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August 2, 2021

RTAC LEGISLATIVE UPDATE

BIPARTISAN INFRASTRUCTURE BILL RELEASED: A bipartisan group of Senators, evenly split between Democrats and Republicans, reached an agreement amongst themselves and President Biden on a roughly \$1.2T infrastructure bill. For transportation, the proposal combines a five-year reauthorization of federal transportation programs with new spending above current levels. Arizona Senator Kyrsten Sinema was a key negotiator of the bipartisan group. 67 Senators, including Minority Leader Mitch McConnell and 16 other Republicans, voted to start consideration of the bill late last week providing some cushion above the 60 needed to prevent a filibuster. The bill drafting, which required over 2,700 pages, was completed Sunday evening providing further details, particularly regarding the funding levels.

The bill includes \$550 billion in new spending. The U.S. Department of Transportation would receive roughly half (\$274 Billion) of that revenue. When combining existing (or baseline) spending levels with the new funding, the Department would receive \$567 billion over the next five years.

That would include \$351.3 billion for highways, a 49% increase when compared to the \$235.5 billion provided by the previous authorization bill (the FAST Act). Transit funding would increase 65%, adjusting from \$64.79 billion to \$106.9 billion. Rail programs would be funded at \$66 billion, an amount equivalent to the last 18 years of Federal Rail Administration appropriations combined! Airports would also receive an additional \$25 billion for capital improvements.

The following charts provide a good picture of the federal highway revenues that Arizona could anticipate and how they compare to previous years. Apportionments are the funding levels for formula-based highway programs provided to each state by the authorizing bill. The actual funding amounts will typically be adjusted, based on numerous factors such as future obligation limitations that may reduce the amount that any state can use in a given year or supplemental appropriations increasing the funding. The apportionments also do not

include non-formula funding such as grants. The Bipartisan Infrastructure Bill would provide over \$100 Billion for grant programs over the next five years, a massive increase and another potential funding source for Arizona’s transportation infrastructure.

COMPARING THIS YEAR’S ARIZONA’S FEDERAL HWY FUNDING APPORTIONMENT TO THE PROPOSED LEVELS IN THE BIPARTISAN INFRASTRUCTURE BILL

Federal Fiscal Year	Arizona’s Federal Hwy Funding Apportionment
FY2021 (Actual)	\$801 Million
FY2022	\$969 Million
FY2023	\$989 Million
FY2024	\$1.01 Billion
FY2025	\$1.03 Billion
FY2026	\$1.05 Billion

COMPARISON OF THE FAST ACT’S ARIZONA FEDERAL HWY FUNDING APPORTIONMENTS TO THE BIPARTISAN INFRASTRUCTURE BILL

Authorization Act	Authorized Period	Arizona’s Federal Hwy Funding Apportionment
FAST Act	FY2016-2020	\$3.875 Billion
Bipartisan Infrastructure Bill	FY2022-2026	\$5.044 Billion

*** FY2021 operated under a one-year extension of the FAST Act and all states including Arizona received an identical apportionment to what they received in FY2020**

The Senate is expected to vote on the bill by the end of the week and current speculation suggests it will pass. However, it will have challenges in the House which passed its own version of a transportation authorization bill last month. Typically, the two chambers would work out the differences between their two versions in a conference committee. As the Senate bill was crafted as a bipartisan measure to overcome the 60-vote threshold needed to prevent a Senate filibuster, and was reached with the participation and support of the President, even minor amendments could unravel this relatively fragile bipartisan compromise.

It remains to be seen how the House will respond to this process and to what degree House leadership and its members would fully accept a Senate version with no opportunity to provide input or consideration, including that of the authorization bill that they just passed. House amendments and/or the outcome of a conference committee process could very easily erode Senate support below a 60-vote, filibuster-proof majority. However, there is no guarantee that the House can generate the simple majority needed in that chamber, particularly if they are pressured to just accept the Senate bill with no opportunity of their own to influence the end product.

The House is recessed through September 20th, but is likely to be called back to Washington later in August. The current one-year extension to the FAST Act expires on September 30th. Legislative action will be required prior to that deadline although another short-term extension is a possibility.

Never is legislation, particularly of this scope and magnitude, perfect. Yet this bill goes a long way towards addressing the decades of underinvestment in our transportation infrastructure. The U.S. Department of Transportation currently assesses our national highway and bridge investment backlog at \$756 billion while the Arizona Department of Transportation estimates the state's unmet highway needs at \$30.5 billion. This legislation would incrementally increase Arizona's annual share of federal highway formula funding by about \$250 million in five years and a \$168 million increase the first year.

It also provides relative flexibility for the use of this funding enabling each state and region to better address their priorities. It continues reforms to streamline the project development and construction process. It also provides substantial funding increases for transit, rail, airport and other infrastructure needs.

On the negative, it fails to address updating and modernizing the state distribution formulas which have penalized high-growth states by not accounting for demographic changes such as population growth. The House bill included such language.

With partisanship at extremely high levels and a virtually even party split of both the Senate and House, the ability to pass legislation this substantial and impactful is tremendously difficult, yet close to becoming a reality.

As previously indicated, Senator Sinema led the bipartisan effort to develop this proposal. Senator Mark Kelly has also been very supportive and proactive from his position on the Senate Environment and Public Works Committee, which drafted what essentially became the highway portion of this bill. Please contact both of them and thank them for their leadership on this issue, re-emphasize the importance of addressing Arizona's infrastructure under-investment levels and urge them to keep pressing for passage until enactment. Similar urgings of the House members will be needed once the bill passes out of the Senate hopefully by Saturday.

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