

BOARD MEETING DATE: January 9, 2015

AGENDA NO. 18

REPORT: Legislative Committee

SYNOPSIS: The Legislative Committee held a meeting on Friday, December 12, 2014. The next Legislative Committee meeting is scheduled for Friday, January 16, 2015 at 9 a.m. in Conference Room CC8.

The Committee deliberated on agenda items for Board consideration and recommended the following actions:

Agenda Item	Recommendation
H.R. 5101 (Hahn) National Freight Network Trust Fund Act of 2014	Develop Proposed Language and Return To Committee
H.R. 5624 (Lowenthal) Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act	Support and Recommend Amendments

RECOMMENDED ACTION:

Receive, file this report, and approve agenda items as specified in this letter.

Josie Gonzales
Chair
Legislative Committee

Attendance [Attachment 1]

The Legislative Committee met on December 12, 2014. Committee Members, Chair Supervisor Josie Gonzales, Dr. Clark E. Parker, Sr. and Governing Board Chair Dr. William A. Burke, who was appointed as a member to the Committee, were present at SCAQMD's Diamond Bar headquarters. Committee Member Supervisor Michael Antonovich, attended via videoconference.

Update on Federal Legislative Issues

SCAQMD federal legislative consultant Mia O'Connell, of the Carmen Group, updated the Committee on Key Washington D.C. issues, beginning with an update on the "Lame Duck" session in the House. The House passed a budget bill covering all government operations through September 2015. The only exception being the U.S. Immigration and Customs Enforcement (ICE) which is funded only through February 2015, noting the House's disapproval of the President's stance on immigration issues.

Major legislation relevant to SCAQMD includes the Targeted Airshed Grant language which Congressman Ken Calvert included in the final omnibus appropriations bill. It provides up to \$10 million in funding targeted to the five most polluted air basins based on ozone and particulate matter (PM 2.5). SCAQMD is well positioned to successfully compete for these grant dollars. Discussions regarding the update to the Moving Ahead for Progress in the 21st Century Act (MAP-21) continue and the challenge is to identify the funding source that will provide \$100 billion over existing gas tax revenues to fund the six year transportation bill. Senator James Inhofe and the incoming staff to the Environment and Public Works Committee have advised the Carmen Group of their plan to move a multiyear funding bill quickly in coordination with Chairman Bill Schuster in the House before the full MAP 21 reauthorization moves later in the year. The bill is intended to include a major freight title designed to minimize emissions.

SCAQMD federal legislative consultant Mark Kadesh, of Kadesh & Associates, updated the Committee on key Washington D.C. issues with a focus on the Senate. He further explained that U.S. EPA would be taking a small \$60 million cut in the omnibus appropriations bill; however, since 2010, funding for the agency has been cut by 21%.

In regards to the \$10 million in additional funding included in the omnibus bill for the Zero-Emission Cargo Transport program, Kadesh noted that successful use of the current funding will help the agency secure additional resources in the future. Executive Officer Barry Wallerstein informed the Committee how staff was working closely with the Department of Energy, keeping it fully apprised of the program's implementation at SCAQMD.

SCAQMD federal legislative consultant Warren Weinstein, of Kadesh & Associates, reported on upcoming U.S. EPA rules. U.S. EPA is about to release its Cross-State Air Pollution Rule (CSAPR), which requires states to significantly improve air quality by

reducing power plant emissions that contribute to ozone and/or fine particle pollution in other states. This rule as well as anticipated greenhouse gas rules will be under close congressional scrutiny. Congress may move to defund regulatory activities it does not agree with and lessen regulatory requirements in other instances. Dr. Wallerstein noted that the climate related rules will face the greatest resistance in the Southeastern states. Consequently, messaging on the issue needs to be more comprehensive so that even if members are not convinced about climate change, they can still support the rules because of the other air pollution cobenefits.

To avoid states working against each other on these issues, Supervisor Gonzales directed staff and the consultants to look at policies where states with special needs such as California could be provided the resources and policy latitude to address their problems without unnecessarily burdening those states whose needs are not similar. Mia O'Connell responded that she would look for opportunities within the transportation bill that could address high pollution impact areas.

Recommend Position on Bills [Attachment 2]

Marc Carrel, Program Supervisor presented on H.R. 5101 and H.R. 5624, both bills relate to funding freight infrastructure improvements.

H.R. 5101 (Hahn) The National Freight Network Trust Fund Act of 2014

This bill transfers five percent of all import duties collected by the U.S. Customs and Border Protections to a Freight Network Trust Fund for freight infrastructure improvements. It is anticipated that the bill would generate \$1.9 billion annually for this purpose. Staff recommended that the Committee adopt a position of SUPPORT WITH AMENDMENTS that would enable local and regional air quality to be eligible for grant funding on projects that would reduce the environmental impacts of freight movement.

H.R. 5624 (Lowenthal) Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act

In a more comprehensive fashion, H.R. 5624 dedicates \$8 billion a year to freight-related infrastructure and emission reduction and mitigation projects. Fifty percent of the funding would be divided among the states pursuant to a formula based on the state's existing freight infrastructure and fifty percent would be available through a competitive grant system open to all local, regional and state governments. Staff recommended that the Committee adopt a position of SUPPORT WITH AMENDMENTS that change the five percent annual set aside for freight electrification demonstration project to a fuel neutral program for "zero-emission" freight demonstration projects.

Relative to H.R. 5101 (Hahn), Dr. Parker recommended that the bill language explicitly define how much of the funding should be dedicated to air quality improvement, much

like it was done in California's Proposition 1B. Supervisor Gonzales recommended that the Agency needed to better demonstrate to the transportation community how addressing air quality issues would facilitate their infrastructure projects move towards groundbreaking. Following a brief discussion regarding board positions on bills, SCAQMD Executive Officer Dr. Barry Wallerstein clarified that the positions provide staff with direction as to what opportunities should be explored and confirms the Board's preferred policy choices.

The Legislative Committee took no position on H.R. 5101 (Hahn) and instead directed staff to develop proposed amendments to the bill that could be considered in the next Committee meeting.

AYES: Antonovich, Burke, Gonzales, and Parker

NOES: None

The Legislative Committee adopted staff's recommended position of SUPPORT WITH AMENDMENTS FOR H.R. 5624.

AYES: Antonovich, Burke, Gonzales, and Parker

NOES: None

Update on State Legislative Issues

State legislative consultant, Will Gonzalez of Gonzalez, Quintana and Hunter, reported on the newly announced Assembly leadership team.

Speaker Toni Atkins, of San Diego, named her floor leadership team for the 2015-2016 Legislative Session:

- Speaker pro Tempore Assemblyman Kevin Mullin, D-South San Francisco
- Assistant Speaker pro Tempore Assemblyman David Chiu, D-San Francisco
- Majority Floor Leader Assemblyman Chris Holden, D-Pasadena
- Assistant Majority Floor Leader Assemblywoman Cristina Garcia, D-Bell Gardens
- Majority Whip Assemblyman Miguel Santiago, D-Los Angeles
- Assistant Majority Whips Assembly Members Evan Low, D-San Jose, and Jim Cooper, D-Elk Grove

Similarly, Assembly Republican Leader Kristin Olsen, of Modesto, announced her leadership team:

- Assembly Republican Caucus Chair: Assembly Member Scott Wilk, R-Santa Clarita
- Assistant Republican Leader, Strategic Advancement: Assembly Member Travis Allen, R-Huntington Beach
- Assistant Republican Leader, Finance: Assembly Member Frank Bigelow, R-O'Neals

- Assistant Republican Leader, Innovation and the New Economy: Assembly Member Jay Obernolte, R-Big Bear Lake
- Republican Floor Leader: Assembly Member Marie Waldron, R-Escondido
- Deputy Republican Floor Leader: Assembly Member James Gallagher, R-Nicolaus
- Chief Republican Whip: Assembly Member Chad Mayes, R-Yucca Valley
- Republican Whips: Assembly Member Ling Ling Chang, R-Diamond Bar, Assembly Member Beth Gaines, R-Roseville

SCAQMD state legislative consultant Paul Gonsalves, of Joe A. Gonsalves and Son, updated the state election results, Rules Committee Members, the newly named Chairs of the Assembly Committees, and key legislative deadlines.

The last election had a low voter turnout of 42% and resulted in 27 new members of the Legislature. Of the 120 member Legislature, 102 members have two years or less experience.

The Senate Rules Committee consists of:

- Pro Tem Kevin de León (Chair), D-Los Angeles
- Senator Jean Fuller (Vice Chair), R-Bakersfield
- Senator Anthony Cannella, R-Ceres
- Senator Connie M. Leyva, D-Chino
- Senator Holly J. Mitchell, D-Los Angeles

The Assembly Rules Committee consists of:

- Assembly Member Richard S. Gordon, D-Menlo Park, Chair
- Assembly Member Autumn R. Burke, D-Inglewood
- Assembly Member Nora Campos, D-San Jose
- Assembly Member Ken Cooley, D-Rancho Cordova
- Assembly Member Bill Dodd, D-Napa
- Assembly Member Freddie Rodriguez, D-Pomona
- Assembly Member Jim Wood, D-North Coast
- Assembly Member Patty Lopez, D-San Fernando, Democratic Alternate

While the Chairs of the Senate Committees had not yet been named, the Speaker announced the Chairs of the Assembly Committees:

- Appropriations – Assembly Member Jimmy Gomez, D-Northeast Los Angeles
- Budget – Assembly Member Shirley N. Weber, D-San Diego
- Environmental Safety and Toxic Materials – Assembly Member Luis A. Alejo, D-Salinas
- Natural Resources – Assembly Member Das Williams, D-Carpinteria

- Transportation – Assembly Member Jim Frazier, D-Oakley
- Utilities and Commerce – Assembly Member Anthony Rendon, D-Lakewood
- Water, Parks and Wildlife - Assembly Member Marc Levine, D-San Rafael

Key legislative deadline in the first quarter of 2015 include:

- Jan. 5 - Legislature reconvenes
- Jan. 10 - Budget must be submitted by Gov
- Jan. 30 - Last day to submit bill requests to Legislative Counsel
- Feb. 27 - Last day for bills to be introduced

Report from SCAQMD Home Rule Advisory Group [Attachment 3]

Please refer to Attachment 3 for written report.

Other Business:

None

Public Comment Period:

No public comment.

Attachments

1. Attendance Record
2. Bill and Bill Analyses
3. SCAQMD Home Rule Advisory Group Report

ATTACHMENT 1

ATTENDANCE RECORD –December 12, 2014

DISTRICT BOARD MEMBERS:

Dr. William A. Burke
Supervisor Josie Gonzales
Supervisor Michael Antonovich (Videoconference)
Dr. Clark E. Parker, Sr.

STAFF TO COMMITTEE:

Lisha B. Smith, Deputy Executive Officer
Derrick Alatorre, Assistant Deputy Executive Officer/Public Advisor
Guillermo Sanchez, Senior Public Affairs Manager (teleconference)
Julie Franco, Senior Administrative Secretary

DISTRICT STAFF:

Barry R. Wallerstein, Executive Officer
Barbara Baird, Chief Deputy Counsel
Phil Fine, Assistant Deputy Executive Officer
Peter Greenwald, Sr. Policy Advisor
Chris Marlia, Assistant Deputy Executive Officer
Mohsen Nazemi, Deputy Executive Officer
Marc Carrel, Program Supervisor
Tina Cox, Senior Public Information Specialist
Robert Paud, Telecommunications Technician II
Kim White, Public Affairs Specialist
Patti Whiting, Staff Specialist

OTHERS PRESENT:

Mark Abramowitz, Governing Board Member Consultant (Lyou)
Tricia Almiron, SANBAG
Leila Barker, Los Angeles Department of Water and Power
Jason Gonsalves, Joe A. Gonsalves & Son (teleconference)
Paul A. Gonsalves, Joe A. Gonsalves & Son (teleconference)
Will Gonzalez, Gonzalez, Quintana & Hunter, LLC (teleconference)
Chris Kierig, Kadesh & Associates (teleconference)
Rita Loof, RadTech
Debra Mendelsohn, Governing Board Assistant (Antonovich)
David Rothbart, Los Angeles County Sanitation District
Andy Silva, Governing Board Assistant (Gonzales)
Susan Stark, Tesoro
Warren Weinstein, Kadesh & Associates (teleconference)

ATTACHMENT 2a

H.R. 5101 (Hahn)

The National Freight Network Trust Fund Act of 2014

Summary:

Transfers 5 percent of all import duties collected by U.S. Customs and Border Protection to a Freight Trust Fund for freight transportation projects.

Background:

Freight transportation is an essential part of the global economy. The U.S. freight sector is expected to grow dramatically in the coming years. By 2020, 90.1 million tons per day of freight are expected to move throughout the United States, a 70% increase over 2002.

This freight movement is critical to a robust economy but comes at a high price for the environment and local communities that suffer from its impacts. The freight sector alone represents nearly a quarter of the transportation sector's greenhouse gas emissions, or approximately 8% of total U.S. carbon dioxide emissions. The fine particle pollution from U.S. diesel engines, the most common engines used in freight, is estimated to shorten the lives of nearly 21,000 people each year nationwide.¹ The projected trade increases could place even greater strains on public health and the environment, and add more congestion to the already overburdened and deteriorating highway, rail, and waterway system.

Southern California's South Coast Air Basin, home to five percent of the U.S. population and over forty percent of the State of California's population is a global gateway for trade. Approximately 40% of all the nation's containerized goods enter through the Ports of Los Angeles and Long Beach then are transported by highways and railways to the rest of the nation. These goods are placed on store shelves nationwide, thus having an economic impact on every U.S. Congressional district. The burden of this national economic benefit, disproportionately impacts the health of Southern California communities along our freight transportation system corridors.

While the freight system is important to the health of Southern California's economy, it takes a significant toll on the health and quality of life of local communities. Increasing volumes of freight movement require simultaneous and continuous improvement in pollution control strategies to reduce health impacts.

Southern California residents who live near transportation corridors and facilities served by ships, trains, and heavy-duty trucks have higher risks of asthma and other health related impacts, and cancer risks are elevated in communities miles from the ports. Diesel emissions from freight activities in the region are also major contributors to regional air pollution that the California Air Resources Board estimates annually cause approximately 5,000 premature deaths, 2,400 hospitalizations, and 980,000 lost work days, and 140,000 cases of asthma and lower respiratory symptoms.

¹ Schneider, C., L. B. Hill, "Diesel and Health in America: The Lingering Threat." Clean Air Task Force, Feb. 2005, http://catf.us/publications/reports/Diesel_Health_in_America.pdf.

Zero and near-zero-emission advanced technologies, along with land use approaches, and policy and regulatory initiatives are important tools for reducing these impacts and improving community health, and will be needed for the region to attain national air quality standards as required by federal law.

MAP-21, the surface transportation authorization law, was enacted in 2012. That law contains several provisions related to freight, but did not establish a funding source for most freight programs. In addition, the Highway Trust Fund (HTF), the major federal funding source for highway and transit projects is nearing insolvency. Funded from federal fuel taxes on gasoline and diesel fuel, the fund is used for highway construction and maintenance, highway safety, and transit projects. Due to the imminent threat of running out of money in August 2014, Congress passed a stopgap plan on July 31, 2014 to prevent a funding lapse. But this stopgap measure does not provide funding beyond May 2015.

There is no clear solution for increasing the funds in the HTF, which have diminished since cars are more fuel efficient (and thus using less gasoline), cars have been driven less during the recent recession, and drivers with alternative-fueled vehicles do not pay into the HTF if their cars do not use gasoline or diesel. Because of the lack of HTF funding, there is little support for expanding the HTF to fund freight projects, particularly those not directly related to highway transportation.

Thus, there has been an effort, strongly supported by Southern California transportation stakeholders, to establish a sustainable, dedicated source of funding for freight projects. This bill would provide a dedicated funding source for freight that is stable and sustainable.

This bill would transfer five percent of all import duties collected by U.S. Customs and Border Protection (U.S. CBP) to a Freight Trust Fund for transportation projects. U.S. CBP currently collects \$38 billion in import duties annually. If passed, the measure would generate approximately \$1.9 billion for the fund each year. This legislation also would direct the U.S. Department of Transportation to work with the National Freight Advisory Committee to identify necessary improvements to the nation's freight system and provide grants for the improvements.

Status:

On July 14, 2014, the bill was introduced and referred to the House Committee on Transportation and Infrastructure and the House Committee on Ways and Means. No hearings are set on this bill.

Specific Provisions:

H.R. 5101, The National Freight Network Trust Fund Act of 2014, amends the Internal Revenue Code to establish the National Freight Network Trust Fund. Under this bill, five percent of the import duties imposed under the Harmonized Tariff Schedule of the United States (Customs duties) would be appropriated to this Trust Fund. The Trust Fund would be used to provide grants under the newly-created National Freight Network Grant Program.

Under this grant program, the Secretary of Transportation would make competitive grants to states,

regional or local transportation organizations, or port authorities to assist “any project that improves the performance of the national freight network.”

Projects would be evaluated and selected on a competitive basis by considering their potential to:

- generate national economic benefits,
- improve the performance of key corridors and gateways,
- reduce congestion,
- improve transportation safety, and
- enhance the network.

The Federal share of the cost of a project assisted with a grant under the program shall be 90 percent of the total project cost.

This bill uses a much more expansive definition of the National Freight Network than that used in MAP-21. Under this bill, the national Freight Network would be defined as all routes included in the national freight network established by U.S. DOT pursuant to MAP-21, but would also include: roads and rail lines that connect such network to a port; on-dock rail; projects that appear in a State freight plan; projects that appear in a regional transportation plan; railway-highway grade separations, and high freight volume roadway or rail corridors that provide connectivity for ports, intermodal connectors, multimodal freight facilities, multistate freight corridors, international borders, or airports.

Impacts on SCAQMD’s Mission, Operations or Initiatives:

This legislation would have an impact on the South Coast Air Basin as it would fund projects related to improving the national freight network. In Southern California, I-405, I-710, I-210, I-605, I-215, I-10, I-5 and SR 91 have all been proposed to be designated as part of the Draft Highway Primary Freight Network. So funding dedicated to improving aspects of these routes would be beneficial to reducing congestion and increasing mobility across these freeways.

In addition, at its May 2014 meeting, the SCAQMD Governing Board approved a set of eight federal legislative proposals related to the federal transportation law and the upcoming reauthorization of the MAP-21 law and the federal passenger rail law. The set contains five proposals that seek to create a more sustainable goods movement supply chain and the infrastructure that supports it, namely infrastructure improvement projects to complement local, state and private investment for ports, key freight corridors and assets, as well as efforts to reduce environmental impacts imposed upon local communities. Two other proposals relate to providing funding to replace existing commuter rail with the cleanest (Tier 4) locomotives. The last proposals would amend the Clean Air Act by requiring U.S. EPA to address emissions from federal sources that could not be addressed by the SIP.

SCAQMD’s proposals use incentives and grant programs to increase the number of zero- and near-zero emission trucks, freight locomotives and cargo handling equipment, seek to expand the number of refueling and recharging facilities for those vehicles, and promote highway infrastructure that promotes the use of cleaner freight vehicles (such as dedicated zero-emission truck lanes).

The commitment made to the region's transportation agencies is that SCAQMD would not support using existing HTF funds for these proposals, but would look for other sustainable funding sources, and would try to identify funding from other sources. H.R. 5101 provides a sustainable funding source.

However, H.R. 5101, despite its innovative approach to using a portion of existing U.S. Customs fees for improvements to the nation's freight system, does not go far enough. Its language is too limiting for our purposes. For instance, none of the SCAQMD MAP-21 proposals would be eligible under its existing language, SCAQMD would not be eligible to use funds, and the current bill does nothing to reduce or mitigate the environmental impacts of freight on local communities.

Recommended Position: SUPPORT AND RECOMMEND AMENDMENTS

As the bill moves forward, it should be strengthened by adding language that will enable local and regional air quality agencies to receive grants and allow grant funding to be spent on projects that reduce the environmental impacts of freight movement.

Proposed amendments are as follows:

SEC. 3. NATIONAL FREIGHT NETWORK GRANT PROGRAM.

(a) Establishment.--There is hereby established in the Department of Transportation a National Freight Network Grant Program (in this section referred to as the "Program") to improve the performance of the national freight network.

(b) Grant Authority.--Under the Program, the Secretary of Transportation, in accordance with the national freight strategic plan developed under section 167 of title 23, United States Code, may make a grant to assist any project that improves the performance of a segment of the *national freight network or reduces the environmental impacts of freight movement on the national freight network.*

(c) Grant Recipients.--Under the Program, the Secretary may make a grant to the following:

- (1) A State.
- (2) A regional or local transportation organization.
- (3) A port authority.

(4) A local or regional air quality agency.

(d) Applications.--To be eligible for a grant under the Program, an entity specified in subsection (c) shall submit to the Secretary an application regarding a proposed project at such time, in such form, and containing such information as the Secretary determines is appropriate.

(e) Selection Criteria.--In making grants under the Program, the Secretary shall evaluate and select projects on a competitive basis by considering the potential of the projects to--

- (1) generate national economic benefits;
- (2) improve the performance of key corridors and gateways;
- (3) reduce congestion;
- (4) improve transportation safety; ~~and~~
- (5) enhance the national freight network; *and*

(6) reduce the environmental impacts of freight movement.

(f) Federal Share.--The Federal share of the cost of a project assisted with a grant under the Program shall be 90 percent.

(g) Authorization of Appropriations.--There is authorized to be appropriated each fiscal year to carry out the Program the amounts available in the National Freight Network Trust Fund established under section 9512 of the Internal Revenue Code of 1986.

(h) National Freight Network Defined.--In this section, the term "national freight network" means--

- (1) the national freight network established under section 167 of title 23, United States Code;
- (2) roads and rail lines that connect such network to a port;
- (3) on-dock rail;
- (4) projects that appear in a State freight plan;

South Coast Air Quality Management District
Legislative Analysis Summary – H.R. 5101 (Hahn)
Version: As introduced 7/14/2014

MC: 10/24/14

- (5) projects that appear in a regional transportation plan;
- (6) high freight volume roadway or rail corridors that provide connectivity for--
 - (A) ports;
 - (B) intermodal connectors;
 - (C) multimodal freight facilities;
 - (D) multistate freight corridors;
 - (E) international borders; or
 - (F) airports; and
- (7) railway-highway grade separations.

113TH CONGRESS
2D SESSION

H. R. 5101

To establish a National Freight Network Trust Fund to improve the performance of the national freight network, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2014

Ms. HAHN (for herself, Mr. POE of Texas, Mr. RICHMOND, Mr. LOWENTHAL, Mr. GENE GREEN of Texas, Mr. NOLAN, Mr. RUSH, and Ms. FUDGE) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a National Freight Network Trust Fund to improve the performance of the national freight network, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Freight Net-
5 work Trust Fund Act of 2014”.

1 **SEC. 2. NATIONAL FREIGHT NETWORK TRUST FUND.**

2 (a) IN GENERAL.—Subchapter A of chapter 98 of the
3 Internal Revenue Code of 1986 is amended by adding at
4 the end the following new section:

5 **“SEC. 9512. NATIONAL FREIGHT NETWORK TRUST FUND.**

6 “(a) CREATION OF TRUST FUND.—There is hereby
7 established in the Treasury of the United States a trust
8 fund to be known as the ‘National Freight Network Trust
9 Fund’, consisting of such amounts as may be appropriated
10 or credited to such Trust Fund as provided in this section
11 and section 9602(b).

12 “(b) TRANSFERS TO TRUST FUND.—There are here-
13 by appropriated to the National Freight Network Trust
14 Fund amounts equivalent to 5 percent of the import duties
15 imposed under the Harmonized Tariff Schedule of the
16 United States.

17 “(c) EXPENDITURES.—Amounts in the National
18 Freight Network Trust Fund shall be available as pro-
19 vided in appropriations Acts only for making expenditures
20 to fund awards under the National Freight Network Grant
21 Program established under section 3(a) of the National
22 Freight Network Trust Fund Act of 2014.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for subchapter A of chapter 98 of such Code is amended
25 by adding at the end the following new item:

“Sec. 9512. National Freight Network Trust Fund.”.

1 **SEC. 3. NATIONAL FREIGHT NETWORK GRANT PROGRAM.**

2 (a) ESTABLISHMENT.—There is hereby established in
3 the Department of Transportation a National Freight
4 Network Grant Program (in this section referred to as the
5 “Program”) to improve the performance of the national
6 freight network.

7 (b) GRANT AUTHORITY.—Under the Program, the
8 Secretary of Transportation, in accordance with the na-
9 tional freight strategic plan developed under section 167
10 of title 23, United States Code, may make a grant to as-
11 sist any project that improves the performance of a seg-
12 ment of the national freight network.

13 (c) GRANT RECIPIENTS.—Under the Program, the
14 Secretary may make a grant to the following:

15 (1) A State.

16 (2) A regional or local transportation organiza-
17 tion.

18 (3) A port authority.

19 (d) APPLICATIONS.—To be eligible for a grant under
20 the Program, an entity specified in subsection (c) shall
21 submit to the Secretary an application regarding a pro-
22 posed project at such time, in such form, and containing
23 such information as the Secretary determines is appro-
24 priate.

25 (e) SELECTION CRITERIA.—In making grants under
26 the Program, the Secretary shall evaluate and select

1 projects on a competitive basis by considering the potential
2 of the projects to—

- 3 (1) generate national economic benefits;
- 4 (2) improve the performance of key corridors
5 and gateways;
- 6 (3) reduce congestion;
- 7 (4) improve transportation safety; and
- 8 (5) enhance the national freight network.

9 (f) FEDERAL SHARE.—The Federal share of the cost
10 of a project assisted with a grant under the Program shall
11 be 90 percent.

12 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated each fiscal year to carry out
14 the Program the amounts available in the National
15 Freight Network Trust Fund established under section
16 9512 of the Internal Revenue Code of 1986.

17 (h) NATIONAL FREIGHT NETWORK DEFINED.—In
18 this section, the term “national freight network” means—

- 19 (1) the national freight network established
20 under section 167 of title 23, United States Code;
- 21 (2) roads and rail lines that connect such net-
22 work to a port;
- 23 (3) on-dock rail;
- 24 (4) projects that appear in a State freight plan;

1 (5) projects that appear in a regional transpor-
2 tation plan;

3 (6) high freight volume roadway or rail cor-
4 ridors that provide connectivity for—

5 (A) ports;

6 (B) intermodal connectors;

7 (C) multimodal freight facilities;

8 (D) multistate freight corridors;

9 (E) international borders; or

10 (F) airports; and

11 (7) railway-highway grade separations.

12 **SEC. 4. NATIONAL FREIGHT POLICY.**

13 Section 167(c)(1) of title 23, United States Code, is
14 amended by inserting “, and update every 5 years there-
15 after,” after “shall establish”.

○

ATTACHMENT 2c

H.R. 5624 (Lowenthal)

Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act

Summary:

This bill would dedicate roughly \$8 billion a year to freight-related infrastructure projects throughout the nation, with a focus on intermodal projects and projects that help relieve the bottlenecks in the freight transportation system.

Background:

Freight transportation is an essential part of the global economy. The U.S. freight sector is expected to grow dramatically in the coming years. By 2020, 90.1 million tons per day of freight are expected to move throughout the United States, a 70% increase over 2002.

This freight movement is critical to a robust economy but comes at a high price for the environment and local communities that suffer from its impacts. The freight sector alone represents nearly a quarter of the transportation sector's greenhouse gas emissions, or approximately 8% of total U.S. carbon dioxide emissions. The fine particle pollution from U.S. diesel engines, the most common engines used in freight, is estimated to shorten the lives of nearly 21,000 people each year nationwide.¹ The projected trade increases could place even greater strains on public health and the environment, and add more congestion to the already overburdened and deteriorating highway, rail, and waterway system.

Southern California's South Coast Air Basin, home to five percent of the U.S. population and over forty percent of the State of California's population is a global gateway for trade. Approximately 40% of all the nation's containerized goods enter through the Ports of Los Angeles and Long Beach then are transported by highways and railways to the rest of the nation. These goods are placed on store shelves nationwide, thus having an economic impact on every U.S. Congressional district. The burden of this national economic benefit, disproportionately impacts the health of Southern California communities along our freight transportation system corridors.

While the freight system is important to the health of Southern California's economy, it takes a significant toll on the health and quality of life of local communities. Increasing volumes of freight movement require simultaneous and continuous improvement in pollution control strategies to reduce health impacts.

Southern California residents who live near transportation corridors and facilities served by ships, trains, and heavy-duty trucks have higher risks of asthma and other health related impacts, and cancer risks are elevated in communities miles from the ports. Diesel emissions from freight activities in the region are also major contributors to regional air pollution that the California Air

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Resources Board estimates annually cause approximately 5,000 premature deaths, 2,400 hospitalizations, and 980,000 lost work days, and 140,000 cases of asthma and lower respiratory symptoms

Zero and near-zero-emission advanced technologies, along with land use approaches, and policy and regulatory initiatives are important tools for reducing these impacts and improving community health, and will be needed for the region to attain national air quality standards as required by federal law.

MAP-21, the surface transportation authorization law, was enacted in 2012. That law contains several provisions related to freight, but did not establish a funding source for most freight programs. In addition, the Highway Trust Fund (HTF), the major federal funding source for highway and transit projects is nearing insolvency. Funded from federal fuel taxes on gasoline and diesel fuel, the fund is used for highway construction and maintenance, highway safety, and transit projects. Due to the imminent threat of running out of money in August 2014, Congress passed a stopgap plan on July 31, 2014 to prevent a funding lapse. But this stopgap measure does not provide funding beyond May 2015.

There is no clear solution for increasing the funds in the HTF, which have diminished since cars are more fuel efficient (and thus using less gasoline), cars have been driven less during the recent recession, and drivers with alternative-fueled vehicles do not pay into the HTF if their cars do not use gasoline or diesel. Because of the lack of HTF funding, there is little support for expanding the HTF to fund freight projects, particularly those not directly related to highway transportation.

Thus, there has been an effort, strongly supported by Southern California transportation stakeholders, to establish a sustainable, dedicated source of funding for freight projects. This bill would provide a dedicated funding source for freight that is stable and sustainable.

Status:

On September 18, 2014, the bill was introduced and referred to the House Committee on Transportation and Infrastructure and the House Committee on Ways and Means. No hearings are set on this bill.

Specific Provisions:

H.R. 5624, “Economy in Motion: The National Multimodal and Sustainable Freight Infrastructure Act,” creates two freight specific grant programs. The first is a formula system, in which each state would receive funds each year based on the amount of existing freight infrastructure within the state. To be eligible, states must develop comprehensive State Freight Plans. They must also have, or form, state freight advisory committees, as encouraged under MAP-21.

California would be eligible as it has established the California Freight Advisory Committee (CFAC) and that committee is currently developing a state freight plan, expected to be completed later this year.

Eligible uses for these funds would be the development of corridor freight plans or regional freight plans; or one or more phases of capital projects, equipment, or operational improvements on roads, rails, landside infrastructure on ports and airports, and intermodal connectors included in a State freight plan for projects that --

- (A) maintain or improve the efficiency and reliability of freight supply chains;
- (B) demonstrate public freight benefits;
- (C) improve modal components of a multimodal corridor that is critical to a State or region;
- (D) address freight needs to facilitate a regionally or nationally significant economic development issue;
- (E) in accordance with the State freight plan, decrease greenhouse gas emissions or local air pollution (including ozone and ozone precursors, nitrogen oxides, sulfur dioxide, particulate matter, carbon monoxide, and lead); water runoff and other adverse water impacts; wildlife habitat loss; and corridor-based and address freight needs;
- (F) are multimodal, multi-jurisdictional, or corridor-based and address freight needs;
- (G) relieve freight or non-freight access, congestion, or safety issues;
- (H) mitigate the adverse impact of freight movement on communities traversed by freight railroads, such as through grade separations; or
- (I) address first and last mile connectors.

The bill authorizes the Freight Transportation Infrastructure Trust Fund to distribute up to \$4 billion of these funds through the formula.

A second funding mechanism is a competitive grant program that would be open to all local, regional, and state governments. Projects would be eligible for a grant if they are a capital investment project for a transportation infrastructure facility significantly used for the movement of freight, they improve the efficiency, reliability and safety of freight transportation, and they reduce the costs of transporting freight, congestion in the freight transportation system, and the reduce the adverse environmental and community impacts of freight transportation. Projects must also have non-Federal sources of funding committed and must be included in their state's freight plan.

Projects selected for grants will be prioritized based on a number of factors including its cost-benefit; its use of innovative technology, strategies, and practices; and the extent to which it will reduce greenhouse gas emissions, criteria pollutants, and water impacts. Grant recipients will be required to collect data and annually report to U.S. DOT and U.S. EPA, the progress made toward greenhouse gas emission reductions and local air pollution reductions in fulfillment of the State freight plan.

The bill also provides that a minimum of five percent of funds awarded under the grant program each year shall be provided to freight electrification demonstration projects, as defined by the Secretary of Transportation, in consultation with the Administrator of U.S. EPA.

These freight programs would be funded through a national one percent waybill fee on the cost of

transporting goods. In other words, the manufacturers would pay a tax to the rail and trucking companies moving their goods to market. The fee would be one percent of the cost of moving the goods. The Federal share of the cost of a project assisted with a grant under the program shall be no more than 80 percent of the total project cost.

The bill also adds much more detail to what would be required by U.S. DOT and the states on what they must include in the national freight plan required by MAP-21 and the state freight plans recommended by MAP-21.

Impacts on SCAQMD’s Mission, Operations or Initiatives:

At its May 2014 meeting, the SCAQMD Governing Board approved a set of eight federal legislative proposals related to the federal transportation law and the upcoming reauthorization of the MAP-21 law and the federal passenger rail law. The set contains five proposals that seek to create a more sustainable goods movement supply chain and the infrastructure that supports it, namely infrastructure improvement projects to complement local, state and private investment for ports, key freight corridors and assets, as well as efforts to reduce environmental impacts imposed upon local communities. Two other proposals relate to providing funding to replace existing commuter rail with the cleanest (Tier 4) locomotives. The last proposals would amend the Clean Air Act by requiring U.S. EPA to address emissions from federal sources that could not be addressed by the SIP.

SCAQMD’s proposals use incentives and grant programs to increase the number of zero- and near-zero emission trucks, freight locomotives and cargo handling equipment, seek to expand the number of refueling and recharging facilities for those vehicles, and promote highway infrastructure that promotes the use of cleaner freight vehicles (such as dedicated zero-emission truck lanes).

The commitment made to the region’s transportation agencies is that SCAQMD would not support using existing HTF funds for these proposals, but would look for other sustainable funding sources, and would try to identify funding from other sources. H.R. 5624 establishes such a sustainable funding source for freight programs, and promotes cleaner freight in the process. It does this by prioritizing grants based on several factors including the extent to which a project will reduce greenhouse gas emissions, criteria pollutants, and water impacts.

This bill makes its formula funding eligible for spending on projects that “mitigate the adverse impact of freight movement on communities traversed by freight railroads, such as through grade separations” and makes grants eligible to be spent on projects that “use the environmental strategies to meet the goals described in the State freight plan and reduce the adverse environmental and community impacts of freight transportation.”

In addition, since grant recipients will be required to collect data and annually report the progress made toward greenhouse gas emission reductions and local air pollution reductions, this will help the region achieve greater emission reductions, provide data useful to evaluating projects, and

increase the ability of similar future projects to replicate or improve on those emission reductions.

The five percent set-aside awarded as grants each year for freight electrification demonstration projects will also help establish federal support for a market for clean freight vehicles, and help to move the technology forward.

Recommended Position: SUPPORT AND RECOMMEND AMENDMENTS

The five percent annual set-aside for freight electrification demonstration projects should be fuel neutral by changing it to a demonstration program for “zero-emission freight demonstration projects.”

113TH CONGRESS
2^D SESSION

H. R. 5624

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2014

Mr. LOWENTHAL introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 49, United States Code, to establish a Multimodal Freight Funding Formula Program and a National Freight Infrastructure Competitive Grant Program to improve the efficiency and reliability of freight movement in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Economy in Motion:
5 The National Multimodal and Sustainable Freight Infra-
6 structure Act”.

1 **SEC. 2. FREIGHT FUNDING PROGRAMS.**

2 (a) IN GENERAL.—Subchapter I of chapter 55 of title
3 49, United States Code, is amended by adding at the end
4 the following:

5 **“§ 5506. Multimodal Freight Funding Formula Pro-**
6 **gram**

7 “(a) IN GENERAL.—The Secretary shall establish a
8 Multimodal Freight Funding Formula Program under
9 which the Secretary shall distribute funds to States to im-
10 prove the efficiency and reliability of freight movement in
11 the United States.

12 “(b) FORMULA APPORTIONMENT.—On October 1 of
13 each fiscal year, the Secretary shall apportion among eligi-
14 ble States the amount made available to the Secretary for
15 that fiscal year to carry out the Multimodal Freight Fund-
16 ing Formula Program as follows:

17 “(1) 6.25 percent in the ratio that—

18 “(A) the number of ports in each State;
19 bears to

20 “(B) the number of ports in all States.

21 “(2) 6.25 percent in the ratio that—

22 “(A) the number of rail track-miles used
23 for the movement of freight in each State; bears
24 to

25 “(B) the number of such rail track-miles in
26 all States.

1 “(3) 6.25 percent in the ratio that—

2 “(A) the number of cargo-handling air-
3 ports in each State; bears to

4 “(B) the number of such airports in all
5 States.

6 “(4) 6.25 percent in the ratio that—

7 “(A) the number of Interstate system
8 miles in each State; bears to

9 “(B) the number of Interstate system
10 miles in all States.

11 “(5) 37.5 percent in the ratio that—

12 “(A) the tonnage of rail, waterborne, high-
13 way, and airport freight moved in each State;
14 bears to

15 “(B) the tonnage of such freight moved in
16 all States.

17 “(6) 37.5 percent in the ratio that—

18 “(A) the value of rail, waterborne, highway
19 and airport freight moved in each State; bears
20 to

21 “(B) the value of such freight moved in all
22 States.

23 “(c) TIER I ELIGIBILITY.—A State shall be eligible
24 for an apportionment under subsection (b) if the State—

1 “(1) has an established a freight advisory com-
2 mittee in accordance with section 1117 of MAP-21
3 (Public Law 112-141);

4 “(2) developed any analyses or plans required
5 for the completion of a State freight plan, as deter-
6 mined by the Secretary and in consultation with the
7 Administrator of the Environmental Protection
8 Agency in the case of environment goals and strate-
9 gies, in accordance with section 1118 of MAP-21
10 (Public Law 112-141);

11 “(3) has an approved State freight plan;

12 “(4) has conducted a statewide analysis of
13 freight needs and bottlenecks on all modes of trans-
14 portation, including intermodal and last mile needs;

15 “(5) demonstrates use of the statewide analysis
16 of freight needs in prioritizing projects in the State
17 freight plan;

18 “(6) demonstrates that the State will use the
19 funding that it is apportioned under this paragraph
20 for the highest priority projects identified in the
21 freight investment plan described under section 1118
22 of MAP-21 (Public Law 112-141); and

23 “(7) demonstrates that the projects will use the
24 strategies and contribute to the goals described in
25 the State freight plan to decrease—

1 “(A) greenhouse gas emissions;

2 “(B) local air pollution, including ozone
3 and ozone precursors, nitrogen oxides, sulfur di-
4 oxide, particulate matter, carbon monoxide, and
5 lead;

6 “(C) water runoff and other adverse water
7 impacts; and

8 “(D) wildlife habitat loss.

9 “(d) TIER II ELIGIBILITY.—

10 “(1) WITHHOLDING.—The Secretary shall with-
11 hold 60 percent of the amount required to be appor-
12 tioned to a State under subsection (b) on October 1
13 of a fiscal year if the State does not meet the re-
14 quirements of paragraph (2) on that date.

15 “(2) TIER II REQUIREMENTS.—A State meets
16 the requirements of this paragraph if the State—

17 “(A) has met the eligibility criteria of sub-
18 section (c);

19 “(B) has conducted, in cooperation with at
20 least 1 other State, a multistate analysis of
21 freight needs and bottlenecks on all modes of
22 transportation, including intermodal and last
23 mile needs along a multistate freight corridor;
24 and

1 “(C) has developed, in cooperation with at
2 least one other State or a relevant entity in
3 Canada or Mexico, a regional freight investment
4 plan that focuses on the end-to-end investment
5 needs of critical multistate freight corridors
6 based on the multistate analysis of freight
7 needs and bottlenecks on all modes of transpor-
8 tation, including intermodal and last mile
9 needs.

10 “(3) PERIOD OF AVAILABILITY OF WITHHELD
11 FUNDS.—Any funds withheld from apportionment to
12 a State under paragraph (1) shall remain available
13 until the end of the fiscal year in which the funds
14 are made available to the Secretary.

15 “(4) APPORTIONMENT OF FUNDS WITHHELD
16 AFTER COMPLIANCE.—If, before the last day of the
17 period for which funds withheld under paragraph (1)
18 are to remain available for apportionment to a State
19 under paragraph (3), the State meets the require-
20 ments of paragraph (2), the Secretary shall, on the
21 first day that the State meets the requirements, ap-
22 portion to the State the funds withheld under para-
23 graph (1) that remain available for apportionment to
24 the State.

1 “(5) EFFECT OF NONCOMPLIANCE.—Notwith-
2 standing the limitation of funding under section
3 5507(k), if, at the end of the period for which funds
4 withheld under paragraph (1) from apportionment
5 are available for apportionment to a State under
6 paragraph (3), the State does not meet the require-
7 ments of paragraph (2), the funds shall be available
8 to the Secretary for making grants under the Na-
9 tional Freight Competitive Grant Program estab-
10 lished under section 5507.

11 “(e) PERIOD OF AVAILABILITY.—Any funds appor-
12 tioned to a State under subsection (c) and (d)(4) shall
13 remain available for expenditure until the last day of the
14 third fiscal year following the fiscal year in which the
15 funds are so apportioned. Notwithstanding the limitation
16 of funding under section 5507(k), funds not obligated at
17 the end of that period shall be available to the Secretary
18 for making grants under the National Freight Competitive
19 Grant Program established under section 5507.

20 “(f) ELIGIBLE USES.—A State may use funds appor-
21 tioned under this section only for—

22 “(1) the development of corridor freight plans
23 or regional freight plans; or

24 “(2) one or more phases of capital projects,
25 equipment, or operational improvements on roads,

1 rails, landside infrastructure on ports and airports,
2 and intermodal connectors included in a State
3 freight plan for projects that—

4 “(A) maintain or improve the efficiency
5 and reliability of freight supply chains;

6 “(B) demonstrate public freight benefits;

7 “(C) improve modal components of a
8 multimodal corridor that is critical to a State or
9 region;

10 “(D) address freight needs to facilitate a
11 regionally or nationally significant economic de-
12 velopment issue;

13 “(E) in accordance with the State freight
14 plan, decrease—

15 “(i) greenhouse gas emissions;

16 “(ii) local air pollution, including
17 ozone and ozone precursors, nitrogen ox-
18 ides, sulfur dioxide, particulate matter,
19 carbon monoxide, and lead;

20 “(iii) water runoff and other adverse
21 water impacts; and

22 “(iv) wildlife habitat loss;

23 “(F) are multimodal, multi-jurisdictional,
24 or corridor-based and address freight needs;

1 “(G) relieve freight or non-freight access,
2 congestion, or safety issues;

3 “(H) mitigate the adverse impact of
4 freight movement on communities traversed by
5 freight railroads, such as through grade separa-
6 tions; or

7 “(I) address first and last mile connectors.

8 “(g) FEDERAL SHARE.—The Federal share of the
9 cost of a project carried out by a State using funds appor-
10 tioned under this section may not be more than 80 per-
11 cent.

12 “(h) LIMITATION ON FUNDING.—The Secretary shall
13 make available not more than \$4,000,000,000 per fiscal
14 year from the Freight Trust Fund established under sec-
15 tion 6 of the Economy in Motion: The National
16 Multimodal and Sustainable Freight Infrastructure Act to
17 carry out this section.

18 “(i) ADMINISTRATION AND OVERSIGHT COSTS.—The
19 Secretary may retain up to one-half of 1 percent of the
20 amounts available to carry out this section for each fiscal
21 year for the cost of administration and oversight of
22 projects funded under this section.

23 “(j) DATE AVAILABLE FOR OBLIGATION.—Amounts
24 from the Freight Trust Fund made available to a State

1 under this section shall be available for obligation on Octo-
2 ber 1 of the fiscal year for which they are apportioned.

3 “(k) DEFINITIONS.—

4 “(1) STATE.—In this section, the term ‘State’
5 means each of the 50 States, the District of Colum-
6 bia, and Puerto Rico.

7 “(2) STATE FREIGHT PLAN.—The term ‘State
8 freight plan’ means the State freight plan described
9 under section 1118 of MAP–21 (Public Law 112–
10 141).

11 **“§ 5507. National Freight Infrastructure Competitive**
12 **Grant Program**

13 “(a) ESTABLISHMENT.—The Secretary shall estab-
14 lish a National Freight Infrastructure Competitive Grant
15 Program under which the Secretary may make grants, on
16 a competitive basis, to designated entities for eligible
17 projects to improve the efficiency and reliability of freight
18 movement in the United States.

19 “(b) PROJECT GOALS.—In carrying out the Program,
20 the Secretary shall prioritize projects that—

21 “(1) improve the efficiency and reliability of
22 freight transportation;

23 “(2) reduce the cost of freight transportation;

24 “(3) improve the safety of freight transpor-
25 tation;

1 “(4) relieve bottlenecks in the freight transpor-
2 tation system;

3 “(5) improve the state of good repair of the
4 freight transportation system; and

5 “(6) use the environmental strategies to meet
6 the goals described in the State freight plan and re-
7 duce the adverse environmental and community im-
8 pacts of freight transportation.

9 “(c) GRANT APPLICATIONS.—To be eligible to receive
10 a grant under the Program a designated entity shall sub-
11 mit to the Secretary an application at such time, in such
12 form, and containing such information as the Secretary
13 may require.

14 “(d) ELIGIBLE PROJECT.—A project is eligible for a
15 grant under the Program only if the Secretary determines
16 that the project—

17 “(1) is a capital investment project for a trans-
18 portation infrastructure facility significantly used for
19 the movement of freight, including—

20 “(A) a road, rail, air, or water facility;

21 “(B) an intermodal facility such as a sea-
22 port or port on the inland waterway system, an
23 airport, or a highway and rail intermodal facil-
24 ity;

1 “(C) a facility related to an international
2 border crossing; or

3 “(D) is for an operational improvement or
4 equipment of a facility described in this para-
5 graph;

6 “(2) will help to achieve the goals set out in
7 subsection (b), except that in the case of any envi-
8 ronmental strategies and goals, the Secretary shall
9 make a determination in consultation with the Ad-
10 ministrator of the Environmental Protection Agency;

11 “(3) has non-Federal source or sources of com-
12 mitted financing, along with any Federal funds, suf-
13 ficient to complete the project;

14 “(4) has independent utility;

15 “(5) is included in the State freight plan; and

16 “(6) includes the development of project plans
17 and analysis.

18 “(e) GRANT CRITERIA.—The Secretary shall select
19 eligible projects for funding based on the following cri-
20 teria:

21 “(1) The extent to which the project is likely to
22 advance the goals described in subsection (b).

23 “(2) The likely benefits of the project relative
24 to its costs.

1 “(3) The extent to which the project dem-
2 onstrates the use of innovative technology, strate-
3 gies, and practices.

4 “(4) The extent to which the project dem-
5 onstrates effective reductions (in accordance with
6 the State freight plan) in—

7 “(A) greenhouse gas emissions;

8 “(B) local air pollution, including ozone
9 and ozone precursors, nitrogen oxides, sulfur di-
10 oxide, particulate matter, carbon monoxide, and
11 lead;

12 “(C) water runoff and other adverse water
13 impacts; and

14 “(D) wildlife habitat loss.

15 “(5) The likely effect of the project on increas-
16 ing United States exports.

17 “(6) The consistency of the project with the na-
18 tional freight strategic plan described under section
19 5508.

20 “(7) The extent to which the project leverages
21 Federal funds by matching State, local, tribal, or
22 private funds to the Federal funding requested
23 under the Program.

24 “(8) The extent to which funds for the project
25 are not available from other Federal sources.

1 “(f) SPECIAL RULE.—A minimum of 5 percent of
2 funds awarded under the Program for a fiscal year shall
3 be provided to freight electrification demonstration
4 projects, as defined by the Secretary of Transportation,
5 in consultation with the Administrator of the Environ-
6 mental Protection Agency.

7 “(g) RETROSPECTIVE ANALYSIS.—A grant agree-
8 ment made under the Program shall require that the re-
9 cipient collect data and report to the Secretary, at an ap-
10 propriate time as determined by the Secretary, on—

11 “(1) the actual cost of constructing the project;

12 “(2) the time required to complete the project
13 and put it into service;

14 “(3) the level of usage of the facility built or
15 improved by the project;

16 “(4) the benefits of the project, measured in a
17 way that is consistent with the benefits that were es-
18 timated in the application for funding that was sub-
19 mitted to the Secretary; and

20 “(5) any costs resulting from the project in ad-
21 dition to the costs of constructing the project.

22 “(h) EPA REPORT.—A grant agreement made under
23 the Program shall require that the recipient collect data
24 and annually report to the Secretary and the Adminis-
25 trator of Environmental Protection Agency on progress

1 made toward greenhouse gas emission reductions and local
2 air pollution reductions in fulfillment of the State freight
3 plan.

4 “(i) PERIOD OF AVAILABILITY.—In entering into
5 agreements under this section, the Secretary shall ensure
6 that any funds made available for a project that are not
7 obligated or expended before the last day of the third fiscal
8 year following the fiscal year in which the funds are made
9 available are transferred back to the Secretary for making
10 grants under the Program.

11 “(j) FEDERAL SHARE.—The Federal share of the
12 cost of a project for which a grant is made under the Pro-
13 gram, as estimated by the Secretary, shall be not more
14 than 80 percent.

15 “(k) ADMINISTRATION AND OVERSIGHT COSTS.—
16 The Secretary may retain up to one-half of 1 percent of
17 the amounts made available to carry out this section for
18 each fiscal year for the cost of administration and over-
19 sight of projects funded under the Program.

20 “(l) CONTRACT AUTHORITY.—

21 “(1) DATE AVAILABLE FOR OBLIGATION.—
22 Amounts from the Freight Trust Fund to carry out
23 this Act shall be available for obligation on October
24 1 of the fiscal year for which they are transferred
25 to the Secretary.

1 “(2) GRANTS AS CONTRACTUAL OBLIGA-
 2 TIONS.—A grant made under the Program is a con-
 3 tractual obligation of the Government to pay the
 4 Federal share of the cost of the project.

5 “(m) DEFINITIONS.—In this section:

6 “(1) DESIGNATED ENTITY.—The term ‘des-
 7 ignated entity’ means—

8 “(A) a State;

9 “(B) a unit of local government;

10 “(C) a metropolitan planning organization;

11 “(D) a public transportation authority (in-
 12 cluding a port authority);

13 “(E) a tribal government; or

14 “(F) or a consortium of the entities de-
 15 scribed in this paragraph.

16 “(2) STATE.—The term ‘State’ has the mean-
 17 ing given such term in section 101(a) of title 23.

18 “(3) STATE FREIGHT PLAN.—The term ‘State
 19 freight plan’ means the State freight plan described
 20 under section 1118 of MAP–21 (Public Law 112–
 21 141).

22 **“§ 5508. National freight policy, network, plan, and**
 23 **data**

24 “(a) IN GENERAL.—It is the policy of the United
 25 States to improve the condition and performance of the

1 national freight system to ensure that the national freight
2 system provides the foundation for the United States to
3 compete in the global economy and achieve each goal de-
4 scribed in subsection (b).

5 “(b) GOALS.—The goals of the national freight policy
6 are—

7 “(1) to increase the productivity and efficiency
8 of the national freight system so as to enhance the
9 economic competitiveness of the United States;

10 “(2) to improve the safety, security, and resil-
11 ience of freight transportation; and

12 “(3) to improve quality of life by reducing,
13 eliminating or reversing adverse environmental and
14 community impacts of freight projects and goods
15 movement in the United States.

16 “(c) NATIONAL FREIGHT SYSTEM DEFINED.—In
17 this section, the term ‘national freight system’ means the
18 publicly and privately owned transportation facilities that
19 are used in transporting freight within the United States,
20 including roads, railroads, ports, waterways, locks and
21 dams, airports, airways, warehouses, distribution centers,
22 and intermodal facilities.

23 “(d) MULTIMODAL NATIONAL FREIGHT NET-
24 WORK.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish a multimodal national freight network in ac-
3 cordance with this section to inform public and pri-
4 vate planning, to prioritize for Federal investment,
5 to aid the public and private sector in strategically
6 directing resources, and to support Federal decision
7 making to achieve the national freight policy goals
8 set forth in subsection (b).

9 “(2) NETWORK COMPONENTS.—The national
10 freight network shall consist of such connectors, cor-
11 ridors, and facilities in all freight transportation
12 modes as most critical to the current and future
13 movement of freight within the national freight sys-
14 tem.

15 “(3) INITIAL DESIGNATION OF THE NATIONAL
16 FREIGHT NETWORK.—

17 “(A) DESIGNATION.—The Secretary shall
18 designate a national freight network—

19 “(i) using measurable data to assess
20 the significance of goods movement, includ-
21 ing consideration of points of origin, des-
22 tination, and linking components of the
23 United States global and domestic supply
24 chains;

1 “(ii) fostering network connectivity;
2 and

3 “(iii) reflecting input collected from
4 stakeholders through a public process, in-
5 cluding input from metropolitan planning
6 organizations and States, to identify crit-
7 ical freight facilities that are vital links in
8 national or regionally significant goods
9 movement and supply chains.

10 “(B) FACTORS FOR DESIGNATION.—In
11 designating the national freight network, the
12 Secretary may consider—

13 “(i) volume, tonnage, and value of
14 freight;

15 “(ii) origins and destinations of
16 freight movement in, to, and from the
17 United States;

18 “(iii) land and maritime ports of
19 entry;

20 “(iv) population centers;

21 “(v) economic factors or other inputs
22 determined to be relevant by the Secretary;

23 “(vi) bottlenecks and other impedi-
24 ments contributing to significant measur-

1 able congestion and delay in freight move-
2 ment;

3 “(vii) facilities of future freight im-
4 portance based on input from stakeholders
5 and analysis of projections for future
6 growth and changes to the freight system;
7 and

8 “(viii) elements of the freight system
9 identified and documented by a metropoli-
10 tan planning organization and State using
11 national or local data as having critical
12 freight importance to the region.

13 “(4) REDESIGNATION OF THE NATIONAL
14 FREIGHT NETWORK.—Not later than 5 years after
15 the designation of the national freight network
16 under paragraph (2) and every 5 years thereafter,
17 using the designation factors described in paragraph
18 (1), the Secretary shall redesignate the national
19 freight network.

20 “(e) NATIONAL FREIGHT STRATEGIC PLAN.—

21 “(1) ESTABLISHMENT OF PLAN.—Not later
22 than October 1, 2015, the Secretary shall, in con-
23 sultation with the Secretary of Homeland Security,
24 Secretary of Commerce, Assistant Secretary of the
25 Army for Civil Works, the Administrator of the En-

1 vironmental Protection Agency, State departments
2 of transportation, and other appropriate public and
3 private transportation stakeholders, develop, main-
4 tain, and post on the Department of Transportation
5 public website a national freight strategic plan that
6 includes—

7 “(A) an assessment of the condition and
8 performance of the national freight system;

9 “(B) an identification of bottlenecks on the
10 national freight system that create significant
11 freight congestion problems, based on a quan-
12 titative methodology developed by the Secretary,
13 which shall, at a minimum, include—

14 “(i) information from the Freight
15 Analysis Framework of the Federal High-
16 way Administration; and

17 “(ii) to the maximum extent prac-
18 ticable, an estimate of the cost of address-
19 ing each bottleneck and any operational
20 improvements that could be implemented;

21 “(C) forecasts of freight volumes for 10-
22 year and 20-year periods beginning in the year
23 during which the plan is issued;

24 “(D) an identification of major trade gate-
25 ways and national freight corridors that connect

1 major population centers, trade gateways, and
2 other major freight generators for current and
3 forecasted traffic and freight volumes, the iden-
4 tification of which shall be revised, as appro-
5 priate, in subsequent plans;

6 “(E) an assessment of statutory, regu-
7 latory, technological, institutional, financial,
8 and other barriers to improved freight transpor-
9 tation performance (including opportunities for
10 overcoming the barriers);

11 “(F) an identification of routes providing
12 access to energy exploration, development, in-
13 stallation, or production areas;

14 “(G) best practices for improving the per-
15 formance of the national freight system;

16 “(H) best practices for addressing the im-
17 pacts of freight movement on communities;

18 “(I) a process for addressing multistate
19 projects and encouraging jurisdictions to col-
20 laborate; and

21 “(J) strategies to improve freight
22 connectivity between modes of transportation.

23 “(2) UPDATES TO NATIONAL FREIGHT STRA-
24 TEGIC PLAN.—Not later than 5 years after the date
25 of completion of the first national freight strategic

1 plan under paragraph (1), and every 5 years there-
2 after, the Secretary shall update and repost on the
3 Department of Transportation public website a re-
4 vised national freight strategic plan.

5 “(f) FREIGHT TRANSPORTATION CONDITIONS AND
6 PERFORMANCE REPORTS.—Not later than October 1,
7 2015, and biennially thereafter, the Secretary shall pre-
8 pare a report that contains a description of the conditions
9 and performance of the national freight system in the
10 United States.

11 “(g) TRANSPORTATION INVESTMENT DATA AND
12 PLANNING TOOLS.—

13 “(1) IN GENERAL.—The Secretary shall develop
14 new tools and improve existing tools to support an
15 outcome-oriented, performance-based approach to
16 evaluate proposed freight-related and other transpor-
17 tation projects, including—

18 “(A) methodologies for systematic analysis
19 of benefits and costs;

20 “(B) freight forecasting models;

21 “(C) tools for ensuring that the evaluation
22 of freight-related and other transportation
23 projects can consider safety, economic competi-
24 tiveness, environmental sustainability, and sys-

1 tem condition in the project selection process;
2 and

3 “(D) other elements to assist in effective
4 transportation planning.

5 “(2) FREIGHT DATA.—In support of these
6 tools, and to support a broad range of evaluation
7 methods and techniques to assist in making trans-
8 portation investment decisions, the Secretary shall—

9 “(A) direct the collection of appropriate
10 transportation-related data, including data to
11 measure the condition and performance of the
12 national freight system; and

13 “(B) consider any improvements to exist-
14 ing freight data collection efforts that could re-
15 duce identified freight data gaps and defi-
16 ciencies and help improve forecasts of freight
17 transportation demand.

18 “(3) CONSULTATION.—The Secretary shall con-
19 sult with Federal, State, and other stakeholders to
20 develop, improve, and implement the tools and col-
21 lect the data identified pursuant to this subsection.

22 “(4) MULTIMODAL FREIGHT MEASURE.—The
23 Secretary shall evaluate the analyses and plans re-
24 quired under section 5506(c)(2) and consider devel-
25 opment of a national performance measure to assess

1 the efficiency of the multimodal freight network in
2 accordance with the national freight strategic plan.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) TABLE OF SECTIONS.—The table of sections
5 for chapter 55 of title 49, United States Code, is
6 amended by adding after the item related to section
7 5505 the following:

“5506. Multimodal Freight Funding Formula Program.

“5507. National Freight Infrastructure Competitive Grant Program.

“5508. National freight policy, network, plan, and data.”.

8 (2) REPEAL.—Section 167 of title 23, United
9 States Code, is repealed.

10 (3) CROSS-REFERENCE.—Section 505(a)(3) of
11 title 23, United States Code, is amended by striking
12 “149, and 167” and inserting “and 149, and section
13 5405 of title 49”.

14 **SEC. 3. STATE FREIGHT ADVISORY COMMITTEE.**

15 Section 1117 of MAP–21 (Public Law 112–141) is
16 amended to read as follows:

17 **“SEC. 1117. STATE FREIGHT ADVISORY COMMITTEES.**

18 “(a) IN GENERAL.—The Secretary shall encourage
19 each State to establish and maintain a freight advisory
20 committee consisting of a representative cross-section of
21 public and private sector freight entities, including—

22 “(1) any modes of freight transportation active
23 in the State, including airports, highways, ports, and
24 rail;

1 “(2) shippers;

2 “(3) carriers;

3 “(4) freight-related associations;

4 “(5) the freight industry workforce;

5 “(6) the transportation department of the
6 State;

7 “(7) metropolitan planning organizations;

8 “(8) local governments;

9 “(9) the environmental protection department
10 of the State, if applicable; and

11 “(10) the air resources board of the State, if
12 applicable.

13 “(b) QUALIFICATIONS.—Members of a committee es-
14 tablished under subsection (a) shall be widely recognized
15 to have qualifications sufficient to represent the interests
16 of their specific stakeholder group, including—

17 “(1) a general business and financial experi-
18 ence;

19 “(2) experience or qualifications in the areas
20 freight transportation and logistics;

21 “(3) experience in transportation planning;

22 “(4) experience representing employees of the
23 freight industry; or

24 “(5) experience representing a State, local gov-
25 ernment, or metropolitan planning organization.

1 “(c) ROLES OF COMMITTEE.—The freight advisory
2 committee shall—

3 “(1) advise the State on freight-related prior-
4 ities, issues, projects, and funding needs;

5 “(2) serve as a forum for discussion for State
6 transportation decisions affecting freight mobility;

7 “(3) communicate and coordinate regional pri-
8 orities with other organizations;

9 “(4) promote the sharing of information be-
10 tween the private and public sectors on freight
11 issues;

12 “(5) participate in the development of the State
13 freight plan under section 1118, including advising
14 on the development of the freight investment plan;
15 and

16 “(6) approve the State freight plan under sec-
17 tion 1118, including the freight investment plan.”.

18 **SEC. 4. STATE FREIGHT PLANS.**

19 Section 1118 of MAP-21 (Public Law 112-141) is
20 amended to read as follows:

21 **“SEC. 1118. STATE FREIGHT PLANS.**

22 “(a) IN GENERAL.—The Secretary shall encourage
23 each State to develop a freight plan that provides a
24 multimodal, comprehensive plan for the immediate and
25 long-range planning activities and investments of the

1 State with respect to freight. The freight plan shall include
2 a strategic, long-term component and a tactical, short-
3 term component.

4 “(b) PLAN CONTENTS.—The freight plan described
5 in subsection (a) shall consider all modes of freight trans-
6 portation in the State and include, at a minimum—

7 “(1) an identification of significant freight sys-
8 tem trends, needs, and issues with respect to a
9 State;

10 “(2) a description of the freight policies, strate-
11 gies, and performance measures that will guide the
12 freight-related transportation investment decisions of
13 the State;

14 “(3) a description of how the plan will improve
15 the ability of the State to meet the national freight
16 goals established under section 5508 of title 49,
17 United States Code;

18 “(4) evidence of consideration of innovative
19 technologies and operational strategies, including in-
20 telligent transportation systems, that improve the
21 safety and efficiency of freight movement;

22 “(5) in the case of routes on which travel of
23 heavy vehicles (including mining, agricultural, en-
24 ergy cargo or equipment, and timber vehicles) is pro-
25 jected to substantially deteriorate the condition of

1 the roadways, a description of improvements that
2 may be required to reduce or impede the deteriora-
3 tion;

4 “(6) an inventory of facilities with freight mo-
5 bility issues, such as truck bottlenecks, within the
6 State, and a description of the strategies the State
7 is employing to address those freight mobility issues;

8 “(7) strategies and goals to decrease—

9 “(A) greenhouse gas emissions;

10 “(B) local air pollution, including ozone
11 and ozone precursors, nitrogen oxides, sulfur di-
12 oxide, particulate matter, carbon monoxide, and
13 lead;

14 “(C) water runoff and other adverse water
15 impacts; and

16 “(D) wildlife habitat loss; and

17 “(8) a freight investment plan that includes a
18 list of projects in order of priority and describes how
19 multimodal freight investment funds under the
20 Economy in Motion: The National Multimodal and
21 Sustainable Freight Infrastructure Act would be in-
22 vested and matched.

23 “(c) REQUIREMENT OF ANTICIPATED FULL FUND-
24 ING.—The freight investment plan required under sub-
25 section (b)(8) may only include a project, or an identified

1 phase of a project, if funding for completion of the project
2 can reasonably be anticipated to be available for the
3 project within the time period identified in the freight in-
4 vestment plan.

5 “(d) RELATIONSHIP TO LONG-RANGE PLAN.—The
6 freight plan described in subsection (a) may be developed
7 separate from, or incorporated into, the long-range state-
8 wide transportation plan required under section 135(f) of
9 title 23, United States Code.

10 “(e) CERTIFICATION.—The Secretary shall approve a
11 freight plan if such plan meets the requirements of this
12 section and is consistent with the National freight stra-
13 tegic plan described in section 5508 of title 49, United
14 States Code. The Secretary, in consultation with the Ad-
15 ministrator of the Environmental Protection Agency shall
16 certify any environmental goal or strategy provisions of
17 the plan.

18 “(f) FORECAST PERIOD.—The freight plan described
19 in subsection (a) shall address a 10-year and 20-year fore-
20 cast period.

21 “(g) UPDATES.—A State shall update the freight
22 plan at least every 5 years.”.

1 **SEC. 5. FREIGHT TRUST FUND.**

2 (a) IN GENERAL.—Subchapter A of chapter 98 of the
3 Internal Revenue Code of 1986 is amended by adding at
4 the end the following new section:

5 **“SEC. 9512. FREIGHT TRUST FUND.**

6 “(a) CREATION OF TRUST FUND.—There is estab-
7 lished in the Treasury of the United States a trust fund
8 to be known as the ‘Freight Trust Fund’ (hereinafter in
9 this section referred to as the ‘Fund’) consisting of such
10 amounts as may be appropriated or credited to such Fund
11 as provided in this section or section 9602(b).

12 “(b) TRANSFERS TO THE FUND.—There are hereby
13 appropriated to the Fund amounts equivalent to taxes re-
14 ceived in the Treasury under section 4286.

15 “(c) EXPENDITURES FROM FUND.—Amounts in the
16 Fund shall be made available to the Secretary of Trans-
17 portation on October 1 of each fiscal year without further
18 appropriation for making expenditures to meet the obliga-
19 tions of the United States to carry out sections 5506 and
20 5507 of title 49, United States Code, not more than 1
21 percent of which for any fiscal year may be used for ad-
22 ministrative expenses.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for subchapter A of chapter 98 of the Internal Revenue

1 Code of 1986 is amended by adding at the end the fol-
 2 lowing new item:

“Sec. 9512. Freight Trust Fund.”.

3 **SEC. 6. FREIGHT MOBILITY INFRASTRUCTURE TAX.**

4 (a) IMPOSITION OF TAX.—Chapter 33 of the Internal
 5 Revenue Code of 1986 is amended by adding after sub-
 6 chapter C the following new subchapter:

7 **“Subchapter D—Transportation by Freight**
 8 **and Highway**

“Sec. 4286. Imposition of tax.

9 **“SEC. 4286. IMPOSITION OF TAX.**

10 “(a) IN GENERAL.—There is hereby imposed upon
 11 taxable ground transportation of property within the
 12 United States a tax equal to 1 percent of the amount paid
 13 for such transportation.

14 “(b) BY WHOM PAID.—

15 “(1) IN GENERAL.—Except as provided by
 16 paragraph (2), the tax imposed by subsection (a)
 17 shall be paid—

18 “(A) by the person making the payment
 19 subject to tax, or

20 “(B) in the case of transportation by a re-
 21 lated person, by the person for whom such
 22 transportation is made.

23 “(2) PAYMENTS MADE OUTSIDE THE UNITED
 24 STATES.—If a payment subject to tax under sub-

1 section (a) is made outside the United States and
2 the person making such payment does not pay such
3 tax, such tax—

4 “(A) shall be paid by the person to whom
5 the property is delivered in the United States
6 after the final segment of transportation in the
7 United States, and

8 “(B) shall be collected by the person fur-
9 nishing the last segment of such transportation.

10 “(3) DETERMINATIONS OF AMOUNTS PAID IN
11 CERTAIN CASES.—For purposes of this section, rules
12 similar to the rules of section 4271(c) shall apply.

13 “(c) TRANSPORTATION BY RELATED PERSONS.—In
14 the case of transportation of property by the taxpayer or
15 a person related to the taxpayer, the fair market value
16 of such transportation shall be the amount which would
17 be paid for transporting such property if such property
18 were transported by an unrelated person, determined on
19 an arms’ length basis.

20 “(d) DEFINITIONS.—For purposes of this sub-
21 chapter—

22 “(1) TAXABLE GROUND TRANSPORTATION.—

23 “(A) IN GENERAL.—The term ‘taxable
24 ground transportation’ means transportation of
25 property by—

1 “(i) freight rail, or

2 “(ii) commercial motor vehicle (as de-
3 fined in section 31101(1) of title 49,
4 United States Code) for a distance of more
5 than 50 miles.

6 “(B) PASSENGER BAGGAGE EXCLUDED.—
7 For purposes of subparagraph (A), the term
8 ‘property’ does not include baggage accom-
9 panying a passenger traveling on an established
10 line.

11 “(2) RELATED PERSON.—A person (hereinafter
12 in this paragraph referred to as the ‘related person’)
13 is related to any person if—

14 “(A) the related person bears a relation-
15 ship to such person specified in section 267(b)
16 or 707(b)(1), or

17 “(B) the related person and such person
18 are engaged in trades or businesses under com-
19 mon control (within the meaning of subsections
20 (a) and (b) of section 52).

21 For purposes of the preceding sentence, in applying
22 sections 267(b) and 707(b)(1), ‘10 percent’ shall be
23 substituted for ‘50 percent’ each place it appears.

24 “(e) TRANSFER OF AMOUNTS EQUIVALENT TO TAX
25 TO FREIGHT TRUST FUND.—There are hereby appro-

1 priated to the Freight Trust Fund amounts equivalent to
2 the taxes received in the Treasury under subsection (a).

3 “(f) EXEMPTION FOR UNITED STATES AND POSSES-
4 SIONS AND STATE AND LOCAL GOVERNMENTS.—The tax
5 imposed by subsection (a) shall not apply to the transpor-
6 tation of property purchased for the exclusive use of the
7 United States, or any State or political subdivision there-
8 of.”.

9 (b) CREDITS OR REFUNDS TO PERSONS WHO COL-
10 LECTED CERTAIN TAXES.—Section 6415 of such Code is
11 amended by striking “or 4271” each place it appears and
12 inserting “4271, or 4286”.

13 (c) REGULATIONS.—Not later than 180 days after
14 the date of the enactment of this Act, the Secretary of
15 the Treasury shall issue regulations to carry out the
16 amendments made by this section.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to transportation beginning on or
19 after the last day of the 180-day period beginning on the
20 date of the issuance of regulations under subsection (c).

○

ATTACHMENT 3

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

LEGISLATIVE REPORT FROM HOME RULE ADVISORY GROUP MEETING OF NOVEMBER 19, 2014

HRAG members present:

Dr. Joseph Lyou, Chairman

Dr. Elaine Chang, SCAQMD

Elizabeth Adams, EPA (participated by phone)

Curt Coleman, Southern California Air Quality Alliance

Jaclyn Ferlita, ClimeCo

Chris Gallenstein, CARB (participated by phone)

Jayne Joy, Eastern Municipal Water District

Bill LaMarr, California Small Business Alliance

Rongsheng Luo, SCAG (participated by phone)

Bill Quinn, CCEEB

Terry Roberts, American Lung Association of California

David Rothbart, Los Angeles County Sanitation Districts

Lee Wallace, So Cal Gas and SDG&E

Mike Wang, WSPA

AQMD Staff: Philip Crabbe, Amir Dejbakhsh, Bill Wong, and Marilyn Traynor

Others: Mark Abramowitz (Board Consultant to Dr. Lyou); Daniel McGivney (SoCalGas/SDG&E); Noel Muyco (SoCalGas/SDG&E); Rita Loof (RadTech), Scott King (CARB/by phone)

LEGISLATIVE UPDATE

Philip Crabbe reported on the following items that were discussed at the Legislative Committee meeting on November 14, 2014:

Federal

The elections on November 4, 2014, strengthened Republican control of the House and gave them a majority in the U.S. Senate. The Republicans now hold at least 53 seats in the Senate. Because of the shift in power, new chairs will preside over various Senate committees of interest to SCAQMD which include:

- Senator Jim Inhofe (R-OK) to chair the Environment and Public Works Committee
- Senator John Thune (R-SD) to chair the Commerce Committee
- Senator Orrin Hatch (R-UT) to chair the Finance Committee
- Senator Thad Cochran (R-MS) to chair the Appropriations Committee
- Senator Lisa Murkowski (R-AK) to chair the Energy Committee

In the short term, during the lame-duck session for Congress, two issues will dominate Capitol Hill: (1) the vote on the controversial Keystone Pipeline; and (2) whether a new Omnibus

Appropriations bill will be passed to fund the government or whether another Continuing Resolution will be passed to temporarily maintain funding at last year's level. In the longer term, the new Senate and House leadership will consider whether to attempt to cancel, delay or express disapproval of a variety of U.S. Environmental Protection Agency (EPA) rules that are scheduled to come out in the next few months, which include:

- New Ozone Standard
- Toxic Ash Disposal Rule
- Cross-State Air Pollution Rule
- New Source Emissions Controls for New Power Plants
- Greenhouse Gas Rule for Existing Power Plants

Discussion

Mr. Quinn asked whether Congress will need legislation if they choose to intervene on the ozone standard issue. Mr. Crabbe responded that he was not aware of what process might be possible; however, the President has a certain amount of executive power and EPA is currently working on regulations. Mr. Wallace added that, although unlikely, Congress could intervene by including a specific directive in the Continuing Resolution to stop all activities for creation, adoption, or implementation of the new ozone standard. Mr. Coleman noted that Congress may consider utilizing the Congressional Review Act which would essentially provide both Houses the opportunity to veto. Dr. Lyou noted that the Administration is under a court-imposed deadline to issue a new standard. Elizabeth Adams added that EPA is under a court-ordered deadline to present the proposed new ozone standard in December 2014; and the proposal would then need to undergo review and comment. Dr. Lyou thought that the consent decree included a deadline for adopting a final rule, sometime in the October 2015 time frame.

Mr. LaMarr asked whether the shift of power in Congress would present the opportunity for SCAQMD to gain support from the new California delegation for SCAQMD's Rule 317 and SJVAPCD's 3170. Mr. Wong replied that the Ninth Circuit Court of Appeal will likely decide on the Rule 317 and Rule 3170 lawsuits before any resolution by Congress would be enacted; further, Congress would most likely abide by the decision of the court. Mr. LaMarr asked if the case has been assigned to panel yet. Mr. Wong responded that the brief has been completed; and, although the case has not been assigned to a panel, this is likely to occur soon.

Mr. Quinn asked whether the shift of power in Congress may create an opportunity to reopen the Clean Air Act. Mr. Crabbe responded that this would be a major undertaking, especially given the small majority held by the Republicans in the Senate, which amounts to about a 53-47 advantage.

With regard to a possible adverse ruling in the Section 185 litigation, Mr. Rothbart asked whether fees would be applied retroactively. Mr. Wong responded that he did not have a sense of the court's intentions. He added that, if the Plaintiffs argue that the fees be applied retroactively, SCAQMD would oppose; further, if the court should decide in the Plaintiffs' favor, SCAQMD would appeal. Mr. Rothbart noted that there may be an opportunity to brief the newly elected officials on the Section 185 fee situation to gain support.

State

At the November Legislative Committee meeting, interviews for possible state legislative consultants were conducted. Representatives from the following three firms were interviewed:

- Joe A. Gonsalves & Son
- Gonzalez, Quintana & Hunter, LLC
- Sloat, Higgins, Jensen & Associates

After the interviews were concluded, the Legislative Committee members unanimously recommended that the Governing Board authorize the execution of contracts with Gonzalez, Quintana & Hunter, LLC and with Joe A. Gonsalves & Son. This item will go before the Board for approval on December 5, 2014.

Mr. Quinn extended congratulations to Autumn Burke who was elected to represent Assembly District 62, with 75% of the vote.