

Summary of the Senate Finance Committee Amendment to S.1813, MAP-21

As Introduced February 15, 2012

TITLE I—EXTENSION OF REVENUES AND TRUST FUNDS

Sec. 40101. Extension of Highway Trust Fund Expenditure Authority

Under present law, revenues from the highway excise taxes, as imposed through March 31, 2012, generally are dedicated to the Highway Trust Fund. Dedication of excise tax revenues to the Highway Trust Fund are governed by the Internal Revenue Code (IRC). The IRC authorizes expenditures (subject to appropriations) from the Highway Trust Fund through March 31, 2012. This provision would extend the expenditure authority for the Highway Trust Fund through September 30, 2013.

Sec. 40102. Extension of Highway-Related Taxes

Six separate excise taxes are imposed to finance the Federal Highway Trust Fund program. Three of these taxes are imposed 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.

TITLE II—OTHER PROVISIONS

Sec. 40201. Bank Qualified Bonds

This provision would expand the ability of small issuers to sell bank-qualified bonds from \$10 million to \$30 million for bonds issued after the date of enactment and before January 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 \$353 million over ten years.*

Sec. 40202. 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.*

Sec. 40203. 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 thirty 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.*

Sec. 40204. 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.*

Sec. 40205. 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.*

TITLE III—REVENUE PROVISIONS

Secs. 40301 and 40302. 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 as of 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.*

Sec. 40303. Dedicate Gas Guzzler Tax to Highway Trust Fund

Under current law, a tax is imposed 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 fails 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.*

Sec. 40304. Revoke Passport 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.*

Sec. 40305. 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.*

Sec. 40306. Transfer to the Highway Fund Proceeds of Certain Import Tariffs

The provision would appropriate to the Highway Trust Fund amounts equivalent to amounts received in the general fund on articles classified under subheadings 8703.22.00 and 8703.24.00 of Chapter 87. *The provision is estimated to provide \$4.520 billion to the Highway Trust Fund between fiscal years 2012 and 2016.*

Sec. 40307. 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 10 years.*

Sec. 40308. 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.*

Sec. 40309. 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.*

Secs. 40310 and 40311. 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% 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). Also, the transferred amounts would 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.*

Sec. 40312. 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 15 percent of the average of such segment rates for the 10-year period preceding 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 \$7.086 billion in revenue over ten years, \$1.588 billion of which would be provided to the Highway Trust Fund. This provision is also estimated to reduce outlays by \$375 million over ten years.*