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Memorandum

TO: Legislation Committee | DATE: May 9, 2014

FR: Executive Director | W. I. 1131

RE: GROW AMERICA Act: Obama Administration Surface Transportation Proposal

This memo provides further detail on the Obama Administration's four-year surface transportation authorization bill, the GROW AMERICA Act — Generating Renewal, Opportunity, and Work (GROW) with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America (AMERICA). Other than breaking ground with yet another unwieldy acronym, this four-year surface transportation authorization proposal provides $302 billion for highways, transit, rail, and freight infrastructure, an increase of 37 percent over current annual funding levels. Of the total, $150 billion would be derived by General Fund transfers of revenue resulting from proposed federal income tax reform designed to limit off-shore corporate tax loopholes.

This summary will first address five of the more significant policy changes in the Administration proposal, then will cover the "meat and potatoes" of the various funding programs being proposed.

POLICY CHANGES

High Performing Metropolitan Planning Organizations

The bill creates a new "high performing MPO" designation that would enable the MPO to qualify for suballocation of certain funds, including Surface Transportation Program (STP), Transportation Alternative Program (TAP) and Metropolitan Mobility funds. The biggest benefit of the designation would be a **50 percent increase in STP and TAP funding** for the region served by the high performing MPO. The designation remains in effect for 10 years.

Designation as a high performer would be determined by the Secretary at the request of an MPO on the basis of specified criteria, including:

- Whether the agency has an "equitable and performance-based approach to decision making"
- The extent to which the MPO has incorporated the performance targets required by federal law into its planning process
- The technical capacity of the organization

Given that MTC would perform well on each of these criteria, we could seek to qualify for this significant boost in STP and TAP funds.

Metropolitan Mobility Program

The bill establishes a stand-alone $1 billion Metropolitan Mobility Program, a formula program that apportions $250 million of the funds each year to urbanized areas with a population greater than 200,000 on the basis of their share of urbanized areas with populations greater than 200,000. When distributed nationwide, however, the program would not provide a significant amount of funding; it includes a $1 million minimum and a $3 million maximum amount for each area.

Transportation Planning: Vulnerability and Resilience Assessments Required

The bill would require metropolitan planning organizations (MPOs) and states to undertake an infrastructure vulnerability and resilience assessment for regional transportation plans and state long-range plans respectively. The bill would also formally include public ports within the scope of metropolitan and state long-range planning. The bill proposes adding a new national connectivity goal, and potentially a new performance measure, related to connecting communities, particularly low-income communities, to economic opportunities, such as jobs and school. The bill proposes a pilot study with up to 10 MPOs to conduct inventories of the degree of connectivity provided via automobile, public transit and non-motorized modes that would inform DOT's decision on whether or not to propose a connectivity performance measure. Finally, the bill proposes to directly link performance measures to investment decisions by requiring that transportation improvement program (TIP) project selection show a ranking of projects on the basis of how they help achieve specific performance targets.

National Freight Infrastructure Funding

The bill delivers on MTC's goal of establishing a National Freight Program, providing $10 billion over four years in both a competitive and a formula-based program. Each receives $500 million in FY 2015, and grows by $500 million per year to $2 billion by FY 2018. The formula program, named the Multimodal Freight Incentive Program, has two tiers. Tier I receives 40 percent of funds, while Tier II receives the remaining 60 percent. Both funding pots are only eligible to states that have an approved freight plan and an established freight advisory committee and have completed various needs analysis, while eligibility for Tier II requires completion of a multistate analysis of freight needs and a regional freight investment plan. Project eligibility for both pots of funding is broad and multimodal.

The formula takes into account a number of factors, including each state's share of:

- Ports
- Rail track miles used for freight
- Cargo-handling airports
- Interstate miles
- Tonnage of rail, waterborne, highway, airport and pipeline freight moved
- Value of rail, waterborne, highway, airport and pipeline freight moved

Notably, the last two factors comprise 75 percent of the formula.

Calculating how much funding California would receive from this formula will take some work, and no state-by-state breakdowns have been provided by the Administration as of now.
A vast amount of freight is moved by America's inland waterways, which handle 62% of all grain shipments. According to the most recent studies we have found from 2000, the nation's freight system moved 14 billion tons of domestic freight valued at $11 trillion over 4.5 trillion ton-miles. Trucks moved 78 percent of the nation's domestic freight tonnage, generated 60 percent of ton-mileage, and accounted for 88 percent of its dollar value, the highest percentage

in each category. Rail moved only 16 percent of total domestic freight tonnage. Rail routes are longer and therefore accounted for a proportionately higher share (28 percent) of ton-miles. Transport by rail also tends to involve lower-value commodities and thus a proportionately lower share (6 percent) of total domestic freight value. Water (e.g., river barges, and coastal and lake steamers) moved six percent of tonnage, 15 percent of ton-miles, and one percent of value. These figures cover only domestic waterborne tonnage. Air represented a negligible share of tonnage and ton-miles, but a disproportionately high share of value at five percent. Air freight tends to be very light and valuable.

The discretionary program, named the National Freight Infrastructure Program, includes both surface and air infrastructure. Numerous criteria for awarding the funds are listed, including the degree to which the project would accommodate increased exports and leverage local funds, both of which are themes addressed in our adopted Principles for a National Freight Program.

Freight Policy Changes
The bill would also revise a number of freight planning provisions established in MAP 21, including expanding the definition of the national freight network to include rail, water and airport-related infrastructure, a positive step that is consistent with MTC's advocacy principles. The bill would make adoption of a state freight plan and establishment of a state freight advisory committee mandatory. It would also require states to expand their freight rail plan to add an investment plan component that lists projects in order of priority for eligibility for the competitive freight program.

The bill also proposes to expand the scope of what is currently known as the "National Network," a system established in 1982 to protect interstate commerce by prohibiting trucks of certain size and dimensions on a national network of roads. The bill proposes to broaden the National Network to incorporate all roadways on the National Freight Network as well as those on the National Highway System. This would be done via regulation and would take three years before going into effect.

Tolling Provisions
The bill proposes to allow states to toll the interstate system for reconstruction, expanding an allowance that was previously given to non-interstate highways. It also allows state and public agencies to impose tolls on highways or bridges for congestion management, subject to approval of the Secretary and requires that any express lane facility must use electronic toll collection. With respect to the use of express lane revenue, the bill makes eligible transit operating and capital improvements for projects within the transportation corridor on which the express lane facility is located *or* transit enhancements that would improve the operations of the toll facility or the highway on which it is located (i.e. in close proximity to, but not on the facility itself). The trucking industry already has declared its opposition to changing this long-standing element of federal highway policy.

TRANSIT FUNDING

Transit Formula Funding
The bill provides a 6 percent increase in the most flexible transit formula funding, Section 5307, Urbanized Area Funds from $4.5 billion in FY 2014 to an annual average of $4.7 billion. The largest formula increase is in the State of Good Repair grants, which would grow from $2.1 billion in FY 2014 to an average of $5.8 billion.

Capital Investment Grants

The bill proposes to increase the Capital Investment Grant program by $500 million per year, from $2 billion in FY 2014 to $2.5 billion in FY 2015, reaching $2.9 billion by FY 2018. This category includes the discretionary New and Small Starts programs in which the Bay Area has been an active participant since the 1980's.

Bus & Bus Facility Program

The bill would boost this program four-fold from $428 million in FY 2014 to an average of $1.9 billion. It would create a separate competitive program that would receive 30 percent of the funds. The bill would provide that "mobility management" and preventive maintenance are not eligible for this program.

Rapid Growth Area Transit Program

The bill establishes a new competitive program starting at $500 million in FY 2015, growing to $600 million by FY 2018, to provide grants to local governments and states for bus rapid transit projects serving existing transit systems. Eligible recipients would be transit systems serving urbanized areas that have experienced "moderate to significant" population growth between 2000 and 2010, and that have experienced moderate to significant increases in ridership. The bill does include a definition for "moderate to significant growth" in the case of population or ridership. Depending on those definitions, the distributional impact of this new program could penalize dense urban regions like the Bay Area that already boast large bases of transit ridership. Eligible projects would include transit capital and acquisition of right of way or land for purposes of future public transportation enhancements in a corridor. Recipients must demonstrate the ability to cover existing and future operating expenses of an expanded system. The program can cover up to 50 percent of a project's cost, while up to 30 percent may be covered by Congestion Mitigation and Air Quality (CMAQ) or Surface Transportation Program (STP) funds.

Big Boost for Rail Funding

The bill proposes to significantly boost federal investment in rail, from $1.4 billion in FY 2014 to $4.7 billion in FY 2015 and thereafter. Operating funding for current Amtrak passenger rail service would grow from $1.4 billion to $2.4 billion while a new Rail Service Improvement Program would receive $2.3 billion for development of new passenger rail corridors and improvements to existing passenger rail and freight rail corridors. A portion of this program would fund positive trail control on commuter railroads. Notably, there is no separate category for high-speed rail.

The bill also authorizes the DOT Secretary, in consultation with state governors, to establish Regional Rail Development Authorities to facilitate development of multi-state high-performance rail services and to coordinate these investments with other rail, transit, highway and aviation system services.

HIGHWAY PROGRAM

Critical Immediate Investment Program

The bill establishes a new $13 billion Critical Immediate Investment Program (CIIP) focused on improving the condition of the national highway system. Funds would be distributed to states on the basis of the formula by which they receive National Highway Performance Program funds. The program has three key components, as shown below:

- Interstate Bridge Revitalization Initiative (aimed at reducing the number of structurally deficient bridges on the Interstate System)
- Systemic Safety Initiative (focused on safety improvements on non-state-owned roads)
- State of Good Repair Initiative (focused on achieving a state of good repair on the National Highway System)

The program is structured to provide the largest infusion of funding up front with $4.8 billion in FY 2015, dropping to $1.8 billion by FY 2018. States would have the flexibility to shift funds between these programs if the Secretary determines it will help the state achieve its safety or NHS performance targets.

Congestion Mitigation and Air Quality (CMAQ)
The bill proposes to prioritize projects that would reduce PM 2.5 emissions in PM 2.5 nonattainment or maintenance areas. Likewise, projects that would reduce ozone precursor emissions are proposed to be given priority in ozone nonattainment or maintenance areas.

Electric Vehicle Charging Stations
In a nod to greening the fleet, the bill would allow electric vehicle charging stations and anti-idling commercial facilities to be added to rest areas along the Interstate system and authorizes a fee to be assessed for such purposes.

Project Streamlining Provisions
The bill includes a number of provisions designed to speed up environmental review. Specifically, the bill:

- Establishes an Interagency Infrastructure Permitting Improvement Center to reduce project delivery timelines
- Exempts certain concrete and steel bridges and culverts and rail track improvements from the National Historic Preservation Act review (known as “4f review”) other than consultation, allowing for improvements to, maintenance or operation of rail lines without rail operators having to demonstrate no feasible alternative.
- Requires development of a public online reporting system that will provide information about the progress and status of an environmental document.

MULTIMODAL DISCRETIONARY PROGRAMS

TIGER
The bill doubles the competitive, discretionary TIGER program from $600 million in FY 2014 to $1.2 billion per year for another four years, reserving at least 20 percent of the funds for “rural” areas, defined as non-urbanized. Based on the 2010 Census, 19.3 percent of the U.S. population currently resides in non-urbanized areas, just slightly less than the 20 percent minimum.

Notable TIGER provisions include:

- No more than 25 percent may be awarded to a single state. (California comprises 12 percent of the nation’s population, based on most recent census estimate.)

- Up to 10 percent of funds would be available for planning purposes, including project-specific planning.
- The bill removes the minimum or maximum project size for TIGER grants, which under the current framework is a minimum of $10 (except for rural areas, where it is $1 million) with a $200 million.
- Provides a federal share of up to 80 percent except for rural areas, which may receive 100 percent.
- Projects requesting a smaller federal share will be given priority

FAST Grant Program

The bill establishes a new $1 billion/year multimodal competitive Fixing and Accelerating Surface Transportation (FAST) grant program to be administered by the Secretary with the goal of improving the way transportation investment decisions are made and implemented in order to achieve national objectives and improve transportation outcomes. The bill states that evaluation of applications, which may include multiple projects, will be partly based on the extent to which the applicant has adopted seven best practices including:

- Commitment to sustainable and non-federal sources of funding, including value capture and authority for local governments to raise funding for transportation
- Use of benefit cost analysis, innovations in design, procurement and purchasing to expedite project delivery and reduce costs
- Use of operating practices and deployment of technologies that increase the efficient use of the transportation system
- Adoption of laws, rules and regulations to reduce transportation-related fatalities and injuries
- Integration of transportation planning and investment decisions with land use and economic development decisions, to focus transportation investments near existing infrastructure
- Adoption of laws and practices demonstrated to reduce energy use, improve air and water quality and reduce greenhouse gas emissions
- Improvements to regional governance that increase MPO capacity and strengthen local and stakeholder input

Project eligibility is very broad and includes all projects eligible for TIGER, plus domestic short sea shipping projects. Eligible applicants for funding include states, U.S. territories, tribal governments and MPOs, provided they include as partners in their application, the applicable state, local partners or transit agencies required to carry out the best practices.

FUNDING

The bill replaces the Highway Trust Fund with a new Transportation Trust Fund (TTF) that would receive existing gas tax and other user fees currently deposited in the HTF, along with General Fund transfers equal to the 10-year revenue raised from the proposed corporate tax reform through 2020. The bill reestablishes the Mass Transit Account and the Highway Account within the TTF, which receive the same proportionate share of revenue as currently provided. The bill also establishes a new Rail Account and a Multimodal Account within the TTF, both of which would be 100 percent reliant upon the General Fund.

As noted at the outset, about half of the $302 billion bill is financed by transferring $150 billion in General Fund revenue from corporate tax reform to the TTF at a rate of $37.5 billion per year. The bill changes the budgetary treatment of transportation spending from discretionary to "mandatory," in order to bring transportation in line with various budgetary rules. The bill makes no change to the minimum guarantee established in MAP 21 that each state receives at least 95 percent of the gasoline tax revenue they contribute to the Highway Trust Fund. Because the proposal is so reliant upon General Fund revenue, it is possible that no state will qualify for an adjustment to provide for their minimum 95 percent share because *every* state will be receiving substantially more than it contributes in the form of gasoline tax revenue and other user fees.

Next Steps

While there is much to like in the Obama Administration's proposal, particularly the increased transit funding, it is very unlikely that the 113th Congress will be able to enact anything remotely this ambitious. Senator Boxer just announced yesterday that the Senate Environment and Public Works Committee will release a draft bill on May 12th with the intent to proceed to mark-up on May 15th. There have been no indications from the House Transportation & Infrastructure Committee that their bill will be released anytime soon. As a result, it probably makes more sense to consider this Administration proposal as a "marker" for a more far-reaching reauthorization debate in 2015 after a short-term fix is cobbled together to tide the program over through the mid-term elections this fall.

Steve Heminger

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