



## Analysis of the American Energy and Infrastructure Jobs Act (AEIJA)

On February 2, 2012, the U.S. House of Representatives Transportation and Infrastructure Committee marked up the American Energy and Infrastructure Jobs Act (AEIJA) transportation reauthorization [bill](#), including several [amendments](#). For an overview of AEIJA, see a January 31 Policy Update from the Chicago Metropolitan Agency for Planning (CMAP) at <http://1.usa.gov/z7oLAW>.

Two years ago, CMAP published five transportation reauthorization [principles](#) that now provide a framework to analyze AEIJA. These principles are reflected throughout the [GO TO 2040](#) comprehensive regional plan adopted unanimously in October 2010 by leaders from across the seven counties of metropolitan Chicago. CMAP urges leaders in Washington to give highest priority to the following policy objectives in crafting and implementing a new federal transportation bill:

- Provide transportation investments based on regional priorities using performance-driven criteria that lead to decisions that are transparent, outcome-based, and mode-agnostic.
- Evaluate and prioritize infrastructure investments in a comprehensive way that looks beyond transportation benefits to include land use, economy, environment, and other quality-of-life factors.
- Provide adequate federal investments in the nation's transportation systems.
- Reform the transportation funding system by placing a new emphasis on sustainable revenue sources.
- Establish a national transportation vision that includes the movement of goods and the development of a national high-speed rail network.

### CMAP's Immediate Concerns with AEIJA

CMAP has several concerns with the bill as written. Similar in format to the [analysis](#) of Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21), the Senate's federal transportation reauthorization bill, this Policy Update discusses each concern in turn. The second Policy Update analyzes AEIJA in terms of the five reauthorization principles listed above.

*Funding:* CMAP's chief concern is the overall funding level for the bill and the source of funds. Like the Senate proposal, AEIJA would not raise traditional user fees, nor would it establish new sustainable revenue sources. Funding of our transportation system is in peril without additional dedicated revenues, and addressing this mounting crisis is at the crux of two of CMAP's stated priorities.

CMAP has concerns about the stability and practicality of AEIJA's reliance on expanded domestic energy production and a large General Fund transfer to fund the new Alternative Transportation Account for transit, research, and Congestion Mitigation and Air Quality (CMAQ) projects. CMAP is concerned that separating these vital programs from the Highway Trust Fund will jeopardize the stability of their funding. Since 1983, a [portion of the federal gas tax](#) has been dedicated to transit projects through the Mass Transit Account, and today 2.86 cents per gallon are deposited in the Mass Transit Account. At a policy level, a reliance on energy production and general revenues violates the longstanding practice of applying dedicated user fees to fund transportation, a practice CMAP strongly supports. These two revenue sources weaken the link between transportation costs paid and transportation benefits received.

CMAP also questions the bill's significant increase in support of financing programs like the Transportation Infrastructure Finance and Innovation Act (TIFIA) and State Infrastructure Banks (SIBs) at a time when the federal government is at best maintaining levels for its core direct funding programs. While GO TO 2040 supports the use of innovative finance mechanisms, CMAP believes that these efforts should not supplant traditional financing.

In the absence of adequate support at the federal level, CMAP believes that states and regions need to be given essential tools to ensure long-term funding of the transportation system. Tolling is one such tool that can help regions achieve sustainable transportation funding, and it has the advantage of being firmly rooted in the user-fee principle. However, AEIJA would not permit tolling on the existing Interstate highway system, only for projects that add new capacity.

*Metropolitan Planning Process:* AEIJA fails to empower metropolitan regions, despite the unique and critical role they play as drivers of the global economy. Rather, AEIJA would entrust substantial policy responsibility and regulatory discretion with the states, providing only a passive role for MPOs. It invests states with the responsibility for identifying performance targets, building plans and policies around these targets, and measuring progress based on the state's performance measures. On the other hand, the role of MPOs is largely unmentioned; the bill merely says that states must "collaborate" with MPOs, for example in setting core performance measures under the National Performance Management System. While its emphasis on performance-based planning and programming is laudable, the bill does not provide MPOs a voice in identifying priorities, policies, or selecting performance criteria, and as such it provides no assurance that investment decisions will be based on regional priorities.

CMAP strongly opposes the provision in AEIJA that would allow a Governor to overrule a metropolitan planning organization's Transportation Improvement Program (TIP). Section 5203 provides that if a state department of transportation and MPO cannot agree on the programming of an Interstate highway project into the metropolitan TIP, the Governor can require the MPO to include the project in its TIP without the MPO's approval. CMAP believes that this provision substantially undermines metropolitan regions' ability to prioritize and select transportation projects; as such it violates the spirit of the TIP and runs counter to decades of practice in metropolitan transportation planning.

*Freight:* Unlike the Senate proposals, the House bill would not provide a dedicated grant program for freight projects. The House bill would also eliminate the Projects of National and Regional Significance (PNRS) Program. Two failed amendments offered during the markup session would have [established](#) such a freight grant program and [restored](#) the PNRS program. A successful [amendment](#) removed the bill's provisions that would have substantially increased the size and weight of trucks on the Interstate system. Although CMAP supports AEIJA's freight planning provisions, it believes the bill does not provide adequate support to the nation's freight infrastructure.

## Reauthorization Process

Despite some encouraging recent progress by both the House and Senate, CMAP has many reservations about both the transportation reauthorization bills. Neither increases funding above current levels adjusted for inflation, nor does either provide for sustainable new revenue sources such as a VMT fee or broad tolling authority. Rather, both stray from the tradition of user-fee financing with one-time transfers, offsets, and new revenue sources entirely unrelated to transportation. While CMAP supports the increasing focus on performance measures in federal transportation policy, neither bill allows much voice for MPOs during the process, and the House bill in particular [fails to provide](#) ~~s little~~ new roles or responsibilities for MPOs. Additionally, the House bill fails to tie performance targets to investment decisions in a meaningful way. CMAP is very concerned by the House bill's changes to the Mass Transit Account, and CMAP emphasizes its full support for a dedicated, long-term revenue source for transit projects. That said, the bills contain several promising proposals, including the Senate's reforms to transit funding and various freight provisions. Accelerated project review could benefit complex major projects in our region, and several of our surface transportation projects should be competitive applicants for discretionary grant and loan programs.

## AEIJA and CMAP Reauthorization Principles

The following analysis looks at AEIJA in the context of CMAP's established reauthorization [principles](#).

- 1. Provide transportation investments based on regional priorities using performance-driven criteria that lead to decisions that are transparent, outcome-based, and mode-agnostic.**

*Partially implements CMAP principles.* The House bill contains extensive language on the use of performance-based evaluation criteria in allocating funds and developing strategic plans. For example, AEIJA would require states to develop asset management plans for the National Highway System (Section 1105). These plans would include economic and engineering analysis to define a maintenance and operation strategy that would achieve a long-term state of good repair at the least public cost. AEIJA would provide for national goals, require that the state asset management plans contain various subcomponents (e.g., an asset inventory and a financial plan), while tying compliance to federal funding (i.e., states that fail to meet the asset planning requirements would see their federal match decline to 70 percent). As a second example, AEIJA would establish a National Performance Management System, which would include national goals, core performance measures, technical guidance, and a state performance management process, which in turn would consist of state performance targets, implementation strategies, and reporting requirements.

AEIJA makes strides toward implementing a transparent performance-based funding system, but it falls short in ensuring that investment decisions are made based on regional priorities. It invests states with the responsibility for identifying performance targets, for building plans and policies around these targets, and for measuring progress based on the state's performance measures. The role of metropolitan planning organizations (MPOs) is largely unmentioned; the bill merely says states must "collaborate" with MPOs, for example in setting core performance measures under the National Performance Management System. Nevertheless, AEIJA's emphasis on performance measurement among transportation officials is a positive step toward improved accountability to the public and better cost-effectiveness of the federal transportation program.

**2. Evaluate and prioritize infrastructure investments in a comprehensive way that looks beyond transportation benefits to include land use, economy, environment, and other quality-of-life factors.**

*Partially implements CMAP principles.* As described above, AEIJA emphasizes the use of performance measures. The text of the bill at times refers to economic growth, environmental, and safety goals in the context of performance measurement, along with more traditional transportation benefits. For example, the core performance measures for the National Performance Management System would include traditional engineering criteria such as pavement and bridge conditions along with measures of safety, congestion, connectivity, freight mobility, and air emissions and energy consumption. Many of the bill's other references to performance goals or measures are currently undefined; it is currently unclear to what extent they would implement this reauthorization principle. Defining the criteria in a manner recommended by CMAP's reauthorization principles is contingent on the regulatory decisions made by the U.S. Department of Transportation and state DOTs.

AEIJA does appear to indirectly uphold this reauthorization principle through its increased support of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program. The TIFIA program seeks to support large, complex projects of regional and national significance through various credit assistance programs. The TIFIA Joint Program Office [selects](#) projects using a variety of criteria, including measures of environmental impact, use of new technology, and innovative project organization and delivery. In addition to meeting these criteria, proposed TIFIA projects must repay loans using dedicated revenue sources, they must be included in their state's TIP and long-term transportation plans, and their debt must have the potential to achieve investment-grade rating. Further, AEIJA's emphasis on encouraging private sector involvement in transportation – whether through the TIFIA program, state infrastructure banks, or regulatory reforms at the U.S. Department of Transportation – suggests that a different set of evaluation criteria would be applied to some transportation projects in the future. Private entities, for one, would presumably consider economic and potentially apply land use criteria when choosing whether to make an investment.

Additionally, AEIJA consolidates or eliminates nearly 70 programs, and the reduced number of programs should provide states and metropolitan areas with greater flexibility in programming federal funds. To the extent that greater flexibility allows states to choose projects in a more comprehensive manner, AEIJA could thus further implement this CMAP recommendation.

**3. Provide adequate federal investments in the nation's transportation systems.**

*Does not implement CMAP principles.* AEIJA would continue the existing motor fuels tax and other user fees at their current rate, despite recent [evidence](#) that at current rates the Highway Trust Fund would be insolvent by Fiscal Year 2014. In total, AEIJA would provide some \$262 billion over five years. AEIJA would limit Trust Fund receipts to highway projects only, while current practice dedicates 2.86 cents per gallon to mass transit from the 18.4 cent-per-gallon federal gas tax. Even with the narrower programmatic scope, AEIJA would supplement the Highway Trust Fund with revenues from [expanded domestic oil and gas production](#). Revenue estimates from offshore energy production, drilling in the Arctic National Wildlife Refuge, and oil shale development vary widely.

AEIJA would establish a new Alternative Transportation Account for transit projects and the Congestion Mitigation and Air Quality Improvement (CMAQ) program, as well as various ferry, Puerto Rico and territorial highway, and research and education programs. The Alternative Transportation Account would be principally funded through a one-time \$40 billion infusion from general revenues. AEIJA and its companion funding bill in the U.S. House of Representatives Ways and Means Committee currently fail to identify offsets for the \$40 billion transfer as required by the Budget Control Act.

Maintaining funding at current levels is insufficient to meet the transportation system's needs. According to 2009 [estimates](#) from the National Surface Transportation Infrastructure Financing Commission, the nation's highways and transit face a \$400 billion funding gap between 2010 and 2015, and a \$2.3 trillion gap between 2010 and 2035. This gap is the difference between total investment needs and anticipated

revenues using current funding sources and tax rates. Assuming the \$400 billion is applied equally across the five-year period, investment needs are \$80 billion a year. Applying this annual figure to the 4.5-year term of AEIJA, the bill comes up some \$98 billion short.

#### **4. Reform the transportation funding system by placing a new emphasis on sustainable revenue sources.**

*Does not implement CMAP principles.* AEIJA would not provide sustainable new revenue sources for the nation's transportation system. As described above, the bill relies in part on a one-time infusion of general funds and an ongoing supplement of revenues from domestic energy production. While the latter would be dedicated to the Highway Trust Fund, the former would not. As such, the newly-established Alternative Transportation Account would lack a dedicated funding source entirely, leaving transit, CMAQ, and research programs vulnerable to the uncertainties of the appropriation process.

The new revenue sources proposed by AEIJA lack a rational nexus to the transportation system, and they are thus inconsistent with [GO TO 2040's](#) call for continuing the user-fees tradition in transportation finance. GO TO 2040 recommends increasing traditional revenue sources, principally the gasoline tax, in the near term to meet immediate investment needs. In the long term, the gas tax will need to be replaced as vehicles become more fuel-efficient or switch to other fuels entirely.

Potential new revenue sources include congestion pricing, vehicle-miles traveled fees, or variable parking fees. Tolling is a key tool for implementing these sustainable transportation funding sources, and it has the advantage of being a pure user fee. Technological advances such as open-road tolling have substantially reduced the costs of tolling and also allow for more sophisticated applications. For example, toll rates can vary by time of day and location to implement congestion pricing or advanced vehicle-miles traveled fees. Unfortunately, AEIJA would do little to advance these innovative revenue sources. It would not permit tolling on existing Interstates, although it would allow tolling on new lanes added to the Interstate system.

#### **5. Establish a national transportation vision that includes the movement of goods and the development of a national high-speed rail network.**

*Partially implements CMAP principles.* AEIJA makes some progress toward implementing this reauthorization principle, but the bill comes up short compared to freight needs in light of its importance to the regional and national economies. AEIJA would require the U.S. Department of Transportation to develop a National Freight Policy in consultation with relevant public and private stakeholders. The plan would be developed within one year of enactment of the bill, with updates every five years thereafter. It would identify goals, specify programs that would achieve those goals, and also specify a process for moving those programs forward. AEIJA would encourage but not require states to establish freight advisory committees and develop their own freight plans. Additionally, the bill would require the U.S. Department of Transportation to conduct a truck parking study within 18 months of enactment, and it would reform the Railroad Rehabilitation and Improvement Financing program to better utilize that private sector financing program.

Despite these positive steps, AEIJA would not provide the commensurate dedicated funding to achieve the goals of the National Freight Policy, and it would eliminate the Projects of National or Regional Significance program. Additionally, AEIJA is largely silent on high-speed rail and would provide no dedicated funds to that purpose.

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### **About CMAP**

The Chicago Metropolitan Agency for Planning (CMAP) is the official regional planning organization for the northeastern Illinois counties of Cook, DuPage, Kane, Kendall, Lake, McHenry, and Will. CMAP developed and now leads the implementation of GO TO 2040, metropolitan Chicago's first comprehensive regional plan in more than 100 years. To address anticipated population growth of more than 2 million new residents, GO TO 2040 establishes coordinated strategies that help the region's 284 communities address transportation, housing, economic development, open space, the environment, and other quality-of-life issues. See [www.cmap.illinois.gov](http://www.cmap.illinois.gov) for more information.

Revised May 8, 2012