

NACE UPDATE

The almost bi-weekly newsletter for Board members, Committee Chairs, and Members
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(Note: Sources of information include the AASHTO Journal, NACo staff, Senate and House publications, the Federal Highway Administration, and other association news journals)

House T & I Committee Releases Blueprint on Authorization

House Transportation and Infrastructure Committee Chairman James Oberstar (D-MN) yesterday released a blueprint outlining his proposal for a six-year, \$500 billion federal surface transportation authorization to succeed the \$286.4 billion SAFETEA-LU, which expires the end of September.

The Surface Transportation Authorization Act of 2009's Blueprint for Investment and Reform describes how SAFETEA-LU's successor will "transform federal surface transportation from an amalgamation of prescriptive programs to a performance-based framework for intermodal transportation development." It is designed to achieve the following objectives: reduce fatalities and injuries; reduce congestion; provide transportation choices; limit adverse effects of transportation on the environment; and promote public health and livability in communities.

Highlights of the bill include:

- Consolidate the existing Interstate Maintenance, National Highway System (NHS), and Highway Bridge Programs into a new "Critical Asset Investment" Program. New capacity would not be eligible under this program and performance standards would be imposed to ensure highways and bridges on the NHS are in a state of good repair.
- Establish a "Metropolitan Mobility and Access" Program to reduce congestion and improve mobility. Funds would be distributed based on population and travel time delay and would be eligible for highway and transit capacity improvements.
- Combine the existing Projects of National and Regional Significance and the trade corridors and border infrastructure programs into a new discretionary "Projects of National Significance" Program to target large, high cost transportation projects. The program would make funds available for highway, transit and freight rail projects.
- Create a "National Infrastructure Bank" to provide credit assistance, loan guarantees and lines of credit to finance infrastructure projects. The infrastructure bank would support large-scale capital projects from the bill's Metropolitan Mobility, Projects of National Significance, and high speed rail initiatives.
- Initiate a new "Freight Improvement" Program to make goods movement more efficient and reliable. Funds would be distributed to all states by formula.
- Reform the existing transportation planning process to focus on reducing greenhouse gas emissions and promote land use planning and livability. Unlike the House climate change bill, the T&I proposal does not give the Environmental Protection Agency authority over transportation plans.
- Establish an "Office of Livability" in the Federal Highway Administration (FHWA) to: "provide[s] leadership to expand surface transportation options; advance sustainable modes of transportation including transit, walking, and bicycling; enhance integrated

planning to support the creation of livable communities; and serve as a clearinghouse of information and statistics related to livability and sustainability.”

- Call for an “Office of Expedited Project Delivery” (OEPD) in both FHWA and the Federal Transit Administration (FTA) to remove obstacles delaying highway and transit projects. OEPD would focus on coordinating all of the agencies involved in the project delivery process. The bill would eliminate duplications in the environmental review and transportation planning processes. The plan also calls for timetables for the issuance of Records of Decision after the review process is complete. Finally, the five-state delegation pilot program for environmental reviews would continue and be opened to all states that wish to participate and that can meet the necessary requirements.
- Restructure the existing Highway Safety Improvement Program to focus on reducing fatalities and injuries. The current highway-rail crossing and high risk rural roads set-asides are eliminated to allow states to use funds where the safety need is the greatest.
- Impose penalties on the 21 states that do not have a primary seat belt law and the 41 states that do not require installation of ignition interlock devices for first-time alcohol-related driving offenses. The outline does not explain what the penalties would be, but in the past withholding highway funds from states has been used as a tool to influence states to adopt certain congressional priorities.
- Remove the existing prioritization of Congestion Mitigation and Air Quality program funds for diesel retrofit projects.
- Streamlines the New Start/Small Start process for transit capital projects by eliminating a number of programmatic steps and requirements. Among other things, the bill would prohibit the use of FTA’s current Cost Effectiveness Index.
- Restricts tolls on the interstate except under narrowly defined circumstances. The bill would establish a series of public protections for toll projects and require transparency in the development of public-private partnerships.
- Emphasize the use of performance standards, accountability and oversight in virtually every program to assure national objectives are being achieved.

The bill is expected to be introduced next week and considered by the House Highways and Transit Subcommittee. The bill will not include financing provisions laying out how to pay for the investment. These will be drafted by the House Ways and Means Committee and added later. Oberstar has an ambitious timeline for the bill, with a goal of having it to the House floor before the start of the month-long August recess. House leadership has questioned the likelihood of this due to a crowded legislative calendar.

Yesterday, US Transportation Secretary Ray LaHood announced that the Obama Administration would seek an 18-month authorization extension which would include a fix for the Federal Highway Trust Fund and include other reforms. The Trust Fund will require an infusion of \$5 billion to \$7 billion to meet its commitments this fiscal year. Oberstar and House T&I Committee Ranking Member John Mica (R-FL) oppose the extension. Senate Environment and Public Works Committee Chair Barbara Boxer endorsed the proposal.

Clean Water Restoration Act Moves Toward Senate Floor

On Thursday, June 18th, the Clean Water Restoration Act (CWRA), S. 787 was reported out of the Environment and Public Works (EPW) Committee by a vote of 12-7. It will

move to the Senate calendar for floor consideration. S. 787 was originally introduced by Senator Russ Feingold (D-WI). The bill attempted to redefine what a “water of the U.S.” was, while taking out the term “navigable” from Clean Water Act. It also included language that stated that “activities affecting” those defined waters, would be jurisdictional. However, in Committee, this language was slightly modified through an amendment.

EPW Chairwoman Barbara Boxer, along with Senators Max Baucus and Amy Klobuchar, successfully offered a substitute amendment to the base bill. The new language contains some changes to the original bill. Most notably, it removes the reference to “activities affecting” these waters. It also attempts to redefine what waters are under federal jurisdiction in the Army Corps of Engineers 404 permit program.

The Committee approved language that also removes the word “navigable” from all references in the Clean Water Act (CWA). The word “navigable” is currently used 83 times in the CWA. Removing “navigable” from the Act will impact all CWA programs, not just the 404 permit program. Some of the programs affected will be the National Pollutant Discharge Elimination System (NPDES) and water quality standards programs. The focus and responsibility of these programs may change significantly, at the federal, state, and local levels, if “navigable” is removed.

NACE and NACo’s policy opposes removing the term “navigable” from the Clean Water Act. **We urge you to contact your members of Congress and urge them to oppose S. 787.**

Final Roll Call Vote:

Voting in favor of S. 787: Senator Barbara Boxer (D-CA); Senator Max Baucus (D-MT); Senator Thomas Carper (D-DE); Senator Frank Lautenberg (D-NJ); Senator Benjamin Cardin (D-MD); Senator Bernard Sanders (I-VT); Senator Sheldon Whitehouse (D-RI); Senator Tom Udall (D-NM); Senator Jeff Merkley (D-OR); Senator Kirsten Gillibrand (D-NY); Senator Amy Klobuchar (D-MN) and Senator Arlen Specter (D-PA).

Voting in opposition of S. 787: Senator James Inhofe (R-OK); Senator George Voinovich (R-OH); Senator David Vitter (R-LA); Senator John Barasso (R-WY); Senator Mike Crapo (R-ID); Senator Christopher Bond (R-MO); and Senator Lamar Alexander (R-TN).

Revised Notice on DOT TIGER Discretionary Grant Program Published

The US Department of Department published a revised notice of funding availability for the \$1.5 billion TIGER Discretionary Grant program in the June 17th Federal Register. Under this program, funds will be awarded to State and local governments who submit applications for capital investments in surface transportation infrastructure, including highway or bridge projects, public transportation projects, passenger and freight rail, and port infrastructure investments. Applications for TIGER discretionary grants must be submitted by September 15, 2009, from state and local governments, including U.S. territories, tribal governments, transit agencies, port authorities, MPOs and others. The Federal Register notice revises the interim notice published on May 18, and clarifies that the Department is no longer considering comments on the proposed selection criteria and guidance for awarding TIGER Discretionary Grants. The revised notice is the operative notice of funding availability for the TIGER Discretionary Grants program. The June 17th Federal Register notice is available at: <http://edocket.access.gpo.gov/2009/pdf/E9-14262.pdf>.

Additional information about the program is available at: <http://www.dot.gov/recovery/ost/>.

Summary of Changes

The revised Federal Register notice makes the following substantive changes to the notice published on May 18 (please read the notice for a complete description of these changes):

- * provides additional guidance for evaluating a project's costs and benefits; specifically, the notice (i) provides a discount rate for discounting future benefits and costs to present values, (ii) identifies guidance on the value of time and statistical lives, (iii) provides sources of information on the social benefits of reducing crash costs, pollutant emissions and other externalities, (iv) provides economic values for various benefits, including the cost of a metric ton of carbon emissions, and (v) clarifies that applicants should present a project's net benefits, in addition to the project's benefit-cost ratio;
- * clarifies that MPOs are eligible grant recipients;
- * clarifies that for this program "Economically Distressed Areas" is not limited to counties, but could include municipalities;
- * includes additional guidance about which projects must be included in State or local planning documents to demonstrate readiness to proceed;
- * clarifies that projects that have negative effects on any of the selection criteria are less likely to receive grant funds;
- * clarifies that the Economic Competitiveness criterion targets investments that facilitate net new private sector expansion, hiring, or growth, rather than those that result only in moving existing jobs or economic activity to different locations;
- * clarifies that while applications may be submitted prior to the September 15 deadline, the Department will not evaluate applications or announce projects selected to receive TIGER Discretionary Grants until after the September 15 deadline;
- * requests that applicants include certain information on the first page of their applications;
- * clarifies that recipients of TIGER Discretionary Grants and their first-tier sub-awardees are required to have a DUNS number (www.dnb.com) and a current registration in the Central Contractor Registration (www.ccr.gov) prior to award of a TIGER Discretionary Grant;
- * includes requirements guiding the Department's communications with registered lobbyists which were specified in the memorandum from the President of the United States dated March 20, 2009; and
- * clarifies that the TDD number is provided for individuals who are deaf or hard of hearing.

Local Roads Matter Campaign Launched

The National Association of County Engineers (NACE) has launched its “Local Roads Matter” campaign to highlight the importance of “Local Roads” to our nation’s transportation system. Over 75% of the roads and bridges in the United States are under local jurisdiction, but national and state transportation funding policies starve them of the resources necessary to maintain a state of good repair and meeting growing mobility needs. The surface transportation authorization provides us with the opportunity to act on these critical issues. NACE President Chris Bauserman, County Engineer, Delaware County Ohio added that “Across the nation, it is difficult for those responsible for the local road system to have a voice at the state level to ensure money is targeted for investment at the local level is actually spent at the local level.”

The consequences of this shortsightedness range from an appalling highway safety record to a pervasive negative impact on local and regional economies. A new and more enlightened federal, state, and local partnership is needed to restore the balance to highway investments and achieve important economic, environmental and safety goals. A needs assessment brochure is available at the following link [NACE Needs Assessment brochure](#).

Local Roads do matter. The time is now to address fundamental issues of fairness and equity in the distribution of federal highway funds if we are to stimulate and preserve local economies and address a safety problem of troubling dimensions. Valerie Brown, President-elect of the National Association of Counties and member of the Sonoma County, California Board of Supervisors adds “The NACE Local Roads Matter Campaign supports our efforts at NACo to “Restore the Partnership” between the Federal government and America’s counties. County roads are the backbone of rural America and as such a renewed national focus is required to protect the users and preserve these vital public assets.”

To visit the NACE Local Roads Matter Campaign site visit

<http://countyengineers...org/LRM/index.html>

Final Rule for Worker Visibility

On November 24, 2008, the Interim Final Rule revising the Worker Visibility rule (23CFR 634) was issued to create an exemption for the firefighting community. This interim Final rule allowed firefighters or other emergency responders working within the right-of-way of a Federal-aid highway and engaged in emergency operations that directly expose them to flame, fire, heat, and/or hazardous materials to wear retroreflective turnout gear that is specified and regulated by other organizations, such as the National Fire Protection Association. The FHWA decided to issue this interim final rule to address safety concerns raised by fire fighting community. Three comments were submitted to the Interim Final Rule. Those have been addressed and it was issued as a Final Rule on June 15, 2009. Attached is a copy of the rule language for your information.

ATSSA Announces Safety Training Availability

NACE has had a long standing partnership with ATSSA. The below training is now available.

As you may be aware ATSSA has been administering a FHWA Work Zone Safety Training Grant for the past 3 years. This grant allows ATSSA to present the high quality training programs at \$25 for public officials and \$50 for everyone else.

The course listing includes:

- Traffic Control Technician
- Traffic Control Supervisor
- Flagger – Train the Train
- Nighttime Traffic Control
- Law Enforcement Training
- Utility Traffic Control
- Incident Traffic Control for Responder
- Traffic Control Design Specialist
- Maintenance and Short Duration Activities
- Urban Work Zone Design
- Work Zone Strategies
- Work Zone Traffic Impact Analysis

All course descriptions and executive overviews of these courses are available at www.atssa.com. They would like to bring any or all of these courses to your state. If interested they need only 10 people per course to schedule it. Contact Donna Clark and let her know when and where and which course you'd like and they will schedule it for you. If you have any questions, please do not hesitate to contact Donna at donna.clark@atssa.com or 877-642-4637.

NACE member discount available for UW-Madison continuing engineering education courses

NACE members are eligible for a \$100 discount off the regular registration fee for any public works courses offered through the University of Wisconsin-Madison Department of Engineering Professional Development (EPD). Topics covered in public works courses include streets, roads, highways, bridges, stormwater, traffic, geotechnical and soils. Courses are offered at locations throughout the United States, in addition to Madison, Wisconsin. To take advantage of this NACE member discount or to view a complete list of upcoming courses and locations, visit our website at: <http://epd.engr.wisc.edu/partnerwithNACE>.

EPD is one of the nation's largest university-based providers of continuing engineering education. In addition, EPD offers course topics of interest to non-engineers, architects and other technical professionals.

Note: all University of Wisconsin continuing education classes are approved for Continuing Education Units (CEU's), Professional Development Hours (PDH) and APA/AICP CM continuing education credits. For more information contact Howard Rosen, Program Director, directly BEFORE you register. He can be reached at: 608-262-4341 or rosen@engr.wisc.edu