AASHTO is working with USDOT on implementation of these provisions;

WHEREAS, there are some refinements to USC Title 23 and MAP-21 that could further accelerate project delivery;

WHEREAS, additional administrative measures could also further accelerate project delivery and/or further eliminate unnecessarily burdensome requirements; and

WHEREAS, the State DOTs are committed to finding ways to accelerate project delivery and provide for improved transportation while maintaining environmental protections.

NOW, THEREFORE BE IT RESOLVED, that 23 USC 327 be amended to ensure that under the NEPA delegation program, State DOTs may assume USDOT's responsibility for making project-level conformity determinations under the Clean Air Act;

BE IT FURTHER RESOLVED, that 23 USC 168 be amended to ensure that the authority provided in MAP-21 to adopt planning decisions in the NEPA process includes all of the flexibility previously provided in the planning regulations (23 CFR 450 Appendix A);

BE IT FURTHER RESOLVED, that 23 USC 169 be amended to require that if a State DOT chooses to develop a programmatic mitigation plan the federal agencies should give substantial weight to the recommendations in a programmatic mitigation plan when carrying out their NEPA and permitting duties;

BE IT FURTHER RESOLVED, that new reauthorization legislation should require USDOT, at the request of a project sponsor, to initiate a NEPA review for a project that is planned to be funded with a non-traditional funding source (e.g., State and local financing, or discretionary grant or loan programs administered by USDOT);

BE IT FURTHER RESOLVED, that AASHTO supports provisions that would allow routine roadside ditch maintenance projects to proceed without the need for a jurisdictional determination or permitting under Section 404 of the Clean Water Act; and

BE IT FURTHER RESOLVED, that with respect to the positive reform included in MAP-21 that establishes a categorical exclusion for certain projects that receive a low level of Federal funding — less than $5 million or for projects up to $30 million if Federal funding is no more that 15% of estimated project costs — the dollar threshold amounts be adjusted for inflation so that the provision does not degrade over time; and

BE IT FURTHER RESOLVED, that AASHTO looks forward to working with all parties to continue to find ways to further accelerate project delivery while maintaining environmental protections.
AASHTO Project Delivery and Environment Team
MAP 21: Project Delivery Background Paper

Introduction

SAFETEA-LU provided some of the most significant changes to environmental review provisions affecting transportation in decades. The changes in SAFETEA-LU were focused primarily on making the existing environmental review process work more efficiently while maintaining environmental protections. The streamlining initiatives in SAFETEA-LU are being implemented effectively and are showing some reductions in the project delivery times.

MAP-21 built upon the streamlining measures in SAFETEA-LU and enacted a comprehensive set of reforms to further accelerate project delivery while maintaining environmental protections. These reforms have the potential to significantly reduce project delivery times, but effective implementation is critical to their success. Overall, the SAFETEA-LU and MAP-21 reforms are having an impact on expediting the environmental review process and leading to better transportation and environmental outcomes.

Additional progress to accelerate project delivery is being made administratively through FHWA’s Every Day Counts (EDC) initiative. FHWA introduced the EDC initiative in 2010 to shorten project delivery times, enhance the safety of roadways, and protect the environment. Some of the EDC tools developed to shorten project delivery times include:

- Planning and environment linkages, so that planning work need not be repeated as part of the environmental review process
- Expanding the use of programmatic agreements
- Innovative mitigation techniques
- Improving environmental document quality

Since being launched in 2010, every state DOT has enhanced its use of one or more of the EDC technologies. FHWA and AASHTO will continue to support and promote these innovations.

In addition, AASHTO and FHWA created the AASHTO Center for Environmental Excellence (Center) in 2001 to assist state DOTs in improving project delivery times, public trust, and environmental performance. The mission of the Center is to promote environmental excellence in the delivery of transportation services by disseminating innovative ways to streamline the transportation process and encouraging environmental stewardship. The Center works to identify issues that impact transportation agencies and develop and promote innovative solutions to these issues.

Streamlining Initiatives in SAFETEA-LU

Congress began to make inroads to streamline the project delivery process in SAFETEA-LU. The primary streamlining initiatives in SAFETEA-LU included creating a streamlined
environmental review process for projects that require an environmental impact statement (EIS), providing an exemption from Section 4(f) of the USDOT Act carefully limited to projects that have de minimis impacts to parklands and historic sites, creating a 180-day statute of limitations for challenges to federal approvals of highway and transit projects, and delegation of USDOT environmental review responsibilities to State DOTs under specified terms.

MAP-21 Acceleration of Project Delivery Provisions

MAP-21 built upon the streamlining measures created in SAFETEA-LU to further accelerate project delivery. The following are the streamlining reforms in MAP-21.

Increased Use of Categorical Exclusions (CEs) for Projects with Minor Impacts

In MAP-21, Congress directed USDOT to make a series of changes that would expand the availability of CEs for transportation projects. MAP-21 directs USDOT to create categorical exclusions (CE) for projects to repair or reconstruct highway facilities damaged in declared emergencies, projects within the existing operational right-of-way, projects that receive limited federal financial assistance, and other new CEs.

Changes to Environmental Review Process for Complex Projects

MAP-21 included several provisions that are intended to streamline environmental reviews for complex projects - that is, projects requiring the preparation of an environmental impact statement (EIS) under NEPA. These streamlining provisions include allowing a “condensed” FEIS format, directing U.S. DOT to issue the Final EIS and ROD as a single document, general process improvements to provide increased flexibility and accountability, allowing USDOT to provide technical assistance to project sponsors to assist in completing an EIS within four years, and reducing the 180-day statute of limitations established in SAFETEA-LU to 150 days for challenges to federal approvals of highway and transit projects.

Delegation of USDOT's Environmental Review Responsibilities to the State DOTs

MAP-21 modified the environmental delegation programs established in SAFETEA-LU to provide more permanency and flexibility to the programs.

Using the Transportation Planning Process to Support NEPA Reviews

In addition to making changes to the NEPA process itself, MAP-21 also sought to expedite project delivery through changes in statewide and metropolitan transportation planning. MAP-21 encourages efforts to use transportation planning to help improve and expedite the NEPA process by allowing the NEPA process to adopt analyses and decisions made by States and MPOs during the transportation planning process, allowing States and MPOs to develop programmatic mitigation plans as part of the statewide or metropolitan transportation planning process, and requiring USDOT and other Federal agencies to provide technical assistance on accomplishing early coordination activities.
Activities Allowed Prior to NEPA Completion

MAP-21 broadens States’ ability to acquire right-of-way prior to completion of the NEPA process, using both Federal and non-Federal funds. MAP-21 also directs USDOT to promulgate regulations as are necessary to allow States to enter into two-phased contracts that include preconstruction and construction services.

Discussion

State DOTs are pleased with the project delivery reforms in MAP-21 and are working with USDOT on implementation of these provisions. In the meantime, there are some refinements to USC Title 23 and MAP-21 that would further accelerate project delivery.

- **Reauthorization legislation should clarify that under the NEPA delegation program (23 USC 327), State DOTs may assume USDOT’s responsibility for making project-level conformity determinations under the Clean Air Act.**

  SAFETEA-LU delegated project-level conformity to the States participating in the CE delegation program (23 USC 326) along with all of the other project-level decision-making responsibilities. However, project-level conformity was omitted from the full NEPA delegation program (23 USC 327). As a result, States that receive delegated authority under this program are authorized to make all project-level decisions except for the project-level conformity determination. For the streamlining potential of this program to be fully realized, project level conformity must be delegated to the states that take on the full NEPA delegation program.

- **Reauthorization legislation should include the flexibilities in the planning regulations to adopt planning decisions in the NEPA process.**

  MAP-21 provides statutory authority in 23 USC 168 to expedite environmental reviews by allowing the NEPA process to adopt analyses and decisions made by States and MPOs during the transportation planning process. Prior to MAP-21, this authority existed only in the transportation planning regulations (23 CFR Part 450). MAP-21 provides, for the first time, explicit statutory authority for this practice. It also includes a savings clause, which preserves the States’ ability to link planning and NEPA under the existing procedures in 23 CFR Part 450.

Although State DOTs welcome the statutory authority, the MAP-21 process establishes a much more complex and cumbersome process – it requires the fulfillment of 10 separate conditions, plus concurrence in the fulfillment of those conditions by all participating agencies with “relevant expertise.” The complexity and cumbersome nature of the new process may deter States from undertaking this effort under the MAP-21 framework. As such, the statutory process in 23 USC 168 should be amended to ensure that it provides the same flexibilities that are included in the existing regulatory process.
- **Amend Section 169(f) of Title 23 to direct federal agencies to give substantial weight to programmatic mitigation plans in carrying out their NEPA and permitting duties.**

MAP-21 allows States and MPOs to develop programmatic mitigation plans as part of the statewide or metropolitan transportation planning process (23 USC 169), but this provision does not actually require environmental agencies to consider programmatic mitigation plans when making permitting decisions. To provide states some assurances that choosing to develop these plans will expedite environmental processes and permitting, federal agencies should be required to give substantial weight to these plans in carrying out NEPA and permitting duties.

- **In reauthorization of MAP-21, include a new provision to require USDOT, at the request of a project sponsor, such as a State, to initiate a NEPA review for a project that is planned to be funded with non-traditional funding source, such as State and local financing, TIFIA loans or TIGER grants.**

Federal transportation funding is increasingly provided through non-traditional funding programs such as State and local financing, TIFIA and TIGER. Applicants for these programs are expected to demonstrate progress toward NEPA completion, yet federal agencies may be reluctant to initiate NEPA when the project sponsor is not proposing to use a traditional funding source, such as federal-aid highway funds or New Starts transit funding. For example, some States have found that FTA is reluctant to initiate NEPA for a major capital project unless FTA considers the project to be a likely candidate for New Starts funding. States have found it difficult to obtain federal agency support for initiating NEPA in these circumstances, even when a project has strong local support. As a result, States increasingly find themselves in a catch-22: they cannot initiate the NEPA process because they lack an identified funding source, and yet they cannot obtain funding because they have not made substantial progress through NEPA. USDOT should be required to initiate NEPA review for these projects, upon a project sponsor’s request.

- **Index for Inflation the dollar amounts for the CE for projects involving a low level of Federal funding.**

MAP-21 establishes a CE for projects involving less than $5 million in Federal Funds and also for projects costing up to $30 million where Federal funds are estimated to be no more than 15% of total project costs. Those threshold amounts, set in 2012, should be adjusted for inflation (perhaps CPI), so that the value of the reform stays constant and does not degrade over time.
Additional Measures to Accelerate Project Delivery

The AASHTO Project Delivery and Environment Team identified additional measures that could further accelerate project delivery or further eliminate unnecessarily burdensome requirements. AASHTO is hopeful that these measures can be resolved in a timely fashion with administrative solutions.

- **FRA and FAA could adopt the general CE process and list of CEs currently included the FHWA/FTA regulations. In addition, FRA and FAA could give more substantial weight to existing multimodal Statewide and metropolitan transportation plans and, where appropriate, use information, analysis and decisions in these plans.**

As transportation projects become increasingly multimodal, the USDOT modal administrations must work together to complete the environmental review process for these projects. The differing processes for conducting environmental reviews under the USDOT modal administrations lead to confusion and project delay. In addition, FRA and FAA do not give weight to existing Statewide and metropolitan transportation planning processes- States must start from scratch under the FAA and FRA processes. FRA and FAA could adopt the general CE process language as well as appropriate CEs currently in the FHWA/FTA regulations to provide more consistency in environmental reviews for multimodal projects. Also, FRA and FAA could give substantial weight to existing multimodal Statewide and metropolitan transportation plans and, where appropriate, use information, analysis and decisions in these plans.

- **The Land and Water Conservation Fund Act (LWCFA) process could provide the flexibility to allow for improvements to be made to recreational properties rather than providing replacement land, when the local government indicates that such improvements are preferred. In addition, LWCFA grants could be posted on a public database.**

The Land and Water Conservation Fund Act (LWCFA) of 1965 was enacted to establish a funding source to assist the States and Federal agencies in meeting outdoor recreation needs. Section 6(f) of the Act prohibits the conversion of property acquired or developed with LWCF grants to a non-recreational purpose without the approval of the NPS. Section 6(f) further directs NPS to assure that replacement lands of equal fair market value, location, and usefulness are provided as conditions to such conversions.

As State and local governments often obtain grants through LWCFA to acquire or make improvements to recreation areas, these grants convert the entire property into Section 6(f) land, even if the grant is used only for improvements to a small portion of the property. Consequently, where conversions of Section 6(f) lands are proposed for highway projects, no matter how small the conversion, replacement lands are necessary.
Often, local officials would prefer for the State to make improvements to the existing property rather than finding replacement property, however, LWCFA requires property replacement. In addition, it is difficult to obtain information identifying the specific parks for which LWCFA funds have been used. The LWCFA process could provide the flexibility to allow for improvements to be made to recreational properties rather than providing replacement land, when the local government indicates that such improvements are preferred. In addition, LWCFA grants also could be posted on a public database.

- **The federal government could allow routine ditch maintenance projects to proceed without the need for a jurisdictional determination or permitting under Section 404 of the Clean Water Act.**

EPA and the Corps of Engineers are developing regulations regarding wetlands jurisdiction under Section 404 of the Clean Water Act (CWA). Based upon previous drafts of EPA and Corps guidance on this topic, State DOTs are concerned that the new regulations/guidance would cause many more roadside ditches to be considered jurisdictional or potentially jurisdictional – and therefore would greatly expand the number of ditch maintenance projects that require CWA permitting, or at least require a jurisdictional determination before the project can be completed. This increased burden would make ditch maintenance projects slower and more costly, diverting scarce resources from other programs while providing little if any environmental benefit.

As such, the federal government should allow routine ditch maintenance projects to proceed without the need for a jurisdictional determination or permitting under the CWA.
Policy Resolution PR-7-13
Title: MAP-21 Surface Transportation Reauthorization Policy Resolution on Planning

WHEREAS, the Moving Ahead for Progress in the 21st Century Act (MAP 21) was enacted on July 6, 2012;

WHEREAS, MAP 21 amended Sections 134, 135, and 150 of title 23, United States Code, to require performance-based transportation planning and to focus the Federal-aid highway program on seven national goals; and

WHEREAS, Sections 134, 135, and 150 require long-range transportation plans and transportation improvement programs to address performance measures and targets; and

WHEREAS, MAP 21 modified the definition of the National Highway System (NHS) to include urban and rural principal arterial routes that were not included on the NHS prior to the date of enactment of MAP 21, and this change has been interpreted to require automatic inclusion of all principal arterials on the NHS;

WHEREAS, MAP 21 requires States to establish an asset management program, and also requires USDOT to establish “minimum condition” levels for NHS bridges and for Interstate System pavement;

WHEREAS, MAP 21 created the new Transportation Alternatives Program (TAP), under which States are responsible for distributing funds that were not sub-allocated to MPOs, but States are ineligible to receive any TAP funding;

WHEREAS, prior to the enactment of MAP 21, FHWA issued guidance that established a three-year cap on operating assistance under the Congestion Mitigation and Air Quality (CMAQ) program, and issued guidance in June 2013 that allows operating assistance to be used for up to 5 years, which still limits states’ ability to use CMAQ funds to support operations that benefit air quality;

WHEREAS, MAP 21 funding authorizations expire on October 1, 2014; and

WHEREAS, the timeline for implementing the system of performance management and other changes prescribed in MAP 21 extends far beyond the expiration date of the funding authorizations in MAP 21; and

WHEREAS, the implementation of the national performance measures and performance based planning and programming depends on the availability of relevant high quality, consistent, and compatible data without imposing unnecessary requirements or undue burdens upon States, but a set of data principles associated with performance measurement has not yet been articulated by U.S. DOT; and

WHEREAS, States are committed to improving their transportation systems to meet the mobility and access needs of millions of individual and business users.

NOW, THEREFORE BE IT RESOLVED, that AASHTO supports the planning policy reforms in MAP 21 and opposes significant changes to the reforms until such time as the changes have been implemented and evaluated. Within that framework, AASHTO is always open to
opportunities to simplify processes and requirements, reduce administrative and regulatory burdens, expedite project delivery, and increase State flexibility. In the interim States will continue to advance the application of performance-based planning to further improve our delivery of transportation facilities and service; and

BE IT FURTHER RESOLVED, that the implementation of MAP 21 should avoid any unnecessary administrative burdens or unnecessary restrictions on State flexibility. This would include, but not be limited to, avoiding:
   a) restrictions that would contradict the national goal of “reduced project delivery delays”;
   b) regulations and guidance that do not conform to the statute without imposing additional requirements; and
   c) restrictions on the ability of States to satisfy the long range plan requirements with policy-based plans; and

BE IT FURTHER RESOLVED, that any new legislation should maintain the existing balance of authority and responsibility among State DOTs, MPOs, and rural planning organizations; and

BE IT FURTHER RESOLVED, that the “minimum standards” required by MAP 21 for bridges and pavement should not be interpreted to require a “worst first” approach to asset management, and any new legislation should ensure that a “worst first” approach is not required; and

BE IT FURTHER RESOLVED, that the States in consultation with appropriate agencies should have the flexibility, in appropriate instances, and with notification to FHWA to remove routes that were added to the NHS in MAP 21; and

BE IT FURTHER RESOLVED, that any new legislation should ensure that state agencies (including state DOTs) and metropolitan planning organizations (MPOs) are included in the list of eligible entities that may receive TAP funds, such that State DOTs and MPOs have the ability to implement projects and designate a limited amount of discretionary TAP funding to allow for flexibility in sound program and project management and oversight, including the option of funding a full-time TAP Coordinator(s); and

BE IT FURTHER RESOLVED, that Congress should direct U.S. DOT to remove the cap or the number of years regarding the use of CMAQ funds for operations programs; and

BE IT FURTHER RESOLVED, that U.S. DOT should work collaboratively with state DOTs in an effort to establish more consistent methodologies for collecting data related to implementation of the performance management requirements in MAP 21 and without imposing unnecessary requirements or undue burdens upon States; and

BE IT FURTHER RESOLVED, that requiring obligation of the CMAQ funds in PM 2.5 non-attainment and maintenance areas should only apply when the non-attainment issue is resulting from transportation activities.

APPROVED BY THE AASHTO BOARD OF DIRECTORS – OCTOBER 21, 2013
Standing Committee on Planning
MAP-21 Planning Requirements Background Paper

Introduction
MAP-21 requires States and MPOs to establish and use a performance-based approach as part of the statewide and metropolitan transportation planning process. The performance-based approach must be used in transportation decision making and to support seven National Goal Areas established within MAP-21. The U.S. DOT, through a rulemaking process, will establish performance measures associated with twelve different performance measure areas listed in MAP-21. Each State will be required to establish performance targets associated with each performance measure for use in tracking progress toward outcomes. In addition, each MPO will be required to establish performance targets in coordination with the State and transit agency, as necessary. Various plans required under MAP-21 will report progress toward target achievement.

Though the states and MPOs set targets, there will be minimum standards for Interstate pavement and NHS bridge conditions. If pavement conditions on the Interstate fall below the minimum condition level for pavements, the State shall be required to shift funding to address this performance issue. Similarly, if more than 10 percent of the bridge deck area of bridges on the NHS System is classified as structurally deficient for more than three years, the State shall be required to shift funding to address this performance issue.

In addition to requiring performance-based planning, MAP-21 also made other changes that relate directly or indirectly to transportation planning, including changes that require transportation asset management; expand the National Highway System; establish the Transportation Alternatives Program (TAP); and modify the Congestion Management and Air Quality (CMAQ) program.

Previous AASHTO Policies versus MAP-21
Generally speaking, the planning provisions in MAP-21 were in-line with AASHTO policy as seen in the table below. The only area that was not specifically addressed was streamlining fiscal constraint.

<table>
<thead>
<tr>
<th>AASHTO</th>
<th>MAP-21</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Strengthen recognition that the federal-aid highway program is a federally assisted, state-administered program</td>
<td>YES</td>
</tr>
<tr>
<td>2. Maintain existing balance of authority</td>
<td>YES</td>
</tr>
</tbody>
</table>

1 Areas include Performance-based Planning, Asset Management, Enhanced NHS, Transportation Alternatives, Data and CMAQ
3. Continue broad flexibility in planning procedures | YES
4. Avoid new administrative burdens | YES
5. Incorporate performance-based planning and programming aspects | YES
6. Maintain separation between planning requirements and discretionary grant programs | YES
7. Streamline fiscal constraint | NO

**Issue Areas**

**Performance-Based Planning and Programming**

Within the planning provisions, the use of performance-based planning and programming (PBPP) principles are seen in the requirements for both the long-range plans and a short-term transportation improvement programs (TIP) that both states and MPOs must develop. The long-range plan must describe the performance measures and targets used in assessing system performance and progress in achieving the performance targets. The STIP/TIP must also be developed to make progress toward established performance targets and include a description of the anticipated achievements. In the statewide and nonmetropolitan planning process, selection of projects in nonmetropolitan areas, except projects on the NHS or funded with funds remaining from the discontinued Highway Bridge Program, must be made in cooperation with affected nonmetropolitan officials or any regional transportation planning organization.

The U.S. DOT is required to establish criteria for the evaluation of the new performance-based planning processes that states will have to establish. The process will consider whether States have made progress toward achieving the targets. Five years after enactment of MAP-21, the Secretary is to provide to the Congress reports evaluating the overall effectiveness of performance-based planning and the effectiveness of the process in each State and for each MPO.

As part of the performance-based approach, each state must consider the National Performance Measures and performance targets as part of its decision-making process including transportation policies, plans, programs, and investment priorities. The following plans are now required to be developed using the performance-based planning process:

- Statewide Transportation Plan
- Statewide Transportation Improvement Program
- Metropolitan Transportation Plan
- Metropolitan Transportation Improvement Program
Statewide and Metropolitan Planning

MAP-21 continues the requirement that each State and MPO develop a policy-based or project specific long-range transportation plan and a transportation improvement program. As the requirements for the establishment and use of a performance-based approach to decision making are implemented, the current performance plans and programs developed by states and MPOs likely will have to be adjusted to meet requirements. The plan and program are to provide for transportation systems and facilities that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States. The process for developing the plan and program is to consider all modes of transportation and be continuing, cooperative and comprehensive. In carrying out these requirements, States should have maximum flexibility to address their respective needs consistent with legislative requirements.

MAP-21 places a greater focus on freight planning by all agencies and encourages states to develop freight plans by offering an increased federal share for freight projects. Each state has the flexibility to develop a stand-alone freight plan, or create a freight component within their long-range plan to satisfy the eligibility criteria for the increased federal share.

MAP-21 enables States to establish or designate regional transportation planning organizations (RTFO). This is a completely voluntary action on the part of the State and is not mandated. If a State chooses not to establish RTPOs, it shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance.

Additionally, MAP-21 encourages, but does not require, scenario planning by MPOs and requires each MPO that serves an area designated as a TMA to include representation by public transportation providers on the MPO board. Pursuant to this requirement, an MPO may restructure to meet the new structure without having to go through the re-designation process.

Finally, MPOs that serve a TMA are also required to develop a competitive grant process to fund Transportation Alternatives projects. Projects in other urban areas are to be eligible through a state-administered competitive process (see section below on Transportation Alternatives Program).

Transportation Asset Management

MAP-21 specifies for the first time in Federal law a requirement for the states to utilize and document an asset management plan for the NHS. One of the principles of asset management is to focus on reducing life-cycle costs, not addressing the “worst first.” FHWA’s guidance states that a successful asset management program “must have moved away from a ‘worst first’ investment strategy, and instead have adopted investment principles that are based on life cycle costing.”

\(^2\) FHWA, Common Q's and A's pertaining to Transportation Asset Management, updated 1/10/2013, Question 14 (http://www.fhwa.dot.gov/asset/faq.cfm).
States must submit their plan such that implementation of the plan is in place by the second fiscal year beginning after the U.S. DOT has issued its requirements for the plan and process. FHWA's current schedule indicates that the requirement for a plan could be as early as October of 2015. If a state is on time with implementing the plan, the projects developed by the process would then have to be designed, let to contract, built, and the effects measured before the full impact of the current requirements can be assessed. This long lead time before actual changes in the performance of the system coupled with the current building of the rules creates a situation where changes that would add new requirements to the law should not be made until more experience is gained and lessons are learned about the implementation.

MAP-21 also requires a performance-based planning and programming process, and as part of that process, it requires USDOT to establish “minimum condition” levels for NHS bridges and for Interstate System pavement. If the minimum conditions are not met, the State would be required to redirect certain funds to improve those conditions until the minimum conditions are met.

Enhanced NHS
The National Highway System (NHS) is a network of highways that are important to the nation’s economy, defense and mobility. Prior to MAP-21, the NHS included the interstates and certain other routes. MAP-21 changed the NHS designation to add urban and rural principal arterials “that were not included on the National Highway System before the date of enactment of the MAP-21.” As a result of this change, the NHS was expanded to include all principal arterial routes that connect to the NHS. This expansion of the NHS has resulted in the addition of a wide range of state-owned and locally-owned roads to the system. MAP-21 also required that the NHS include “other connector highways that were not previously included but serve a major intermodal facility” such as airports and seaports. FHWA is working on guidance for how to select these roads and also how and whether the NHS must be a closed network in which all NHS routes connect to one another.

When a route is added to the NHS, it becomes subject to the legal requirements that apply to all NHS routes. As a result, the expansion of the NHS poses challenges in many states where a large portion of the newly added miles of NHS may fall under the jurisdiction of local transportation agencies. The size and scope of these challenges vary by state depending on the financial resources of agencies within each state, the number of newly added miles by jurisdiction in each state, and other factors related to specific state law in each state. The added cost of complying with the increased responsibilities and regulations associated with the expanded NHS have financial implications for transportation agencies that were not addressed in MAP-21. The problem of paying for the costs associated with the increased regulations without a corresponding increase in federal support is particularly acute in states where identified infrastructure needs have not been addressed by their legislature.

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Another issue is compliance with the federal requirements by the states and local road agencies. For example, the development of a state transportation asset management plan poses challenges in bringing together all the agencies with jurisdiction over NHS road miles. In Michigan, for example, there are nearly 80 different road agencies. It important for these road agencies to contribute to the formation of the state asset management plan, and equally important for them to be committed to working towards complying with the requirements of MAP-21 that may involve satisfying performance targets that are set for the NHS network.

Transportation Data
The performance-based planning requirements of MAP-21, including the development of many different performance-based plans, reporting on performance measures, and establishment of targets, will require states to collect, use, analyze, and store a significant amount of transportation data. These performance-based activities are, by definition, extremely data intensive processes, and data systems are expensive, time consuming, and difficult to maintain. Thus, implementation of MAP-21 must be crafted in a way that reflects that data is important to a performance based approach but in a way that does not directly or indirectly impose excessive or unreasonable data burdens on already hard-pressed state DOTs.

By definition, the new performance-based planning requirements create a data intensive environment where State DOTs will inevitably have to collect, store, analyze, and report significantly more data and information. Implementation of the national-level performance measures is dependent on the availability of quality data. In some situations, State DOTs are already collecting data that could be used to report on the national-level measures. However, in many situations, the data may not be consistent across states nor does a consistent data set exist for an entire state or region. In order for the national-level performance measures to be sufficiently consistent across all State DOTs, some consistency in terms of data sources, analysis, and calculation will need to be addressed. In all likelihood, a combination of State DOT data, FHWA-provided data sets and nationwide private sector speed data will need to be provided to states in a ready-to-use format. As we move to a more data-driven program, AASHTO encourages U.S. DOT to work collaboratively with State DOTs to develop a core set of data principles to guide data collection efforts such that the resources needed to acquire the data and information are minimized. These resources would include time, manpower, financial, IT, etc.

Developing increased consistency in data management without unduly burdening states is a herculean task. Individual states have already heavily invested in their data and are reluctant to execute a change that will not benefit them as an individual state. For this to work, the first priority is that USDOT must make every effort to allow utilization of current state efforts – so that any further data needs are minimal. However, to the extent that further data needs are meaningful, a significant funding source will need to be made available beyond normal funding for data purposes. If the funding of the data is merely an eligible expenditure where states will have to choose between data improvements and asphalt on the roads, data will always remain a secondary issue –
again, making it imperative that USDOT structure the performance measures and associated data assumptions in a way that minimizes any further data burden on the States and others. MAP-21 states that data for asset management is eligible for construction funds (NHPP and STP), and this wording should apply to all recognized data elements, not just within the asset management program.

Transportation Alternatives Program
MAP-21 authorizes funding for the Transportation Alternatives Program (TAP) which combines several previously eligible activities together including transportation enhancements, safe routes to schools and recreational trails, as well as including other activities such as environmental mitigation. TAP is funded at a level equal to two percent of the total of all MAP-21 authorized Federal-aid highway and highway research funds, with the amount for each State set aside from the State’s formula apportionments. Funding amounts are set aside proportionally from each State’s NHPP, STP, HSIP, CMAQ, and Metropolitan Planning apportionments to fund the State’s Transportation Alternatives Program activities.

Half of the TAP funds apportioned to each State must be suballocated by population in a manner identical that required for STP funding, and the remaining half can be obligated in any area of the state. States (or MPOs in the case of funding suballocated to TMAs) must develop a competitive process to allow eligible entities to submit projects for funding. For suballocated funding to TMAs, the MPO is required to select projects for funding. Both State DOTs and MPO are not eligible recipients of TAP funds (either as a project sponsor or to administer the program). However, it does take resources (time and money) to administer the TAP. In addition, a number of State DOTs have been project sponsors and implemented a number of programs that are now combined under TAP. Thus, it is important that States and MPOs be allowed to use a small portion of the TAP funds for administrative expenses and that they be allowed to receive grants to carry out projects.

Congestion Mitigation and Air Quality (CMAQ) Improvement Program
The CMAQ program was created to help states and metropolitan areas meet ambient air quality standards. The CMAQ program provides funds to states for transportation projects designed to improve air quality and reduce traffic congestion. MAP-21 generally retains the CMAQ program in its current form, with some new requirements. A portion of CMAQ funds must now be used for projects that reduce PM2.5 (in PM2.5 non-attainment or maintenance areas), and a performance plan is now required for large metropolitan areas to track progress towards achieving new performance targets. There remain many uncertainties about the details of these, and other, changes to the CMAQ program that will be addressed in future guidance from FHWA.

Prior to MAP-21, FHWA guidance set a three-year cap on the use of CMAQ funds for operating assistance.4 In June 2013, FHWA released Interim Guidance on CMAQ

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Operating Assistance under MAP-21. The interim guidance allows new transportation services (e.g., transit and passenger rail services, traffic operation centers, etc.) to "taper down" the last year of operating assistance over two additional years (i.e., to spend 3 years of operating assistance over a 5 year period).

**Discussion**

The metropolitan and statewide transportation planning processes are continued, largely in current form. However, the cornerstone of MAP-21 is the transition to a performance-driven and outcome-based approach to planning and programming. This is accomplished in many different areas of MAP-21 including the NHPP, STP, CMAQ, freight, new performance management provisions, and the planning provisions. The evolution of the planning process to a performance-based planning process will require State DOTs and MPOs to change how transportation planning is accomplished to meet federal requirements. This includes establishing new linkages between national, state and local goals, the establishment of targets, monitoring of performance and ultimately reporting and selecting projects. State DOTs will need to incorporate many different plans into the performance-driven process ranging from the long-range plan to asset management plans to freight plans.

AASHTO envisions the performance-based planning process as the umbrella under which all of the performance-based plans will be developed. As the performance-based plans are developed, there is some uncertainty about exactly how these plans will relate to and integrate with each other due to the complex nature of both the planning process and the particulars of the statutory requirements. AASHTO is currently waiting for U.S. DOT to release the updated joint planning rule that will define these new processes. Thus, many of the most substantial implementation issues related to the planning provisions remain unsettled, making it is impossible to gauge their effectiveness.

Planning-related changes proposed in legislation to reauthorize MAP-21 should be limited to only those aimed at simplifying processes and requirements, reducing administrative and regulatory burdens, and increasing flexibility so State DOTs and other agencies can better respond to the changing landscape and accelerate project delivery. Any new proposals for sweeping changes to the planning provisions that are of similar magnitude to those included in MAP-21 may only serve to distract agencies from the important work of thoughtfully implementing changes included in MAP-21. Even among the MAP-21 changes that have been implemented, it remains far too early to make conclusive determinations on the effectiveness of these changes, and to consider substantial new requirements.

The following bullets summarize the key MAP-21 reauthorization policies that AASHTO recommends with related to the planning provisions that are above and beyond the performance-based planning provisions:

- **Give MAP-21 time to be implemented before significant changes are made**—AASHTO recommends that MAP-21 be given time to work, especially in development of a performance-based approach to decision making, before significant changes/additional burdens are considered. However, changes
simplifying processes and requirements, reducing administrative and regulatory burdens, and increasing flexibility would be welcome.

- **Avoid imposing new administrative burdens through rulemakings and guidance**—AASHTO urges USDOT to reduce regulatory burdens and improve agency work practices consistent with the national goal of "reduced project delivery delays". In addition, states and metropolitan planning organizations need flexibility to accelerate implementation of projects to meet national and state goals. Rulemakings or guidance issued under MAP-21 should not impose restrictions or requirements beyond those that are necessary to implement the statute. This includes preserving existing flexibility regarding the content and scope of a State’s long-range transportation plans, including that requirements are met by a strategic, policy based statewide plan as well as by a project specific one.

- **Maintain existing balance of authority**—The existing balance of authority that currently exists among State DOTs, MPOs, and rural planning organizations should remain and not be upset or changed through new legislation, rulemakings, or guidance.

- **Ensure that “minimum conditions” standards for pavement and bridges do not force State DOTs to implement a “worst-first” approach to transportation asset management**—A core principle of transportation asset management is to provide the treatment at the right time in the life cycle of the asset. This may mean the option not to treat the worst item or segment first may be the most cost effective for the system. State DOTs are concerned that the new “minimum condition” requirements for NHS bridges and Interstate System pavement may force State DOTs into adopting a worst-first approach to asset management. AASHTO recommends that USDOT evaluate the impact that the “minimum condition” policies have had since there is an inconsistency between it and an asset management approach and determine whether or not the minimum condition levels are having any adverse effects.

- **Provide more flexibility to determine NHS routes**—MAP-21 resulted in the additional addition of thousands of miles of principal arterial routes to the NHS. In some instances, routes were added that are not appropriate for inclusion on the NHS. The States, in consultation with appropriate agencies should have the flexibility, in appropriate instances, and with notification to FHWA to remove routes that were added to the NHS in MAP-21. Congress should amend the legislation to clarify that States have the ability to remove routes from the NHS.

- **Make State DOTs eligible to receive Transportation Alternative Program funds**—Because State DOTs are not one of the eligible entities allowed to receive TAP funds, it becomes a financial burden on the States to implement, oversee and manage the various aspects of the TAP funds. In order to ensure a cost effective TAP is implemented, it is important that program management and oversight occur with regard to the TAP funds. State DOTs need the authority to spend a small amount of the TAP funds to conduct this oversight and ensure coordination of the many facets of the TAP funds. In addition, many of the programs that are funded through the TAP funds could be implemented efficiently through a State DOT, which would provide subject matter expertise
and economies of scale. Thus, MAP-21 should be amended to include State DOTs among the eligible recipients of the TAP funds.

- **Remove operations eligibility restriction from CMAQ**—The State DOTs support the FHWA guidance that provided increased flexibility to use CMAQ funding for operations over an extended 5-year period, rather than the three-year period allowed under previous guidance. But because operating assistance is an effective emissions reduction strategy, its eligibility should not be restricted at all. If USDOT does not modify existing guidance to remove the 5-year cap, Congress should direct the USDOT to remove the CMAQ eligibility restrictions related to operations.

- **Make PM 2.5 Consistency with PM-10 MAP-21 Requirements**—MAP-21 includes language that for areas under PM-10 nonattainment that are not consistent with PM 2.5. Specifically, that requiring obligation of the CMAQ funds in PM 2.5 non-attainment and maintenance areas should only apply when the non-attainment issue is resulting from transportation activities.

- **Use a collaborative approach to develop more consistent data practices**—U.S. DOT should work collaboratively with state DOTs in an effort to establish more consistent methodologies for collecting data related to implementation of the performance management requirements in MAP-21.
WHEREAS, The Moving Ahead for Progress in the 21st Century Act (MAP-21) was enacted on July 6, 2012; and

WHEREAS, While MAP-21 did not increase federal funding solely needed for transportation, it offered many other opportunities for States to improve and enhance the nation’s transportation system, including eliminating earmarks and providing significant new flexibility to State departments of transportation in the transferability of funding between programs; and

WHEREAS, Federal-aid highway system bridges are vitally important to the efficient movement of people and goods and it is important to maintain these bridges to ensure unimpeded access to the NHS; and

WHEREAS, Section 1405 of MAP-21 requires the use of positive protective measures in all work zones that offer workers no means of escape, which appears to include any and all work conducted on bridges and tunnels, regardless of duration of work zone, type of work conducted, amount of traffic, or speed of traffic, unless an engineering study conducted on each and every location determines otherwise; and

WHEREAS, This requirement will either unduly increase the cost and length-of-closure of smaller, short-term work zones and those with minimal traffic on bridges and in tunnels that otherwise may not typically warrant positive protection, or impose administrative burdens on state and local transportation agencies, public works departments, and other agencies conducting inspections and other short-term work on these facilities by requiring them to justify the lack of need for positive protection on every such project; and

WHEREAS, While Section 1503 of MAP-21 rightly increased the cost threshold for value engineering (VE) analyses and removed the VE requirement for non-NHS bridges and for design/build projects, States have concerns that the elimination of the option to use “other cost-reduction analyses,” which was previously found in 23 US Code Section 106(e)(2), could preclude the use of newer, more advanced tools for accomplishing these objectives, such as risk-based engineering; and

WHEREAS, Confusion has been created at the State and local level by inconsistent definitions and interpretations of terms such as “maintenance,” “preventive maintenance,” and “pavement preservation,” which are found in Section 1507 of MAP-21 as well as in technical assistance developed by the U.S. Department of Transportation and U.S. Department of Justice with respect to various types of pavement work; and

WHEREAS, MAP-21 funding authorizations expire on October 1, 2014;

NOW, THEREFORE BE IT RESOLVED, That AASHTO supports continuation of the federal-aid highway program simplification as well as the flexibility provided in the transfer of funding between the core highway programs; and

BE IT FURTHER RESOLVED, That states should have the flexibility to fund any non-NHS bridge on the federal-aid highway system under the National Highway Performance Program (NHPP); and

APPROVED BY THE AASHTO BOARD OF DIRECTORS – OCTOBER 21, 2013
BE IT FURTHER RESOLVED, That flexibility is vital in determining the appropriate use of positive protection in work zones to ensure the safety of both workers and the traveling public, as well as to ensure cost effectiveness, and that appropriate use should be determined at the project level by state and local transportation agencies; and

BE IT FURTHER RESOLVED, That flexibility is also needed in requirements regarding value engineering analyses to ensure that newer and better approaches are not discouraged; and

BE IT FURTHER RESOLVED, AASHTO recommends that the U.S. Department of Transportation and U.S. Department of Justice work with AASHTO, the State DOTs, and other stakeholders to ensure input from the transportation community and other stakeholders to determine an approach that achieves greater accessibility accommodation without imposing undue costs and delay on critical routine maintenance activities.
AASHTO Highways Work Group
MAP-21 Reauthorization Background Paper

Introduction
MAP-21 provided numerous positive changes to federal transportation law in the areas of program structure, flexibility, and transferability. While MAP-21 did not increase federal funding sorely needed for transportation, it offered many opportunities for States to improve and enhance the nation’s transportation system, including eliminating earmarks and providing significant new flexibility to States departments of transportation in the transferability of funding between programs.

The Highways Reauthorization Work Group started its work by reviewing the recommendations made during the previous reauthorization effort in 2008 (as well as the revised recommendations adopted in 2011), and comparing those recommendations to what was achieved in the MAP-21 legislation. For the most part, the language of MAP-21 provides significant benefits to the state DOTs in the area of highway and bridge maintenance and project delivery.

Previous AASHTO Policies versus MAP-21
Generally speaking, the highways provisions in MAP-21 were in-line with AASHTO’s reauthorization policy recommendations, as seen in the table below.

<table>
<thead>
<tr>
<th>AASHTO “Highways” Recommendations for SAFETEA-LU Reauthorization</th>
<th>Included in MAP-21?</th>
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<tbody>
<tr>
<td>Expand Flexibility in Tolling on Interstate System</td>
<td>Yes</td>
</tr>
<tr>
<td>Transferability between Interstate Maintenance, NHS, and Bridge Programs</td>
<td>Yes</td>
</tr>
<tr>
<td>Study to re-examine definition of Interstate and NHS</td>
<td>Yes</td>
</tr>
<tr>
<td>Expand flexibility in Bridge Program</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Issue Areas
Coordination with two other reauthorization work groups was essential in this effort, as, in many instances, the language in MAP-21 is cross-cutting in nature. For example, the Planning Work Group discussed issues surrounding the expansion of the National Highway System (NHS) and the inconsistency of the MAP-21 penalties imposed on Interstate pavements and NHS bridges, while the Project Delivery and Environmental Work Group handled advanced acquisition of right-of-way and other project delivery issues. For these items, the Highways Work Group supports the recommendations made by these other work groups, as noted in the “Additional Recommendations...” section at the end of this background paper.

Bridge Funding Flexibility
Federal-aid highway system bridges are vitally important to the efficient movement of people and goods, as these bridges link the economic drivers – the farms, the factories, the shopping malls, the big-box stores – to the facilities that allow for long-haul transport from coast to coast. It is vitally important
to maintain these bridges in optimal condition — e.g., without load restrictions — to ensure unimpeded access of our country’s economic generators to the National Highway System.

The consolidation of programs within MAP-21 placed funding for the bulk of the nation’s bridges into the Surface Transportation Program (STP), which has a multitude of competing interests and less than half the funding of the National Highway Performance Program (NHPP). While it is understood that the NHPP is intended to focus on the highest-level facilities across the country, the critical nature of federal-aid highway system bridges and their ability to connect (or strand) areas or communities makes their upkeep as important to the purpose and function of the NHS as the upkeep of the NHS facilities themselves. Thus, AASHTO believes that States should have the flexibility to fund non-NHS bridges that are on the federal-aid highway system under the National Highway Performance Program (NHPP).

Positive Protection in Work Zones
While AASHTO holds the safety of the construction workforce in the highest regard, the implementation of the positive protection requirements of Section 1405 of MAP-21, “Highway Worker Safety,” could have unintended consequences that undermine the goals of the law.
As noted by FHWA in a 2006 proposed rule on positive protection, worker fatalities due to intrusions are an extremely small percentage of the fatalities that occur in work zones. Congress must be careful not to mandate solutions for all situations that may increase protection for a small number of workers at the expense of increasing the much larger percentage of work zone fatalities that are experienced by the traveling public. Specifically, the requirement for “...positive protective measures...to separate workers on highway construction projects from motorized traffic in all work zones conducted under traffic in areas that offer workers no means of escape (such as tunnels and bridges), unless an engineering study determines otherwise...” is unnecessarily restrictive in its wording. There are many situations where barriers are not reasonable options — such as for short-term operations such as bridge inspections or survey crews, or for mobile operations such as striping — and transportation agencies should not be restricted from considering alternative intrusion countermeasures.

In addition, the phrase “unless an engineering study determines otherwise” involves having to prove a “negative” concept — i.e., proving that something is not needed — which is extremely difficult to accomplish in a court of law and will leave the States open to unnecessary litigation. Thus, these statements will become default requirements.

State DOTs need flexibility for “project-by-project” solutions, as opposed to a “one-size-fits-all” approach. Engineers must be able to use their expertise and engineering judgment, in conjunction with such references as the federal Manual on Uniform Traffic Control Devices and the AASHTO Roadside Design Guide, to create solutions that are the most appropriate for each given project.

Value Engineering
Value engineering has been supported by the State DOTs for many years, and AASHTO has had a technical committee devoted to advancing the state-of-the-practice in this area for almost two decades. MAP-21 provided several common-sense adjustments to the value engineering program at the federal level, including increasing the monetary thresholds for projects on which value engineering is required, and removing the requirement for value engineering studies on non-NHS bridges (typically the smaller, run-of-the-mill bridges) and for design-build projects (which inherently has aspects of value engineering embedded within the project development process).
However, AASHTO is concerned that one very small change in language between the SAFETEA-LU and MAP-21 versions of the Value Engineering section – the removal of the words “or other cost-reduction analysis” from the section describing the analysis a state is required to provide – could result in restricting the potential development of newer, more robust processes to evaluate cost effectiveness more comprehensively within the project development process. For example, Utah DOT has developed a process they call “risk-based engineering” which accomplishes many of the same objectives as a traditional value engineering study in a more integrated way.

**Timely and Cost-Effective Maintenance**

Section 1507 of MAP-21 revised the definition of “preventive maintenance” to include “pavement preservation programs and activities,” defining the latter as “...programs and activities employing a network level, long term strategy that enhances pavement performance...”. These activities are crucial maintenance activities that prevent pavements from deteriorating prematurely and ensure that the significant investment made in the construction or rehabilitation of the pavement is not wasted.

However, recent technical guidance from USDOT and USDOJ likens many preventive maintenance and pavement preservation activities to reconstruction or rehabilitation activities, which causes additional federal requirements to be triggered, thus adding complexity and delay to many simple maintenance activities and potentially reducing their use, to the detriment of the system and its long-term performance.

**Reauthorization Recommendations from the Highways Work Group**

AASHTO supports the continuation of the consolidated federal highway programs within MAP-21, as well as the flexibility provided in the transfer of funding between major subsets of this program.

However, there are a few areas that that need clarification related to the highway provisions. These include the following:

- **Flexibility to Fund Needed Bridge Reconstruction/Rehabilitation**—In order to ensure the connectivity of our nation’s economic drivers to the National Highway System, States need the flexibility to fund non-NHS bridges on the federal-aid highway system under the National Highway Performance Program (NHPP).

- **Appropriate Use of Positive Protection in Work Zones**—Flexibility is vital in determining the appropriate use of positive protection in work zones to ensure the safety of both the workers and the traveling public, as well as to ensure cost effectiveness. The majority of deaths and injuries within work zones actually comes from the vehicles operating within the work zone itself, as opposed to vehicles intruding upon the work zone from the travelway.\(^1\) Thus, the appropriate use of positive protection measures is best determined at the project level by state and local transportation agencies.

- **Ensuring the Best Use of Value Engineering**—Flexibility is needed in current requirements (based on changes made as a result of MAP-21) regarding value engineering analyses to ensure that newer and better approaches are not discouraged. The current requirement for value engineering procedures, without acknowledgement that newer, more robust techniques for analyzing project costs and benefits are being developed and utilized by various transportation
agencies, such as “risk-based engineering,” could unintentionally limit further advances in project management.

- **Ensuring that Needed Roadway Maintenance is Conducted in a Timely and Efficient Manner**—AASHTO requests that USDOT and USDJO work with the State DOTs and other stakeholders to determine an approach that achieves greater accessibility while also ensuring that critical routine maintenance activities continue to be conducted without undue cost and delay.

Overall, AASHTO urges Congress and USDOT to ensure continued flexibility in the delivery of the federal transportation program, and to reduce regulatory burdens and improve agency work practices consistent with the national goal of reducing project delivery delays.

**Additional Recommendations Supported by the Highways Work Group**

**Address Secondary Impacts of NHS Expansion**

Section 1104 of MAP-21 expanded the National Highway System (NHS) from 160,000 miles to 220,000 miles, including the addition of all principal arterial routes that connect to the NHS. With that expansion came NHS requirements that now apply to many more facilities, including many locally-owned facilities over which State DOTs have little control but will be held accountable within their performance management systems. The added cost of complying with the increased responsibilities and regulations associated with the expanded NHS have financial implications for transportation agencies that were not addressed in MAP-21. In addition, compliance with federal requirements – such as the development of a state transportation asset management plan – poses challenges in bringing together all the agencies with jurisdiction over NHS road miles.

The Highways Work Group supports the Planning Work Group’s recommendation with regard to allowing FHWA the flexibility to remove routes added to the NHS in MAP-21.

**Consistency of Approach for Maintaining Interstates and NHS Bridges**

As noted in the recommendations from the AASHTO Planning Work Group, penalties within the “Interstate System and NHS Bridge Conditions” (Section 1106, National Highway Performance Program) section of MAP-21 are inconsistent with an asset management approach, which is required in other sections of MAP-21. MAP-21 requires USDOT to establish “minimum condition” levels for NHS bridges and for Interstate System pavement. If the minimum conditions are not met, the State would be required to redirect certain funds to improve those conditions until the minimum conditions are met. These minimum condition levels for bridges and pavement effectively “trump” the asset management plan and will lead states to a “worst first” approach, which is more costly and will not achieve the most efficient system improvements in the long run.

AASHTO recommends continuing to focus on advancing the asset management approach to maintaining transportation infrastructure in its optimal condition.

**Early Acquisition of Right of Way**

AASHTO supports the continuation of MAP-21’s right-of-way provisions, which broadened States’ ability to acquire right-of-way prior to completion of the NEPA process, using both Federal and non-Federal funds.
Two-Phased Contracting
AASHTO also continues to support MAP-21’s provision directing USDOT to promulgate regulations to allow States to enter into two-phased contracts that include preconstruction and construction services.

1 http://www.ops.fhwa.dot.gov/wz/resources/facts_stats/injuries_fatalities.htm
WHEREAS, the Moving Ahead for Progress in the 21st Century Act (MAP 21 enacted on July 6, 2012) includes significant freight provisions; and

WHEREAS, the National Freight Network (NFN) provision of MAP 21 (23 USC 167), defines and sets deadlines and requirements for the establishment of a National Freight Network, including the State designation of critical rural freight corridors, requires the National Freight Network to be designated no later than October 1, 2013, and

WHEREAS, the National Freight Strategic Plan provision of MAP 21 (23 USC 167) requires DOT to develop a national freight strategic plan in consultation with States and other stakeholders by October 1, 2015 and to update the plan every five years; and

WHEREAS, MAP 21 funding authorizations expire on October 1, 2014; and

WHEREAS, States vary widely in the extent and current condition of their highway systems, their dependency on federal funding and other factors that impact the performance of the highway system in each State; and

WHEREAS, all States are committed to improving their highway systems, as well as other modes of freight transportation, to meet the mobility and access needs of millions of tons and billions of dollars in value of commercial goods.

NOW, THEREFORE BE IT RESOLVED, that the member States of AASHTO recognize that, in addition to the goals already set forth in the national freight policy, such as strengthening competitiveness, increasing productivity, and reducing congestion, a goal must be added recognizing the importance of the ability to move goods long distances across rural areas between population centers and between population centers and rural areas, and the policy must also reference the multi-modal and intermodal nature of freight transportation in achieving the goals for efficient freight movement; and

BE IT FURTHER RESOLVED, that AASHTO urges Congress to provide additional flexibility to enable States to designate or include additional segments beyond the NFN’s current primary freight network mileage cap of 30,000 plus all other Interstates. Congress should allow flexibility for States to designate additional key commerce corridors as Critical Rural Freight Corridors based on their unique rural freight conditions and movements; and

BE IT FURTHER RESOLVED that AASHTO urges Congress to provide enhanced eligibility and flexibility for States to support multi-state corridor planning and/or multi-state organizations in order to enhance the ability to address multi-state projects and funding to improve freight intermodal connectivity; and

BE IT FURTHER RESOLVED that AASHTO urges Congress to seek increased funding for the overall surface transportation program, including for eligible freight strategies and projects; and

BE IT FURTHER RESOLVED that AASHTO urges Congress to retain the 95/5 and 90/10 increased federal matches for eligible highway freight projects and urges Congress to further

APPROVED BY THE AASHTO BOARD OF DIRECTORS – OCTOBER 21, 2013
increase flexibilities of federal-aid to incentivize projects that improve freight mobility without creating new programs; and

BE IT FURTHER RESOLVED that AASHTO member States experience and best practices in State Freight Planning and State Freight Advisory Committees should be the basis for creating the national strategic freight plan; and

BE IT FURTHER RESOLVED that the member States of AASHTO support the use of performance measures and management as a management tool while remaining steadfast in their opposition to using performance measures as the basis for apportioning or allocating federal funds among the States. Congress should retain the existing freight performance measures provisions and not adopt new procedures or measures until the States have adequate time to implement the freight performance measures provisions established in MAP 21; and

BE IT FURTHER RESOLVED that AASHTO urges Congress to reestablish a properly funded and staffed Office of Multimodal Freight Transportation under the Office of the US DOT Secretary with responsibilities that would include international freight transportation issues; and

BE IT FURTHER RESOLVED that AASHTO urges Congress to seek funding within funds allocated to transportation research to reestablish the highly successful National Cooperative Freight Research Program.
Introduction
MAP-21 contains significant freight provisions that for the first time in federal surface transportation law explicitly addresses the goal of increasing US global competitiveness through the efficient movement of commercial goods. This is done by establishing national freight policy, a national freight strategic plan, and a national freight network through statewide freight planning, data driven decision making, and performance measures.

Previous Policies versus MAP-21

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<thead>
<tr>
<th>AASHTO</th>
<th>MAP-21</th>
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</thead>
<tbody>
<tr>
<td>1. Establish a framework for freight policy, planning, operations, and investment by further defining the nation's freight transportation system, the demand for freight transportation, and the associated infrastructure requirements</td>
<td>YES</td>
</tr>
<tr>
<td>2. State-driven multistate, multimodal corridor planning and investment organizations with certain eligibilities for funding</td>
<td>NO</td>
</tr>
<tr>
<td>3. Defer creation of new freight transportation program unless new resources outside the Highway Trust Fund become available</td>
<td>YES</td>
</tr>
<tr>
<td>4. Continue freight eligibilities for existing programs</td>
<td>YES</td>
</tr>
<tr>
<td>5. Create USDOT Office of Multimodal Transportation</td>
<td>NO</td>
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</tbody>
</table>

Issue Areas

National Freight Network (NFN) – Requires DOT to establish a national freight network to assist States in strategically directing resources toward improved movement of freight on highways. The national freight network will consist of three components:

1. (1) a primary freight network (PFN), as designated by the Secretary,
2. (2) any portions of the Interstate System not designated as part of the PFN, and
3. (3) Critical Rural Freight Corridors.

DOT must designate the PFN within one year of enactment of MAP-21. When initially designated, the PFN may contain a maximum of 27,000 centerline miles of existing roadways that are most critical to the movement of freight. DOT may add to the PFN up to 3,000 additional centerline miles of roads critical to future efficient movement of goods on the PFN. States will designate the critical rural freight corridors using criteria contained in MAP-21.
**National freight strategic plan**— Directs DOT to, within three years of enactment of MAP-21, develop a national freight strategic plan in consultation with States and other stakeholders, and to update the plan every five years. The plan must—

- assess the condition and performance of the national freight network;
- identify highway bottlenecks that cause significant freight congestion;
- forecast freight volumes;
- identify major trade gateways and national freight corridors;
- assess barriers to improved freight transportation performance;
- identify routes providing access to energy areas;
- identify best practices for improving the performance of the national freight network and mitigating the impacts of freight movement on communities; and
- provide a process for addressing multistate projects and strategies to improve freight intermodal connectivity.

**Prioritization of projects to improve freight movement** – Authorizes DOT to allow a maximum Federal share of 95% for an Interstate System project (or of 90% for a non-Interstate System project) if the project makes a demonstrable improvement in the efficiency of freight movement and is identified in a State freight plan.

**State freight advisory committees and freight plans** – Requires DOT to encourage each State to establish a freight advisory committee composed of a representative cross-section of public- and private-sector freight stakeholders. Also requires DOT to encourage each State to develop a comprehensive plan for its immediate and long-range freight-related planning and investment.

Directs DOT to develop or improve data and tools to support an outcome-oriented, performance-based approach to evaluating proposed transportation projects. Directs DOT to consider improvements to existing freight flow data collection.

**Performance** – Within 18 months of enactment, requires DOT (within a broader rulemaking on performance) to establish measures for States to use to assess freight movement on the Interstate System. Requires each State to set performance targets in relation to these measures and integrate the targets within its planning processes. States must also report periodically on their progress in relation to the targets and on how they are addressing congestion at freight bottlenecks. Requires each MPO to set performance targets in relation to the freight measures, integrate these targets within their planning processes, and report periodically on their progress in relation to these targets.

**Discussion**

AASHTO continues to engage the FHWA and the USDOT on these issues and anticipates the release of guidance and rule-making related to the freight provisions of MAP-21. AASHTO has previously filed comments in response to US DOT’s Federal Register notice setting forth Interim Guidance on State Freight Plans and State Freight Advisory Committees (Nov. 2012).

Additionally, two AASHTO Board of Directors members serve on the USDOT National Freight Advisory Committee (NFAC), tasked with providing recommendations to the Secretary on the national freight strategic plan and related issues.
There are a number of areas that State DOTs believe should be addressed in the next Congressional surface transportation authorization. These include the following:

- **National Freight Policy** – In the national freight policy set forth at 23 USC 167 Congress has set forth a number of goals, including strengthening competitiveness, increasing productivity and reducing congestion. We recommend that Congress add a goal to improve the ability to move goods long distances across rural areas between population centers and between population centers and rural areas. In addition, we recommend that National Freight Policy reference the multi-modal and intermodal nature of freight transportation in achieving the goals for efficient freight movement.

- **National Freight Network (NFN)** – The primary freight network of the NFN is defined as 27,000 center-line miles (with a possible 3,000 mile increase), plus any Interstate highways not included in these 30,000 miles. The NFN also includes State identified Critical Rural Freight Corridors.

  We believe that the designation criteria are too restrictive and recommend that Congress provide additional flexibility to enable States to designate or include additional segments beyond the current NFN mileage cap of 30,000 plus all other Interstates.

  Additionally, the requirements for States to define the Critical Rural Freight Corridors component of the NFN do not adequately recognize the diverse nature of freight movement within and between States. Congress should allow more flexibility for States to designate corridors as Critical Rural Freight Corridors based on their unique rural freight conditions and movements.

- **Multistate freight corridor planning** – Because bottlenecks on a national freight system can inhibit freight mobility across many states, Congress should provide enhanced eligibility for States to support multi-state corridor planning and/or multi-state organizations in order to enhance the ability to address multi-state projects and strategies to improve freight intermodal connectivity.

- **Incentives to Give Priority to Projects to Improve Freight Movement** – Historically, passenger mobility has been the predominant driver for surface transportation investment. MAP 21 provided an incentive with an increased Federal match to encourage States to give priority to projects to improve freight movement.

  In reauthorizing MAP 21, Congress should retain the 95/5 increased federal match for eligible interstate highway freight projects and the 90/10 increased federal match for eligible highway freight projects. Congress should continue to seek increased funding for the overall surface transportation program, including for eligible freight strategies and projects.

- **Performance** – The transportation community has worked diligently with U.S. DOT to identify national-level measures that will work with existing data sources, technologies and processes. To fully implement the new performance measures and performance based planning and programming will take several years beyond the current authorization period. In order to provide time for implementation and to assess its effectiveness, Congress should retain the existing freight performance measures
provisions and not adopt new procedures or measures until the States have adequate
time to implement the performance management standards set in MAP-21.

- **Office of Multimodal** – There is no institutional mechanism within the US DOT to address
the multi-modal national freight planning needs across the various modal
administrations. Congress should reestablish a properly funded and staffed Office of
Multimodal Freight Transportation within the U.S. DOT Office of the Secretary with
responsibilities that would include international freight transportation issues.

- **National Cooperative Freight Research Program** – The National Freight Cooperative
Research Program (NCFRP), authorized under SAFETEA-LU for $5 million, was not
reauthorized in MAP-21. NCFRP has produced numerous research products that
provide significant assistance to States in their delivery of freight transportation projects.
Congress should seek funding from within the funds allocated to transportation research
to reestablish this successful program.
Policy Resolution PR-10-13
Title: MAP-21 Surface Transportation Reauthorization Policy Resolution on Public Transportation

WHEREAS, improved public transportation is in the public interest for many reasons; and

WHEREAS, MAP 21 made significant changes to the funding distribution structure of the federal program for the Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310); and

WHEREAS, a streamlined and efficient grant approval process is critical to the timely allocation of needed funds for public transportation services and infrastructure investments; and

WHEREAS, the current bus/bus facilities formula program is inadequately funded and the absence of a discretionary component severely hampers the ability of agencies to fund needed projects and vehicle replacements; and

WHEREAS, in MAP 21 the 5311(f) program requires a state to expend at least 15 percent of the amount made available each fiscal year to carry out a program to develop and support intercity bus transportation; and

WHEREAS, Congress plays a critical role in promoting affordable public transportation for all citizens and the tax code should allow for parity of fringe benefits of parking and public transportation as well as provide the tax credit for alternative fuel consumption for all public transportation vehicles; and

WHEREAS, the definition and eligibility for capital projects under the CMAQ program are interpreted differently between the Federal Transit Administration and the Federal Highway Administration.

NOW, THEREFORE BE IT RESOLVED, that AASHTO continues to endorse policies that: will enable a doubling of public transportation ridership over the next twenty years; and, to keep pace with rising demand for rural public transportation, federal funding for rural public transportation should more than double over the next six year authorization period, provided, however, that transit program funding should be increased at a growth rate comparable to that of the highway program.

BE IT FURTHER RESOLVED, in order to best address where state-wide needs exists, that the Section 5310 program funds be administered by the state on behalf of FTA and not sub-allocated to urbanized areas.

BE IT FURTHER RESOLVED, to reduce the administrative burden placed on FTA, state DOTs and their sub- recipients, AASHTO recommends the development of a pilot program to allow a subset of pre-approved eligible projects to be processed immediately upon appropriation of funds and also looks forward to working with Congress, FTA and others to find additional ways to avoid unnecessary administrative burdens to the Federal Transit Program.

BE IT FURTHER RESOLVED, AASHTO urges that the bus/bus facilities (5339) program be administered similar to the 5307 (formula) program and that funding for the formula portion of the bus/bus facilities program be maintained. If additional funding should be available to the

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Section 5339 program, it should be administered with both formula and discretionary components.

**BE IT FURTHER RESOLVED,** AASHTO recommends increased flexibility and project eligibility of the Intercity Bus program.

**BE IT FURTHER RESOLVED,** Congress should extend and increase the employer provided pre-tax qualified transportation fringe benefit level for parking, and should extend and make permanent the current per gasoline gallon equivalent tax credit for alternative fuel consumption for all public transportation support vehicles.

**BE IT FURTHER RESOLVED,** AASHTO recommends that CMAQ project eligibility be expanded to amend the definition of capital to include capital improvements to transit stations, station passenger circulation and accessibility and expanding overall station capacity.
AASHTO Public Transportation Team
MAP-21: Public Transportation Background Paper

Introduction
An efficient, safe and environmentally sound public transportation system is essential to moving people in both rural and urban areas, and is a critical part of the nation’s multimodal transportation infrastructure and services. The nation’s extensive public transportation network is essential to the economy of the United States. It connects workers to jobs and employers to labor markets. Public transportation also provides basic mobility options for elderly individuals, individuals with disabilities and low-income individuals within urban areas, small towns, villages and rural areas. Public transportation also plays a significant role in state and national efforts to mitigate traffic congestion, to conserve fuel, to enhance the efficiency of highway transportation, to address air quality issues, and to support security and emergency preparedness activities.

MAP-21 authorized $10.6 billion in FY2013 and $10.7 billion in FY2014 for the federal transit programs. A number of programs were simplified or consolidated, with discretionary programs being greatly reduced and the most funds being delivered through core formula programs. Under the new law, much of the federal transit program structure is retained. A new state of good repair program replaced the fixed guideway modernization program. The Bus and Bus Facilities program was replaced by a smaller program that distributes funds under a formula, and finally a new asset management system, a state of good repair and a safety and security programs were all created. The previous Job Access and Reverse Commute Program (JARC) program and New Freedom (NF) Programs both expired on September 30, 2012. Job access and reverse commute activities are now eligible under the Urbanized Area Formula program (5307) and the Rural Area Formula program (5311) and activities eligible under the former New Freedom program are now eligible under the Enhanced Mobility of Seniors and Individuals with Disabilities program (5310).

While the Federal Transit Administration is currently in the process of issuing guidance on a number of these transit programs, AASHTO recommends the following policy changes be reflected and incorporated into the next transportation authorization.

Previous Policies versus MAP-21
MAP-21 includes a number of policies that were previously endorsed by AASHTO. As seen in the table below, some of these positions include preserving a strong federal partnership, maintaining a separate transit account within the Highway Trust Fund and the preservation of 80 percent federal match for formula and capital programs. Despite a number of notable accomplishments, MAP-21 also resulted in a number of unintended consequences. For example through the formularization of the previously discretionary bus/bus facilities program, a number of states are now receiving significantly less funds to make these necessary investments then they were under SAFETEA-LU. While implementing a formula for this program was supported by AASHTO it was believed that the funding level would remain constant or increase. This and a number of other short comings along with suggestions for how to strengthen the federal transit program are reflected in the issue areas listed below.
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<thead>
<tr>
<th>AASHTO Policy</th>
<th>MAP-21</th>
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<tbody>
<tr>
<td><strong>Recommendation</strong>: Provide operating assistance eligibility for small transit systems in large urbanized areas.</td>
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</tr>
<tr>
<td><strong>Recommendation</strong>: Preserve a strong federal partnership.</td>
<td>✔️</td>
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<tr>
<td><strong>Recommendation</strong>: Maintain a separate transit account within the HTF; preserve the historical general fund contribution to transit.</td>
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</tr>
<tr>
<td><strong>Recommendation</strong>: Simplify and Streamline the current federal grant approval process.</td>
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<td><strong>Recommendation</strong>: Preserve a “needs based” approach to the distribution of formula funds.</td>
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</tr>
<tr>
<td><strong>Recommendation</strong>: Streamline the Fixed Guideway Modernization Program by replacing the current seven tier apportionment formula with a simpler two-tier approach.</td>
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<td><strong>Recommendation</strong>: Formulate discretionary bus/bus facilities program funding.</td>
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<tr>
<td><strong>Recommendation</strong>: Consolidate the New Freedom Program and eligible program activities into Elderly Individuals/Individuals with Disabilities Program.</td>
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</tr>
<tr>
<td><strong>Recommendation</strong>: Consolidate the Job Access and Reverse Commute (JARC) Program and eligible program activities into the urbanized and rural formula programs.</td>
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<tr>
<td><strong>Recommendation</strong>: Streamline and simplify the New Starts Program review and approval process.</td>
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<td><strong>Recommendation</strong>: Preserve 80 percent federal matching share for formula and capital programs.</td>
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<td><strong>Recommendation</strong>: Amend Buy America to require that vehicle manufacturers self-certify compliance to FTA.</td>
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<tr>
<td><strong>Recommendation</strong>: Restore parity for pre-tax transit pass benefit (e.g., TransitChek) with the current benefit level for parking.</td>
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<tr>
<td><strong>Recommendation</strong>: Restore the gasoline gallon equivalent tax credit for alternative fuel public transportation vehicles.</td>
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<tr>
<td><strong>Recommendation</strong>: Amend the FTA Charter Rule to allow greater flexibility for public transportation for special events/activities.</td>
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**MAP-21 Transit Provisions**

**CONSOLIDATED PROGRAMS**

**Formula Grants for Rural Areas (Section 5311)**
The Rural Formula Program (Section 5311) provides capital, planning and operating assistance to support public transportation in rural areas of fewer than 50,000 residents. Total funding is $600
million in FY 2013 and $608 million in FY 2014. Funding is based on a formula that uses land area, population and transit service. The program remained relatively unchanged with the following exceptions:
  o Job Access and Reverse Commute (JARC) program activities, such as providing services to low-income individuals to access jobs are now eligible under the Rural Area Formula Program.
  o The set-aside for State for administration, planning and technical assistance was reduced from 15 to 10 percent.

Enhanced Mobility of Seniors and Individuals with Disabilities (Section 5310)
The Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310) program provides formula funding to increase mobility of seniors and persons with disabilities. Funds are apportioned based on each State's share of the targeted population. Starting in MAP-21 the funds are now apportioned to both States (for all areas under 200,000) and large urbanized areas (over 200,000). The funding allocations are now, 60% to designed recipients in urbanized areas, 20% to state for small urbanized areas and 20% to states for rural areas.

At least 55 percent of program funds must be spent on capital projects that were previously eligible under the former section 5310, which includes public transportation projects planned, designed and carried out to meet the special needs of seniors or individuals with disabilities when public transportation is insufficient, inappropriate or unavailable. The remaining 45% may be used for public transportation project that exceed the requirements of ADA, that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit or alternatives to public transportation that assist seniors and individuals with disabilities.

In addition the former New Freedom program is consolidated into this program. Activities that were eligible under New Freedom are now eligible under Section 5310.

NEW PROGRAMS
MAP-21 also saw the expansion of the federal role into a number of new areas, including a state of good repair program, asset management, performance measurements and safety and security. While the state DOTs wait for FTA to issue guidance on a number of these programs, AASHTO will continue to engage in discussions with our federal partners in developing the most efficient program possible that strive to achieve the intended goals of the programs while minimizing the burden placed on those providing and administering these critical public transportation services. As a result of how these new programs are implemented it is expected that AASHTO will need to expand our policy recommendations to recognize these new programs and the implications they will have on the state DOTs.

State of Good Repair Program (Section 5337)
MAP-21 establishes a new grant program to maintain public transportation systems in a state of good repair that replaces the fixed guideway modernization program (5309). Funding is limited to fixed guideway systems and high intensity bus.

Bus and Bus Facilities Formula Grants (Section 5339)
This is a new formula grant program created in MAP-21. It replaces the previous Section 5309 discretionary Bus and Bus Facilities program. This capital program provides funding to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. Authorized funding is $422 million in FY 2013 and $428 million in FY 2014. Each year, $65.5 million will be allocated with each state receiving $1.25 million and each territory (including DC
and Puerto Rico) will receive $500,000. The remaining funds will be distributed by formula based on population, vehicle revenue miles and passenger miles.

Public Transportation Safety Program (Section 5329)
In MAP-21, FTA is given the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation. This will include the development of safety performance criteria for all modes, development of agency safety plans, and a requirement of a State Safety Oversight (SSO) program in States with heavy rail, light rail and streetcar systems.

Transit Asset Management (Section 5326)
MAP-21 requires FTA to define the term “state of good repair” and create objective standards for measuring the condition of capital assets, including equipment, rolling stock, infrastructure and facilities. All FTA grantees and their sub-recipients are required to develop transit asset management plans.

Discussion
AASHTO continues to endorse policies that will enable a doubling of public transportation ridership over the next twenty years and to keep pace with rising demand for rural public transportation federal funding for rural public transportation should more than double over the next six year authorization period. These policies are to be read in conjunction with AASHTO’s policy that transit program funding should be increased at a growth rate comparable to that of the highway program.

Consolidation was a key component of MAP-21 and as programs are consolidated funding for the programs should continue with savings resulted from administration of separate programs going into the core program areas.

While we continue to support the reforms in MAP-21 we recommend the following modification in the reauthorization of MAP-21:

- **Return the 5310 program** ([Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities]) to a statewide/state-administered program so that funds can be used to address those areas within a state with the greatest need. The 5310 program, set up to enhance mobility for seniors and individuals with disabilities, is a program that prior to MAP 21 was administered on a state wide basis where the various needs and demographics of the entire state could be taken into consideration. This allowed states to use these funds to fill gaps in service, such as areas not served by fixed route transit and complimentary ADA paratransit. In MAP-21, funding was changed to a formula distribution with a mandated geographic distribution of the funds within a state -- 60% going to urban areas, 20% to small urban and 20% to rural needs. Forcing this geographic distribution of the funds and splitting administration of funding up among multiple designated recipients within a state decreases the effectiveness of the program.

- **Establish a pilot program to demonstrate simplification and streamlining of the current federal grant approval process for routine, on-going projects.** To reduce the administrative burden placed on FTA, State DOTs and their sub-recipients, a pilot program should be developed to explore more efficient methods to connect federal funds to a specific project. A pilot program would allow designated recipients to expend federal funds upon appropriation for a specific set of pre-approved eligible projects such as replacement of revenue vehicles that have reached their useful life, eliminating the need for a lengthy grant
approval process for these routine expenditures. Confirmation that the funds were expended consistent with federal regulations would be made in accordance with the existing state review processes and if needed, annual status review. The state DOTs also look forward to working with Congress, FTA and others to find additional ways to avoid unnecessary administrative burdens to the Federal Transit Program.

- **Maintain formula distribution of the Bus and Bus Facilities Formula Program (Section 5339).** If additional funding should be added to the program, it should be administered with both formula and discretionary components. States should have flexibility to transfer funds to small urban areas similar to other federal funding programs (i.e., formula funds). The goal of this modification would be to maintain existing distribution of funds under MAP-21 and if program funding increase funds would be administered with both formula and discretionary components. Keeping the formula program created in MAP-21, but reintroducing a discretionary component will ensure a small, guaranteed annual allocation to each designated recipient to address routine infrastructure needs (such as vehicle replacement), while allowing larger, less routine projects (such as major facility improvements) to compete for additional funding on an “as-needed” basis.

In MAP-21 funding for the Section 5339 program was reduced by more than 50 percent and was consolidated into the urban and rural formula programs. With these changes the funding for this program is not sufficient to enable rural and small urban areas to purchase new buses or build bus facilities.

In addition, under current language in MAP-21, transit providers in small urban areas are not allowed to directly access Section 5339 Bus and Bus Facilities program funds from FTA and are instead required to go through the states for these funds. This places small urban transit agencies in the position of working with the state to access some of their federal funds and FTA for some of their federal funds, which is an inherently inefficient result. It also requires both the state and FTA to provide oversight to the same small urban agency, which is also inefficient. It is requested that the 5339 program (Bus and Bus Facilities) be amended to remain consistent with other formula programs (for example the section 5307 program) and allow the small urban areas to directly apply for and administer federal funds for their areas.

- **Increase flexibility and project eligibility under the Intercity Bus Program (Section 5311(f)) to better meet rural intercity mobility needs.** The program should be clarified to ensure the funding can be used effectively within each state to meet rural intercity mobility needs. Section 5311(f) is a set-aside within the rural formula program, specific for rural *intercity* mobility. It has and should continue to have a strong focus on “intercity bus” as the specific method of delivering that mobility. However, clarification is needed to ensure the funds can be used for planning, marketing, operating and/or capital improvements for rural public transportation when it supports intercity mobility. In addition, when determining what portion of the 15% set-aside will be used specifically for traditional intercity bus service (i.e., interstate service which is part of the national intercity bus network), a state should be able to consider the needs of rural areas for local and regional (intra-state) public transportation.

- **Extend and increase the employer provided pre-tax qualified transportation fringe benefit for public transportation to the current benefit level for parking and extend**
and make permanent the current per gasoline gallon equivalent (gge) tax credit for alternative fuel consumption for all public transportation vehicles, including support vehicles. These are important tax policies that would support the goal of doubling transit ridership over the next twenty years and are consistent with previous reauthorization efforts. Maintaining these provisions will help to ensure that both urban and rural public transportation riders are not discouraged from utilizing our public transportation system.

- **Amend the Congestion Mitigation and Air Quality Improvements (CMAQ) Program definition of project eligibility to include station platform expansions, improving overall station passenger circulation and accessibility and expanding overall station capacity.** The Federal Transit Administration (FTA) defines projects that expand station platforms, projects that improve overall station passenger circulation and accessibility as well as station capacity as capital investments and therefore eligible for operating assistance. The CMAQ program does not define such activities as capital investments. This provision would clarify the definition to be consistent with the FTA definition.
WHEREAS, the Moving Ahead for Progress in the 21st Century Act (MAP 21) was enacted on July 6, 2012 and amended Section 150 of title 23, United States Code to focus the Federal-aid highway program on seven national goals; and

WHEREAS, MAP 21 funding authorizations expire on October 1, 2014; and

WHEREAS, all states aim to reduce fatal and severe injury crashes and the Federal-aid highway program is a significant factor in the success states are able to achieve.

NOW, THEREFORE BE IT RESOLVED, because selected Section 405 grant program qualification requirements, such as those for the Graduated Driver's License programs, are too restrictive, the requirements should be broadened so additional states can meet these eligibility requirements and qualify for grant funds.

BE IT FURTHER RESOLVED, the overall NHTSA grant program should be made more flexible by giving more funding emphasis to the Section 402 program and by providing more flexibility to use other grant program funding for 402 type projects.

BE IT FURTHER RESOLVED, because requirements to create specific statewide programs do not allow states to tailor their safety programs to statewide needs, states with alternative provisions in state laws that meet the intent of the federal legislation (such as an alternative and equally strong punishment for repeat DUI convictions) should receive grant funding and should have flexibility to tailor safety programs that demonstrate substantial compliance without penalty.

BE IT FURTHER RESOLVED, because oftentimes maintaining current performance or reducing the rate at which performance is declining demonstrates a successful program, states that have established specific safety performance targets that demonstrate efforts toward improvement (such as lower fatality rate) should not be penalized.

BE IT FURTHER RESOLVED, though the data-driven and multidisciplinary approach is embraced by all states, special rules limit states' ability to use this approach. Penalties that require states to focus resources on a particular issue, such as high risk rural roads, when a comprehensive evaluation of their data may not demonstrate a need for this, should be eliminated.

BE IT FURTHER RESOLVED, neither variations in numerous roadway crash factors within individual states nor the impact of those variations on safety performance can be predicted and therefore flexibility should be added in the reauthorization bill to allow states to establish a range of acceptable values for safety performance targets, rather than a distinct value.

BE IT FURTHER RESOLVED, since several years of data are needed to evaluate effectiveness of a program or progress toward meeting a target in a statistically sound manner and other conditions out of the control of a state agency may affect safety data from one year to the next, legislation should allow for at least three years of data to be used to evaluate whether a target or special rule provisions are met. For performance measures, using the AASHTO-recommended measure means allowing at least a three-year trend in the five-year moving average.

BE IT FURTHER RESOLVED, no new added complexity or required performance measures should be added to federally-required safety planning while the states continue to implement the various provisions of MAP 21. Until the use of these performance measures have been evaluated, no additional or increased sanctions should be imposed.

BE IT FURTHER RESOLVED, that the data collection to support the Bridge Inspection Program should be an eligible expenditure of HSIP funds.
AASHTO MAP-21 Reauthorization
Safety Background Discussion

States are committed to improving transportation safety. There has been considerable progress in recent years, and the federal role in helping to reduce fatalities and serious injuries, both from funding and technical support perspectives, has been invaluable. SAFETEA-LU and MAP-21 have provided states with an increased ability to plan and implement multidisciplinary safety programs that are making a significant difference. However, a more flexible program that is less targeted to specific safety activities would improve states’ abilities to develop programs that best suit their individual needs. Because of the multidisciplinary approaches necessary for addressing safety concerns and the multiple federal funding sources used in state safety programs, flexibility is the key to enabling states to develop and implement the most effective programs possible.

Flexibility is needed to allow states to:

- Provide a tailored safety program to reduce roadway crashes, injuries, and fatalities by being able to harmonize the safety area with other programs.
- Appropriately address their safety priorities by using data to identify specific crash types and contributing factors.
- Implement the most effective countermeasures and programs, or combination thereof, to address these specific safety issues.

Background Information

Keeping with the growing national priority on highway safety and reducing roadway fatalities, Congress placed legislative provisions in SAFETEA-LU that elevated infrastructure-based highway safety improvements to a core program. Strategic Highway Safety Plans (SHSPs) were required for all states, and these plans necessitate the analysis of statewide data to determine priority areas and key countermeasures. With MAP-21, the funding for this Highway Safety Improvement Program (HSIP) was doubled, reinforcing the federal government’s commitment to improving roadway safety across the country. Additionally, the MAP-21 legislation sought to increase the amount of flexibility states have to enact unique programs to lower highway fatalities and generally improve highway safety, and provided increased HSIP eligibility for non-infrastructure safety efforts such as programs to reduce unsafe driver behaviors. In this way, MAP-21 supports strengthened collaboration between infrastructural safety professionals in the state DOTs and the highway safety offices that focus on behavioral programs (approximately half of these are in the state DOTs).

General Issues

As mentioned above, in general, MAP-21 provides significant support to state highway safety efforts. Though the rulemaking process for new MAP-21 policies will not be complete and related implementation issues will not be thoroughly assessed for some time, there are several issues that should be addressed in the next authorization.

States have been using data to determine priorities and have been tracking results for both infrastructure and behavioral safety programs since before MAP-21 was enacted, and have been able to demonstrate the positive impacts of this approach. Now with MAP-21, for both the infrastructure and behavioral sides of highway safety, programs have been consolidated and states have more flexibility to
allocate funds in a data-driven, multidisciplinary manner. Federal guidance related to the Highway Safety Improvement Program (HSIP) has provided flexibility in the way states allocate HSIP funds, and in how Strategic Highway Safety Plans (SHSPs) are developed and when they are updated, which allows states to ensure SHSPs are tools that can be used to plan according to their individual needs. A reauthorization bill must preserve safety provisions that allow for states to administer their own programs supported by federal assistance. Further streamlining and simplification of safety programs will provide additional benefits to the greater highway safety programs in the reauthorization bill.

There is general concern that specific provisions and oversight on critical safety pieces of the reauthorization legislation are too prescriptive to support the data-driven multidisciplinary safety approach. Eligibility requirements, such as having state legislation with very specific provisions in place to be eligible for some of the highway safety grant programs, can be difficult to meet and do not allow states the flexibility to focus on their individual needs. The infrastructure and behavioral programs need to fit together better so that states have some flexibility to craft a safety program that uses gathered data to create tailored initiatives. By being able to place resources in areas where a state most needs them, states can better develop and manage their safety programs.

Performance Management Issues

The National Highway Performance Program in MAP-21 creates several areas for which states must manage and report on performance. A well-designed and implemented performance management program supports the achievement of clear goals and objectives. While safety is a priority for all states and states put considerable effort into reducing fatalities and serious injuries, the requirements for managing safety performance must allow states to balance safety with other transportation needs. While the National Highway Performance Program allows this balance, there are special rules and other safety performance measures that limit flexibility states have to implement performance management in a manner that best suits their own needs. Closer coordination of these issues will improve the operation of a performance-based program.

For example, states that trigger sanctions under the high risk rural road special rule will have to allocate increased funding to these roads. An increase in a rural crash rate might not indicate a significant issue with the state’s safety program. This rate increase may be due to one multi-fatality crash occurring under specific circumstances and this may be the only safety target the state does not meet. However, funding and human resources will need to be dedicated to this area when there might be other safety or transportation needs that data indicate are a higher priority.

States consistently performing better than national averages but do not meet (or make significant progress toward) one of their targets will be penalized, even though their overall performance has been good. Any number of factors can affect how a state will perform in an area each year, including economic or workforce issues, and climate and other natural events. Failure to meet or make enough progress toward a target may not indicate that a program is not focused on improved performance or that significant efforts have not been made in that area. Using several years of data when evaluating performance along with a range of acceptable values for targets would allow for variations in local or internal state conditions. This would allow states to demonstrate progress while setting more aggressive goals, since they would be better able to use more aggressive and innovative programs or countermeasures, rather than encouraging states to set more conservative targets and programs. States should be supported as they reach for more aggressive targets.
Using several years of data to evaluate performance would protect states from having outliers in safety data affect the overall annual performance. Outliers such as a particularly devastating crash can skew data to fall outside a performance target or range. States that have improved their highway safety from one year to the next should be recognized even in light of these outliers.

Because one of the main purposes of performance management is to increase accountability and the communication of performance, it is important that the measures are easy for the public, legislators, and others who are not transportation specialists to understand. The use of rates for performance measures, such as fatalities per million vehicle miles travelled, do not provide a clear enough picture and are harder to understand for those outside the transportation arena. For the most part, it is easier for the public to understand numbers and how they relate to their own safety on the roads rather than a more complicated rate formula. Numbers of fatalities and serious injuries (wherever appropriate) are a clearer measure to use to communicate. As with other measures, rates may be needed for managing individual state programs or specific aspects of programs, but numbers are more appropriate for the national level measures.

**Summary**

The framework of the MAP-21 legislation that promotes the data-driven, results-based approach to implementing highway programs is welcomed by state transportation agencies. Because the provisions establish a longer term program, the transportation community needs time to implement the large majority of these regulations and programs. Significant changes to the program as established under MAP-21 are not recommended, though AASHTO does recommend certain minor adjustments for the next surface transportation reauthorization legislation that we feel will further enhance program quality. These modifications will further develop the safety programs that are contributing to a reduction in highway fatalities and serious injuries. Furthermore, these modifications will allow state more flexibility to adjust their programs, tailor their initiatives and set program goals to meet their individual needs.
Policy Resolution PR-12-13
Title: MAP-21 Surface Transportation Reauthorization Policy Resolution on Research

WHEREAS, The Moving Ahead for Progress in the 21st Century Act (MAP-21) was enacted on July 6, 2012, and expires on October 1, 2014; and

WHEREAS, Constant improvement, fueled by research and innovation, is critical for State DOTs to provide world-class transportation services to their customers; and

WHEREAS, the transportation research community has gained tremendous benefits in terms of lives saved, more durable infrastructure, and improved operations; and

WHEREAS, A core element of the AASHTO’s mission is to promote innovation and improvement in America’s transportation system; and

WHEREAS, Cooperative research programs such as the Transit Cooperative Research Program (TCRP), National Cooperative Freight Research Program (NCFRP), and Hazardous Materials Cooperative Research Program (HMCRP) have produced critically important research results in their respective areas of study; and

WHEREAS, University Transportation Centers (UTC) significantly advance transportation research for a range of challenges in both the public and private sectors while attracting and training new transportation professionals; and

WHEREAS, Local Technical Assistance Programs (LTAP) and Tribal Technical Assistance Programs (TTAP) provide useful and up-to-date information to local governments, agencies, and tribal governments responsible for over 3 million miles of roadway and over 300,000 bridges in the United States; and

WHEREAS, There is a need in the national transportation community to share best practices and data across federal, state, and local governments and agencies in order to collectively learn and improve from others;

NOW, THEREFORE BE IT RESOLVED, That new surface transportation authorization legislation should maintain the State Planning and Research program, with its 25% minimum for R&T activities, as a critical component to support individual and collective state priorities; and

BE IT FURTHER RESOLVED, That new legislation should also provide sufficient funding for FHWA to carry out research, technology, and implementation activities in all areas of transportation, including SHRP2, structures, pavements, planning, environment, policy, operations, safety, and research and innovation support; and

BE IT FURTHER RESOLVED, That strategic national research and technology (R&T) programs, such as the cooperative research programs, should be funded over and above FHWA’s core R&T program; and

BE IT FURTHER RESOLVED, That the Transit Cooperative Research Program (TCRP) should be funded at a level of $10 million per year; and

APPROVED BY THE AASHTO BOARD OF DIRECTORS – OCTOBER 21, 2013
BE IT FURTHER RESOLVED, That the National Cooperative Freight Research Program should be reestablished to fund research in areas including transportation freight and hazardous materials at a level of $5 million per year, to be administered through the National Academy of Sciences; and

BE IT FURTHER RESOLVED, That funding for the University Transportation Center (UTC) program should be maintained at MAP-21 levels and flexibility should be bolstered by allowing matches from other federal-aid funds that are distributed to the states; and

BE IT FURTHER RESOLVED, That the Local and Tribal Transportation Assistance Programs (LTAP and TTAP) should be continued as eligible activities within FHWA's Training and Education Program; and

BE IT FURTHER RESOLVED, That AASHTO encourages continued federal support for several efforts, including research deployment and information exchange concepts (including Transportation Knowledge Management, the National Transportation Library, and research coordination and information management, among others) and databases to support performance management, such as the bridge, pavement, and safety databases.
Introduction
The AASHTO Standing Committee on Research (SCOR), supported by the Research Advisory Committee (RAC), submitted a resolution on research elements for AASHTO to support in the reauthorization of the Moving Ahead for Progress in the 21st Century Act (MAP 21). This background paper provides additional information in support of the resolution.

Both the SCOR and RAC groups used the following base assumptions regarding reauthorization:

- This reauthorization will not likely result in significant increases in overall federal funding for transportation.
- As MAP-21 has only been in effect for one year, not all provisions have been fully implemented. This Congress is not likely to entertain significant changes to the act.
- For the most part, MAP-21 is a state-friendly transportation bill and AASHTO needs to protect existing flexibilities and other positive provisions.

Previous AASHTO Research Recommendations vs. MAP-21
The table below summarizes the key research recommendations in the 2008 reauthorization cycle that transitioned from SAFETEA-LU to MAP-21. Many of the recommendations at that time were based on the prospect of significant funding level increases. This led to research-specific recommendations for existing program support and the creation of new programs with dedicated funding. While the new programs did not emerge in the act as individual entities, they were included as eligible activities within other federal-aid programs.

<table>
<thead>
<tr>
<th>AASHTO Research Recommendations for SAFETEA-LU Reauthorization (2008)</th>
<th>Included in MAP-21?</th>
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<tbody>
<tr>
<td>Maintain the State Planning and Research program, with its 25% minimum for Research and Technology (R&amp;T) activities</td>
<td>Yes</td>
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<tr>
<td>Provide sufficient, flexible funding for FHWA to carry out its core program in support of its national mission in highway R&amp;T</td>
<td>Yes</td>
</tr>
<tr>
<td>Fund strategic national R&amp;T programs, such as SHRP2 and cooperative research programs, over and above FHWA’s core R&amp;T program</td>
<td>Yes and No</td>
</tr>
<tr>
<td>Support ongoing training, data, and knowledge-related activities, such as BTS, NHI, LTAP, NTL, and others, with dedicated funding</td>
<td>Yes and No</td>
</tr>
<tr>
<td>Cap UTC funding, revise the matching requirements, increase competition, and conduct an independent evaluation of the program</td>
<td>Yes</td>
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Supporting information for MAP-21 reauthorization research resolutions

State Planning and Research (SPR) Program
SPR sets aside funding for states to address specific planning and research needs:
- Engineering and economic surveys
- Planning and financing of future highway programs
- Studies on the economy, safety and convenience of surface transportation systems
- Research, development and technology transfer (RD&T) activities

State DOTs rely on the 25% minimum for RD&T activities to fund a variety of transportation research activities that support all modes and enable the transportation community to build longer lasting infrastructure, in less time and for less money. RD&T projects directly contribute to new or improved standards, methods, materials, products, programs and services. SPR funding helps states conduct research, disseminate results and actively implement research findings.

One of the ways that State DOTs effectively document results of research funded through SPR is by identifying sixteen “High-Value Research Project” through the RAC that are recognized by AASHTO and featured at the TRB Annual Meeting. In 2013, the “Sweet 16” included projects addressed many emerging transportation issues:

- Safety projects addressed freeway accident risk, aging driver issues, safety and high-speed rural intersections, variable freeway speed limits and expanded use of rumble strips.
- Multimodal projects included review of weight restrictions on northeast railroad lines, review of high-risk intersections for pedestrian & bicyclists and innovative bicycle facility research.
- Research related to state DOT operations included review of a DOT energy management program, design-build contracting and use of streaming and digital media.
- Top projects related to highway engineering examined implementation of tack coat, use of roller compacted concrete, evaluation of a new air void analyzer, a process for moisture induced stress testing and response to road and bridge damage from heavy truck loads.

FHWA Core Research & Technology Program
As provided in MAP-21, FHWA strives for a research, development, and technology program that focuses on issues of national significance and addresses current and emerging needs, delivering a clear public benefit and covering areas where private sector investment is inadequate. FHWA’s mission includes a core element to promote innovation and improvement in the nation’s highway system. Building from this mission element, FHWA conducts a broad array of advanced research, applied research, technology transfer and implementation activities. FHWA is uniquely qualified to champion and perform this range of research
activities, and to bridge between short-term applied research and the long-term advanced research on a national level.

State DOTs depend both directly and indirectly on these national RD&T activities. FHWA supports states through partnerships, coordination, administration of pooled fund studies, communication, information exchange and other activities. Recent FHWA research, development, and technology transfer work that has positively impacted state DOTs includes the following:

- FHWA research on the use of high friction surface treatments has resulted in significant reductions in crashes in states including Kentucky, Pennsylvania and South Carolina.
- The Every Day Counts (EDC) initiative helps states to identify and deploy innovation aimed at reducing project delivery time, enhancing safety, and protecting the environment.
- The implementation of numerous products developed as part of the second Strategic Highway Research Program (SHRP2) has allowed states to demonstrate new processes and technologies to address the needs of our transportation system more efficiently and effectively.
- The Long-Term Bridge Performance (LTBP) and Long-Term Pavement Performance (LTPP) programs provide tools, data and data analysis to states to enhance assessment of bridge and roadway facilities and make evidence-based decisions on design and rehabilitation.
- Looking to the future, the FHWA’s Turner-Fairbank Highway Research Center is conducting modeling, simulation and field tests on connected vehicle systems that communicate with each other and roadway technology systems.

National and Cooperative Research Programs

State DOTs find value in the cooperative research programs that conduct subject-specific research aimed at solving pressing issues on a national scale. The National Cooperative Highway Research Program (NCHRP) is funded through voluntary annual contributions by the state DOTs. Two other programs, the Transit Cooperative Research Program (TCRP) and the National Cooperative Freight Research Program (NCFRP) are also key programs that need full funding through reauthorization.

TCRP draws upon and benefits a broad base of transportation stakeholders including federal, state, local and transit agencies; American Public Transportation Association (APTA) and Transportation Research Board (TRB) Committees; universities; consultants and various industry groups. Since its inception in 1992, TCRP has completed more than 600 studies providing research solutions to a variety of transit needs related to operations, service concepts, equipment, facilities, maintenance, human resources, administration, planning and policy. Products are broadly disseminated to more than 40,000 interested transportation
professionals through e-newsletters, web postings, direct mailings, and presentations at committees and conferences.

TCRP provides value in this time of tight local and state budgets, as few state and local governments and transit agencies and organizations have the resources to conduct research that is critical to advancing a safe, efficient, and sustainable multi-modal transportation system. This is particularly critical as both younger and older residents are seeking more transit options. An example of TCRP impacting state and local agencies is a current project to investigate how transit impacts land use, energy and greenhouse gases. Other important products from the program included several security related studies following 9/11 and recent reports on track design for light rail.

Freight movement is also a critical issue impacting economic development at a state and national level. The NCFRP and a Hazardous Materials Cooperative Research Program (HMCRP) were first authorized in SAFETEA-LU and were initiated in late 2006. AASHTO is recommending that funding for both freight and hazardous materials research be included in a combined NCFRP that will help states address issues such as intermodal freight movement, modal shift issues, development of more robust commodity flow data and a variety of issues relating to truck operations.

**University Transportation Centers**

The University Transportation Center (UTC) program provides federal funding to establish and operate programs of transportation education, research, and technology transfer. UTCs are intended to significantly advance the state-of-the-art in transportation research while attracting and training new transportation professionals.

Many state DOTs voluntarily enter into partnerships with UTCs for research projects and activities of mutual interest. A 2011 RAC survey indicated that at least 27 state DOTs conduct joint research projects with UTCs, and several other states and UTCs had arrangements to serve on each other’s oversight committees. State DOT contributions provide a critical level of matching funds for many DOTs, and the states should be allowed additional flexibility in providing this match.

**Local and Tribal Technical Assistance Programs**

The Local Technical Assistance Program (LTAP) and Tribal Technical Assistance Program (TTAP) provide information and training on a variety of transportation issues to local governments and agencies responsible for over 3 million miles of roadway and roughly 300,000 bridges in the United States. LTAP centers are located in every state and Puerto Rico; TTAP uses regional centers to serve tribal governments. Assistance is provided through classroom and one-on-one training, print and on-line publications, workforce development services and other technical and data resources. Key issues include roadway safety, worker and work zone safety and infrastructure management.
Many State DOTs participate actively in LTAP and TTAP programs and provide matching funds, with some states having direct connections to research programs. The programs help reduce duplication of effort on the part of state DOTs in communicating with local partners, and the programs provide information to state regional and maintenance offices. In 2012, 58 different LTAP/TTAP centers offered a combined 5,500 training sessions to more than 159,000 participants.

Information Exchange and Knowledge Management
State DOTs are keenly interested in improving access to information and enhancing Transportation Knowledge Management (TKM). TKM efforts – built on the application of library science – improves the efficiency of finding information, mitigates user frustration, reduces digital and physical data storage needs and ultimately supports better decision making.

A number of state DOTs collaborate on TKM efforts through knowledge networks, library connectivity initiatives and information exchange. National TKM programs that should be supported in reauthorization include the National Transportation Library and various bridge, pavement and safety databases. Future efforts could include structures or organizations to examine a national repository system and provide further efforts on information clearinghouses.

Conclusion
The state DOTs rely on well-managed research programs to make informed decisions and ensure a strong future for the transportation network. The MAP-21 reauthorization should provide the funding and institutional framework to support the success of these programs.