Summary of the Senate Finance Committee Title to the Highway Bill, MAP-21

The Highway Bill (S. 1813) reauthorizes and fully funds the Highway Trust Fund (HTF), the federal funding source for roads, highways, bridges and mass transit projects. These infrastructure projects of regional and national significance ensure safety and mobility, create or sustain good-paying jobs, reduce traffic congestion and improve air quality.

The bill invests nearly $14 billion in the HTF by drawing from two sources: the General Fund and a surplus in the Leaking Underground Storage Tank Fund (LUST). The bill fully replenishes the amount drawn from General Fund largely by stabilizing pension interest rates, as well as by using other offsets.

Extension of Revenues and Trust Funds

Extension of Highway Trust Fund Expenditure Authority. Under present law, revenues from highway excise taxes, as levied through March 31, 2012, generally are dedicated to the Highway Trust Fund. This provision would extend the expenditure authority for the Highway Trust Fund through September 30, 2013.

Extension of Highway-Related Taxes. Six separate excise taxes are levied to finance the Federal Highway Trust Fund program, three of which are levied on highway motor fuels. The remaining three are a retail sales tax on heavy highway vehicles, a manufacturers' excise tax on heavy vehicle tires, and an annual use tax on heavy vehicles. The annual use tax on heavy vehicles expires October 1, 2012. Except for 4.3 cents per gallon of the Highway Trust Fund fuels tax rates, which is permanent, the remaining taxes are scheduled to expire after March 31, 2012. This provision would extend the motor fuel taxes, and all three non-fuel excise taxes at their current rates through September 30, 2015.

Other Provisions

Bank Qualified Bonds. Under current law, a financing authority can issue tax exempt bonds for transportation, health care and other projects, but can only sell up to $10 million of bonds per year to financial institutions (i.e., bank-qualified bonds) under a small issuer rule. This provision would expand the ability of small issuers to sell bank-qualified bonds from $10 million to $30 million for bonds issued after June 30, 2012 and before July 1, 2013. The provision also allows qualified borrowers, such as statewide financing authorities, to pool their bond issuances to decrease borrowing costs for small borrowers. *This provision is estimated to cost $761 million over ten years.*

AMT Relief on Private Activity Bonds. This provision would provide alternative minimum tax (AMT) relief to investors in private activity bonds that are issued after the date of enactment and before January 1, 2013. *This provision is estimated to cost $215 million over ten years.*

Transportation and Regional Infrastructure Bonds (TRIPs). This provision would create placeholder language that would amend Title 23 of the United States Code to allow state infrastructure banks to issue TRIP bonds, 100 percent of the proceeds of which must be spent on qualifying transportation projects and the term of the bond cannot exceed 30 years. The provision would also allow state infrastructure banks to create TRIP bond accounts, which is where proceeds from TRIPs would be deposited. *The provision does not have a revenue effect.*

Parity for Exclusion from Income for Employer-Provided Mass Transit and Parking Benefits. This provision would extend through 2012 the increase in the monthly exclusion for employer-provided transit and vanpool benefits from $125 to $240, so that it would be the same as the exclusion for employer-provided parking benefits. In order for the extension to be effective retroactive to January 1, 2012, expenses incurred prior to enactment by employees for vanpool and transit benefits may be reimbursed by employers on a tax free basis to the extent they exceed $125 per month and are less than $240. *This provision is estimated to cost $139 million over ten years.*

Exempt-Facility Bonds for Sewage and Water Supply Facilities. Private activity bonds are tax exempt bonds issued by state and local governments for private activities with public benefits, such as construction of low-income housing or hazardous waste facilities. For calendar year 2012, the volume cap limit is $95 per capita, or $284.56 million. This proposal would eliminate the volume cap for water sewage and water facility projects for bonds issued after the date of enactment and before January 1, 2018. *This provision is estimated to cost $305 million over ten years.*

Revenue Provisions Contributing to the Highway Trust Fund

Leaking Underground Storage Tank Trust Fund. The Leaking Underground Storage Tank (LUST) Trust Fund was established in 1986 to support States and the Environmental Protection Agency in efforts to remediate leaks from underground storage tanks. On every gallon of taxable motor fuel, 0.1 cents is deposited in the LUST Trust Fund. These revenues have consistently been greater than outlays and the fund has accumulated a balance of $3.745 billion as of the end of fiscal year 2011. The total revenue into the fund including interest is over $300 million per year while outlays are just over $100 million per year. This provision would transfer $3 billion from the LUST Trust Fund to the Highway Trust Fund on the date of enactment. In addition, the provision would reduce the tax by 0.033 cents-per-gallon of each gallon and redirect that revenue to the Highway Trust Fund in order to better match revenues to the fund and outlays from the fund. *This provision is estimated to provide $3.685 billion to the Highway Trust Fund over ten years.*

Dedicate Gas Guzzler Tax to Highway Trust Fund. Under current law, a tax is levied on automobiles that are manufactured primarily for use on public streets, roads, and highways and that are rated at 6,000 pounds unloaded gross vehicle weight or less and fail to meet the current 22.5 miles-per-gallon fuel economy standard. This provision requires that amounts equivalent to the gas guzzler taxes received in the Treasury be transferred to the Highway Trust Fund. An exemption applies to non-passenger vehicles. *The provision is estimated to provide $697 million to the Highway Trust Fund over ten years.*

Transfer to the Highway Trust Fund Proceeds of Certain Import Tariffs. The provision would appropriate to the Highway Trust Fund amounts equivalent to those received in the general fund from tariffs on the types of passenger vehicles classified under subheadings 8703.22.00 and 8703.24.00 of Chapter 87 of the Harmonized Tariff Schedule. *The provision is estimated to provide $4.52 billion to the Highway Trust Fund between fiscal years 2012 and 2016.*

Additional Transfer to the Highway Trust Fund. In addition to the transfers to the Highway Trust Fund from the LUST fund and a portion of future LUST revenues, the gas guzzler revenue and certain tariff revenues as described above, additional revenue totaling $4.97 billion from the general fund is also transferred. *The provision is estimated to provide $4.97 billion to the Highway Trust Fund over ten years.*

The transfers will provide a total of $13.872 billion over the budget window to the Highway Trust Fund. Of this amount, $9.279 billion is transferred in the first two years, an amount sufficient to fully fund the MAP-21 reauthorization.

Revenue Provisions Replenishing the General Fund

Revenue from Pension Provisions

Pension Interest Rate Stabilization. For pension funding purposes, plan liabilities are calculated by discounting projected future payments to a present value by using legally required interest rates based on corporate bonds: the lower the rate, the greater the liability. These rates have been abnormally low for a significant period of time. As a result of the current interest rate climate, contributions for 2012 will be much greater than for prior years. Under the proposal, plan liabilities would continue to be determined based on corporate bond segment rates, which are based on the average interest rates over the preceding two years. However, beginning in 2012 for purposes of the minimum funding rules, any segment rate must be within 10 percent (increasing to 30 percent in 2016 and thereafter) of the average of such segment rates for the 25-year period before the current year. This would stabilize the fluctuation of interest rates from year to year, resulting in less decline when there is a sharp drop in interest rates and less of an increase when there is a sharp increase in interest rates. Thus, because there is an inverse relationship between the level of interest rates and the level of required contributions, as compared to current law, higher contributions will be made during periods of abnormally high interest rates and lower contributions will be made during periods of abnormally low interest rates. *This provision is estimated to raise $9.467 billion in revenue over ten years.*

Federal Early Retirement. Under current law, a federal employee cannot begin receiving retirement benefits without fully terminating employment. This results in the loss of experienced workers who might want opt to work on a part-time basis if they were able to supplement their compensation with retirement benefits. Under this provision, employees who are otherwise eligible for retirement benefits could continue working on a reduced schedule and collect a corresponding percentage of their retirement benefits. For example, an employee could continue working half time and be entitled to receive half of his or her retirement benefit. This results in lower outlays by the federal retirement fund and lower contributions by federal agencies to the fund. This is fully optional for both the agency and the employee. *This provision saves approximately $459 million over ten years.*

Extension for Transfers of Excess Pension Assets to Retiree Health Accounts and Allow Section 420 to Apply to Life Insurance Benefits. This provision would extend the ability of employers to transfer excess pension assets to fund retiree health benefits and expand the provision to allow transfers for retiree life insurance. As under current law, a transfer is permitted only if, after the transfer, the pension fund still has assets equal to more than 120 percent of the liabilities of the fund. The pension fund is protected by the funding level requirement, which also narrows the number of companies that can use the provision. The transferred amounts would also be restricted to retiree benefits, so it will help to enable employers to maintain retiree coverage. *This provision is estimated to raise $363 million over ten years.*

Revenue from Tax Enforcement

Special Measures against Financial Institutions or Foreign Jurisdictions that Significantly Impede U.S. Tax Enforcement. Current law empowers the Secretary of the Treasury to impose restrictive measures on foreign governments or financial institutions if their actions give rise to money laundering concerns. Some of these "special measures" require additional reporting while the most severe measure gives the Secretary the power to prevent foreign institutions from opening and maintaining accounts in the United States. This provision would expand the application of "special measures" that currently can be taken against foreign banks or governments that are involved in money laundering to foreign banks or governments that "significantly impede U.S. tax enforcement." This means that provisions and penalties that were established to deter money laundering could now be levied to deter tax evasion. This provision would not change the Internal Revenue Code. *This provision is estimated to raise $1.022 billion over ten years.*

Increase Levy Authority on Payments to Medicare Providers with Delinquent Tax Debt. Under current law, the Internal Revenue Service (IRS) may impose a levy of up to 15 percent against Medicare service providers with tax delinquencies. This provision will permit the IRS to impose a levy of up to 100 percent on tax delinquent Medicare service providers. *This provision is estimated to raise $841 million over ten years.*

Revoke Passports of Individuals Owing More Than $50,000 in Back Taxes. Currently the Federal government revokes passports and denies new passports to individuals who owe more than $2,500 in child support payments. Similarly, this provision would authorize the government to deny the application for a new passport or renewal of an existing passport when the individual has $50,000 or more (indexed for inflation) of unpaid federal taxes which the IRS is collecting through enforcement action. It would also permit the Federal government to revoke a passport upon reentry into the United States for such individuals. *This provision is estimated to raise $743 million over ten years.*

Life Insurance Policy Sales Tax Reporting. This proposal requires information reporting upon the sale of an existing life insurance policy. The proposal is designed to aid the seller in determining the amount of taxable profit from the sale of the policy by providing the seller information about the purchase price and basis in the policy. The proposal does not apply to the initial sale of a life insurance policy by a life insurance company to an individual. However, if the policy owner sells the policy to a third party, these reporting provisions will apply. The proposal also repeals a controversial basis calculation rule that requires life insurance policy owners to reduce their basis by cost of insurance. *This provision is estimated to raise $244 million over ten years.*

Cigarette Machine Tax. Under current law, there is a disparity in the tax treatment of cigarette tobacco and pipe tobacco. This creates a loophole for in-store roll-your-own cigarette machines to avoid the standard cigarette tax by improperly labeling a product as pipe tobacco. The proposal would expand the definition of a tobacco manufacturer to include businesses operating a roll-your-own machine. As such, the machine's owner would be responsible for federal excise taxes on the tobacco products manufactured using his or her machine. *This provision is estimated to raise $99 million over ten years.*

Clarify IRS Levy Authority for Funds in a Thrift Savings Plan Account. This provision would clarify that funds in Thrift Savings Plan accounts of federal employees would be subject to legal process by the Internal Revenue Service for payments of delinquent taxes. *This provision is estimated to raise $25 million over ten years.*

Depreciation and Amortization Rules for Highways and Related Property Subject to Long-Term Leases. A state or political subdivision thereof may contract with a private entity to lease an existing highway or build a new highway, and then operate the highway for a number of years. These transactions generally include a lease to the private entity of the existing highway and a grant of a franchise permitting the private entity to collect tolls. Typically, a substantial upfront payment is made for the lease and franchise rights. This total amount must be allocated between the existing highway and the franchise rights. Even though the transition is formally structured as a lease, for tax purposes the private entity is treated as the owner since benefits and burdens have been transferred under the long-term lease. Currently, the Internal Revenue Code (IRC) allows the private entity in these transactions to depreciate the cost of the highway over 15 years. The IRC allows the private entity to amortize the cost of the grant of the franchise to collect tolls over 15 years, no matter how long the private entity has the contractual right to collect. This provision would require that the private entity (1) depreciate the cost of the highway over 45 years; and (2) amortize the cost of the right to collect tolls over the term of the lease. This proposal is applicable only for a highway that is already in service on the date the contract is signed. *No revenue estimate is available at this time because of the limited number of transactions that have utilized this structure. However, JCT expects that the provision is likely to have a negligible effect on Federal receipts.*

Revenue from Other Provisions

Delay of Worldwide Interest Expense Allocation. The provision would delay the use of the worldwide interest expense allocation method by one year. In 2004, Congress provided taxpayers with an election to use an alternative method (known as the "worldwide method") for allocating interest expense between United States sources and foreign sources for purposes of determining a taxpayer's foreign tax credit limitation. The worldwide method is generally preferred by U.S. corporations with foreign subsidiaries, because using the worldwide method typically results in less of a restriction on the use of the foreign tax credit. This is because, under the worldwide method, foreign financing costs are taken into account which means that US financing costs are allocated fully against US-source income instead of being partly allocated to foreign-source income. Although enacted in 2004, this election was not available to taxpayers until taxable years beginning after 2008. In 2008, the phase-in of this rule was delayed for two years for taxable years beginning after 2010. In November of 2009, the phase-in of this rule was delayed for an additional seven years for taxable years beginning after 2017. In March of 2010, the phase-in was further delayed to taxable years beginning after 2020. This proposal would delay implementation by one year, to taxable years beginning after 2021. *This provision is estimated to raise $3.627 billion over ten years.*

Treatment of Debt Securities Issued in Certain Spin-Off Reorganization Transactions. Under current law, in certain corporate reorganizations involving a spin-off of a subsidiary, the subsidiary can issue its stock or debt securities in the transaction without triggering gain to the parent corporation on the transaction. This includes transactions commonly referred to as Reverse Morris Trust transactions. Gain is recognized to the extent of the value of money or other property distributed by the subsidiary in the reorganization. Therefore, if the subsidiary borrows and distributes cash, or assumes debt of the parent, gain will be recognized. However, if the subsidiary distributes its own debt securities in the transaction no gain is recognized even though the economic result is equivalent to the subsidiary's direct assumption of the parent's indebtedness. Such treatment may encourage excessive leverage in certain spin-off transactions. This provision would treat distributions of debt securities to the parent in reorganization transactions involving a spin-off in the same manner as distributions of cash or other property in the reorganization. The provision is applicable to exchanges after the date of enactment, subject to a transition rule for transactions entered into or announced on or before February 6, 2012. *This provision is estimated to raise $244 million over ten years.*

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