



# Transfer

Surface Transportation Policy Project's Electronic Update

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### **Senate Completes Action on TEA-21 Renewal Plan, Challenges President on Funding**

On May 17, the U.S. Senate completed action on its TEA-21 renewal legislation (SAFETEA), after working through dozens of amendments, including several that affected priority concerns of the STPP coalition and its many other partner organizations.

In the end, the Senate largely affirmed the structure and policy elements of the SAFETEA plan that what was developed and adopted during the 108th Congress, although its funding level is higher than what the President recommended but is below what the Senate approved in 2004.

Deliberating over a span of three weeks, the Senate completed work on its \$295 billion TEA-21 renewal plan, voting 89-11 on final passage.

Most notably, the Senate strongly embraced a six-year spending level that is \$11 billion above what the President requested for the renewal period (FYs '04-'09), a higher funding level that was strongly affirmed by a sizable majority during Senate debate on the legislation.

### **Appointment of Conferees, Another TEA-21 Extension on Agenda**

With the Senate action, House and Senate leaders have now turned their attention to negotiations to determine who will be appointed to the House-Senate conference committee, which will be charged with ironing out differences between the two versions of the legislation (H.R. 3).

There are already strong indications that Congressional leaders will appoint fewer conferees than served on the unsuccessful conference in the last Congress and there is also a push to shift the ratio of Senators to favor the majority party. Senate Majority Leader Bill Frist (R-TN) reportedly is seeking the appointment of Senators who are more predisposed to support the President's funding levels during the conference committee negotiations. Appointment of conferees could occur before the Memorial Day recess.

In addition, Congressional transportation leaders are now developing legislation to renew the TEA-21 law beyond the May 31 expiration date, with the expectation that a 30-day extension will be brought before the House and Senate before the Memorial Day recess. This will be the seventh extension of TEA-21, which first expired September 30, 2003.

Any final agreement still hinges on finding a consensus on the legislation's overall funding level, with Administration officials renewing the President's pledge to veto any legislation that exceeds \$283.9 billion. House Majority Leader Tom DeLay (R-TX) recently affirmed the commitment of House Republican leaders to back the President's request, indicating that it is the President who must decide if he wants to accept a higher funding level.

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### **Senate's Higher Funding Helps Correct for Transit Shortfall**

In one of the most contentious debates, Senate Finance Chair Charles Grassley (R-IA) and Ranking Minority Member Max Baucus (D-MT) came together to advance an amendment that added \$11.2 billion more than what was originally approved by the four committees working on the legislation.

A key challenge to this funding increase was defeated on a 76-22 vote, allowing Senators to raise transit funding by \$2.3 billion, increase the minimum rate of return on highway funding for some states and provide a few others with slightly higher increases in highway funding.

Importantly, the amendment helped offset the loss of transit funding that occurred during committee action on the legislation, specifically the shift of \$2.7 billion in anticipated transit funding over to highway program funding.

The legislation as passed by the Senate now moves transit's overall funding share closer to 18.5 percent, although this is still below the share authorized in TEA-21.

Senators Richard Shelby (R-AL) and Paul Sarbanes (D-MD), who lead the Senate Banking, Housing and Urban Affairs Committee, joined by key Senators on the Senate Finance Committee, helped press for additional transit resources.

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### **Senate Bill Affirms ISTEA/TEA-21 Program Framework, But Weakens Key Health and Community Protections**

Throughout the debate on SAFETEA, the basic program and policy tenets first set forth in the 1991 ISTEA law were affirmed, with the legislation directing nearly all available funding to the core highway programs and existing transit categories.

As such, the legislation does little to alter the fundamental structure of how resources are allocated to program categories, making modest but important improvements to promote the safety of bicyclists and pedestrians, including school age children, strengthen the capacity of metropolitan planning organizations, and improve efforts to combat the discharge of pollutants from facilities on the Federal Aid System. On the transit side, there is a shift of resources toward rural transit and smaller transit systems and away from the nation's largest transit providers as well as increased attention to the needs of

local areas pursuing less capital intensive transit projects. The legislation also embraces modest commitments to improve project planning and development, promote the use of context sensitive design and encourage transportation agencies to work more collaboratively with resource agencies to protect habitat and other natural resources.

At the same time, existing community and environmental protections are diminished, including a weakening of the Section 4(f) standard protecting parks, recreation areas and wildlife and waterfowl refuges, longstanding clean rules that hold state and local agencies more accountable in achieving compliance with federal air quality standards and NEPA procedures that support the public and their communities in getting a full and fair review of project alternatives.

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### **Sessions Amendment Threatened Key Features of Current Law**

During Senate action on the legislation, only one major amendment, which was offered by Senator Jeff Sessions (R-AL), substantially threatened the basic ISTEA/TEA-21 program structure. His amendment sought to cut the legislation's funding by \$10.7 billion in several priority programs in a failed attempt to match the President's spending request.

The Sessions amendment proposed a \$5 billion in transit funding, undermining the 80/20 split between highway and transit funding, as well as a \$4 billion cut in the Congestion Mitigation and Air Quality Improvement program, a \$1.1 billion reduction in Transportation Enhancements funding, and a \$100 million cut in the TCSP program. The intent of the amendment was to reduce spending commitments to programs that he characterized as less important than other programs in the legislation.

Senate Environment and Public Works Committee Chair Jim Inhofe (R-OK), joined by Ranking Member Jim Jeffords (I-VT) and Max Baucus (D-MT), led a vigorous defense of their SAFETEA plan, citing broad opposition to the amendment from a diverse array of interests, including many STPP partner organizations.

The full Senate resoundingly rejected the Sessions amendment on an 84-16 vote, just before giving final approval to its SAFETEA plan.

For the Senate recorded vote on the Sessions amendment, go to

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[http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=109&session=1&vote=00124](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00124)

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### **Senator Warner Leads Effort to Retain Stormwater Program Commitment**

Among the first issues to be debated when the Senate turned to consideration of the SAFETEA legislation was an effort by the

Senator Kit Bond (R-MO) to eliminate provisions in the bill dedicating resources to improvements that reduce stormwater pollution discharged from facilities on the Federal Aid System.

Senator Bond, who chairs the key subcommittee that originated the highway title of the bill, engaged Senator John Warner (R-VA), a senior member of the panel, in a lengthy debate on the provisions, with Warner arguing that this modest effort to help local areas fund mandates under the Clean Water Act and protect their drinking water supplies.

The Senate tabled the amendment on a 51-49 vote, setting aside Senator Bond's effort to eliminate the stormwater program from the bill.

Warner, backed by drinking water, water quality, transportation reform and state and local governmental organizations, including The U.S. Conference of Mayors and the Association of State Water Pollution Control Administrators, argued persuasively that this modest program commitment was needed and important to local officials and communities throughout the nation. Warner explained that the program commits less than 1/3 of a penny on every dollar provided in the legislation, totaling about \$870 million over the five years of the legislation.

Current law generally makes resources readily available for stormwater and other water quality improvements when a new road is constructed and limits stormwater improvements to no more than 20 percent of project costs when rehabilitating a highway. The legislation as passed by the Senate reserves two percent of each state's Surface Transportation Program funds to help finance projects to retrofit existing facilities, which means state transportation departments will have funds available for stand alone stormwater retrofits of federal roadways to help underwrite timely spot improvements on the existing network.

For the final Senate vote on this amendment, go to --  
[http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=109&session=1&vote=00113](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00113)

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### **Harkin Presses for Adoption of Complete Streets Amendment, But Falls Short**

On May 11, Senator Tom Harkin (D-IA) sought an amendment to direct each state transportation department and the nation's largest MPOs (serving a population of 200,000 or more) to adopt "Complete Streets" policies as part of a broader effort to improve access and safety for walkers, bicyclists and persons with disabilities on the nation's roadways and streets.

The amendment was defeated 53-44, despite Harkin's strong case for why policies on complete streets were needed to increase walking and bicycling throughout the nation. This was the first time congress has ever debated a Complete Streets policy for the nation.

"There is nothing in current practice that requires State departments of transportation or metropolitan planning organizations to integrate in their planning upfront for bike paths and sidewalks when they are planning highways," Harkin said in explaining his amendment. "That is what we always seem to be doing--we'll fix it up and add something later on. That always costs more money. What this amendment does is it says: Let's have them at the initial planning stage integrate into their planning sidewalks and bike paths."

In addition to requiring the adoption of policies on complete streets, his amendment directed U.S. DOT to report on how federal research dollars are being invested to study the safety of bicyclists and pedestrians and called on the Secretary to set national goals to increase walking and bicycling. "Our focus in a transportation bill, I believe, should not strictly be on moving vehicles. We should be more broadly focused on moving people and making it possible for more people to move themselves by foot or by bicycle. For every American who opts to get to work, school, or the grocery store by foot or bicycle, that is less cost for road building and maintenance, zero contribution to traffic congestion, zero costs in terms of pollution and environmental degradation. Every walking and bicycle trip that substitutes for a car trip, especially during rush hour, makes a big difference," Harkin said.

Senator Bond cited the many existing features of the SAFETEA legislation to support his claim that the Harkin amendment was not needed, noting the legislation's continuing support for the Transportation Enhancements program and other initiatives. "Similar to the Administration's proposed SAFETEA, we elevated Safety to a core program. In this part, known as HSIP, there is a mandatory set-aside specifically for bicycle and pedestrian activities (called "Fair Share for Safety"). We set it up as \$717 million, and since the overall level of the bill has been raised by \$8 billion, this level has gone up. There is also the Safe Routes to School Program," Bond said.

During the debate, Bond described "complete streets" as requiring state and local agencies to build bike paths where they are not needed or won't be used, which misstated the intent of the language in the Harkin amendment.

To view the final vote on the Harkin amendment, go to --  
[http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=109&session=1&vote=00121](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=1&vote=00121)

### **Schumer Wins Big Boost in Transit/Vanpool Commute Benefit**

Senator Chuck Schumer (D-NY) was prepared to offer his amendment to raise the commute benefit for transit and vanpools during Senate floor action on the bill, but the bipartisan leadership accepted his amendment and made it part of the managers' amendment.

As a member of the Senate Finance Committee, Schumer has already securing approval of an amendment raising the monthly

transit/vanpool commute benefit from \$105 per month to \$155 per month. Parking benefits are currently set at \$200 per month.

His goal, shared by many organizations including STPP, was to equalize the treatment of parking benefits with benefits for transit and vanpools. As approved by the Senate, the commute benefit for transit/vanpools reaches parity with parking benefits in 2010, a significant milestone in leveling the playing field in travel options for commuters.

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#### **Other Amendments Included**

By agreement, dozens of amendments were incorporated into the legislation during deliberations on the legislation. These include provisions affecting policies on tolling, CMAQ eligibility, and local hiring practices as well as numerous amendments affecting state and more localized member interests.

As Transfer goes to press, a final version of the Senate bill was just being released.

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