

## Overview of State-Related Provisions in the Senate's Transportation Reauthorization Legislation, "Moving Ahead for Progress in the 21<sup>st</sup> Century Act" (MAP-21)

112<sup>th</sup> Congress, sponsored by Senators Boxer, Inhofe, Baucus, and Vitter  
Bill as passed by the U.S. Senate, March 14, 2012

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*Note: Not all subtitles and Sections of the Act are included here, only those with provisions creating, limiting, or otherwise affecting a role for states.*

### **Summary**

Moving Ahead for Progress in the 21<sup>st</sup> Century Act (S. 1813, "MAP-21") authorizes \$109 billion for surface transportation programs for two years, an extension of current aggregated funding levels through fiscal year (FY) 2013. Funding for this bill would come from the Highway Trust Fund, but also requires an additional \$10.5 billion in revenues and offsets, which are included in the bill. MAP-21 would reduce the number of highway programs from roughly 90 to 30, and restructures the overall federal-aid highway program around five "core" programs:

- congestion mitigation and air quality (CMAQ);
- national highway performance;
- transportation mobility;
- highway safety improvement; and
- national freight.

Key provisions of the bill would:

- direct the Secretary of Transportation to create performance measures for safety, road conditions, and overall system performance that states would have to make progress towards or risk losing some of their funding;
- eliminate various formulas now attached to individual funding programs and instead require states and MPOs to set targets based on federal performance metrics;
- expand Transportation Infrastructure Finance and Innovation Act (TIFIA) funding from \$122 million to \$1 billion per year;
- expand the use of alternative financing mechanisms and private-sector investment to supplement traditional highway grant funding;
- maintain the requirement that states spend federal funds on transportation enhancement projects, but expand the list of eligible activities and require that 50 percent of these funds be obligated to MPOs;
- alter the criteria for Tier I and Tier II metropolitan planning organizations and create a new class of non-metropolitan planning organizations;
- create new dedicated funding for freight transportation;
- maintain public transit's current funding levels and dedicated share of gas tax revenues;
- expedite project delivery by streamlining NEPA review; and
- establish a new Northeast Corridor Infrastructure and Operations Advisory Commission.

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## **DIVISION A: FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS**

### **Title I: Federal-Aid Highways**

#### **Subtitle A—Authorizations and Programs**

**Appropriations (Sec. 1101).** This subtitle authorizes appropriations for existing and new highway programs. The following sums would be authorized to be appropriated out of the Highway Trust Fund (not including the Mass Transit Account; authorizations from this account are in Division B):

- \$39.143 billion for fiscal year (FY) 2012 and \$39.806 billion for FY 2013 for the national highway performance program, transportation mobility program, highway safety improvement program, congestion mitigation and air quality program, and national freight program;
- \$1 billion each for FY 2012 and 2013 for the Transportation Infrastructure Finance and Innovation Act;
- \$450 million each for FY 2012 and 2013 for the tribal transportation program;
- \$300 million each for FY 2012 and 2013 for the federal lands transportation program;
- \$250 million each for FY 2012 and 2013 for the federal lands access program; and
- \$180 million each for FY 2012 and 2013 for the territorial and Puerto Rico highway program.

The obligation ceiling for these programs would be \$41.56 billion and \$42.23 billion for FY 2012 and FY 2013, respectively (for a total of \$83.79 billion).

**Apportionment (Sec. 1105).** Each state's initial amount of the bill's authorized contract authority would be calculated based on its share of total apportionments and allocations during FY 2005-2009. These shares would then be used to calculate the apportionments among the core programs as follows:

- CMAQ and metropolitan planning would receive funds based on a formula taking into account amounts apportioned to the state from a previous FY;
- the national highway performance program would receive 58 percent of funds remaining after distributing amounts for CMAQ and metropolitan planning;
- the transportation mobility program would receive 29.3 percent of funds remaining after distributing amounts for CMAQ and metropolitan planning;
- the highway safety improvement program would receive 7 percent of funds remaining after distributing amounts for CMAQ and metropolitan planning; and
- the national freight program would receive 5.7 percent of funds remaining after distributing amounts for CMAQ and metropolitan planning.

**National Highway Performance Program (Sec. 1106).** This section would establish a national highway performance program to provide support for the national highway system. Projects under this section are eligible for funding if they support progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the national highway system.

**State Asset Management Plan & Performance Measures.** To receive funding under this section, states would be required to develop a risk-based asset management plan for the national highway system to improve or preserve asset conditions and system performance in line with national performance measures.

The Secretary of Transportation (Secretary) would establish performance measures for states to use to assess the condition and performance of the national highway system. The states would then establish targets that address each of the performance measures, and would periodically update them.

State asset management plans would be required to include strategies that lead to a program of projects that would make progress toward state targets for asset condition and performance of the national highway system, and that support the progress toward the achievement of the national goals. The plans would be required to include: a summary listing and description of the condition of the pavement and bridge assets on the national highway system in the state; asset management objectives and measures; performance gap identification; lifecycle cost and risk management analysis; a financial plan; and investment strategies. States would then be required to submit their plans to the Secretary. If the Secretary does not certify a state's plan, the Secretary would give the state a chance to address the deficiencies of the plan.

Four years after the date of enactment of MAP-21, and every two years after that, each state would be required to submit a report describing the condition of the national highway system in the state, progress toward achieving state targets for each of the performance measures, and the effectiveness of the investment strategy outlined in the state asset management plan. If the state does not achieve or make significant progress toward achieving the targets for two consecutive reports, the next report would be required to contain a description of the actions the state would take to achieve the targets.

This section also limits the amount of funds a state can dedicate to federal aid highway expansion, specifying that a state cannot obligate more than 40 percent of the combined apportionments of a state under section 104(b)(1) for the most recent three fiscal years for projects that expand roadway capacity for non-HOV vehicles (with the exception of auxiliary lanes, turning lanes, and widening of bridges). This section also specifies that if the condition of the interstate system or bridge system in a state falls below the minimum level established by the secretary then the state would be required to obligate funding to improve those resources.

**Transportation Mobility Program (Sec. 1108).** This section would establish a transportation mobility program to assist states and localities in improving the conditions and performance on

federal-aid highways and on bridges on any public road. Under this section, states would be required to obligate funding to various urbanized areas within their state based on population, and projects could not be undertaken on roads classified as local or rural minor collectors.

This section also specifies that if the total deck area of deficient off-system bridges in a state increases two years in a row, the state would be required to obligate funding for the improvement of deficient off-system bridges.

**National Bridge and Tunnel Inventory (Sec. 1111).** The Secretary, in consultation with the states, would be required to inventory, classify, and assign a risk-based priority for each bridge on a public road. The bill would then require the Secretary to revise the inventories annually and each state to report element data for all bridges on the national highway system. In addition, states would be required to inventory all bridges to determine the historical significance of the bridges. If a bridge is deemed historically significant, reasonable costs associated with actions to preserve or reduce the impact of a project on the historical integrity of a historic bridge would be eligible for federal reimbursement. However, if a bridge is not used for vehicle traffic, the costs eligible as reimbursable projects costs shall not exceed the estimated cost of demolition of the historic bridge. In addition, costs incurred by the state to preserve a historic bridge shall be reimbursable as project costs in an amount not to exceed the cost of demolition

The Secretary would also establish inspection standards for highway bridges, which would detail how the inspection standards would be carried out by the states, establish a maximum time period between inspections, establish the qualifications for those charged with carrying out the inspections, and require each state to submit reports detailing the results of the inspections and providing current inventory data for all highway bridges and tunnels. If the states do not comply, the Secretary would require that the state dedicate funding to correct noncompliance. The Secretary would also work with the states to maintain a program to train appropriate personnel to carry out highway bridge and tunnel inspections.

**Highway Safety Improvement Program (Sec. 1112).** To obligate funds, a state would be required to have in place a state highway safety improvement program, under which a state develops, implements, and updates a state strategic highway safety plan that identifies and analyzes highway safety problems and opportunities, produces a program of projects or strategies to reduce identified safety problems, and evaluates the strategic highway safety plan on a regular basis. As part of this plan, a state would be required to have in place a safety data system with the ability to perform safety problem identification and countermeasure analysis. Based on this problem identification and analysis, states would be required to adopt goals that address safety and focus resources on areas of greatest need. States would also be required to coordinate with other state highway system programs, and establish an evaluation process to analyze and assess results achieved by highway safety improvement projects.

The Secretary would issue guidance on the establishment of performance measures, and the

states would then set performance targets for highway safety. States would be required to submit a report that describes the progress being made to achieve the performance targets, implement highway safety improvement projects, and address the effectiveness of those improvements. If the state does not meet or show progress toward meeting the performance targets, the state would be required to obligate additional funds only for highway safety improvement projects, and submit an implementation plan report to the Secretary annually until it has met or made progress towards meeting those targets.

Once the Secretary establishes requirements for updating state plans, each state would be required to update its strategic highway safety plans and submit the updated plans to the secretary, along with a detailed description of the process used to update the plan.

**Congestion Mitigation and Air Quality (CMAQ) (Sec. 1113).** Under this program, a state may obligate funds only for a transportation project or program in a nonattainment area for ozone, carbon monoxide or particulate matter that is likely to contribute to the attainment of a national ambient air quality standard, has air quality benefits, or improves traffic flow. Half of the funds apportioned to each state must be sub-allocated for projects within each area designated nonattainment and maintenance for ozone, carbon dioxide, and PM2.5. The state would then develop a formula for distribution of the remaining funds. CMAQ funds may not be obligated for a project that would result in the construction of new capacity available to single-occupant vehicles unless the project consists of a high-occupancy vehicle facility available to single-occupant vehicles only at off peak travel times, or subject to a toll. If a state does not have a nonattainment area, the state would be permitted to use the fund for projects that would otherwise be eligible.

This section also maintains a set-aside of state funds for “Additional Activities,” to include transportation enhancements, the recreational trails program, the safe routes to school program, as well as planning, designing, or constructing boulevards and other roadways. The amount of the set aside is 10 percent of surface transportation program funds apportioned to a state in FY 2009. This section also stipulates that state departments of transportation must allocate 50 percent of Additional Activities funding to MPOs, which would sub-allocate funds through a competitive process. The remaining 50 percent of Additional Activities funding would be awarded by the state to local governments, school districts, and other local entities through a competitive process.

**National Freight Program (Sec. 1115).** This section would establish a national freight program to strategically direct federal resources toward improved system performance for efficient movement of freight on highways. To designate the primary freight network, the Secretary, in consultation with the states, would conduct an inventory of national freight volume and create a national freight strategic plan.

The Secretary would also publish a rulemaking that establishes performance measures for freight movement on the primary freight network. To receive funding, each state would be required to

develop and periodically update state performance targets for freight movement, and submit a report containing a description of the progress the state has made toward meeting those targets, and the ways in which the state is addressing congestion at freight bottlenecks. If the Secretary determines that the state has not made progress toward meeting those performance targets, the state would be required to submit a freight performance approval plan once every two years that: identifies significant freight system trends; describes the freight policies and strategies that would guide freight-related transportation investments in the state; provides an inventory of freight bottlenecks within the state and describes the ways in which the state is allocating funds to improve bottlenecks; and describes the actions the state would undertake to meet the performance targets.

For projects on the national freight network, states would be required to obligate funds to improve the movement of freight on the network, but a state would only be permitted to obligate an amount equal to 10 percent or less of the total apportionment for the freight program for FY 2012 and 2013 for public or private freight rail or maritime projects.

**Federal Lands and Tribal Transportation Programs (Sec. 1116).** Under this section, approved tribal transportation programs, federal lands transportation programs, and federal lands access program transportation improvement programs would be included in appropriate state and MPO plans and programs automatically. In addition, an Indian tribe and a state would be permitted to enter into a road maintenance agreement under which an Indian tribe would assume the state's responsibility for tribal transportation facilities and roads providing access to said facilities. Funding made available to carry out the federal lands access program would be allocated amongst states that have federal land.

### **Subtitle B—Performance Management**

**Metropolitan Transportation Planning (Sec. 1201).** The bill would create new non-metropolitan planning organizations (non-MPOs); these are previously designated metropolitan planning organizations (MPOs) that do not qualify as Tier I or Tier II MPOs under MAP-21. Tier I MPOs are generally those with population over 1,000,000. An MPO with a population between 200,000 and 1,000,000 may petition the Secretary, with the support of its state's governor, to be designated Tier I; otherwise, it would be designated as Tier II. MPOs with populations between 50,000 and 200,000 may petition to be classified as Tier II; otherwise they are non-MPOs. The technical planning requirements are different for Tier I and Tier II MPOs.

Any urban area with population over 200,000 would be designated as an MPO. Urban areas of population 50,000 to 200,000 may be designated as MPOs, subject to the discretion of the Secretary. Existing MPOs with populations under 200,000 would be terminated by default three years after the promulgation of regulations pursuant to this bill, but would have the opportunity to petition to be re-designated. MPOs with population over 200,000 may continue to operate under the current designation indefinitely, unless they change structure.

In national ambient air quality standards non-attainment and maintenance areas, metropolitan transportation plans must be updated every four years instead of the normal five, and MPOs in the area would be required to consult with each other regarding the metropolitan transportation plans and transportation improvement programs.

MPOs would be required to set performance targets in their metropolitan transportation plans, based on the statutory performance measures for road conditions, safety, and overall system performance, in coordination with the state and no more than 90 days after state performance targets are set.

**Statewide and Nonmetropolitan Transportation Planning (Sec. 1202).** The bill provides blanket authorization for interstate compacts for statewide transportation planning for interstate areas, but not for metropolitan transportation planning. States would be required to set performance targets in their long-term transportation plans, based on statutory performance measures and in coordination with MPOs in the state. Statewide transportation improvement plans would also be required to discuss how funding priorities are projected to impact performance target attainment.

#### **Subtitle C – Acceleration of Project Development**

This subtitle contains provisions to streamline project approval. Section 1302 authorizes acquisition of real property in anticipation of federally funded transportation project prior to completion of procedural requirements under the National Environmental Policy Act (NEPA), so long as the acquisition itself does not have an adverse environmental impact, limit the choice of reasonable alternatives, or prevent the lead agency from conducting an objective NEPA-based decision process. A provision in existing law allowing states to use federal funds to pay costs associated with rights-of-way acquired for projects in advance of federal approval is expanded to cover all interests in land.

Section 1304 authorizes up to 100 percent federal financing for projects that the Secretary determines:

- contain innovative project delivery methods that improve work zone safety;
- contain innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality, extend the service life, or decrease the long-term costs of maintaining highways and bridges;
- accelerate project delivery while complying with other applicable federal laws; or
- reduce congestion related to highway construction.

Examples of such project elements include:

- prefabricated bridge elements; in-place recycling technology;
- digital 3-dimensional modeling; and



- contractual provisions that offer a contractor an incentive payment for early completion of the project.

In each fiscal year, states would be allowed to use this provision for up to 10 percent of their total funding apportionment, and the increase in federal funding share for any particular project could not exceed 5 percent of the total project cost.

Section 1306 would expand application of categorical exclusions under NEPA for multi-modal projects where the Department of Transportation (Department) is the lead agency. Section 1309 directs the Secretary to initiate a rulemaking to create a categorical exclusion under NEPA for projects located entirely within the right-of-way of an existing highway, such as a new turn lane or bus pull-off. The exclusion would not cover new through lanes or interchanges. Section 1310 instructs the Secretary to establish new categorical exclusions under NEPA within 120 days of passage and after consulting with state DOTs, transit agencies, and MPOs.

#### **Subtitle D—Highway Safety**

Section 1402 would withhold 2.5 percent of a state's federal highway funds if it fails to enforce an open container law, and Section 1403 would increase the minimum penalty requirements for state DUI laws to qualify for linked federal funds, making an ignition interlock device an absolute requirement if any driving privileges are restored within one year.

#### **Subtitle E—Miscellaneous**

Subtitle E makes numerous technical or minor adjustments to the federal-aid highways program.

**Planning and Approval of Federal-aid Highway Projects.** Modifications to the approval process provide greater flexibility, allowing states to assume the planning responsibilities of the Secretary under certain circumstances (Sec. 1502). The bill would require states to carry out value engineering analyses of projects, with the cost of the analysis being born by the federal government. Value engineering analysis is expanded to include a broader array of objectives, including environmental impacts, safety, and lifecycle cost reductions. The bill also calls for the application of practical design standards to highway projects, which means a collaborative interdisciplinary approach taking into account a broad range of objectives (Sec. 1503). The bill would limit states' ability to transfer funds appropriated from the Highway Trust Fund (HTF) to other highway projects (Sec. 1507). Permitting requirements would be loosened in the case of national emergency (Sec. 1508).

**EV Charging and Diesel Emissions Standards.** The federal-aid highway program currently allows the Secretary to appropriate funds for the construction of certain publicly owned parking facilities. The bill would extend this authority to include appropriations for the installation of electric charging stations in such facilities (Sec. 1509). Section 1511 would create diesel engine emissions standards for construction vehicles and equipment used on federal-aid highway projects. The Secretary would be required to restrict performance measures to those that are most significant and effective (Sec. 1519). The bill would also create eligibility requirements for

bridge projects (Sec. 1520).

**Appropriations and Repeals.** Section 1516 authorizes \$15 million for a number of safety information clearinghouses, work zone safety grants, grants to prohibit racial profiling, and the operation lifesaver program to reduce road hazards through advertisement. It would also repeal the following federal highway appropriations, programs, and provisions:

- interstate discretionary transportation projects (23 U.S.C. § 118(c));
- railway-highway intersection hazard elimination (23 U.S.C. § 130(e));
- high priority projects under TEA and SAFETEA-LU (23 U.S.C. § 117);
- an equity bonus provision designed to ensure that a given state receives federal-aid highway apportionments in proportion to the amount of taxes paid into the HTF by highway users in that state (23 U.S.C. § 105);
- a provision designed to align highway expenditures with revenues (23 U.S.C. § 110);
- cash advances to states for federal-aid highway projects; such advances would be rendered unnecessary by the TIFIA provisions of title III of this Act (23 U.S.C. § 124);
- construction of ferry boats and ferry terminal projects (23 U.S.C. § 147);
- the hazard elimination program (23 U.S.C. § 152);
- the program for access highways to public recreation areas on certain lakes (23 U.S.C. § 155);
- reimbursements for sections of the interstate highway system constructed without federal assistance (23 U.S.C. § 160); and
- the Secretary's authority to regulate state management systems for federal highway maintenance, safety, congestion, and others (23 U.S.C. § 303).

**Buy America.** Section 1528 would extend the Buy America requirements under current law to all highway projects for which at least one contract is federally funded. Section 1529 would exempt certain farm vehicles from the Buy America requirements.

Section 1530 would allow 95 percent federal financing for Appalachian development highway system projects during FY 2012 through 2021.

#### **Subtitle F—Gulf Coast Restoration**

Section 1602 would create a Gulf Coast Restoration Trust Fund and dedicate 80 percent of all post-enactment administrative and civil penalties paid by responsible entities in relation to the Deepwater Horizon oil spill under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) to the Trust Fund. The funds would be available for expenditure, subject to the approval of the Secretary of Treasury, without any further legislative authorization or appropriation. 35 percent of the Trust Fund would be distributed to the Gulf Coast States in equal shares for ecological and economic recovery projects. 60 percent of the Trust Fund would be allocated to the new Gulf Coast Ecosystem Restoration Council for natural resources restoration projects. The remaining 5 percent would be allocated to the Fisheries and Ecosystem

Endowment and the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology Program in equal portions.

### **Subtitle G—Land and Water Conservation Fund**

Section 1701 extends the authorization of the Land and Water Conservation Fund through FY 2022.

Section 1702 makes \$700 million available from the fund for FY 2012 and FY 2013, without need for further legislative appropriation.

### **Title II—America Fast Forward Financing Innovation**

This title expands the Transportation Infrastructure Finance and Innovation Act (TIFIA) program (codified as 23 U.S.C. §§ 601-609) and amends some of its technical requirements. The program would provide federal credit instruments to state and local governments and to publicly-sponsored private entities carrying out highway projects. Federal credit instruments include secured loans, loan guarantees, and lines of credit. This bill proposes to expand the authorization for TIFIA from \$122 million annually under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, the last transportation reauthorization, passed in 2005) to \$1 billion annually. Those amounts would pay administrative costs and the subsidy costs of the program. With administrative costs capped at 1 percent, at least \$990 million would be available to pay the loan subsidy, allowing for as much as \$9.9 billion in annual loans. The loans would be available only where there is a dedicated revenue stream from the project to serve as security for the loan. The provision allows states to use tolls and to leverage public-private partnerships in order to improve highway infrastructure.

#### **Eligibility Generally**

Section 602 lists the project eligibility requirements, which are primarily determined by the creditworthiness of the project. Applicants would be accepted on a rolling basis until the full amount appropriated is expended, at which time applicants could wait until the next fiscal year or until funds otherwise become available. Entities seeking financial assistance under this program must provide credit ratings from two credit rating agencies in order to demonstrate the credit worthiness of the project. Projects would be required to conform to the National Environmental Policy Act and to Title VI of the Civil Rights Act of 1964. No funding would be obligated to a project that has not received a categorical exclusion, finding of no significant impact, or record of decision pursuant to NEPA.

#### **Secured Loans and Loan Guarantees**

Section 603 would establish the secured loan program. The Secretary would be empowered to enter into agreements with one or more obligors to make secured loans, subject to risk assessments based on credit ratings agencies, the proceeds of which would be used to finance or refinance eligible projects. The secured loan could not account for more than 49 percent of the

total project costs. If the loan is not investment grade, the secured loan could not exceed the amount of the project obligations senior to it, or 49 percent of the total project cost, whichever is lower. The loan repayment would be repayable in whole or part from tolls, user fees, or other dedicated revenue sources. Interest rates could not exceed the rate on U.S. Treasury bonds with a comparable maturity and issue date. The interest rate would be halved for rural infrastructure projects. The Secretary would be authorized make loan guarantees, if he or she determines that the cost is substantially the same as a secured loan.

### **Lines of Credit**

The Secretary would be authorized to enter into agreements to provide direct loans to parties managing highway projects. Proceeds from these loans may be used to service debt from financing other projects. The Secretary would be required to consult with the Director of the Office of Management and Budget for risk assessment of such a loan. The Secretary would establish fees to cover all or most of the administrative cost to the Department of issuing the loans. These loans would be charged at minimum the interest rate for comparable U.S. Treasury bonds.

### **Title III—Highway Spending Controls**

This title would set limits on the obligation of funds from the HTF, excluding the Mass Transit Account, for the FY 2012 and FY 2013 (Sec. 4001). The bill would require the Secretary to estimate the HTF's solvency every fiscal year. It authorizes the Secretary to rescind obligations where there is a danger that the HTF would drop below \$2 billion in FY 2012 or \$1 billion in FY 2013.

### **DIVISION B – PUBLIC TRANSPORTATION**

**Repeals a number of grant programs (Sec. 20002).** Repealed programs include:

- job access and reverse commute formula grants,
- new freedom program, and
- crime prevention and security grants.

**Authorizations (Sec. 20029).** The overall authorization for transit would be \$10.4 billion from the Mass Transit Account each year for FY 2012 and 2013. 50 percent of these funds are apportioned to areas based on population. This is a reduction from the current 62.5 percent, but the absolute amount of funding to be apportioned based on population would remain the same due to an increase in program size. All authorization figures below are annual figures and authorized for both FY 2012 and 2013.

**Individual grant program reauthorizations and modifications:**

- The urban area grants program (\$5.57 billion) would be reauthorized at and modified, lifting the cap on urbanized area population size for discretionary grants (Sec. 20008).

- The clean fuels grant program from SAFETEA-LU (\$65 million) is reauthorized with minor modifications (Sec. 20009).
- The capital investment grant program from SAFETEA-LU (\$2 billion) would be reauthorized as the fixed guideways capital investment grant program, with some modifications to the eligibility requirements and cost-sharing (Sec. 20010).
- The formula grants for special needs of seniors and individuals with disabilities from SAFETEA-LU (\$249 million) would be reauthorized with modifications that limit administrative discretion in developing the formula with several specific requirements (Sec. 20011).
- The formula grants for “other than urbanized areas” (\$591 million) would be reauthorized with some modifications, including: a new set-aside for an Appalachian development public transportation assistance program, and inclusion of miles travelled by in-service transit vehicles (vehicle revenue miles) alongside population and land area as elements of the allocation formula. (Sec. 20012).
- The discretionary research, development, demonstration, and deployment project grants (\$34 million) would be reauthorized with some new restrictions on project eligibility (Sec. 20013).
- The discretionary public transportation workforce development and human resource grant programs (\$2 million) would be reauthorized with new criteria for project eligibility and selection (Sec. 20016).

State of good repair grants for fixed transit guideways (\$2 billion) would be reauthorized, with substantial changes to the apportionment provisions (Sec. 20028). Legislative set-asides for particular cities would be removed in favor of a combination of competitive grants and formula funding based primarily on vehicle revenue miles. **Transit Asset Management (Sec. 20019).** The requirement for the Secretary to establish and implement a transit asset management system, which was repealed by SAFETEA-LU in 2005, would be reinstated. Among other provisions, the system would require recipients of federal transit funds to develop transit asset management plans submit reports to the Secretary regarding the condition of their system and their attainment of federal performance targets.

## **DIVISION C**

### **Title I -Motor Vehicle and Highway Safety Improvement Act of 2012**

This title retains most of the existing national highway transportation safety administration (NHTSA) grant programs, and creates an incentive grant program to encourage states to make texting while driving and the use of a cell phone by drivers under the age of 18 primary traffic offenses. These grants would total \$682 million and \$691 million to states, respectively.

### **Title II –Commercial Motor Vehicle Safety Enhancement Act of 2012**

This title contains several provisions to enhance commercial trucking safety. Specifically, this title would create a clearinghouse of drug and alcohol test results by commercial drivers, increase the Department's ability to act against carriers whose operations have been suspended due to safety violations and then resume operations under a new name, and requires that electronic on-board recorders be used on all trucks and buses. Grants to states to carry out these programs would total \$310 million in FY2012 and \$315 million in FY2013.

### **Title III—Surface Transportation and Freight Policy Act Of 2012**

**Surface Transportation and Freight Strategic Plan (Sec. 33003).** This section directs the Secretary to develop and implement a strategic plan within two years of passage that:

- assesses the current performance of the surface transportation system;
- analyzes emerging and projected trends that would impact system performance and needs;
- describes major policy challenges and explains how to address them;
- lays out a comprehensive strategy and investment plan to meet policy goals; and
- identifies a list of priority freight corridors to be improved in order to meet policy goals.

**Transportation Investment Data and Planning Tools (Sec. 33004).** This section directs the Secretary to develop new tools and/or improve existing tools to support an outcome-oriented, performance-based approach to evaluating freight-related transportation projects. The tools should employ cost-benefit analysis, including impacts on congestion, pollution, and other public health and environmental consequence. Consultations with federal, state, and local transportation planners are required.

The port infrastructure development initiative would be reauthorized, with no substantial changes (Sec. 33005).

**Capacity Building for Natural Disasters and Extreme Weather (Sec. 33009).** This section directs the Secretary to issue guidance and develop standards for transportation infrastructure to help states, MPOs, and local governments prepare for natural disasters and more frequent extreme weather events. These standards would help in the process of planning, siting, designing, and developing transportation infrastructure by assessing vulnerabilities to a changing climate and the economic, social, and environmental costs and benefits of adaptation measures.

### **Title V—National Rail System Preservation, Expansion, and Development Act of 2012**

**Rail Plans (Sec. 35101).** This title would require the Secretary to develop a national rail plan and regional rail plans for every region except the northeast corridor. States would be permitted to create their own rail plans that must be consistent with the national rail plan. State and regional rail plans are intended to refine and improve upon the general framework of the national rail

plan. The purpose of the plans is to facilitate development of high-speed, commuter, and freight rail while promoting economic development. The Secretary would further be required to carry out studies on shared-use of rail corridors, cooperative equipment pools, preferences for veterans in contracting, and workforce development (Secs. 35104, 35105, 35110, and 35111).

**Capital Assistance Programs Amendments.** The capital assistance programs would be amended to ensure conformity with the national, regional, and state rail plans (Sec. 35107). 10 percent of capital assistance grants are required to be used for contracting disadvantage business enterprises (Sec. 35109). States would be permitted to use such grants to pay their share of Amtrak operating costs, until a phase-out beginning in 2017 (Sec. 35201).

**Northeast Corridor Infrastructure and Operations Advisory Commission (Sec. 35202).**

The title would establish the Northeast Corridor Infrastructure and Operations Advisory Commission, which would be composed of representatives of Amtrak, the Department, and states in the corridor (including the District of Columbia). Representatives of freight rail lines would be included as non-voting members. The Commission would develop recommendations for short and long-term capital investment needs and for future funding of improvements and maintenance in the northeast corridor. It would also develop a long-range strategy for high-speed, intercity, commuter, and freight rail utilization in the corridor. It would be required to create a formula for determining the allocation of costs, revenues, and compensation for corridor commuter rail transportation among states, Amtrak, and the Department.

**Miscellaneous Provisions.** Amtrak would be required to complete a refined vision for an integrated program of improvements on corridor routes to enhance high-speed rail deployment (Sec. 35203). The title clarifies the environmental review process for such improvement projects (Sec. 35204). Subtitle C contains minor provisions to improve the deployment of positive train control technology. Subtitle F would require the surface transportation board to establish a certification process to authorize new passenger rail carriers to provide service over railroad lines within the Board's jurisdiction.

**DIVISION D—HIGHWAY INVESTMENT, JOB CREATION, AND ECONOMIC GROWTH ACT OF 2012**

This division extends highway related taxes and includes provisions to raise revenue or provide offsets equal to roughly \$10.5 billion over ten-and-a-half fiscal years, as well as an additional \$4.15 billion for FY 2012, and \$1.36 billion for FY 2013. These provisions, when combined with the extension of highway-related taxes, would fully fund the bill.

**Title I—Extension of Highway Trust Fund Expenditure Authority and Related Taxes**

This title provides financing mechanisms for MAP-21, extending HTF expenditure authority through FY 2013, and extending highway-related taxes through FY 2015. In addition, this title would establish the solvency account within the HTF which would allow amounts to be

transferred to and from the HTF and would ensure that the highway account and Mass Transit Account has a surplus balance of \$2.8 billion on September 30, 2013.

## **Title II—Other Provisions**

This title provides several additional provisions that require financing, including: a temporary increase in small issuer exception to tax-exempt interest expense allocation rules for financial institutions (-\$353 million over 10 years); a temporary modification of alternative minimum tax limitations on tax-exempt bonds; issuance of trip bonds by state infrastructure banks for capital improvement projects (revenue neutral according to the Joint Committee on Taxation); an extension of parity for exclusion from income for employer-provided mass transit and parking benefits (-\$139 million); and exempt-facility bonds for sewage and water supply facilities.

## **Title III—Revenue Provisions**

This title provides the \$10.5 billion needed to fill the gap between the \$109 billion total authorization and \$97.5 billion available from the HTF. The bill would”

- authorize \$3 billion to be transferred from the leaking underground storage tank trust fund (LUST) to the HTF immediately, as well as \$683 million of future LUST fund revenues (over 10 years);
- provide for a transfer of \$698 million (over 10 years) from the gas guzzler tax from the general fund to the HTF;
- increase penalties for tax delinquency by authorizing the revocation or denial of passports in case of certain unpaid taxes or tax delinquencies, resulting in approximately \$743 million (over 10 years);
- prohibit the claiming of cellulosic biofuels credit for certain unprocessed fuels, resulting in approximately \$1.6 billion (over 10 years);
- allow the Treasury to levy up to 100 percent of the payment to a Medicare provider to collect unpaid taxes, resulting in approximately \$841 million (over 10 years);
- allow the transfer of future import tariffs on automotive products, resulting in \$4.52 billion from FY2012-2016;
- change the tax treatment of securities of a controlled corporation that are exchanged for assets as part of certain types of corporate reorganizations, resulting in \$244 million (over 10 years);
- enable the internal revenue service to levy a federal employee’s thrift savings account to satisfy tax liabilities, resulting in approximately \$25 million (over 10 years); and
- change the treatment of individual retirement account distributions after death, resulting in \$4.648 billion from FY 2014 - FY 2022.

## **DIVISION E—RESEARCH AND EDUCATION**

### **Title I—Funding**



This subtitle would make the following appropriations for each of the fiscal years 2012 and 2013:

- highway research and development program - \$90 million;
- technology and innovation deployment program - \$90 million;
- training and education - \$24 million;
- intelligent transportation systems - \$100 million;
- university transportation centers - \$70 million; and
- Bureau of Transportation Statistics - \$26 million.

The federal share for all of these projects would be 80 percent except where otherwise provided.

## **Title II—Research, Technology, and Education**

This title amends the existing surface transportation research program to improve the dissemination of research products and to accelerate deployment of new technologies, but primarily keeps the existing programs intact (Sec. 52002). The Secretary would be authorized to create prize programs, granting financial awards to those who advance transportation research. Section 52003 establishes the objectives of the research programs, with a heavy emphasis on increasing safety, decreasing lifecycle costs, and improving environmental planning. Sections 52006 and 52007 repeal the International Highway Transportation Program and the Surface Transportation Environmental Cooperative Research Program respectively. Finally, the Secretary would be required to establish a Bureau of Transportation Statistics (BTS) as part of the research and innovative technology administration (Sec. 52011). The purpose of the BTS would be to track transportation statistics in order to facilitate federal, state, and local decision-making. The provision includes the creation of a national transportation library, an advisory council on transportation statistics, and a national electronic atlas database (Sec. 52011).

## **Title III—Intelligent Transportation Systems Research**

This title would establish a program to develop and promote the use of intelligent transportation systems (ITS) research products (Sec. 2301). The Secretary would be authorized to create deployment incentives and use funds to promote ITS through the dissemination of appropriate documentation (Sec. 2301). The bill would further authorize the Secretary to establish a competitive grant program to accelerate the deployment of ITS. Finally, the subtitle would direct the Secretary to establish national standards and architecture for the deployment of intermodal ITS technology.

## **DIVISION F—MISCELLANEOUS**

### **Title I—Reauthorization of Certain Programs**

Subtitle A would reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, with minor amendments (Sec. 100101).

Subtitle B would extend the payments in lieu of taxes program through FY 2013 (Sec. 100111).

**Subtitle C—Offsets**

Section 100112 would modify the Internal Revenue Code to require persons who acquire an interest in a life insurance policy to file certain related information as part of their tax returns.

Section 100113 would make technical modifications to the applicable tax basis for life insurance contracts designed to increase revenue. Section 100115 would create an optional new phased retirement program for federal employees designed to reduce net pension outlays and labor costs.

**Title II—Stop Tax Haven Abuse**

Section 100201 would enhance IRS enforcement authority against foreign jurisdictions and final institutions to combat money laundering and other tax evasion strategies.

**DIVISION G—AIR TRANSPORTATION**

Section 100301 would make several technical modifications of rules governing flights that pass over national parks.

**DIVISION H—BUDGETARY EFFECTS**

Section 100401 would prevent the budgetary effects of MAP-21 from being entered on the scorecards for statutory and Senate PAYGO.

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