Surface Transportation Reauthorization Legislation in the 112th Congress: MAP-21, H.R. 7, and H.R. 4348—Major Provisions

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May 21, 2012

Congressional Research Service
7-....
www.crs.gov
R42445

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

The federal government's highway, mass transit, and surface transportation safety programs are periodically authorized in a multi-year surface transportation reauthorization bill. The most recent reauthorization act, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU or SAFETEA; P.L. 109-59), expired at the end of FY2009. Since then, the surface transportation programs have been funded under extension acts.

The main obstacle to passage of a new multi-year bill during the past two years has been the disparity between projected spending and the much lower projections of the revenue flows to the highway trust fund (HTF). Taxes on gasoline and diesel provide 90% of the revenues for the HTF, which historically has funded the entire highway program and roughly 80% of the mass transit program. The rates on these taxes, which are on a cents-per-gallon basis, have not been increased since 1993. In addition, the condition of the economy and improvements in fuel economy have held down fuel consumption and as a result are adversely affecting HTF revenues. Consequently, authorizers face a dilemma: how to pass a bill without cutting infrastructure spending, raising the gas tax, or increasing the budget deficit.

The Senate has passed the Moving Ahead for Progress in the 21st Century Act (MAP-21, S. 1813, H.R. 4348, as amended), which would authorize surface transportation programs through September 30, 2013. MAP-21 proposes:

- A total Federal-Aid Highway Program authorization of $39.5 billion for FY2012 and $40.5 billion for FY2013 (reflecting rescissions), and $400 million for research and education in each fiscal year.
- To reduce the total number of highway programs from roughly 90 to 30. The overall Federal-Aid Highway Program would be structured around five large "core" programs. The existing Equity Bonus Program would be discontinued.
- To accelerate project completion and speed up the environmental review process.
- $10.458 billion, annually, for FY2012-FY2013, for transit programs.

The House bill, the American Energy and Infrastructure Jobs Act (H.R. 7), links the usual surface transportation reauthorization components with provisions designed to increase oil and gas production, the revenues from which would be provided for highway infrastructure. H.R. 7, counting the already-appropriated FY2012, is a five-year bill providing for a total authorization of roughly $260 billion. The House and Senate bills differ significantly in programmatic content and treatment of the HTF. Both, however, would reduce the number of programs by roughly two-thirds, would accelerate project delivery, and are free of program earmarking.

H.R. 4348, the Surface Transportation Extension Act of 2012, Part II, as passed by the House, would extend surface transportation authorizations through the end of FY2012. The Senate, on April 24, 2012, agreed to an amendment to H.R. 4348, striking the House-passed bill text and substituting the language of MAP-21. This action enabled the House and Senate to send the measure to conference.

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Introduction

Surface transportation authorization acts authorize spending on federal highway and mass transit programs, surface transportation safety and research, and some rail programs. The most recent multi-year authorization for federal surface transportation programs, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU or SAFETEA; P.L. 109-59), expired on September 30, 2009. Since then these programs have operated on a series of extension acts and continuing resolutions.

The budgetary environment has changed since the passage of SAFETEA in 2005. The financial resources available to authorizers are more constrained. The highway trust fund (HTF) has provided most of the funding for surface transportation authorization bills since the fund was created in 1956, but the revenues from highway taxes (mostly on gasoline and diesel fuel) that support the HTF have declined in recent years due to the condition of the economy and improvements in vehicle fuel efficiency. Consequently, how to pass a multi-year bill without cutting infrastructure spending, raising the gas tax, or increasing the budget deficit is an underlying theme in the ongoing debate. Other issues such as alternative finance, tolling, public-private partnerships,[1] acceleration of project delivery,[2] and performance management are also being debated in this fiscal context. In addition, the question of equity in the distribution of federal spending among the states, which has been resolved in the past by providing large increases in funding for all states, cannot be solved so easily given currently forecast revenues.[3]

For a detailed review of the underlying issues, see CRS Report R41512, *Surface Transportation Program Reauthorization Issues for the 112th Congress*, coordinated by (name redacted).

On March 14, 2012, the Senate passed MAP-21, the Moving Ahead for Progress in the 21st Century Act (MAP-21). The bill would reauthorize the surface transportation programs and activities of the federal government for two years (FY2012-FY2013).

In early February 2012, the House committees of jurisdiction over surface transportation reauthorization all reported favorably on their contributions to H.R. 7, the American Energy and Infrastructure Jobs Act (H.Rept. 112-397). Counting the already-appropriated FY2012, H.R. 7 is a five-year bill providing for a total authorization of roughly $260 billion.[4] The bill, as reported, would link the usual surface transportation reauthorization components with provisions designed to increase oil and gas production, the revenues from which would be provided for highway infrastructure. Especially controversial is a provision to discontinue funding mass transit with HTF revenues.

MAP-21 and H.R. 7 differ significantly in programmatic content and treatment of the HTF. Both, however, reduce the number of programs by roughly two-thirds and are free of program earmarks.

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[1] CRS Report RL34567, *Public-Private Partnerships (PPPs) in Highway and Transit Infrastructure Provision*, by (name redacted).

[2] CRS Report R41947, *Accelerating Highway and Transit Project Delivery: Issues and Options for Congress*, by (name redacted) and (name redacted).

[3] CRS Report R41869, *The Donor-Donee State Issue in Highway Finance*, by (name redacted).

[4] For the CBO cost estimate for H.R. 7, see http://www.cbo.gov/ftpdocs/127xx/doc12751/hr3864.pdf.

On April 18, 2012, the House passed the Surface Transportation Extension Act of 2012, Part II (H.R. 4348). The bill would extend surface transportation authorizations through the end of FY2012. It also includes language in regard to the Keystone XL Pipeline; a proposed Gulf Coast Restoration Trust Fund; a proposed Harbor Maintenance Trust Fund guarantee; the text of the Coal Residuals Reuse and Management Act (H.R. 2273); and the environmental streamlining provisions of Title III of H.R. 7.

The Senate, on April 24, 2012, agreed by unanimous consent to an amendment that struck the House-passed language from H.R. 4348 and substituted the language of MAP-21. This action enabled the House and Senate to send the measure to conference. Reportedly, Transportation and Infrastructure Committee Chairman John Mica has taken the position that negotiations will involve the entire substance of H.R. 7 as well as provisions of the extension bill. Accordingly, this report retains analysis of H.R. 7.

Surface transportation reauthorization is one of the more legislatively complex issues before Congress, because it addresses matters under the jurisdictions of many committees. Portions of the pending reauthorization bills, under various bill numbers, were marked up in seven different committees (see **Table 1**) before consolidation under a single bill number in each house.

Table 1. Committee Involvement in Surface Transportation Reauthorization

Committee	Date of Markup	Bill Number/Provisions
House Natural Resources	February 1, 2012	H.R. 3407, concerning oil and gas leasing in Alaska; H.R. 3408, on oil shale development; H.R. 3410, concerning offshore oil and gas leasing
House Transportation and Infrastructure	February 2, 2012	H.R. 7, including highway, transit, freight, and safety programs and environmental review provisions
House Ways and Means	February 3, 2012	H.R. 3864, revenues for highway trust fund
Senate Environment and Public Works	November 9, 2011	S. 1813, highway programs
Senate Commerce, Science and Transportation	December 14, 2011	S. 1449, S. 1950, highway safety, truck safety, freight
Senate Banking, Housing, and Urban Affairs	February 2, 2012	Unnumbered, mass transit
Senate Finance	February 7, 2012	Unnumbered, revenues for highway trust fund

Sources: CRS; *Congressional Quarterly*.

The SAFETEA Framework

Highway Trust Fund

The highway trust fund is financed from a number of sources including sales taxes on tires, trucks, buses, and trailers, as well as truck usage taxes. However, approximately 90% of trust fund revenue comes from excise taxes on motor fuels, 18.3 cents per gallon on gasoline and 24.3

cents per gallon on diesel. The HTF consists of two separate accounts—highway and mass transit. The highway account receives an allocation equivalent to 15.44 cents of the gasoline tax and the mass transit account receives the revenue generated by 2.86 cents of the tax.[5] Because the fuel taxes are set in terms of cents per gallon, rather than as a percentage of the sale price, their revenues do not increase with inflation. The fuel tax rates were last raised in 1993.

The period of sluggish economic performance that began in 2007 and the improvements in vehicle fuel efficiency have reduced fuel tax revenues below the optimistic projections assumed in SAFETEA. The highway account has already required three transfers from the general fund totaling $29.7 billion,[6] without which the Federal Highway Administration (FHWA) might not have been able to pay states for work they completed. The Congressional Budget Office (CBO), in its March 20, 2012, HTF baseline projection showed that the Highway account is expected to have a shortfall of $4.6 billion at the end of FY2013.[7] (See **Figure A-1**.)

The CBO projections show the highway account excess of outlays over tax revenues (plus interest) as $7.8 billion for FY2012 and $9.1 billion for FY2013. A gap of roughly $8 billion to $9 billion per year remains through FY2022.[8] CBO projects that the mass transit account, which received a $4.8 billion general fund transfer in FY2010, will remain above zero through FY2013 but then fall to a negative $1.2 billion shortfall by the end of FY2014. The end-of-year shortfall falls further, to $5 billion at the end of FY2015 and deepens rapidly thereafter. These are the gaps authorizers face as they work to move reauthorization legislation.

Without an increase in the existing fuel taxes, a difficult political issue in recent years, the fuel-based trust fund taxation system will not be able to support existing or increased surface transportation spending. The choice for policymakers, assuming no increase in fuel taxes, is between finding new sources of revenue for transportation or settling for a smaller program.

Highways

The Federal-Aid Highway Program (Highway Program) is an umbrella term for an array of programs administered by FHWA. Over many years, the Highway Program has retained several defining financial and administrative attributes across the programmatic structure.

[5] A separate 0.1 cents per gallon tax on all fuels goes into the leaking underground storage tank (LUST) trust fund. LUST is administered by the Environmental Protection Agency. It funds leaking underground storage tank cleanup activities. The authorization of this fund is not addressed in surface transportation legislation.

[6] In late FY2008, $8 billion was transferred to carry the highway account into the 2009 fiscal year (P.L. 110-318, September 15, 2008). In FY2009 the transfer was $7 billion (P.L. 111-46, August 7, 2009). The Surface Transportation Extension Act of 2010 (P.L. 111-148, March 18, 2010) transferred $14.7 billion more to the highway account. The third rescue package, P.L. 111-147, also transferred $4.8 billion to the mass transit account.

[7] Information supplied by CBO as part of its March 2012 baseline, March 20, 2012. According to FHWA, a working balance of roughly $4 billion is needed to meet state requests for reimbursement of outstanding obligations in a timely manner. Under current law, the HTF cannot incur negative balances. If the HTF resources were exhausted, spending on programs and activities financed by the fund would continue but at a slower pace as highway taxes are collected.

[8] Outlays from the highway account during FY2010-FY2011 were depressed because stimulus spending from the general fund temporarily displaced trust fund outlays.

Underlying Highway Program Attributes

The Highway Program is primarily a state-run program. The state departments of transportation (state DOTs) largely determine where and how money is spent, but have to comply with detailed federal planning guidelines. The state DOTs award the contracts and oversee project development and construction. Federally funded highway projects generally require states and/or local governments to provide a designated local matching share. For most Interstate System projects the state/local match is 10%. For other roads the state/local match is generally 20%.

Understanding the particular terminology employed by FHWA in managing the Highway Program is important:

- **Distribution** of funds is FHWA notification of the availability of federal funds, usually for four years. The states do not actually receive federal money for highway project spending up front.
- **Apportionment** is the distribution of funds among the states as prescribed by a statutory formula.
- **Allocation** is an administrative distribution of funds (often for specific projects) under programs that do not have statutory distribution formulas.
- **Reimbursement** occurs once a project is approved, the work is started, costs are incurred, and the state submits a voucher to FHWA.[9] The reimbursable nature of the highway program is designed to help prevent waste, fraud, and abuse.
- **Contract authority** is a type of budget authority that is available for obligation even without an appropriation (although appropriators must eventually provide authority to pay the obligations, known as liquidating authority).
- **Obligation** of contract authority for a project by FHWA legally commits the federal government to reimburse the state for the federal share of a project. This can be done prior to an appropriation.[10]
- **Limitation on obligations**, known as ObLim or Oblimit, is used to control annual FHWA spending in place of an appropriation. The ObLim sets a limit on the total amount of contract authority that can be obligated in a single fiscal year. For practical purposes, the ObLim is analogous to an appropriation.[11]

Formula and Discretionary Programs

There are two categories of programs: formula and discretionary. Formula program funds are apportioned (each state receives a portion) annually among the states based on factors detailed in authorizing legislation. All of the large highway programs are formula/apportioned programs. Discretionary programs tend to be smaller programs allocated by FHWA or earmarked by Congress.

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[9] For many projects the vouchers are submitted when the project is completed.

[10] For a more detailed discussion see Federal Highway Administration, *Financing Federal-Aid Highways*, (Washington, 2007), pp. 9-10, http://www.fhwa.dot.gov/reports/financingfederalaid/approp.htm#b.

[11] Ibid., pp. 19-22. To be contract authority the authorization must refer to Title 23, Chapter 1 of the *U.S. Code*, and it must be funded out of the highway trust fund.

The "Core" Formula Programs

Under SAFETEA, the vast majority of the federal-aid highway money for project spending is apportioned to the state DOTs through several large "core" formula-driven programs.[12] These programs are provided with roughly 80% of SAFETEA's contract authority[13] and are the sources of funding for most federal-aid highway projects. The core formula programs are the following:

- Interstate Maintenance Program (IM)
- National Highway System (NHS)
- Surface Transportation Program (STP)[14]
- Highway Bridge Program (HBP)
- Congestion Mitigation and Air Quality Improvement (CMAQ) Program
- Highway Safety Improvement Program (HSIP)
- Equity Bonus Program (EB)—EB funds are distributed into the programs above

The authorization act sets the total amount authorized for each core program and each program's formula is run to determine each state's portion of the program total (hence the budget term "apportionment"). Historically, each federal highway formula program has had its own formula factors based, at least in part, on the policy intent of the program.

Over time, the state DOTs have been given increasing flexibility to transfer funds from one program to another (excepting HSIP). Some Highway Program funding may also be used for transit projects. This transferability reduces the importance of funding formulas and program eligibility distinctions. Nonetheless, some state DOTs argue that the programmatic structure prevents them from using federal highway funds as they deem best.

The Equity Bonus Program is the largest highway program in dollar terms. Its purpose is to guarantee each state a minimum share of funds, regardless of the funding formulas. At present, each state must receive total formula program funding equal to at least 92% of its highway users' tax payments to the highway account of the HTF.[15] The Equity Bonus Program is often viewed as diluting the policy rationales associated with the core program formulas.

Discretionary Programs

Several smaller discretionary highway programs (referred to as "allocated" programs) are also part of the Federal-Aid Highway Program. These programs are nominally under the control of

[12] For a list of FHWA programs that receive funding (apportionments) by formula (including smaller non-"core" formula programs), see Federal Highway Administration, *Financing Federal-Aid Highways*, Appendix D, http://www.fhwa.dot.gov/reports/financingfederalaid/index.htm.

[13] Includes Equity Bonus distributions to the Interstate Maintenance, National Highway System, Surface Transportation, and Highway Bridge Program programs.

[14] For a diagram of STP distribution, see FHWA, *Financing Federal-Aid Highways*, Appendix F, http://www.fhwa.dot.gov/reports/financingfederalaid/appf.htm.

[15] For a description of the complexities of the operation of the Equity Bonus Program see CRS Report R41869, *The Donor-Donee State Issue in Highway Finance*, by (name redacted).

FHWA and were designed to allocate funds to projects chosen through competition with other projects. During SAFETEA, most of this funding was earmarked by Congress.[16]

The term "program" is used very broadly. FHWA's *Financing Federal-Aid Highways* listing of allocated programs includes entries for 59 activities, some of which are clearly programmatic in nature, mixed in with others that more resemble specific project designations, temporary pilot programs, studies, and other narrowly directed activities that are not truly "programs."[17]

Transit

The federal transit program, administered by the Federal Transit Administration (FTA) in the U.S. Department of Transportation (DOT), is a collection of individual programs, each with different funding amounts, distributional mechanisms, and spending eligibility rules.[18] There are four main federal transit programs in SAFETEA, together accounting for 85% of authorized transit funding. Funding in two of these programs, the Urbanized Area Formula Program and the Fixed Guideway (or Rail) Modernization Program, is distributed by formula. The Urbanized Area Formula Program, which accounts for 41% of authorized transit funding in SAFETEA, provides funding to urbanized areas with populations of 50,000 or more. Funds can be used for a broad range of expenses including capital, planning, transit enhancements, and operations in urbanized areas with populations of up to 200,000. Fixed Guideway Modernization Program funds, 16% of authorized transit funding, go mainly for the replacement and rehabilitation of transit rail system assets.

The other two main transit programs, the New Starts Program and the Bus and Bus-Related Facilities Capital Program, are discretionary programs. New Starts funding, 18% of overall authorized transit funding in SAFETEA, is available primarily on a competitive basis for new fixed guideway systems and extensions. While the majority of New Starts funding over the years has gone to transit rail projects, the program has funded projects for busways and bus rapid transit, ferries, automated guideway systems, and vintage trolleys. Congress enacted a new "Small Starts" program in SAFETEA to fund projects with a total cost of $250 million or less in which the federal share is $75 million or less. Small Starts projects are funded with $200 million annually from the New Starts authorization beginning in FY2007. Bus Program funds, 9% of authorized funding, are provided to purchase buses and bus-related equipment, including the construction of buildings such as administrative and maintenance facilities, transfer facilities, bus shelters, and park-and-ride stations. Until recently, these funds were mostly earmarked in authorization and appropriations legislation. Currently, FTA allocates these funds.

A number of smaller funding programs, including the Rural Formula Program, the Jobs Access and Reverse Commute (JARC) program, the Elderly and Disabilities grants program, and the New Freedom Program, together with program administration, account for the remaining 15% of transit program funds.

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[16] For a list of all allocated programs, see FHWA, *Financing Federal-aid Highways,* Appendix G, "Authorizations for Allocated Programs," http://www.fhwa.dot.gov/reports/financingfederalaid/appg.htm.

[17] Ibid.

[18] CRS Report RL34171, *Public Transit Program Issues in Surface Transportation Reauthorization*, by (name redac ted).

Safety

Highway transportation is by far the leading cause of transportation-related fatalities and injuries in the United States. Highway safety is primarily the responsibility of the states, controlling as they do much of the road network and having the authority to legislate restrictions on driver behavior. Congress has established federal highway safety programs to assist states in improving highway safety. Three DOT agencies administer highway safety programs authorized in SAFETEA: the National Highway Traffic Safety Administration (NHTSA), which focuses on driver behavior and vehicle safety; the Federal Motor Carrier Safety Administration (FMCSA), which focuses on commercial driver qualifications and commercial vehicle safety; and FHWA through the Highway Safety Improvement Program, which focuses on the safety of roadway design.

National Highway Traffic Safety Administration (NHTSA)

NHTSA provides grants to states to support and encourage state traffic safety efforts, regulates motor vehicle safety, and carries out research on traffic safety. It oversees the use of federal grant funds by requiring states to submit highway safety plans. A state's plan must be approved by NHTSA in order for the state to receive federal traffic safety funds. Each state's plan must identify the state's primary safety problems, set goals for addressing the problems, and establish performance measures by which progress toward those goals can be judged. NHTSA also provides training and technical assistance to states.

NHTSA provides grants to states through one large formula program (the State and Community Highway Safety Program, often referred to as the Section 402 program from its statutory identification as Section 402 of Title 23) and several smaller incentive grant programs. These programs support state efforts to improve traffic safety data collection systems, reduce speeding, increase the use of seat belts and child restraint systems, reduce drunk and drugged driving, reduce motorcycle crashes, reduce school bus crashes, and discourage unsafe driving behavior (including aggressive driving, fatigued driving, and distracted driving caused by the use of electronic devices in vehicles).

Federal Motor Carrier Safety Administration (FMCSA)

FMCSA promotes the safety of commercial motor vehicle operations through regulation, enforcement, training, and technical assistance. It also administers motor carrier safety grant programs that assist states in ensuring the safety of truck and motor coach operations, including inspection of vehicles and licensing of commercial drivers.

Highway Safety Improvement Program (HSIP)

HSIP, one of the core federal-aid highway funding programs, is intended to reduce traffic fatalities and serious injuries by making improvements to the design or operation of roadways. Each state receives funding according to a formula based on road lane-miles, vehicle miles traveled, and traffic fatalities. Each state receives at least 0.5% of the program's funding. HSIP includes a dollar set-aside for the Railway-Highway Grade Crossing Hazard Elimination Program, and there is also a dollar set-aside within the formula funds distributed to the states for the purpose of construction and operational improvements on high-risk rural roads.

Funding Guarantees and Revenue Aligned Budget Authority (RABA)

SAFETEA extended mechanisms that were put in place in earlier years to guarantee certain annual funding levels below which appropriators could not constrain funding. This was done by amending the Budget Enforcement Act of 1990 to create highway and mass transit budget categories ("fire walls") that protected these funds from being tapped to increase spending elsewhere. SAFETEA also guaranteed the annual ObLim set for FY2005 through FY2009 by amending the Balanced Budget and Emergency Deficit Control Act of 1985 to specify the SAFETEA ObLim levels, thereby preventing appropriators from setting a lower ObLim. Although the budget firewalls set in the Budget Enforcement Act ended in 2002, appropriators honored those guarantees over the life of SAFETEA. The guarantees retained a second level of protection via a change in the House rules that specified it would be out of order to consider any bill that would set a lower level of funding than set in Section 8003 of SAFETEA. Early in the 112th Congress, however, the House eliminated the rule, removing the last vestige of the guarantees.

RABA is a means of raising or lowering the firewall and guaranteed funding levels if any year's annual highway account receipts are either higher or lower than expected. Although adherence to RABA calculations can lead to either additional funding or cuts in funding, Congress has never allowed a negative RABA calculation to lead to a reduction in spending.[19] Despite the fact that revenues in recent years have consistently fallen below the guarantee levels, which under RABA would have led to funding reductions, in recent years the RABA issue has been considered a moot point, because the HTF has been supplemented by general fund transfers. However, some mechanism to bring spending into alignment with receipts might still be considered in reauthorization. (See "Ratchet Mechanism" in the "Highways" section of this report.)

Budget Control Act of 2011 (P.L. 112-25)

The Budget Control Act requires sequestration of certain funding authorizations in the event a special joint committee fails to reach an agreement on spending reductions. The Budget Control "Super Committee" announced in November 2011 that it had failed to reach such an agreement. However, exemptions to the sequester process under the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (Codified in 2 U.S.C. §905 (j)), likely mean that sequestration would not significantly reduce any surface transportation spending authorized for years beyond FY2012. The surface transportation programs and activities exempted, to the extent that their budgetary resources are subject to appropriations bill obligation limitations, are the following:

- Federal-Aid Highways
- Highway Traffic Safety Grants
- NHTSA operations and research and National Driver Register
- Motor Carrier Safety Operations and Programs

[19] See CRS Report RS21164, *Highway Finance: RABA's Double-edged Sword*, by (name redacted).

- Motor Carrier Safety Grants
- Transit Formula and Bus Grants

The $739 million of annual contract authority that is typically exempt from the obligation limitation appears to be subject to sequester. The Federal Transit Administration's New Starts program, which is supported with general fund revenues, also appears to be subject to sequester.

Extension Legislation

SAFETEA expired on September 30, 2009. Surface transportation programs and activities have been operating on the extension legislation set forth in **Table 2**.

Table 2. Short-Term Extensions of SAFETEA

	Bill Number	Time Period in Effect	Length	Date Enacted	Public Law
1	H.R. 2918	10/1/2009–10/31/2009	1 month	10/1/2009	P.L. 111-68
2	H.R. 2996	11/1/2009–12/18/2009	48 days	10/30/2009	P.L. 111-88
3	H.R. 3326	12/19/2009–2/28/2010	72 days	12/19/2009	P.L. 111-118
4	H.R. 4691	3/2/2010–3/18/2010	16 days	3/2/2010	P.L. 111-144
5	H.R. 2847	3/18/2010–12/31/2010	9.5 months	3/18/2010	P.L. 111-147
6	H.R. 3082	1/1/2011–3/4/2011	2 months 4 days	12/22/2010	P.L. 111-322
7	H.R. 662	3/5/2011–9/30/2011	6 months 25 days	3/4/2011	P.L. 112-5
8	H.R. 2887	10/1/2011–3/31/2012	6 months	9/16/2011	P.L. 112-30
9	H.R. 4281	4/1/2012–6/30/2012	91 days	3/30/2012	P.L. 112-102
10	H.R. 4348	7/1/2012–9/30/2012	3 months		

Source: Public Laws and bills in Table 2.

Surface Transportation Extension Act of 2012, Part II (STEA-II; H.R. 4348)

Outwardly, House-passed STEA-II is an authorization extension of the HTF, its supporting taxes, and the federal surface transportation programs through the end of September 30, 2012. The bill also includes several new or reiterated legislative provisions. On April 24, 2012, the Senate agreed by unanimous consent to an amendment that struck the House-passed language and substituted the full text of MAP-21. This action enabled the House and Senate to send the measure to conference. Formally, the text before the conference would be the two-year Senate surface transportation bill and the House extension legislation, MAP-21 and STEA-II, respectively. Transportation and Infrastructure Committee Chairman John Mica has publicly taken the position that negotiation will also involve the entire substance of H.R. 7.[20]

The rules of both the House and Senate require that provisions in conference proposals must fall within the "scope of the differences" between the House and Senate versions.[21] Because the substance of H.R. 7 provisions, which are in neither the Senate nor House versions, is expected to be proposed in conference, Members may raise issues of what is within the allowable scope for conference on H.R. 4348. Conference reports containing provisions that are out of scope may be subject to points of order in both the House and Senate. In the House, a majority can waive the rule restricting the content of conference reports (through the approval of a simple resolution reported by the Rules Committee). Senate rules provide a means for waiving points of order on the content of conference reports with the support of 60 Senators (assuming no more than one vacancy).[22]

Non-extension Provisions in STEA-II

Several provisions that have nothing to do with extending the authorization of surface transportation programs and activities are included in STEA-II.

Title II—Keystone XL Pipeline

This title contains the text of the proposed North American Energy Access Act (H.R. 3548), which includes provisions to transfer the permitting authority for the Keystone XL pipeline from the Department of State to the Federal Energy Regulatory Commission, and requires the commission to issue a permit for the project within 30 days of enactment. Title II also includes a provision that states that the final environmental impact statement issued by the Secretary of State on August 26, 2011, satisfies all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).[23]

Title III—Restore Act

This title includes provisions similar to those in the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies (RESTORE) of the Gulf Coast States Act of 2011 (S. 1400). The bill would establish the Gulf Coast Restoration Trust Fund, which would be financed by 80% of the amounts collected from any *Deepwater Horizon*-related penalties, settlements, and fines under Section 311 of the Clean Water Act, as amended (33 U.S.C. Sections 1251 et seq.). The Secretary of the Treasury is directed to administer the fund and distribute the revenues as follows: 35% to the Gulf Coast states in equal shares; 60% to the Gulf Coast

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[20] Christine Grimaldi, "Transportation: Conferees Pending as House Republicans Specify Highway Provisions to Fight For," *Daily Report for Executives*, April 20, 2012, pp. 76 DER A-34.

[21] For background, see CRS Report RS22733, *Senate Rules Restricting the Content of Conference Reports*, by (name redacted), and CRS Report RS20219, *House Conferees: Restrictions on Their Authority*, by (name redacted).

[22] Ibid.

[23] For background, see CRS Report R41668, *Keystone XL Pipeline Project: Key Issues*, by (name redacted) et al., and CRS Report R42124, *Proposed Keystone XL Pipeline: Legal Issues*, by (name redacted) et al.

Ecosystem Restoration Council; and 5% for research. Unlike S. 1400, however, the House-passed H.R. 4348 would require a future act of Congress to initiate this revenue distribution: the Senate-passed version of H.R. 4348, which includes the language similar to that of S. 1400, would not.[24]

Title IV—Harbor Maintenance Programs

This title would require that the total level of budgetary resources provided for a fiscal year equal the level of receipts credited to the Harbor Maintenance Trust Fund. The provision would restrict the use of such amounts to harbor maintenance programs.

Title V—Coal Combustion Residuals

Title V adds the text of the Coal Residuals Reuse and Management Act (H.R. 2273) to the bill.[25] The provisions in Title V would amend the Solid Waste Disposal Act to authorize states to adopt and implement coal combustion residuals permit programs.

Title VI—Environmental Streamlining

Title VI is the text of Title III of H.R. 7. See "Accelerating Transportation Project Delivery" later in this report.[26]

Legislation: MAP-21 and H.R. 7

Overview

The House and Senate bills differ in the number of years authorized, programmatic reauthorization, and regulatory changes. Both bills are free of earmarks, aim to expedite project delivery, and reduce the number of highway programs by roughly two-thirds.

Highways

Senate Bill

MAP-21 is a two year reauthorization bill that basically funds the Federal-Aid Highway Program at the baseline level, adjusted for inflation. However, it would make substantial changes to the structure, formulas, and funding distribution of the federal highway program.

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[24] See CRS Report R41684, *Oil Spill Legislation in the 112th Congress*, by (name redacted).

[25] For background, see CRS Report R41341, *EPA's Proposal to Regulate Coal Combustion Waste Disposal: Issues for Congress*, by (name redacted).

[26] CRS Report R42479, *The Role of the Environmental Review Process in Federally Funded Highway Projects: Background and Issues for Congress*, by (name redacted).

- A total Federal-Aid Highway Program authorization of $39.5 billion for FY2012 and $40.5 billion for FY2013 (reflecting rescissions), and $400 million for research and education in each fiscal year (see **Table 3**).
- In a major change, MAP-21 would eliminate all the formula factors under the individual formula programs. Each state would be apportioned a share of the bill's authorized contract authority based on its share of total apportionments and allocations during FY2005-FY2009. These state shares (guaranteed to provide a 95% return on each state's payments to the HTF) would then be used to calculate the MAP-21 apportionments.
- The replacement of individual program formulas with an initial calculation across all states based on SAFETEA share, the change in the programmatic structure, and the broad eligibility across programs lessen the federal and congressional influence on program direction and project selection. In the past, some Members of Congress influenced surface transportation by pressing for changes in the program formulas or through earmarking. MAP-21 has neither program formulas nor congressional designation of projects.
- National interests and needs would be increasingly driven by federal planning, performance management, project delivery, and project eligibility requirements. Transferability between core programs, however, would be restricted to 20% of each formula program's apportionment.
- MAP-21 would reduce the number of programs by roughly two-thirds. This would be accomplished mostly by shifting program eligibility to the core programs. Nearly all discretionary grant programs nominally under the control of FHWA would be eliminated.
- The Transportation Enhancements Program (TE)[27] is rolled into the CMAQ program. The bill eliminates some controversial TE uses and, beginning in FY2013, allows states to spend TE funds on a range of non-TE CMAQ uses if they build up an unspent balance for one and a half years. Some TE-type projects are also made eligible for funding in other proposed programs.
- A National Freight Program (NFP) should increase the funding of freight projects by eliminating competition with non-freight projects, at least within the new program.
- The Senate bill increases Transportation Infrastructure Finance and Innovation Act (TIFIA) program funding nearly ten-fold. However, the bill is generally silent on tolling of federally funded roads and bridges. Tolls often provide the revenue streams needed for TIFIA and other alternatively financed projects.

House Bill (H.R. 7)

H.R. 7 is a five year reauthorization bill if the already appropriated FY2012 funding is counted. For detailed funding data, see **Figure A-2**.

[27] The TE program supports 12 eligible activities, such as provision of pedestrian and bicycle facilities, scenic beautification, and establishment of transportation museums. Under SAFETEA the program receives a 10% set-aside from the Surface Transportation Program, or approximately 1.5% of total federal surface transportation funding.

- The House bill would provide modest increases for federal-aid highways from $40.4 billion in FY2013 to $41.0 billion in FY2016 (with no rescissions), and $440 million annually for research and education (see **Table 4**).
- The existing Interstate Maintenance and Highway Bridge programs would be folded into the National Highway System and Surface Transportation Programs. The Congestion Mitigation and Air Quality program and the Highway Safety Improvement programs would be retained. The overall number of distinct programs would be reduced by about two-thirds, to approximately 30.
- The Equity Bonus program would provide a 94% state rate of return guarantee on payments to the HTF.
- The Mass Transit Account of the HTF would be renamed the Alternative Transportation Account, which in addition to funding mass transit (see below) would provide $2.267 billion annually for FY2013-FY2016 for highway programs.
- The 2.86 cents per gallon of the fuel taxes that are now credited to the Mass Transit Account would be redirected to the Highway Account.
- Provisions under the streamlining title would extensively change the requirements in the National Environmental Policy Act (NEPA)[28] applicable to federal highway and transit projects. NEPA would no longer apply to highway or transit projects that cost less than $10 million or for which federal funding constitutes 15% or less of total project costs.
- The House bill would also increase TIFIA funding nearly ten-fold.

Transit

Senate Bill

MAP-21 would fund the Federal Transit Administration (FTA) and its programs at the current level (see **Table 6**). The HTF would provide 79.9% of the funding and the general fund would provide 20.1%. MAP-21 provisions include

- $10.458 billion annually for FY2012-FY2013, for transit programs;
- Creation of the State of Good Repair (SGR) program, which would replace the Fixed Guideway Modernization Program;
- Elimination of the Bus and Bus Facilities program, although a remnant of the program, called the Bus and Bus Facilities SGR program, would provide competitive grants for the upkeep of buses and bus facilities. Funding for the program, $75 million, would be set aside from the New Starts program;
- Modification of the New Starts process, including elimination of the alternatives analysis that is currently required in addition to that required by NEPA.

[28] 42 U.S.C. §4321 et seq.

House Bill (H.R. 7)

H.R. 7 would authorize $10.458 billion for FY2012 and $10.498 billion annually for FY2013 through FY2016 (see **Table 7**). H.R. 7 provisions include

- Renaming the Mass Transit Account of the Highway Trust Fund as the Alternative Transportation Account (ATA) and redirecting the motor fuel taxes to the Highway Account. The ATA would be funded by transferring $40 billion from the general fund.[29]
- Eliminating the Clean Fuels Grant Program, the Transit in Parks Program, and the Growing and High Density State Formula.
- Combining into a single program the New Freedom Program, the Elderly Persons and Persons with Disabilities Program, and the Jobs Access and Reverse Commute Program.
- Distributing funding for the Bus and Bus-related Facilities Program by formula.

Rail

MAP-21 includes provisions that call for the development of a national rail plan (including both passenger rail and freight), for the development of a rolling stock equipment pool for corridor intercity passenger services, and for the implementation of positive train control. For freight rail, the bill would amend the Railroad Rehabilitation and Improvement Financing Program (RRIF), which provides government loans for freight and passenger railroads, to accept state or local subsidies or dedicated revenue stream as collateral. The bill would also make modest changes to laws affecting rail freight enforced by the Surface Transportation Board. The House bill contains provisions affecting Amtrak funding, the RRIF program, and positive train control implementation.

Finance Provisions: Filling the Gap

Most of the provisions of the finance titles are intended to close the gap between projected HTF revenues and the total authorizations included in the bills.

Senate Bill

The finance title of the Senate bill extends highway-related taxes, at their current rates, through FY2015 and extends highway trust fund expenditure authority through FY2013.[30]

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[29] Because of a lack of support this provision is reportedly being withdrawn. See, for example, Burgess Everett, "Republicans to Redo House Transportation Bill," *Politico*, February 23, 2012, http://www.politico.com/news/stories/0212/73230.html.

[30] U.S. Congress, Senate Committee on Finance, *Highway Investment, Job Creation, and Economic Growth Act of 2012*, Report with additional views to accompany S. 2132, 112th Cong., 2nd sess., February 27, 2012, S.Rept. 112-152 (Washington: GPO, 2012), pp. 1-49. SA 1716 did not include the elimination of the cellulosic biofuel producer credit for "black liquor" (a by-product of the kraft process for making paper), which was in the Finance Committee bill as reported. The Joint Committee on Taxation estimates that the change would have increased revenues $1.588 billion (continued...)

The bill includes provisions to raise revenue or provide offsets for $13.872 billion over ten-and-a-half fiscal years for the HTF, $9.279 billion of which is to be transferred in FY2012-FY2013.[31] The deposits include

- $3 billion from the Leaking Underground Storage Tank (LUST) trust fund balance would be transferred immediately, as well as $685 million of projected LUST fund revenues over the next 10 years;
- $697 million (over 10 years) from the transfer of the Gas Guzzler Tax from the general fund to the HTF;
- $743 million (over 10 years) consequent of the revocation of passports of tax delinquents;
- $841 million (over 10 years) consequent of allowing the Treasury to levy up to 100% of the payment to a Medicare provider to collect unpaid taxes;
- $4.52 billion from the transfer of future import tariffs on automotive products (FY2012-FY2016);
- $244 million (over 10 years) from a change in tax treatment of securities of a controlled corporation that are exchanged for assets as part of certain types of corporate reorganizations;
- $25 million (over 10 years) from the clarification that the Internal Revenue Service may levy a federal employee's Thrift Savings Account to satisfy tax liabilities;
- $363 million (FY2014-FY2022) from the extension for transfers of excess pension assets to retiree health accounts and allowing Section 420 of the U.S. tax code to apply to life insurance benefits;
- $9.467 billion (over 10 years) from pension funding stabilization, based on the revenue increases from the stabilization of the fluctuation of interest rates attributable to concomitant changes in Pension Guarantee Benefit Corporation premiums;
- $4.970 billion transfer from the Treasury general fund to the HTF ($2.183 billion in FY2012, $2.277 billion in FY2013, and $510 million in FY2014);
- $459 million (over 10 years) from allowing federal agencies to offer phased retirement;
- $244 million (over 10 years) from the reporting of the sale of life insurance policies to third parties;

(...continued)

over FY2012-FY2016. The most recent estimates are included in a table provided by the Joint Committee on Taxation, March 14, 2012, available at http://www.jct.gov/publications.html?func=startdown&id=4411.

[31] Ibid. See also, U.S. Congress, Senate Committee on Finance, *Description of the Chairman's Modification to the proposals of the "Highway Investment, Job Creation and Economic Growth Act of 2012,"* committee print, prepared by the Staff of the Joint Committee on Taxation, 112th Cong., 2nd sess., February 7, 2012 (Washington: GPO, 2012), pp. 1-19, http://finance.senate.gov/legislation/details/?id=d923f3c4-5056-a032-52f9-cc852968f453. See also, at the same site, *Description of the Chairman's Mark of S. __, the "Highway Investment, Job Creation and Economic Growth Act of 2012,"* also prepared by the staff of the Joint Committee on Taxation.

- $99 million (over 10 years) from extending taxes on cigarette manufacturers to entities operating roll-your-own machines;
- $3.627 billion (over 10 years) from delaying the use of worldwide interest expense allocation by one year;
- $1.022 billion (over 10 years) from authorizing special measures against foreign jurisdictions and financial institutions that significantly impede enforcement of regulations against money laundering.

Since passage, these offsets and revenue provisions have raised comments, in part, because they total more than is needed to offset the difference between the HTF revenue and the MAP-21 spending levels.[32] This could be seen as an opportunity for deficit reduction or as making room for spending.

The Finance Committee also reported favorably on provisions that cost money.

- -$761 million (over 10 years) from changing the Small Issuer Exception to extend the special rules providing modifications to bonds issued after the date of enactment and before January 1, 2013;
- -$215 million (over 10 years) from providing that bonds issued after the date of enactment and before January 1, 2013, not be treated as a tax preference for purposes of the alternative minimum tax;
- -$139 million from extending the parity of the monthly exclusion for employer-provided vanpool and transit pass benefits and the exclusion for employer-provided parking;
- -$305 million from incorporating S. 939, the Sustainable Water Infrastructure Act (as modified), providing that the state volume cap on private activity bonds would not apply to bonds for water and sewage treatment facilities.[33]

The Senate bill includes a provision to authorize states to issue TRIP (Transportation and Regional Infrastructure Project) bonds through state infrastructure banks. The Joint Committee on Taxation determined the provision had no revenue effect.

The bill also includes a modified version of S. 836, the Transportation Access for All Americans Act (as modified), which would amend the Internal Revenue Code to change the depreciation period for long-term highway leases from 15 to 45 years. This might make highway privatization less attractive to private-sector investors. The bill also would provide that the amortization period of the franchise right to collect tolls be not less than the term of the lease or 15 years, whichever is greater. The report language expresses the Finance Committee's concern that under current law the amortization period (15 years) for amounts paid for the right to operate and maintain the public highway and collect tolls is usually significantly shorter than the term of lease under which the right to toll is exercised.

The Joint Committee on Taxation table of revenue provisions for MAP-21, as amended, also includes a placeholder for the RESTORE Act. But no figures are provided.[34]

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[32] C. Kenneth Orski, "Getting to Know the Finer Details of the Senate Highway Bill," April 22, 2012.

[33] Title 26 U.S.C. §420, *Transfers of Excess Pension Assets to Retiree Health Accounts*.

Solvency Account

The finance provision would establish a "solvency account" into which the Secretary of the Treasury would transfer any excess of amounts, appropriated to the HTF before October 1, 2013, under MAP-21, over the amount necessary to meet the needs of the HTF for the period ending October 1, 2013. These amounts would then be made available for transfers to both the highway account and the mass transit account in a manner that would assure that each account maintains a financial cushion of $2.8 billion on September 30, 2013.

Leaking Underground Storage Tank (LUST) Trust Fund

The Senate bill proposes to draw heavily on the LUST trust fund to provide a new revenue source for the highway trust fund. Congress established the LUST trust fund in 1986 to address a nationwide problem of groundwater contamination caused by releases from leaking underground storage tanks (USTs) containing petroleum.[35] The LUST trust fund receives revenues primarily from a 0.1 cent per gallon excise tax on gasoline and diesel fuels. Annual discretionary appropriations from the fund support the LUST environmental contamination investigation and cleanup program and the UST leak prevention program authorized in the Solid Waste Disposal Act. Historically, the states used the annual LUST trust fund appropriation mainly to help oversee and enforce corrective actions performed by responsible parties, and also to conduct corrective actions where no responsible party has been identified, where a responsible party fails to comply with a cleanup order, and in the event of an emergency. The Energy Policy Act of 2005 expanded state and U.S. Environmental Protection Agency (EPA) responsibilities and authorized the use of trust fund monies for the federal UST leak prevention and detection program as well as the LUST cleanup program.[36] Of some 501,000 releases from leaking petroleum tanks reported since the beginning of the LUST program, more than 413,000 (or 85%) have been addressed, leaving a backlog of 88,000 releases requiring cleanup.

The LUST trust fund had an unobligated balance of $3.392 billion at the beginning of FY2012. In FY2012, absent legislative changes, the fund is estimated to receive $117 million in interest payments on its unobligated balance and $181 million in tax receipts. For each of the past several fiscal years, Congress has appropriated approximately $113 million from the trust fund. States receive, as grants, a minimum of 80% of the annual appropriation. EPA uses the remainder to carry out its responsibilities, including implementing the program on Indian lands. Partly because of the relatively low appropriations through the history of the program, states' LUST programs

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(...continued)

[34] U.S. Congress, Joint Committee on Taxation, *Estimated General Fund And Trust Fund Effects Of The Revenue Provisions Contained In S. 1813, As Amended, The "Highway Investment, Job Creation, And Economic Growth Act Of 2012,"* JCX-26-12, March 14, 2012, pp. 1-6. Available at http://www.jct.gov/publications.html?func=startdown&id=4411.

[35] Superfund Amendments and Reauthorization Act (SARA; P.L. 99-499) amended the Solid Waste Disposal Act, Subtitle I (42 U.S.C. §6991-6991i) and authorized EPA and states to respond to spills and leaks from petroleum underground storage tanks (USTs). SARA also amended the Internal Revenue Code of 1986 (26 U.S.C. §9508) to create the Leaking Underground Storage Tank (LUST) Trust Fund to help EPA and states cover the costs of responding to leaking petroleum USTs in cases where UST owners or operators do not clean up a site.

[36] The Energy Policy Act of 2005, P.L. 109-58, Title XV, Subtitle B.

have relied primarily on nonfederal fund sources, including fees and appropriations, as well as state insurance programs.[37]

Section 40301 of the Senate bill would transfer $3.0 billion from the LUST trust fund into the highway trust fund in FY2012. Section 40302 would appropriate to the highway trust fund one-third of future LUST trust fund receipts from the 0.1 cent-per-gallon tax on gasoline and diesel fuel. The Joint Committee on Taxation projects that these future transfers would range from $62 million to $67 million annually, and that over ten years, the appropriations and transfers together would provide $3.685 billion to the highway trust fund.[38]

The LUST trust fund expenditure authority is set to expire on March 31, 2012. Section 40101 of the Senate bill would extend the authority through September 30, 2013.[39]

House Bill (H.R. 7)

The finance provisions of H.R. 7 were included in the American Energy and Infrastructure Jobs Financing Act of 2012, which was reported by the Committee on Ways and Means on February 9, 2012. The bill would reauthorize HTF expenditure authority through FY2016 (Section 15002). Existing highway taxes, including motor fuel taxes, would be extended through FY2018 (Section 15003).

H.R. 7 includes a provision requiring that all future transfers from the general fund of the Treasury to the HTF be fully offset in both budget authority and outlays. Under current law transfers from the general fund to the HTF are scored by CBO as having no cost.

The finance provisions of H.R. 7 reconfigure the highway trust fund. Within this context, there are two gaps the bill seeks to fill with revenue increases or offsets. One gap is the difference between highway account revenues and balances and the authorized levels in the bill. The other is the $40 billion of general fund resources for the proposed alternative transportation account.

Oil and Gas Revenues

Unlike the Senate bill, H.R. 7 would not allocate balances or revenues from the LUST trust fund to the Highway Trust Fund; instead, Section 15002(c) would amend the Internal Revenue Code to extend the LUST trust fund from April 1, 2012, until October 1, 2016.

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[37] Annual claims against state funds typically have far exceeded revenues. State Financial Assurance Funds surveys from 1997 through the present are available at http://www.astswmo.org/publications_tanks.htm. ASTSWMO is the Association of State and Territorial Solid Waste Management Officials, which includes representatives of state underground storage tank programs.

[38] U.S. Congress, *Estimated General Fund and trust Fund Effects of the Revenue Provisions Contained in the Chairman's Modification to S. ____, the "Highway Investment, Job Creation and Economic Growth Act of 2012,"* prepared by Joint Committee on Taxation, 112th Cong., 2nd sess., February 7, 2012, JCX-14-12 (2012).

The Senate Finance Committee Report to Accompany S. 2152 (S.Rept. 112-152), explains, "For Federal budget scorekeeping purposes, the LUST Trust Fund tax, like other excise taxes dedicated to trust funds, is assumed to be permanent."

[39] The LUST Trust Fund financing tax was set to expire on September 30, 2011, but was extended through March 30, 2012, in the Surface and Air Transportation Programs Extension Act of 2011 (P.L. 112-30).

H.R. 7 originally sought to direct increases in federal revenues from onshore and offshore domestic energy leasing and production generated by the enactment of Title XVII of H.R. 7 into the highway account of the Highway Trust Fund. This would establish a new allocation of government receipts from newly authorized leasing and drilling activities. The House approved the energy leasing and production provisions as separate bills on February 16, 2012, under a rule specifying that they would be incorporated into H.R. 7 should H.R. 7 pass the House.[40]

The statutory basis for offshore energy development is the Outer Continental Shelf Lands Act,[41] which is administered primarily by the Department of the Interior. The basic structure of the offshore program allows the Department of the Interior to lease the right to develop oil and gas resources in federal ocean areas in exchange for upfront payments, rental payments, and royalties. According to the department's Office of Natural Resources Revenue, federal receipts from offshore oil and gas came to $6.5 billion in FY2011.[42]

Under current law, receipts from existing offshore lease programs are allocated to a variety of programs by statute. The Land and Water Conservation Fund (established under P.L. 90-401) receives a $900 million annual allocation, and the National Historic Preservation Fund (established under P.L. 94-422) receives a $150 million allocation annually. In addition, portions of federal receipts from certain submerged acreage are permanently appropriated to the states, with the Gulf Coast states (Alabama, Louisiana, Mississippi, and Texas) receiving additional funds from specified leases.

Alternative Transportation Account Revenues

H.R. 7 renames the mass transit account of the HTF the alternative transportation account, and provides the account with a one-time appropriation of $40 billion. It transfers to the highway account, beginning on the date of enactment, the 2.86 cents per gallon of motor fuels taxes currently transferred to the mass transit account. Title XVI, Federal Employee Retirement, appears to be included to provide offsetting revenues for the $40 billion in general fund revenues provided to the alternative transportation account over the life of the bill.

Highways

Senate Bill Funding

- MAP-21 proposes total authorizations of $80.8 billion (after rescissions) over two years ($39.9 billion for FY2012 and $40.9 billion for FY2013), under the Highway and Research titles of the bill. (See **Table 3**)

[40] http://docs.house.gov/billsthisweek/20120213/CPRT-112-HPRT-RU00-HR7RCP.pdf. H.Res. 547, the special rule from the Rules Committee, adopted by the House on February 15, 2012, provided for the consideration of H.R. 3408, which provided that revenues from newly authorized leasing and drilling activities should flow into the Highway Trust Fund. It also provided for consideration of H.R. 7. H.Res. 547 also provided that, if both bills pass the House, H.R. 3408 would be incorporated into H.R. 7, using the title and section designations appearing in Rules Committee Print 112-14.

[41] 43 U.S.C. §1331.

[42] See Office of Natural Resources Revenue, *2001-Forward ONRR Statistical Information*, http://www.onrr.gov/ONRRWebStats/Home.aspx (click on Reported Royalty Revenues).

- The Senate bill does not reinstate the TEA-21 or SAFETEA funding firewalls or spending guarantees.
- MAP-21 eliminates the Equity Bonus Program. Instead the bill guarantees a state share based on SAFETEA and a 95 cent return on each dollar that a state's highway users pay to the highway account of the HTF.
- MAP-21 does not include highway program earmarks.

Table 3. Highway Authorizations: MAP-21, Senate-Passed

(Contract authority from the highway account of the HTF, except as noted, in millions of dollars)

Program	FY2012	FY2013	Total
Title I Federal-Aid Highways	39,143	39,806	78,949
Transportation Infrastructure Finance and Innovation Program (TIFIA)	1,000	1,000	2,000
Tribal Transportation Program	450	450	900
Federal Lands Transportation Program	300	300	600
Federal Lands Access Program	250	250	500
Territorial and Puerto Rico Highway Program	180	180	360
Federal Highway Administration Administrative Expenses	480	480	960
Projects of National & Regional Significance [Gen. Fund]	0	1,000	1,000
Ferry Boats and Ferry Terminal Facilities [Gen. Fund]	67	67	134
Rescissions of Funds Earmarked for Projects and Funds Apportioned Under 23 U.S.C., Chapter 1	2,391	3,054	5,445
Total Authorizations: Title I; Federal-aid Highways	39,479	40,479	79,958
Federal-Aid Highway Program Obligation Limitation	41,564	42,227	83,791
Title II Research and Education	400	400	800
Total Authorizations	39,879	40,879	80,758

Source: Federal Highway Administration. For breakout of formula programs, see **Table 5**.

Notes: FHWA also receives a permanent $100 million authorization for the Emergency Relief Program each year. This funding is also exempt from the obligation limitation. The $1 billion authorized for Projects of National and Regional Significance and the annual $67 million for Ferry Boats and Ferry Facilities can be expended only with an appropriation. See also in the **Appendix** of this report: **Figure A-3** and **Figure A-4**.

Ratchet Mechanism

Section 4001, Highway Spending Controls, includes a provision designed to assure the solvency of the highway account of the HTF. Referred to as the "ratchet mechanism," it requires that within 60 days of enactment, DOT and the Department of the Treasury estimate whether the highway account balance will fall below $2 billion in FY2012 or $1 billion in FY2013. If either of these conditions is expected to occur, DOT will calculate the amount to which the FY2012 ObLim would have to be reduced to prevent this occurrence and then adjust the distribution to the states to reflect the reduction. Any withdrawn ObLim would immediately lapse and a proportionate amount of contract authority would be rescinded. For the years after FY2012 a similar calculation is to be made. The calculation is, however, only to be made under the year-long appropriations bills and not under short-term continuing resolutions.

This provision appears to be related to the pending HTF shortfall under MAP-21 spending levels, as it apparently commits the Senate Environment and Public Works Committee to keeping the bill's spending within the means (revenues and off set transfers) of the HTF. It may also increase the pressure to identify additional revenue options for the HTF to make up the shortfall.

Implementing the ratchet mechanism, if the trigger HTF balances were to be breached, could face resistance in Congress, given the history of negative RABA calculations. For FY2003 the RABA calculation called for a $4.4 billion downward adjustment in the guaranteed funding levels for the highway program. However, despite the negative RABA calculation, Congress chose to override the reductions by drawing down the then positive balance in the HTF.[43]

House Bill (H.R. 7) Funding

- H.R. 7 proposes a total federal-aid highway program authorization of $205 billion over five years, counting the current appropriated year. The HTF obligation limitations for the four full years of the bill are, $37.366 billion for FY2013, $37.621 billion for FY2014, $37.676 billion for FY2015, and $38 billion for FY2016. Under H.R. 7 some highway programs would be funded from a proposed Alternative Transportation Account, which would provide an additional obligation limitation of $2.7 billion annually for FY2013-FY2016 (see **Table 4**).
- As is true with the Senate bill, H.R. 7 does not include spending guarantee mechanisms such as those in SAFETEA.
- H.R. 7 includes a modified version of the existing Equity Bonus Program with a guarantee that each state's total highway grants each year will equal at least 94% of the motor fuel taxes the state pays into the HTF. The program authorization is capped at $3.9 billion per year.
- The alternative transportation would fund several highway programs, including the Congestion Mitigation and Air Quality Program (CMAQ), Ferry Boats and Terminals, Puerto Rico Highways, and Territorial Highway Program. The obligation limitation for these programs is $2.707 billion for each of the fiscal years 2013 through 2016.
- The House bill would also allow expanded tolling of the Interstate system.[44] Subject to certain restrictions, the federal government could participate in projects to add lanes to increase the capacity of a highway and its conversion to a toll facility, so long as the same number of free lanes as existed before the project remain toll free.
- H.R. 7 does not include earmarks.

[43] CRS Report RS21164, *Highway Finance: RABA's Double-edged Sword*, by (name redacted).

[44] CRS Report R42402, *Tolling of Interstate Highways: Issues in Brief*, by (name redacted).

Table 4. Highway Authorizations: H.R. 7, as Reported

(Contract authority from the highway account of the HTF, except as noted, in millions of dollars)

Program	FY2013	FY2014	FY2015	FY2016	Total
National Highway System Program	17,400	17,600	17,600	17,750	70,350
Surface Transportation Program	10,500	10,550	10,600	10,750	42,400
Highway Safety Improvement Program	2,600	2,605	2,610	2,630	10,445
Transportation Infrastructure Finance and Innovation Program	1,000	1,000	1,000	1,000	4,000
Tribal Transportation Program	465	465	465	465	1,860
Federal Lands Transportation Program	535	535	535	535	2,140
Appalachian Development Highway Program	470	470	470	470	1,880
Congestion Mitigation and Air Quality Improvement Program (Alternative Transportation Account)	2,000	2,000	2,000	2,000	8,000
Ferry Boat and Ferry Terminal Facilities Program (Alternative Transportation Account)	67	67	67	67	268
Puerto Rico Highway Program (Alternative Transportation Account)	150	150	150	150	600
Territorial Highway Program (Alternative Transportation Account)	50	50	50	50	200
Recreational Trails Program	85	85	85	85	340
Federal Highway Administration Administrative Expenses	400	400	400	400	1,600
Equity Bonus	3,900	3,900	3,900	3,900	15,600
State Infrastructure Bank Capitalization	750	750	750	750	3,000
Total Authorizations: Title I	40,372	40,627	40,682	41,002	162,683
Obligation Limitation (Highway Acc.)	37,366	37,621	37,676	38,000	150,663
Obligation Limitation (Alternative Acc.)	2,707	2,707	2,707	2,707	10,828
Title VII Research and Education	440	440	440	440	1,760
Total Authorizations	40,812	41,067	41,122	41,442	164,443

Source: Prepared by (name redacted) of CRS based on Federal Highway Administration data.

Note: H.R. 7 also included funding to complete the 2012 fiscal year.

For details of the highway authorizations under H.R. 7, see **Figure A-2**.

Senate Bill Highway Formula Programs

Highway Program Funding Distribution

Unlike SAFETEA and earlier authorization acts, MAP-21 does not set the core programs' authorization levels and then run the funding through their individual program formulas to determine each state's apportionments. Instead, MAP-21 determines the state apportionments for all the major programs according to a single methodology, as follows:

First, each state's "initial amount" is determined by multiplying the total amount available for apportionment ($39.143 billion for FY2012 and $39.806 billion for FY2013) by each state's share of total nationwide apportionments and allocations received for FY2005-FY2009.

Second, these initial amounts are adjusted (if needed) to ensure that each state's combined apportionments in each year will not be less than 95% of the estimated tax payments made by its highway users to the highway account of the HTF. Given the excess of federal highway spending over HTF revenues for FY2005-FY2009, it is unlikely that any adjustments will have to be made, if MAP-21, as reported, is enacted and fully funded.

Third, an amount based on each state's CMAQ percentage of its total apportionments for FY2009, plus 10% of the state's Surface Transportation Program funding for FY2009 (to account for the transfer of Transportation Enhancements to CMAQ), are set-aside for the new CMAQ program, from the adjusted initial amount determined in the first two steps. Then the metropolitan planning amount is determined by multiplying the ratio of a state's apportionment under Title 23 Section 134 for FY2009 to its total apportionments for that year, times the adjusted initial amount calculated in the first two steps.

Fourth, the remaining amount of each state's "initial amount" is divided among the four remaining core programs as follows: 58% is apportioned to the National Highway Performance Program (NHPP), 29.3% for the Transportation Mobility Program (TMP), 7% for the Highway Safety Improvement Program (HSIP), and 5.7% for the National Freight Program (NFP).

Adjustment for Privatized Highways

A further adjustment to state apportioned amounts would be based on the privatized highway lane miles and vehicle miles traveled on privatized highways. The provision would only apply to formerly publicly operated toll roads that have been privatized. Any state with such a privatized road would have its apportionment reduced according to a percentage based on one half on the privatized lane mileage in a state relative to the total National Highway System (NHS) miles in the state and one half determined by total vehicle miles traveled on the privatized highway lanes relative to the total vehicle miles traveled on the NHS roads in the state. The reduced apportionment amounts would then be apportioned among all the other states. According to FHWA, currently this would reduce the apportionments of three states—Illinois, Indiana, and Colorado—and increase the apportionments of all other states.[45] Compared to the apportionments

[45] FHWA identified three facilities that were formerly publicly operated toll roads that were converted to private entities: the Indiana Toll Road, the Chicago Skyway, and the Northwest Parkway near Denver.

prior to adjustment the apportionments are reduced: 0.087% for Illinois; 4.375% for Indiana; and 0.045% for Colorado. Apportionments for all other states increase 0.115% (see **Figure A-7**).

Table 5 shows the dollar amounts of the aggregate programmatic split.

Table 5. Apportioned Programs (Contract Authority)

(millions of dollars)

Program	FY2012	FY2013	Total
National Highway Performance Program	20,623	20,972	41,595
Transportation Mobility Program	10,418	10,595	21,013
Highway Safety Improvement Program	2,489	2,531	5,020
Congestion Mitigation & Air Quality Improvement Program	3,252	3,308	6,560
National Freight Program	2,027	2,061	4,088
Metropolitan Transportation Planning	334	339	673
Total	39,143	39,806	78,949

Source: Federal Highway Administration. The MAP-21programmatic split is estimated. See also **Figure A-5** and **Figure A-6**.

Donor-Donee Implications

Historically, concerns about receiving federal highway spending proportionate to the highway taxes paid by each state's highway users were resolved through programs such as SAFETEA's Equity Bonus Program, which adds funds across all the formula programs to bring all states up to a minimum percentage return on tax payments. MAP-21 has no overt equity program. MAP-21's determination of the "initial amount" for each state, based on each state's share of total funding during FY2005-FY2009, is designed to resolve the "donor-donee" issue up front. Although there is an adjustment mechanism to assure that all states receive at least a 95% rate of return on their payments to the HTF, it is unlikely that adjustments will have to be made. The nationwide rate of return for FY2005-FY2009 was $1.23 on the dollar. Using this base level would likely lift all donor states above the 95% level. If, however, Congress does not provide sufficient funding for the program authorized in MAP-21, the adjustment process to guarantee a 95% return might have to be implemented. Also, some states may prefer that state return on payments to the HTF be used to determine the "initial amount," rather than the state share of total FY2005-FY2009 funding, largely because of earmarking legacy issues.

SAFETEA's Earmarking Legacy

SAFETEA included 6,372 earmarks, more than any previous surface transportation authorization bill, valued at $24.3 billion.[46] Of the $22.1 billion of funding for highway earmarks, 67% of this amount was "below the line," which meant the earmarks did not bring additional money to the receiving state because the state's Equity Bonus distribution was reduced by a like amount. The other 33% of earmark funding was for "above the line" earmarks and increased the amount of

[46] "Overview of Earmarked Projects in the Conference Report," *Transportation Weekly*, August 4, 2005, p. 19.

funds flowing to the receiving states, in most cases increasing those states' shares of total highway program funding. This became an issue in extension legislation. Although individual earmarks were not extended, the states that previously did well in obtaining above-the-line earmarks have benefited from higher base amounts under extensions.[47]

MAP-21 is free of project earmarks. However, because under MAP-21 the apportionment calculation to the states is based on the state share of both apportioned and allocated funding for the SAFETEA years (FY2005-FY2009), states that did well in terms of "above the line" earmarks under SAFETEA would receive apportionment shares under MAP-21 that reflect these increased amounts.[48] SAFETEA's unequal distribution of earmarking both among Members of Congress and among the states was very controversial. Continuing the crediting of these "above the line" earmarks in MAP-21's initial state share calculation could continue to favor states which fared well during the SAFETEA earmarking process.[49]

Highway Formula Programs

MAP-21 reduces the number of discrete funding programs by two-thirds to roughly 30 programs. Most of this reduction is accomplished by absorbing the programs' eligibilities into the new core programs discussed below. The core programs also have many areas of overlapping eligibility. Under MAP-21, the five core programs plus metropolitan transportation planning would be authorized at $39.143 billion for FY2012 and $39.806 billion for FY2013 (see **Figure A-5** and **Figure A-6**).

National Highway Performance Program (NHPP; Section 1106)

This program would be the largest of the programs within the restructured Federal-Aid Highway program. The NHPP would receive $20.5 billion for FY2012 and $21 billion for FY2013. The program would provide support for improvement of the condition and performance of the National Highway System.[50] Three SAFETEA core programs, the Interstate Maintenance Program, the National Highway System Program, and the Highway Bridge Program's NHS component, would be combined to create most of NHPP. The program would include projects to achieve national performance goals for improving infrastructure condition, safety, mobility, or freight movement, consistent with state or metropolitan planning; construction, reconstruction, or operational improvement of highway segments; construction, replacement, rehabilitation, and preservation of bridges, tunnels, and ferry boats and ferry facilities; inspection costs and the training of inspection personnel for bridges and tunnels; bicycle transportation infrastructure and pedestrian walkways; traffic and traveler information monitoring; intelligent transportation systems; and environmental restoration, as well as natural habitat and wetlands mitigation within NHS corridors. The program focus would be on system maintenance. States would not be allowed

[47] "Highway Extensions Would Extend Highway Earmarks for VIPs," *Transportation Weekly*, September 23, 2009, p. 4.

[48] It is possible that the state share could also be credited for appropriations earmarks obtained during FY2005-FY2009.

[49] See "Senate EPW Leaders Unveil $85.3 Billion Two-Year Highway Bill With Major Program Consolidation," *Transportation Weekly*, vol. 13, no. 4 (November 7, 2011), p. 5.

[50] Section 1104 redefines the National Highway System and the Interstate System. It also adds the strategic highway network, "other connector highways" that connect arterial routes, and sets forth the rules for modifications to the National Highway System and the Interstate System. The NHS would be expanded from roughly 160,000 to roughly 220,000 miles.

to spend more than 40% of their three-year NHPP apportionment average on new capacity. States would have to develop National Highway System asset management plans with performance metrics and targets. If Interstate System and NHS bridge conditions in a state were to fall below the minimum conditions established by the Secretary of Transportation, certain amounts of funds would be transferred from other specified programs in the state.

Transportation Mobility Program (TMP; Section 1108)

This program would assist states and localities in improving the conditions and performance of federal-aid highways and of bridges on any public road. Essentially, it would replace SAFETEA's Surface Transportation Program, less its 10% Transportation Enhancement (TE) set-aside and the off-NHS system component of the Highway Bridge Program. The TE shifts to the enhanced CMAQ program. TE type projects, however, also maintain TMP eligibility. The authorization for TMP is roughly $10.5 billion annually for FY2012 and FY2013.

TMP funds would be eligible for transit uses, carpool programs, traveler information, congestion pricing, transportation planning, transportation enhancement activities, recreational trails, ferryboats and ferry facilities, border infrastructure projects, scenic roads, truck parking facilities, safe routes to school projects, as well as eligibilities from discontinued SAFETEA programs. TMP funds would also be eligible for state participation in natural habitat and wetlands mitigation efforts related to projects under Title 23 U.S.C., including statewide and regional natural habitat and wetlands conservation and mitigation plans. Improvement to a freight railroad, marine highway, or intermodal facility would be eligible under specified conditions. TMP funds could be used for maintenance and improvement of all public roads within 10 miles of international borders on which federally owned vehicles comprise more than 50% of the traffic. States would be subject to penalties if the total deck area of deficient bridges increased in the two most recent years.

TMP funds are to be sub-apportioned within states. Fifty percent of each state's apportionment is to be apportioned within the state based on the relative share of a state's population residing within three categories of areas: (1) urbanized areas with populations over 200,000; (2) areas within the state other than urban areas with populations above 5,000; and (3) other areas in the state. The other 50% could be apportioned to any area in the state.

The Appalachian Development Highway System (ADHS) program would be eliminated but its routes and access roads would be eligible under TMP. This change would give states more flexibility to determine spending on the ADHS.

Congestion Mitigation and Air Quality Program (CMAQ; Section 1113)

CMAQ as it exists under SAFETEA would be expanded, in part, by absorbing the eligibilities of discontinued programs including Transportation Enhancements, Safe Routes to Schools, and Recreational Trails. Under MAP-21, CMAQ would receive roughly $3.3 billion annually for FY2012 and FY2013 (under SAFETEA, CMAQ received $1.7 billion for FY2009). Eligibility for CMAQ funding would be expanded to include demand-shifting projects such as telecommuting, ridesharing, and road pricing. For further discussion of CMAQ, see the "Amendments to the CMAQ Program" section of this report.

Highway Safety Improvement Program (HSIP; Section 1112)

HSIP would remain largely as it is under SAFETEA. It would continue to support projects that improve the safety of road infrastructure by correcting or improving hazardous road locations, such as dangerous intersections, or road improvements such as adding rumble strips. HSIP would be funded at roughly $2.5 billion annually for FY2012 and FY2013. The High Risk Rural Roads Program and the Rail-Highway Grade Crossing Program would be abolished, although their project eligibilities would be retained.

National Freight Program (NFP; Section 1115)

The NFP would be an entirely new program intended to improve the condition and performance of a newly designated national freight network. The program would be funded at roughly $2 billion annually for FY2012 and FY2013. This program is discussed in detail in the "Freight Initiative" discussion in this report.

Transferability Among the Core Programs (Section 1507)

MAP-21 would reduce from 50% to 20% the maximum percentage of funding that a state can transfer from any one of its apportioned (mostly core formula) programs to another. Section 1507 of the bill would, however, prohibit the transfer of any TMP funding suballocated by population. The restriction on transfers among programs may be less limiting than it appears, as the core programs under MAP-21 would have many areas of overlapping eligibility, potentially reducing the need for inter-program transfers by the states.

House Bill (H.R. 7) Highway Formula Programs

H.R. 7 would consolidate or eliminate many programs, but differently than proposed in MAP-21. H.R. 7 would retain more of the existing core program structure but expand both the National Highway System Program (NHS) and the Surface Transportation Program (STP) to include the present Highway Bridge Program. The existing Interstate Maintenance program would be folded into the National Highway System Program, and the Highway Safety Improvement Program would be retained. The 10% STP set-aside for Transportation Enhancements, such as bike trails and streetscape improvements, is eliminated. As is true with the Senate bill, the eligibilities of many of the absorbed or eliminated programs continue but under the auspices of other programs.

The obligation limitations supported by the highway account of the HTF for the core highway programs for FY2013 through FY2016 total $150.7 billion. An additional $8 billion from the alternative transportation account is provided for the Congestion Mitigation and Air Quality Improvement Program (CMAQ). (For the state-by-state apportionments under H.R. 7, as reported, see **Figure A-8** and **Figure A-9**).

National Highway System (NHS)

H.R. 7, the largest of the bill's formula programs ($70.4 billion for FY2013-FY2016), would expand the funding of the existing NHS program to help pay for the maintenance and repair of the Interstate Highway system (the existing Interstate Maintenance Program would be eliminated) and the construction, inspection, maintenance, and repair of bridges on the NHS (the existing

Highway Bridge Program would be eliminated).[51] Only facilities located on the NHS would be eligible for NHS program funding. Projects would have to support progress toward national performance goals and states would have to participate in the development of state asset management plans for the NHS.

Surface Transportation Program (STP)

During the nearly 30-year history of STP, it has been the federal-aid highway program with the broadest eligibility criteria. H.R. 7 would authorize $42.4 billion for FY2013-FY2014 for STP. Under the bill, the program's purpose would in some ways be broadened, for example, to include the construction, inspection, rehabilitation, and replacement of bridges and tunnels of all classifications (to compensate for the impact of the elimination of the Highway Bridge Program on non-NHS roads). On the other hand, the bill would eliminate the requirement that 10% of STP funds be set aside for transportation enhancement purposes. In addition, it reiterates the prohibition against projects on roads functionally classified as local or rural minor collectors unless the roads were on the federal-aid highway system in 1991. The bill, however, also allows up to 15% of the STP amounts that are set aside for use in areas with populations under 5,000 to be used on roads classified as minor collectors. H.R. 7 would reduce, from 62.5% to 50%, the percentage of funds required to be spent on urbanized areas with populations over 200,000. States must consult with local or rural planning organizations before obligating funds for projects in population areas of 5,000 to 200,000.

Highway Safety Improvement Program (HSIP)

H.R. 7 would provide $10.4 billion for FY2013-FY2014 for HSIP. States would be required to have their own highway safety improvement programs and state safety plans to receive HSIP funds. The plans would have to be developed in consultation with stakeholders and set safety goals, identify safety projects, and be consistent with performance measures. Each plan would identify the 100 most dangerous roads in the state and would evaluate the progress made each year in achieving state safety goals. Federal cost share would continue to be 90%.

Congestion Mitigation and Air Quality Improvement Program (CMAQ)

H.R. 7 would provide $8 billion over FY2013-FY2014 ($2 billion annually) from the proposed alternative transportation account for CMAQ. See also CMAQ discussion under "Amendments to the CMAQ Program" later in this report.

Equity Bonus Program (EB)

H.R. 7 would amend the existing program to guarantee that each state would receive a minimum 94% return in core program apportionments on its state's highway users' payments of highway taxes to the highway trust fund (the current guarantee is 92%). H.R. 7 authorizes a total of $15.6 billion in equal annual portions over FY2013-FY2014. This limits the amount that can be used to

[51] H.R. 7, Section 1115 would require states with a total highway bridge deck area on the NHS that is more than 10% structurally deficient to spend 10% of their allocations under NHS and STP on eligible projects on highway bridges. Also an amount equal to 110% of the FY2009 amounts a state was required to spend on off-system bridges is to be provided if 15% of the state's off-system bridge deck area has been classified as structurally deficient.

fulfill the guarantee to $3.9 billion per year. Under SAFETEA the EB authorization was for "such sums as necessary." The estimate at the time of passage was that the program would need $40.9 billion in contract authority. If the $3.9 billion annual amount is insufficient to bring all states up to 94%, the STP authorization would be decreased to provide the needed additional funds.

Other Programs

Emergency Relief (ER) Program

The Senate bill, Section 1107, would clarify eligibility criteria regarding roads and bridges damaged by natural disasters or catastrophic failures from an external cause. Roads already closed to traffic or already scheduled for the construction phase in the approved statewide transportation improvement plan at the time of the disaster would not be eligible for ER funds. It would also reiterate that ER funds can only be used on federal-aid highways. The U.S. territories would not receive more than $20 million in a single fiscal year. The $100 million ceiling on a single natural disaster or a single catastrophic failure in a single state would be eliminated. Section 1506 allows the 180-day emergency period during which the federal government pays 100% of repair costs to be adjusted for time lost due to lack of access to damaged facilities. Also, 100% federal share may be allowed at the discretion of the Secretary of Transportation if the cost to repair exceeds the annual state apportionment under 23 U.S.C. 104.[52]

H.R. 7, Section 1111, defines "comparable facility" in regard to allowable "maximum total project costs" as being a facility that meets the current geometric and construction standards required for the types and volume of traffic that the facility will carry over its design life. Reimbursement for debris removal costs would be limited to costs not covered by the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The U.S. territories would not receive more than $20 million in a single fiscal year. The governor or President must declare an emergency in order for assistance to be provided, and states would have to provide a list of projects and costs within two years. ER funding would be allowed for federal lands highways and tribal roads even if they are not on the federal-aid highway system.

Federal Lands and Tribal Transportation Programs

The Senate bill, Section 1116, would restructure the Federal Lands Highways Programs (Public Lands Highways, Indian Reservation Roads, Park Roads and Parkways, and Refuge Roads) by creating the Federal Lands and Tribal Transportation Program. The new program would have three main components: the Tribal Transportation Program; the Federal Lands Transportation Program; and the Federal Lands Access Program. MAP-21 proposes to fund the Tribal Transportation Program at $450 million annually. Funding for other federal lands programs would be $550 million annually. Among the changes in the Tribal Transportation Program is a new statutory formula for distributing funds among tribes based on road mileage and tribal population. Funding from the Federal Lands Access Program would be allocated among the states by a formula that takes into account the amount of federal land, the number of recreational visitors, the number of miles of federal roads, and the number of federally owned bridges.

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[52] Subsection (g) language appears to be written to benefit a particular project, group of projects, or area of roadways threatened by "continuous or frequent flooding" included within the "scope of a prior emergency declaration."

H.R. 7 authorizes the Tribal Transportation Program (Subtitle E) at $465 million annually for FY2013-FY2016. The Federal Lands Transportation program is authorized at $535 million annually for FY2013-FY2016.

Territorial and Puerto Rico Highway Program

The Senate bill, Section 1114, would combine the Puerto Rico and Territorial Highway (THP) programs, funding them at $180 million annually for FY2012 and FY2013. The THP would receive a 25% set-aside each year, amounting to $45 million annually for Guam, American Samoa, the Northern Marianas, and the U.S. Virgin Islands. Puerto Rico would receive a 75% per year set-aside, or $135 million annually. Puerto Rico's set-aside is limited to certain program eligibilities: 50% for purposes under NHPP, 25% for purposes under HSIP, and the remainder for purposes eligible under 23 U.S.C. Chapter 1 (Highways).

H.R. 7 retains the Puerto Rico Highway Program and authorizes it at $150 million annually from the alternative transportation account for FY2013-FY2016. The Territorial Highway Program is also retained and authorized from the alternative transportation account, but at $50 million annually for FY2013-FY2016.

Appalachian Development Highway System Program (ADHS)

The Senate bill eliminates the ADHS as a freestanding program and incorporates its eligibilities into the new Transportation Mobility Program. Section 1530 would raise the federal share payable for the cost of constructing highways and access roads on the Appalachian Development Highway System to 95% under certain conditions.

H.R. 7 would retain the program, authorizing it at the SAFETEA level of $470 million per year for FY2013-FY2016. As has been true in the past, these funds would available until expended. States would be allowed to use toll credits for the local matching share. Under H.R. 7, Section 118, funds are to be apportioned based on the latest cost to complete estimate with no state receiving less than 1% of the funds apportioned and no state receiving more than 25%.

Projects of National and Regional Significance (PNRS)

The Senate bill, Section 1118, establishes a program similar to the program of the same name in SAFETEA. Budget authority, not contract authority, of $1 billion is provided for FY2013. This program would require an appropriation before funds could be made available. The purpose of this discretionary program is to fund critical high-cost surface transportation infrastructure projects that are difficult to complete with existing funding but would generate national and regional economic benefits and increase global competitiveness, reduce congestion, improve roadways vital to national energy security, improve the movement of freight and people, and improve transportation safety. No later than three years after the date of enactment, the Government Accountability Office (GAO) is to report on the process of selection, the factors that went into the selection, and the justification under these factors for the selection of each project.

H.R. 7 would repeal the SAFETEA PNRS provision.

Construction of Ferry Boats and Ferry Terminal Facilities (Section 1119)

The Senate bill, (H.R. 4348 as amended by MAP-21, Section 1119) would create a general fund program for Ferries and Ferry Terminal Facilities. Unlike the existing program, the states that would receive the funds are not designated. Instead the funding would be distributed via the following formula: 20% based on the system's total passengers for the most recent fiscal year relative to the number of passengers carried by all ferry systems; 50% based on the number of vehicles carried per day by the system relative to the number of vehicles carried by all systems; and 30% based on the total route miles serviced by the ferry system relative to the total route miles serviced by all ferry systems. MAP-21 authorizes $67 million for each fiscal year FY2012 and FY2013. These funds would require an appropriation to be made available. Ferry boats and ferry facilities would also be eligible for formula funds under the proposed National Highway Performance Program.

The House bill (H.R. 7, Section 1113) would modify the existing Ferry Boat and Ferry Terminal Facilities Program under 23 U.S.C. 147. The program would be funded at $67 million for each fiscal year FY2013-FY2016 via the proposed Alternative Transportation Account. H.R. 7 would also provide for distribution of the funds via a formula that differs from the Senate bill proposal. Under the House bill the program funds would be distributed to states that have eligible ferry systems as follows: 35% based on the total annual number of vehicles carried by ferry systems operating in each state; 35% based on the total annual number of passengers carried by ferry systems operating in each state; and 30% based on the total nautical route miles serviced by ferry systems operating in each state. Under H.R. 7 (Section 1106) ferry boats and ferry boat facilities on the NHS would also be eligible for formula funds under the National Highway System Program.

Transportation Infrastructure Finance and Innovation Act (TIFIA) Program

An existing federal program supporting large transportation projects is the Transportation Infrastructure Finance and Innovation Act (TIFIA), enacted in 1998 as part of the Transportation Equity Act for the 21st Century (TEA-21) as amended (P.L. 105-178; P.L. 105-206). Currently, TIFIA provides federal credit assistance, up to a maximum of 33% of project costs, in the form of secured loans, loan guarantees, and lines of credit. Loans must be repaid with a dedicated revenue stream, typically a project-related user fee.

MAP-21 proposes several significant changes to TIFIA. Perhaps most importantly, the bill proposes to greatly enlarge the TIFIA program by authorizing $1 billion annually from the highway trust fund, up from the $122 million annually in SAFETEA. These funds would be available to pay the administrative and subsidy costs of the program. Administrative costs would be capped at 1% of this amount, leaving about $990 million to pay loan subsidy costs.[53] Assuming an average subsidy cost of 10%, this may provide DOT with the capacity to make loans totaling $9.9 billion per year.[54] At the same time, MAP-21 also proposes to increase the

[53] The subsidy cost is "the estimated long-term cost to the government of a direct loan or a loan guarantee, calculated on a net present value basis, excluding administrative costs," Federal Credit Reform Act of 1990 (FCRA), §502 (5A).

[54] Under the program the subsidy cost is calculated for each loan based on an estimate of expected loss across a (continued...)

share of project costs that TIFIA may provide from 33% to 49%, potentially lowering the share of nonfederal resources leveraged with federal loans.

Another significant change in MAP-21 would allow credit assistance to be provided for a program of projects secured by a common security pledge. This would be accomplished through a "master credit agreement." Currently, TIFIA only allows agreements on a project-by-project basis. The Los Angeles County Metropolitan Transportation Authority (Metro), for one, has sought this change to accelerate the financing of 12 transit projects (known as the 30/10 Initiative).[55]

The existing TIFIA threshold for eligible projects of $50 million generally or $15 million for intelligent transportation system projects remains, except that MAP-21 proposes a threshold of $25 million for rural infrastructure projects.[56] Rural infrastructure projects are defined as those "(A) located in any area other than an urbanized area that has a population of greater than 250,000 inhabitants or (B) connects a rural area to a city with a population of less than 250,000 inhabitants within the city limits" (Section 2002). Additionally, whereas loans for urban projects must charge interest not less than the Treasury rate, rural projects are to be offered loans that are half the Treasury rate. Furthermore, 10% of TIFIA funds made available in MAP-21 are set aside for rural projects.

Currently, projects seeking TIFIA assistance are evaluated on eight criteria.[57] These criteria would be abolished, and projects (or programs involving multiple projects) would be evaluated solely on their eligibility on a first-come, first-served basis. Once funding is exhausted for a year, a project sponsor could enter into a master credit agreement for future credit assistance or it could decide to pay its own credit subsidy to permit an immediate loan. MAP-21 would permit the payment of the credit subsidy from federal surface transportation apportionments. Alternatively, if not all TIFIA funding is used it may be apportioned to the states for the purposes of the Transportation Mobility Program.

Like MAP-21, H.R. 7 authorizes $1 billion annually for TIFIA from the highway trust fund. These funds will be available to pay the administrative and subsidy costs of the program. Administrative costs are capped $3.250 million in H.R. 7. The bill also contains provisions to establish master credit agreements to provide credit assistance for programs of related projects. As with MAP-21, H.R. 7 eliminates the evaluation criteria for TIFIA assistance and provides assistance on a first-come, first-served basis if a project or program of projects is eligible. H.R. 7 maintains the $50 million threshold for non-ITS projects and $15 million threshold for ITS projects. But it also adds a $25 million threshold for rural projects, consistent with MAP-21, and

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(...continued)

portfolio of loans. Historically, the subsidy cost of a loan has averaged 8%. The subsidy cost largely determines the amount of money that can be made available to project sponsors. For instance, with a subsidy cost of 8%, $110 million in contract authority represents about $1.375 billion in potential credit assistance ($110 million divided by 8% equals $1.375 billion).

[55] Los Angeles County Metropolitan Transportation Authority (Metro), *Metro's 30/10 Initiative*, http://libraryarchives.metro.net/DB_Attachments/100524_30_10_Initiative.pdf.

[56] The law also provides eligibility for projects that are 33.3% of the amount of federal highway assistance apportioned in the most recent fiscal year to the state in which the project is located. This is unchanged in MAP-21.

[57] These are the amount of private participation; environmental impact; national or regional significance; project acceleration; creditworthiness; use of new technologies; reduced federal grant assistance; and consumption of budget authority.

a $1 billion threshold for assistance provided under a master credit agreement. H.R. 7 also raises the maximum amount of federal assistance to 49%.

In addition to enlarging TIFIA, H.R. 7 proposes to authorize $750 million per year specifically for capitalizing state infrastructure banks. Currently, each state is allowed to use a portion of its federal surface transportation funds to capitalize a state infrastructure bank if it so chooses.

Freight Initiatives

There is no separate federal freight transportation program in SAFETEA, only a loose collection of freight-related programs that are embedded in a larger surface transportation program aimed at supporting both passenger and freight mobility. Most of the freight-related funding authorized by SAFETEA is provided to the states through the regular highway programs, such as the Surface Transportation Program (STP). SAFETEA specifically dedicates minor funding to freight transportation improvements, leaving state DOTs and metropolitan planning organizations to make most decisions about the priority to be accorded freight. A large, well-defined federal freight program would be a significant departure from SAFETEA.[58]

Whether the federal government should make a more focused effort towards funding freight improvements has been one of the policy questions leading up to the reauthorization debate.[59] The Senate bill (MAP-21) would create a new dedicated funding program for freight transport. While the House bill (H.R. 7) does not create a similar program, it does contain a number of provisions that significantly affect freight transport. Both the Senate and House bills require the U.S. Department of Transportation to prepare and update a national freight transport plan, in consultation with stakeholders, that is intended to articulate the nation's priorities with respect to freight improvements. Also, provisions in both bills seeking to increase private-sector participation in financing transportation improvements, such as expanding the TIFIA program,[60] could enhance freight carriers and shippers' roles in project planning and development.

Senate Bill

MAP-21 proposes a new core program intended to direct funds to infrastructure segments that are particularly critical to freight movement. The Secretary of Transportation would designate such segments, based primarily on freight volume and in consultation with shippers and Section 1115 of carriers, as the "primary freight network" (PFN), consisting of 27,000 centerline miles of existing roadways. (For comparison, the existing Interstate Highway System consists of approximately 47,000 centerline miles.) Through a formula allocation, states would be guided to spend their freight program apportionment on the PFN first before spending funds on other freight-related infrastructure. The Secretary of Transportation could designate up to an additional 3,000 centerline miles of existing or planned roads as part of the PFN based on their future

[58] For further discussion of issues related to freight in the reauthorization debate, see CRS Report R40629, *Freight Issues in Surface Transportation Reauthorization*, by (name redacted) and (name redacted).

[59] See CRS Report R40629, *Freight Issues in Surface Transportation Reauthorization*, by (name redacted) and (name redac ted).

[60] TIFIA stands for the Transportation Infrastructure Finance and Innovation Act, legislation that was enacted in 1998 as part of the Transportation Equity Act for the 21st Century (TEA-21) as amended (P.L. 105-178; P.L. 105-206).

importance to freight movement. Every decade, the Secretary of Transportation would re-designate the PFN based on the same process.

States would be able to designate "critical rural freight corridors" based on the density of truck traffic if the roadway connects the PFN or Interstate System with sufficiently busy freight terminals. States would be able to spend a maximum of 20% of their freight program apportioned funds on these roads.

The critical rural freight corridors, portions of the Interstate System not designated as the PFN, and the PFN would be designated as the "national freight network (NFM)."[61] States could spend freight program funds on non-Interstate highways or transit system projects if those projects would improve freight flows on nearby or parallel interstate highways more cost-effectively than improving an Interstate segment. A state could also spend up to a maximum of 10% of its freight program apportionment for public or private freight rail or maritime projects, but only if the Secretary of Transportation determines that a project would make significant improvement to freight flow, that the public benefit exceeds the federal cost, and that the project provides a better return than a highway project on the PFN.

Creating a specific funding program for freight movement, as well as requiring states to develop performance measures, will likely elevate consideration of freight needs in the project selection process. The designation of a PFN consisting of about 30,000 miles of highway would concentrate funds on segments most critical to freight movement. DOT has estimated that on 4,700 miles of highway with volume exceeding 8,500 trucks per day, trucks have to travel below the speed limit during rush hours due to congestion, and that on 3,700 additional miles of highway trucks experience stop-and-go conditions during rush hours.[62] Most of these congested segments are at urban interchanges.[63] Because the freight program would rely on apportioned funds, states could still be reluctant to address bottlenecks that are costly to alleviate and would primarily benefit through trucks (as opposed to trucks serving local shippers). Programs such as TIFIA, Projects of National and Regional Significance (PNRS), and CMAQ may be more suitable to funding these types of projects under MAP-21.

The Senate bill would not alter truck size and weight limits, but Sections 32801 and 32802 require DOT to conduct a study of possible changes to the limits.

House Bill (H.R. 7)

The House bill also appears to concentrate funding for freight transport, but does so by reducing funding for programs not relevant to shippers rather than by creating a separate freight program. Terminating the transfer of federal gas taxes to the mass transit trust fund in the House bill also would leave additional funds for roadway maintenance and construction, potentially benefiting truck transportation. The House bill seeks greater reliance on tolling to finance highway

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[61] The PFN and NFN should not be confused with the existing "National Network" comprising roughly 200,000 miles of highways designated as safely accommodating large combination trucks.

[62] U.S. Department of Transportation, Federal Highway Administration, Office of Freight Management and Operations, *Freight Facts and Figures 2010,* based on data from the Freight Analysis Framework, version 3.1, 2010.

[63] American Transportation Research Institute, Bottleneck Analysis of Freight Significant Highway Locations, http://www.atri-online.org.

construction, an approach opposed by trucking organizations that prefer fuel tax increases over tolling to boost revenues.

As introduced, H.R. 7 would have increased federal limits on truck weight from 80,000 pounds to 97,000 pounds with the addition of a sixth axle. This was not approved in the Transportation and Infrastructure Committee; instead, the committee approved an amendment calling for a DOT study of the issue. H.R. 7 does contain a provision increasing the permitted length of double trailers that less-than-truckload (LTL) carriers typically use from 28 feet to 33 feet and increasing the permitted length of trailers that truckload carriers typically use to 53 feet. The House bill also increases the permitted length of auto transporters to 80 feet. The bill calls for a four year pilot program to allow up to three states to increase truck weights to 126,000 pounds on 25-mile Interstate Highway segments under certain conditions. The committee report mentions coal transport in West Virginia and timber trucking in Minnesota as participants in this pilot. Also, a weight exemption for idle reduction equipment was increased from 400 pounds to 550 pounds.

For freight provisions related to rail and maritime modes, see the "Rail Provisions" and "Harbor Maintenance Expenditures" sections of this report.

Transportation Planning and Performance Management

Senate Bill

MAP-21 would make substantial changes to transportation planning requirements at the national, state, and local levels. Arguably the biggest change is a requirement for the use of performance management throughout the planning process (Subtitle B, "Performance Management"), an idea that has gained wide currency over the past few years.[64] MAP-21 proposes that state and metropolitan planning include performance measures and targets. Although the bill includes a set of five national goals (Section 1203),[65] for the most part the specific performance measures would be developed and performance targets set by the states and metropolitan planning organizations (MPOs) themselves. The consequences of failure to meet the targets are relatively mild, typically requiring a remedial plan of action on the part of the state or MPO.

At the national level, as part of the new National Freight Program, MAP-21 would require the development of a national freight strategic plan by DOT (Section 1115). Among other things, the plan would have to establish "quantifiable performance measures for freight movement on the primary freight network." In order to obligate funding from the new freight program, moreover, each state would be required to set performance targets for freight movement. If a state were to fail to make significant progress toward meeting its performance targets it would be required to submit a freight performance improvement plan to the Secretary of Transportation.

[64] See, for example, American Association of State Highway and Transportation Officials, *AASHTO Authorization Policy, Topic I: Performance Management*, Washington, DC, http://www.transportation.org/sites/policy_docs/docs/i.pdf.

[65] These are safety; infrastructure condition; system reliability; freight movement and economic vitality; and environmental sustainability.

Another part of MAP-21, the Surface Transportation and Freight Policy Act (Division C, Title III), includes yet more provisions for the establishment of a national surface transportation and freight policy (Section 33002) and the development and implementation of a national surface transportation and freight strategic plan (Section 33003). These provisions sometimes repeat, in a general way, and sometimes conflict with those in Division A, Title I. An example of repetitive provisions is Section 1203, which says a national goal is "to achieve a significant reduction in traffic fatalities and serious injuries on all public roads," and Section 33002, which says "to reduce national motor vehicle-related and truck-related fatalities by 50% by 2030." An example of conflicting provisions is Section 1115, which calls for the development of a national strategic freight plan within three years of enactment, and Section 33003, which calls for the development of a national surface transportation and freight performance plan within two years of enactment.

As part of the new National Highway Performance Program (Section 1106), each state would be required to develop a risk-based asset management plan that includes performance targets and an investment strategy. A state that fails to make significant progress toward achieving its targets would have to submit a description of actions it will undertake to achieve them. As part of the planning, the Secretary would have to, among other things, set minimum standards for the condition of pavement on the Interstate System and the condition of bridges on the NHS. If the condition of Interstates and NHS bridges were to fall below that minimum, a state could be required to redirect its federal apportionments to bring those facilities up to par.

In some respects, MAP-21 would leave state planning requirements as they are. Each state would still be required to develop a statewide transportation plan and a statewide transportation improvement program. However, there are some changes (Section 1202). Statewide plans and improvement programs would have to incorporate metropolitan transportation plans and transportation improvement programs without change. Currently, statewide plans need only to be developed in cooperation with the MPO. Similarly, MAP-21 would require states to develop their plans in cooperation with nonmetropolitan areas, a stronger requirement than the current need for "consultation."

As with many other elements of MAP-21's planning provisions, states would be required to incorporate a performance-based approach into transportation planning. Performance measures and targets would have to be coordinated with those developed in other planning efforts, such as the national freight strategic plan. The performance plan would have to include a financial plan.

In terms of metropolitan transportation planning (Section 1201), MAP-21 proposes to create two tiers of MPOs, Tier I in areas with populations of 1 million or more and Tier II in areas of less than 1 million. Tier I and Tier II MPOs would have to meet certain, but presumably different, minimum technical requirements having to do with modeling, data, staffing, and other planning elements. The Secretary would be required to issue regulations establishing these minimum requirements one year from the date of enactment. For Tier I MPOs, MAP-21 will require performance-based planning and targets, elements that will be evaluated by DOT as part of an MPO's certification. According to MAP-21, requirements for Tier II MPOs will be more at the discretion of the Secretary and may include performance measures. MAP-21 also includes provisions for the optional development of multiple scenarios, sometimes known as blueprint planning. MAP-21 provides that both Tier I and Tier II MPOs are allowed to select projects from their TIPs in consultation with states, as is the case now, but MAP-21 adds that it must also be done with the concurrence of the facility owner.

As part of the rewriting of the metropolitan planning provisions, MAP-21 proposes to require the designation of MPOs only in urbanized areas of 200,000 population or more, up from 50,000 or more as required in current law. Nevertheless, MPOs in urbanized areas below 200,000 could be designated by agreement between the governor and local officials, although these MPOs would have to meet the minimum technical requirements as determined by the Secretary for Tier II MPOs. Existing MPOs in areas under 200,000 population, unless reaffirmed by the MPO and governor, and approved by the Secretary, are to be terminated three years after regulations are promulgated for Tier II MPOs.

One other intent of MAP-21 appears to be consolidating metropolitan planning within a single MPO in each urban region. However, the proposed legislation provides that more than one MPO can co-exist if the governor and an existing MPO decide that it is appropriate for an area.

House Bill (H.R. 7)

Like MAP-21, H.R. 7 contains a number of provisions pertaining to national transportation planning, performance measurement, and statewide and metropolitan transportation planning. H.R. 7 would require the development of a national strategic transportation plan by DOT, which would be required to solicit a list of projects of national and regional significance from states for inclusion in the plan. The national plan is to include an estimate of costs and is to be updated every two years.

H.R. 7 also would require the development of a national performance management system to "track the Nation's progress toward broad national performance goals for the Nation's highway and public transportation systems" (Section 5206). This system is to include national performance measures and targets, and a state performance measurement system including performance targets, strategies, and reporting requirements. States would be required to report annually on their progress toward meeting the performance targets.

In the statewide transportation planning process, H.R. 7 would require the identification of projects of national and regional and statewide significance in the long range plan. H.R. 7 also includes requirements for including measures aimed at solving congestion problems at airports and in freight rail corridors, and considerations having to do with ports and inland waterways. H.R. 7 adds a requirement for planning to consider the role intercity buses might play in reducing congestion, pollution, and energy consumption, and the ways in which investment might maintain and improve the existing intercity bus system, including buses that are privately owned and operated. H.R. 7 would also create a role in project selection for regional transportation planning organizations in areas that do not have a designated MPO.

In the metropolitan transportation planning process, H.R. 7 proposes to increase the urbanized population threshold for the designation of an MPO from 50,000 to 100,000 (Section 4001). Existing MPOs in areas under 100,000 may continue to be designated unless the governor and localities agree to terminate the designation. H.R. 7 also adds a requirement for metropolitan planning to consider the role of intercity buses.

Accelerating Transportation Project Delivery

Budgetary pressures at all levels of government have increased concern about using resources for transportation projects as effectively as possible. The speed with which transportation projects are delivered, and the role the federal government plays in the project delivery process, have received particular attention. (See CRS Report R41947, *Accelerating Highway and Transit Project Delivery: Issues and Options for Congress*, by (name redacted) and (name redacted).)

Both the House and Senate proposals include provisions intended to expedite project delivery by changing elements of the environmental review process.[66] For individual highway and transit projects, activities included within that process may begin during the planning stage of project development and are generally concluded during the preliminary engineering and design stage. The process involves preparing documentation and analysis necessary to demonstrate that all potential project-related impacts to the human, natural, or cultural environment are identified; the effects of those impacts are taken into consideration among other factors considered during the decision-making process (e.g., economic or community benefits); and compliance with all state, tribal, or federal requirements, applicable as a result of those impacts, is met.

Depending on project-specific impacts, various environmental requirements may apply to a given transportation project. Those requirements may involve activities such as obtaining necessary permits from the Army Corps of Engineers or the U.S. Coast Guard for a bridge reconstruction project; determining activities necessary to mitigate project effects on a historic site in consultation with a State Historic Preservation Office; or identifying a project alternative that avoids adverse impacts to parks, recreation areas, wildlife refuges, or historic sites or structures. For all proposed federal-aid highway or transit projects, some level of documentation, analysis, and review will be required pursuant to NEPA. Under NEPA, among other requirements, federal agencies must identify and consider the environmental impacts of a proposed action before proceeding with it.[67]

Before final design activities, property acquisition, or project construction can proceed, the FHWA or FTA must approve the NEPA documentation. Further, it is DOT policy that all environmental investigations, reviews, and consultations be coordinated as a single process, and compliance with all applicable environmental requirements be reflected in the NEPA document.[68]

Under this umbrella compliance process, the distinction between what is required *by* NEPA and requirements *identified* during the NEPA compliance process may be blurred. Recognizing that distinction is relevant in identifying root causes of project delay associated with, or effective solutions that may expedite, the environmental review process. Recent legislative efforts intended to expedite environmental reviews (enacted under SAFETEA and TEA-21) focused primarily on

[66] CRS Report R42479, *The Role of the Environmental Review Process in Federally Funded Highway Projects: Background and Issues for Congress*, by (name redacted).

[67] See CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by (name redacted), and CRS Report RS20621, *Overview of National Environmental Policy Act (NEPA) Requirements*, by (name redacted).

[68] See the FHWA Environmental Review Toolkit website, regarding "NEPA and Project Development," http://environment.fhwa.dot.gov/projdev/index.asp. This website also has information applicable to transit projects. On project streamlining, see http://environment.fhwa.dot.gov/strmlng/index.asp, especially the information included under "Program Overview" and "SAFETEA."

elements of NEPA compliance, particularly requirements applicable to major, new highway and transit projects.

Provisions applicable to the environmental review process in H.R. 7 and MAP-21 also focus primarily on NEPA compliance, but extend beyond NEPA. Generally, the House proposal would involve more sweeping changes to the existing process than proposed in MAP-21. Provisions in both bills are broadly intended to expedite highway and transit project delivery by changing existing environmental compliance requirements. A complex range of factors would affect the degree to which the proposed changes may accelerate environmental reviews, and ultimately project delivery, or may result in procedural changes that may actually slow project delivery (e.g., by removing mechanisms to coordinate the potentially complex environmental compliance process or by adding requirements to that process).[69]

Senate Bill

Provisions Applicable to the Environmental Compliance Process

The environment-related provisions in MAP-21 apply to activities associated with the environmental review phase of transportation project development. The "environmental review process" is the phase in overall project development in which applicable state, tribal, and federal environmental compliance requirements, including those established under NEPA, are identified and documented. Compliance with those requirements may require input or cooperation from federal, state, or tribal agencies. Before final design activities, property acquisition, purchase of construction materials or rolling stock, or project construction can proceed, FHWA or FTA must ensure that the environmental review process for that project is complete. Under NEPA, that review process must include an environmental impact statement if the project may "significantly" affecting the environment. If the significance of a project's environmental impacts is unclear, an environmental assessment (EA) must be prepared to make that determination.

Projects that do not individually or cumulatively have significant environment impacts are categorically excluded from the requirement to prepare an EIS or EA. Hence, they are referred to as categorical exclusions (CEs). DOT's NEPA regulations list two groups of actions that are generally CEs—those that require no additional DOT approval and those that may be processed as CEs when appropriately documented and approved by DOT.[70] Since 1998, approximately 90% of highway projects approved annually by FHWA were processed as CEs and approximately 6% required an EA.[71] While such projects may have "no significant environmental impact under NEPA," they may still be subject to other environmental requirements pursuant to the National Historic Preservation Act, the Clean Water Act, the Endangered Species Act, or other laws.

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[69] See CRS Report R41947, *Accelerating Highway and Transit Project Delivery: Issues and Options for Congress*, by (name redacted) and (name redacted).

[70] Actions requiring no additional approval from DOT are listed under 23 C.F.R. §771.117(c). They include projects such as emergency repairs from a natural disaster or catastrophic failure and landscaping activities. Actions that require some level of DOT approved are listed under 23 C.F.R. §771.117(d). These projects have a higher potential for impacts, but still generally meet the CE criteria because environmental impacts are minor. They include projects such as modernization of a highway by resurfacing, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g., parking, weaving, turning, climbing).

[71] See "FHWA Projects by Class of Action" at http://www.environment.fhwa.dot.gov/strmlng/projectgraphs.asp/.

The most significant changes to the environmental review process in MAP-21 are those that would be established under Section 1313, "Accelerated Decisionmaking," and Section 1316, "Review of Federal Project and Program Delivery." Under Section 1313, MAP-21 would amend existing environmental review procedures to establish new requirements applicable to "issue resolution."[72] The provisions would establish criteria intended to ensure that all parties to the environmental review process are on schedule to meet project deadlines and to resolve disputes that may delay completion of that process or result in denial of any approval required under applicable law.[73]

Under Section 1313, MAP-21 would also establish "financial transfer provisions" applicable to an agency that fails to issue or deny a permit, license, or other approval required under any federal law. Under certain conditions, the applicable office of the head of the agency responsible for the delay would be required to transfer $10,000 or $20,000, once a week,[74] to the agency or divisions charged with rendering a decision regarding an application. A transfer would be required on the later of 180 days after an application for a permit, license, or approval is complete; or 180 days after a final project decision is made, pursuant to NEPA. The transfer would not be required if the delay is of no fault of the agency.

Agencies responsible for issuing approvals or permits for DOT projects vary depending on the impacts of a project, but may include EPA, the U.S. Army Corps of Engineers, or the Department of the Interior's U.S. Fish and Wildlife Service. A given divisional, regional, or local program office within one of these agencies may process hundreds of permit applications annually for a range of regulated activities—for projects beyond those applicable to transportation project development (e.g., private land development, mining operations, oil and gas development, cattle grazing). Agency under-staffing or lack of funds is sometimes cited as a cause of delay in issuing necessary approvals or permits. A requirement to redirect limited agency funds for the purpose of expediting a single transportation project approval may have the unintended affect of slowing other applications being processed by that office.

Under Section 1316, MAP-21 would require DOT to prepare assessments that compare the completion times of CEs, EAs, and EISs initiated after calendar year 2005 to those initiated during a period prior to calendar year 2005; and to compare the completion times of CEs, EAs, and EISs initiated during the period beginning on January 1, 2005 and ending on the date of enactment of MAP-21 to those initiated after MAP-21's enactment. DOT would be required to report this information to Congress within one year after enactment. No specific funding is authorized to complete the required assessments.

Determining the time it takes to complete the various NEPA documents, as directed under Section 1316, will likely be challenging. Information indicating when individual EIS preparation begins and ends is available, but is not necessarily an accurate reflection of the time it takes to complete the NEPA process. Little or no data are available for projects processed with EAs or CEs. State DOTs generally do not attempt to track the time it takes to complete the NEPA process or any

[72] Pursuant to requirements applicable to "Efficient environmental reviews for project decisionmaking," established under 23 USC §139(h).

[73] Under §1313, "all parties" refers to the project sponsor, lead agencies, resource agencies and any relevant state agencies.

[74] For an individual project, the total amount transferred cannot exceed 1% of annual funds made available for the applicable agency office; the total amount transferred cannot exceed 5% of an agency's annual funds.

other environmental compliance obligations. Also, NEPA compliance fits into the overall project delivery process as a subset of one or more major elements of project development. Extracting accurate information about the time it takes to complete activities specific to the NEPA process may not be possible. To meet Congress's directive, DOT may require states to begin tracking this information and report it to DOT. Such a requirement would be an addition to the existing environmental clearance process.

MAP-21 provisions applicable to CEs generally involve directives to DOT to change existing regulatory requirements applicable to such projects. The most significant provisions applicable to CEs, "Programmatic Agreements and Additional Categorical Exclusions" (Section 1310), would direct DOT to survey state agencies for suggested new CEs. From those suggestions, DOT would be required to promulgate regulations adding projects to the existing regulatory list of CEs. Also, DOT would be directed to change existing CE regulations by moving specific projects listed as requiring documentation and approval from DOT to the list of projects for which no additional DOT approval is required (i.e., to move certain projects from 23 C.F.R.§771.117(d) to §771.117(c)). Other CE-related provisions would specify DOT agency roles in meeting NEPA compliance requirements for multimodal projects (Section 1306) and direct DOT to promulgate regulations specifying criteria under which specific projects located solely within the right-of-way of an existing highway may be designated as categorical exclusions (Section 1309).

Provisions that would continue or amend environment-related programs or procedures established under SAFETEA include the following:

- **Assistance to Affected State and Federal Agencies**—would continue to authorize the use of federal transportation funds for dedicated staff at a federal agency that would support activities that directly contribute to expediting and improving transportation project planning and delivery. However, under this section, before DOT funding approval, the agency receiving DOT funds and the state (e.g., project sponsor) would have to enter into a memorandum of understanding establishing project priorities to be addressed by using those funds (§1305).
- **State Assumption of Responsibilities for Categorical Exclusions**—would allow states to use apportioned transportation funds for attorneys' fees directly attributable to activities associated with eligible activities under this section (§1307).
- **Surface Transportation Project Delivery Program**—would make permanent the "surface transportation project delivery pilot program" that allowed five specific states to assume federal responsibilities for environmental reviews required under NEPA or any other federal law. Under the new program, any state could participate and DOT would be required to make certain determinations regarding a state's ability to implement the program.

Additional environment-specific provisions under MAP-21's Subtitle C generally identify certain activities as being of importance to Congress, reinforce the importance of activities DOT is currently implementing, or clarify existing requirements applicable to NEPA compliance.[75]

[75] These provisions include Sections 1301, Project Delivery Initiative; Section 1302, Clarified Eligibility for Early Acquisition Activities Prior to Completion; Section 1303, Efficiencies in Contracting; Section 1304, Innovative Project (continued...)

House Bill (H.R. 7)

In the House bill, provisions applicable to the environmental review process are largely included under Title III, "Environmental Streamlining" (these provisions would generally amend federal-aid highways requirements, but may also apply to transit projects), and Subtitle C, "Project Development and Review," under Title VIII, Railroads (which would amend Title 49 requirements applicable to "Rail programs"). Provisions included under these titles would extensively change the NEPA requirements applicable to federal highway and transit projects. As proposed, NEPA would no longer apply to highway or transit projects that cost less than $10 million or for which federal funding constitutes 15% or less of total project costs. For projects still subject to NEPA, H.R. 7 would significantly change the NEPA compliance process by, among other requirements, changing the range of potential project alternatives that must be considered; the format of and analysis required in certain NEPA documents; and the level of evaluation required to determine cumulative project impacts. The House bill would also require agencies outside DOT to adhere to specific timeframes to provide necessary permits or approvals; establish a 270-day deadline for completing the overall environmental review process; and establish limits to judicial review and to legal sufficiency standards applicable to environmental documents. Provisions in the House proposal would also significantly amend requirements applicable to parks, wildlife refuges, recreation areas, and historic sites or properties.

Surface Transportation Extension Act of 2012, Part II (H.R. 4348): Streamlining Provisions

The environmental streamlining title (Title VI) of H.R. 4348 includes the environmental streamlining title (Title III) of H.R. 7. The Senate has agreed to an amendment that substitutes the language of MAP-21 for the House-passed language of H.R. 4348, and called for conference with the House. The inclusion of the H.R. 7 streamlining provisions in House-passed H.R. 4348 assures that the House streamlining provisions will not be subject to challenge as being out of the "scope of the differences" between the House and Senate versions of the bill.

Non-environmental Provisions Accelerating Project Delivery

Outside of the environmental review process, MAP-21 would make three main changes to existing law in an attempt to speed project delivery. First, in Section 1303, MAP-21 would add specific authority for state DOTs to enter into construction manager/general contractor (CM/GC) contracts. According to FHWA, CM/GC contracts occupy a middle ground between the traditional design-bid-build construction method and the more innovative design-build method in which a single contractor is responsible for all the design and construction work.[76] With a CM/GC contract, a state DOT employs a general contractor to provide advice during the design phase. If agreement can be reached on price and other details, the same firm may then be employed to build the project. With intimate knowledge of the project, it is believed the contractor is able to enter into such an agreement and can begin construction tasks before the design work is complete,

(...continued)

Delivery Methods; Section 1311, Accelerated Decisionmaking in Environmental Reviews; Section 1312, Memoranda of Agency Agreements for Early Coordination; and Section 1314, Environmental Procedures Initiative.

[76] Federal Highway Administration, "Every Day Counts Initiative: Accelerated Project Delivery Methods," http://www.fhwa.dot.gov/everydaycounts/projects/methods/index.cfm.

thereby accelerating the delivery of the project. H.R. 7 also provides specific authority for state DOTs to enter into CM/GC contracts.

Second, MAP-21 would increase the federal funding share (normally 90% for Interstate Highway projects and 80% for other projects) by 5% on highway projects that demonstrate some kind of innovative project delivery method or technology (Section 1304). This applies to projects funded from the National Highway Performance Program, the Transportation Mobility Program, and the National Freight Program (the increased federal share is limited to 10% of a state's apportionments under these programs). Examples of innovations listed in MAP-21 include prefabricated bridge elements, digital three-dimensional modeling technologies, and design-build and CM/GC contracting methods.

Third, MAP-21, in Section 1315, would create a pilot program, limited to not more than five states, permitting advance payment of moving costs for people and businesses forced to relocate because of a highway project.[77] H.R. 7 has a similar provision, but one that does not limit the number of states that can participate. These advance payments may be combined with payments to compensate for the acquisition of real property. Currently, moving costs are reimbursable. Presumably, this "Alternative Relocation Payment Demonstration Program" is intended to speed the removal of people from the project right-of-way. However, it is a relatively minor change compared with other suggested alternatives to laws governing the acquisition of property and relocation of those displaced. For example, state transportation officials have recommended allowing states to substitute their own property acquisition and relocation laws if they meet federal requirements.[78]

Amendments to the CMAQ Program

Under Section 1113 of MAP-21, the Congestion Mitigation and Air Quality Improvement Program (CMAQ) would be essentially re-written.[79] The CMAQ program was established to provide funds for projects and programs which may reduce the emissions of transportation-related pollutants that may cause an area within a state to exceed certain air quality standards.

Under the Clean Air Act, the Environmental Protection Agency (EPA) was directed to set air quality standards for certain pollutants. Of relevance to transportation planning agencies were the resulting National Ambient Air Quality Standards (NAAQS) established for ozone, carbon monoxide, and particulate matter (distinguished as coarse and fine particulate, referred to as PM_{10} and $PM_{2.5}$, respectively).[80] A geographic area that meets or exceeds NAAQS for a particular pollutant is considered to be in "attainment"; an area that does not meet a standard is in "nonattainment." A "maintenance" area is one that was previously in nonattainment, but is

[77] Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

[78] American Association of State Highway and Transportation Officials, *AASHTO Authorization Policy, Topic IV: Project and Program Development and Delivery*, Washington, DC, http://www.transportation.org/sites/policy_docs/docs/iv.pdf.

[79] Established under 23 U.S.C. §149.

[80] "Mobile sources," such as cars, trucks, buses, and other vehicles, are considered significant sources of these pollutants. NAAQS have also been established for lead and sulfur dioxide, but mobile sources are not significant sources of those pollutants.

currently attaining the NAAQS subject to a maintenance plan. The CMAQ program was established to provide funds particularly for projects in nonattainment and maintenance areas.[81]

Under MAP-21, CMAQ program goals, criteria specifying project eligibility, and requirements regarding partnerships with private entities would be largely unchanged. However, proposed amendments to the CMAQ program would significantly change how program funding levels are established and how those funds would be apportioned to and distributed within individual states.

Since the early 1990s Congress authorized specific annual CMAQ program funding levels. Those funds have been apportioned to each state according to a formula based on the state's population and regional pollution levels (e.g., depending on an area's level of nonattainment for a particular pollutant).[82] MAP-21's CMAQ apportionment for FYs 2012 and 2013 would not be a specific dollar amount. Instead, as discussed in "Senate Bill Highway Formula Programs," CMAQ funds apportioned to each state would be tied to the amount of CMAQ funds apportioned to that state in FY2009 plus 10% of the apportioned amount to STP funds for that year. CMAQ funds apportioned to each state would then be distributed within each state based on certain limitations and suballocations established under the new CMAQ program.

CMAQ Distribution Limitations

Of the CMAQ apportioned funds, a state would be required to reserve the amount attributable to the 10% of previously-apportioned STP funds for any of the following projects or activities:

- transportation enhancements[83]
- the recreational trails program[84]
- specific activities associated with planning, designing, or constructing "boulevards, main streets, and other roadways"[85]
- projects that involve "providing transportation choices," such as on-road and off-road trail facilities for pedestrians and for bicycles and other nonmotorized forms of transportation[86]

CMAQ Suballocations

Of the remaining CMAQ funds apportioned to each state, half would be "suballocated" for projects within each designated nonattainment or maintenance area. Those funds would be distributed in accordance with a formula developed by the state. However, that formula would

[81] The Clean Air Act Amendments of 1990 directed EPA to establish the NAAQS. In the following year, CMAQ was established under provisions in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The program was amended and program funding was reauthorized in both TEA-21 in 1998 and SAFETEA in 2005.

[82] In accordance with calculations applicable to CMAQ program apportionments, under 23 U.S.C. §104(b)(2).

[83] As defined under 23 U.S.C. §101(35); for more information about potentially eligible projects, see FHWA's "Transportation Enhancement Activities" web page at http://www.fhwa.dot.gov/environment/te/.

[84] Established under 23 U.S.C. §206; for more information about potentially eligible projects, see FHWA's "Recreational Trails Program" web page at http://www.fhwa.dot.gov/environment/rectrails/.

[85] See MAP-21's proposed amendment to CMAQ §149(l)(2)(D).

[86] See MAP-21's proposed amendment to CMAQ §149(l)(2)(E).

have to be approved by DOT and be weighted by population and the severity of pollution in each nonattainment or maintenance area (in accordance with factors established in MAP-21).[87] Also, half of the suballocated funds would have to be obligated based on the population of areas in nonattainment or maintenance areas for fine particulates. Further, 30% of the suballocated funds would have to be set aside to purchase low-emissions construction equipment and vehicles.[88]

The remaining CMAQ funds apportioned to a state (e.g., not suballocated or reserved) would be available to the state for eligible projects in any nonattainment or maintenance areas. States in attainment for NAAQS may use their apportioned funds for CMAQ-eligible projects.

Additional provisions in MAP-21 may significantly change how the CMAQ program is implemented in individual states. Those provisions include the following:

- **Proposed Section 149(f), Priority Considerations.** In nonattainment or maintenance areas for fine particulates, $PM_{2.5}$, states and MPOs would be directed to prioritize CMAQ fund distribution for projects proven to reduce those pollutants, including diesel retrofits.
- **Proposed Section 149(h), Evaluation and Assessment of Projects.** DOT and EPA would be directed to develop a table illustrating the cost-effectiveness of a range of projects. States and MPOs would be required to consider this information in developing performance plans for CMAQ-funded projects.
- **Proposed Section 149(i), Optional Programmatic Eligibility.** Technical assessment of a selected program or projects, conducted at the discretion of MPOs, would be allowed to demonstrate emissions reductions. Those data could be used to show that similar projects meet CMAQ eligibility requirements.
- **Proposed Section 149(k), Performance Plan.** Requires MPOs to prepare performance plans for CMAQ-funded projects.

The House Bill (H.R. 7)

H.R. 7 also includes provisions that would amend CMAQ program requirements. However, the provisions in the House bill are not as sweeping as those in the Senate bill. Provisions included under Section 1108 of the House bill would amend the project eligibility requirements specified under 23 U.S.C. §149(b).

[87] The calculation and distribution of these suballocated funds are largely similar to the current apportionment formula applicable to CMAQ funding allocations specified under 23 U.S.C. §104(b)(2)(B). In MAP-21, relevant suballocation requirements would be established under the proposed amendment to CMAQ §149(j).

[88] Federal support for construction equipment diesel engine replacement and upgrades is currently limited to equipment that is strictly off-road, and sponsors need to verify that the equipment will be used on such projects in EPA-designated nonattainment areas for the vast majority of its useful life. MAP-21, Section1511, appears to require only 80 hours of use on a covered project in a nonattainment area.

Alternative Fuels and Advanced Technology Vehicles

Current laws provide incentives to promote the use of alternative fuels and advanced technology vehicles. These incentives include tax credits for the purchase of plug-in vehicles and for the production of biofuels from cellulose. (Other credits, including a credit of 45 cents per gallon to blend ethanol into gasoline and a credit for the purchase of alternative fuel vehicles, have expired.) Non-tax incentives include credits automakers receive under the Corporate Average Fuel Economy (CAFE) program for the production and sale of alternative fuel vehicles.

Various highway programs also provide non-tax incentives. For example, SAFETEA allowed states to permit low-emission and energy-efficient vehicles to travel in high occupancy vehicle (HOV) lanes, although this authority expired at the end of FY2009. H.R. 7 would extend this authority through the end of FY2016; MAP-21 would extend this authority indefinitely. However, H.R. 7 (Section 1205) and MAP-21 (Section 1510), would also limit states' authority to exempt these vehicles if the HOV lanes become "degraded" to the point that vehicles fall below minimum average speed—generally 45 mph—over 90% of the time during peak travel hours. Under current law, states must limit exemptions if the exempted vehicles cause the degradation, while under both the House and Senate bills, actions to address degradation include limits to access regardless of the cause of the degradation.

To support the expansion of electric vehicle infrastructure, H.R. 7 (Section 1720) and MAP-21 (Section 1509), would allow highway funds to be used for new charging stations at existing or new parking facilities funded through the law.

MAP-21 (Section 20009) would also amend the existing Clean Fuels Grant Program. The current program authorizes grants to states and public transportation authorities to purchase alternative fuel, advanced diesel, and other low-emission buses. MAP-21 would amend definitions to include both buses and other vehicles, although at least 65% of the funds would be used for clean fuel buses and at least 10% for clean fuel bus facilities. MAP-21 would also explicitly include "zero emission buses" that do not directly emit carbon or particulate matter. H.R. 7 has no comparable provisions.

Transit

The Senate's public transit provisions are contained in Division B of MAP-21 and titled the Federal Public Transportation Act (FPTA) of 2012. The bill authorizes $10.458 billion for federal transit programs annually for FY2012 and FY2013, the current funding level, with $8.361 billion coming from the mass transit account of the highway trust fund and $2.098 billion from the general fund (see **Table 6**).[89]

[89] Senate Committee on Banking, Housing, and Urban Affairs, "Federal Public Transportation Act of 2012, Bill Highlights," http://banking.senate.gov/public/_files/Transit_Bill_Summary_and_Funding_Chart.pdf.

Table 6. Proposed Annual Federal Transit Funding in Senate Bill

(Authorizations for FY2012 and FY2013)

	Mass Transit Account	General Fund
Administration		$108,350,000
Planning Programs	$144,850,000	
Emergency Relief		such sums as are necessary
Urbanized Area Formula Program	$4,756,161,500	
Clean Fuels Program	$65,150,000	
Capital Investment Grants		$1,955,000,000
Bus and Bus Facilities SGR (set-aside)		*$75,000,000*
Elderly and Disabled	$248,600,000	
Nonurbanized Area Formula Program	$591,190,000	
Research, Development, Demonstration, and Deployment Projects	$34,000,000	
Transit Cooperative Research Program	$6,500,000	
Technical Assistance and Standards Development	$4,500,000	
National Transit Institute	$5,000,000	
Paul S. Sarbanes Transit in Parks Program		$26,900,000
Workforce Development and Human Resource Programs	$2,000,000	
National Transit Database	$3,850,000	
State of Good Repair	$1,987,263,500	$7,463,000
Fixed Guideway SGR	*$1,874,763,500*	
Fixed Guideway SGR Discretionary		*$7,463,000*
Motorbus SGR	*$112,500,000*	
Growing States and High Density Formula	$11,500,000	
Total	**$8,360,565,000**	**$2,097,713,000**

Source: Senate Committee on Banking, Housing, and Urban Affairs, "Federal Public Transportation Act of 2012, Bill Highlights," http://banking.senate.gov/public/_files/Transit_Bill_Summary_and_Funding_Chart.pdf. Modified by CRS to reflect changes in MAP-21 as passed.

The revenue section of the House surface transportation reauthorization (H.R. 7) would rename the mass transit account of the highway trust fund as the alternative transportation account. H.R. 7 would authorize $10.458 billion for FY2012 and $10.498 billion each year for FY2013 through FY2016, with $8.4 billion from the alternative transportation account and $2.098 billion from the general fund (see **Table 7**).

Table 7. Proposed Federal Transit Funding in H.R. 7

(millions of dollars)

	FY2012	Annually, FY2013-FY2016
Total	**$10,458.3**	**$10,498.0**
Alternative Transportation Account	8,360.6	8,400.0
Formula and Bus Grants	8,360.6	8,400.0
General Fund	2,097.7	2,098.0
Capital Investment Grants	1,955.0	1,955.0
Research, Training and Outreach, and Technical Assistance	44.0	45.0
Administration	98.7	98.0

Source: H.R. 7, American Energy and Infrastructure Jobs Act of 2012.

The legislation would also eliminate the use of motor fuel taxes for mass transit. Revenue in the mass transit account collected in FY2012 would be transferred to the highway account. In place of revenue from the fuels tax, the bill would transfer $40 billion from the general fund into the alternative transportation account.

Program Restructuring

The FPTA in MAP-21 contains some significant restructuring of the federal transit program. The existing Fixed Guideway (Rail) Modernization Program would be replaced with a new State of Good Repair (SGR) Grant Program. This proposed program has four components:

- The **High Intensity Fixed Guideway SGR Formula Program** would distribute funding by formula for the maintenance, repair, and replacement of fixed guideway public transit defined as: using and occupying a separate right of-way for the exclusive use of public transportation; rail; using a fixed catenary system; a passenger ferry system; or a bus rapid transit system. The facility must be at least seven years old. Funding for this program would come from the mass transit account of the highway trust fund, and would be distributed by a new formula that uses vehicle miles and route miles.
- The **Fixed Guideway SGR Grant Program** would distribute competitive grants for the upkeep of fixed guideway systems. Funding for this program would come from the general fund.
- The **High Intensity Motorbus SGR** program would distribute funds by formula for public transportation provided on a facility with access for other high-occupancy vehicles. The facility must be at least seven years old. Funding comes

from the mass transit account, and would be distributed by a formula that uses fixed-guideway motor bus vehicle miles and route miles.

- The **Bus and Bus Facilities SGR** program would distribute competitive grants for the upkeep of buses and bus facilities. Funding for this program, $75 million, would be set aside from the New Starts program (Capital Investment Grants).

Another major change in the FPTA from current law would be the elimination of the heavily earmarked discretionary Bus and Bus-Related Facilities program. It appears that some of the funding for this program, currently almost $1 billion per year, is added to some of the other formula programs, particularly the Urbanized Area and Non-Urbanized Area Formula programs.

Another significant change would be to combine the Formula Grants for Elderly Individuals and Individuals with Disabilities Program and the New Freedom Program, which provides formula funding for the disabled, into a single program to be called Formula Grants for Enhanced Mobility of Seniors and Individuals with Disabilities.

The current Jobs Access and Reverse Commute program is shifted to be part of the Urbanized and Non-Urbanized Area Formula programs. The renamed Access to Jobs program would require that recipients spend at least 3% of their Urbanized Area apportionments on projects that are designed to help low-income individuals travel to and from jobs. Under the Non-Urbanized Area program, Access to Jobs is an eligible expense.

The Senate bill also would create two new programs that mirror existing highway programs. These are the Appalachian Development Public Transportation Assistance Program, with $20 million set aside from the Non-Urbanized Area funds, and the Public Transportation Emergency Relief Program. This emergency relief program, akin to the existing Highway Emergency Relief Program, would provide funding for capital and operating costs in the event of a natural or man-made disaster. The bill authorizes such sums as may be necessary to carry out this new program.

As is currently the case, funds from the Non-Urbanized Area Formula Program are also set aside for transit on Indian reservations. This legislation would double the amount set aside from $15 million to $30 million annually. Of the $30 million, $20 million would be distributed by formula and $10 million competitively.

Although it eliminates some programs, the House bill (H.R. 7) largely maintains the current structure of the federal transit program. Among other things, the House bill eliminates the Clean Fuels Grant Program, the Transit in Parks Program, and the Growing and High Density State Formula. The House bill also combines into a single program the New Freedom Program, the Elderly Persons and Persons with Disabilities Program, and the Jobs Access and Reverse Commute Program.

H.R. 7 proposes to distribute funding for the Bus and Bus-Related Facilities Program by formula. In SAFETEA this program was a heavily earmarked discretionary program. Program funding would only go to providers of bus transit in urbanized areas that do not provide heavy rail, commuter rail, or light rail. Currently, funding from this program is available to all types of transit agencies, providers of bus and rail as well as bus-only providers, in both urbanized and non-urbanized areas.

Another significant change proposed by H.R. 7 is to provide an incentive to contract out bus service. H.R. 7 provides that if at least 20% of fixed route bus service is contracted out, then the provider can lower its cost share of bus and bus facilities capital projects from a minimum of 20% to a minimum of 10%. H.R. 7 also adds that private intercity and charter operators cannot be barred from federally funded facilities.

New Starts Program

The Senate bill would make substantial changes to the New Starts program. It would allow New Starts program funds for substantial investments in *existing* fixed guideway systems that add capacity and functionality. These types of projects are termed "core capacity improvement projects." It also authorizes the evaluation and funding of a program of interrelated projects.

The bill also attempts to simplify the New Starts process by reducing the number of major stages from four to three. The new stages are termed project development, engineering, and construction.[90] To enter the project development phase, the applicant would be required to apply in writing to the Secretary of Transportation and initiate the NEPA process. (For more on the NEPA process, see Accelerating Transportation Project Delivery above.) The bill would eliminate the alternatives analysis that is separate from the alternatives analysis in NEPA as currently required by law. Along with the NEPA work, during project development the project sponsor would have to develop the information needed by the Secretary to review the project justification and the local financial commitment. Generally, the project applicant would have two years to complete project development.

The project is permitted to enter into the Engineering Phase once the NEPA process is concluded with a Record of Decision (ROD), a Finding of No Significant Impact (FONSI), or a Categorical Exclusion, the project is selected as the locally preferred alternative, the project is adopted into the metropolitan plan, and is justified on its merits. After Engineering, if successful, a project would then be eligible to enter into a full funding grant agreement with the Secretary for federal funding assistance and to move into the construction phase.

The Senate bill also tries to advance projects more quickly using special warrants for projects of which the federal share is $100 million or less or 50% or less of the total project cost. But the bill would eliminate the Small Starts program that provided dedicated funding to projects requesting $75 million or less in federal assistance and costing in total $250 million or less. The act also would create a pilot program for expedited project delivery for three projects, as the bill states, "to demonstrate whether innovative project development and delivery procurement methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects."

The House bill (H.R. 7) would also make some changes to the New Starts program. Unlike the Senate bill, the House bill would maintain the distinction between New Starts and Small Starts projects. The House bill allocates $150 million of the total New Starts funding for Small Starts projects. As with the Senate bill, H.R. 7 would eliminate the alternatives analysis, although the evaluation of a project must still be made against a no-action alternative. H.R. 7 also includes some other project expediting provisions, including the use of special warrants to speed up projects that may not need a full evaluation, such as new urban circulator service. H.R. 7 would

[90] Currently, the New Starts process involves four major phases: planning and alternatives analysis; preliminary engineering; final design; and construction. For more information, see CRS Report R41442, *Public Transit New Starts Program: Issues and Options for Congress*, by (name redacted).

change, to some extent, the project justification criteria used to evaluate projects. For example, it drops the costs of sprawl, including infrastructure costs, and supportive land use as specific evaluation factors, but adds as factors private contributions to the project and intermodal connectivity. H.R. 7 also would add private contributions as a factor in the local financial commitment criteria.

Operating Assistance

For the most part, the Senate bill would maintain the prohibition on the use of federal funds for operating expenses in urbanized areas of 200,000 or more people. However, it adds some exceptions to this general prohibition. For small bus transit systems in urbanized areas of 200,000 or more people, those operating 75 or fewer buses in peak service would be allowed to use up to 50% of their Urbanized Area apportionments for operating expenses. For transit systems operating 76 to 100 buses in peak service the allowable amount would be 25% of their Urbanized Area apportionment. In addition, the bill would allow the use of Urbanized Area formula funds for operating expenses in urbanized areas of 200,000 or more people with high unemployment rates for up to three years. The maximum allowable amount would be 25% of an area's apportionment in the first year and 20% for years two and three.

Like the Senate bill, the House bill (H.R. 7) would make some modification to the prohibition of using federal funds for operating expenses in urbanized areas of 200,000. However, the way in which this is done in the House bill differs from the Senate bill. H.R. 7 would allow transit bus systems in urbanized areas of 200,000 or more that operate 100 buses or fewer in peak service to use federal funding for operating expenses. If the system operates between 76 and 100 buses, federal funds could be used for operating expenses with a cost share of 25% federal, 75% local. If the number of buses operated in peak service is 75 or less then the cost share would be 50% federal, the same cost share provided to transit agencies in urbanized areas of 200,000 or less and nonurbanized (rural) areas. H.R. 7 also would increase the share of urbanized and nonurbanized formula funds that may be used for Americans with Disabilities Act (ADA) paratransit from 10% to 15%. These funds may be used for capital and operating expenses.

Rail Provisions

Both the Senate and House bills contain provisions related to passenger rail (intercity and commuter) and freight rail.

Intercity Passenger Rail

Senate Bill

Section 35101 calls for development of a national rail plan, including passenger and freight, to guide future investments and illustrate on a map priority routes to be served. It also calls for DOT, in coordination with states and others, to develop regional rail plans, excluding the Amtrak-owned Northeast Corridor (NEC), to refine the national plan with respect to each region. The regional plans would include maps identifying rail alignments and station stops, among other things. Finally, states may also create state rail plans that further refine the appropriate regional plan with respect to a state. These plans would be relevant to the approval process for federal capital grants for intercity passenger service.

Regarding the NEC, the bill makes amendments to the NEC advisory commission created by the Passenger Rail Investment and Improvement Act of 2008 (P.L. 110-432) and would require Amtrak to submit a new plan for high-speed service (200 mph or greater) in the corridor.

The bill would require DOT, within one year of enactment, to develop guidance on how to better measure train delays, including automatic measurement. It would require DOT to conduct a data needs assessment to support development of intercity passenger rail, including cost-benefit analysis and modeling of estimated ridership. Within two years, DOT would be required to survey and report on track access arrangements for intercity passenger rail operating on other railroads' tracks and the processes for resolving disputes over that access.

Rolling Stock Equipment Pool

The bill furthers development of an equipment pool of standardized cars for corridor intercity passenger services (with endpoints less than 750 miles apart) by creating a corporate or cooperative entity that is controlled by Amtrak and states funding corridor services. The entity would serve as the equipment supplier and manager of the standardized cars to be used in corridor service. The bill also would amend the capital grant program for corridor passenger service to include Amtrak, not just states, as an eligible recipient.[91] The intent of the equipment pool is to achieve economies of scale in car production and maintenance but a drawback is that it could discourage innovation in car design.

Implementation of positive train control (discussed below) could have a significant impact on domestic car design. Federal Railroad Administration (FRA) regulations require passenger cars be designed to limit damage in a collision. This requirement distinguishes U.S. from foreign passenger cars whose rail systems put more emphasis on crash avoidance than crash survival. As a result, U.S. cars are much heavier due to more robust bulkhead requirements. However, the implementation of positive train control (a crash avoidance system) could lead the FRA to modify its requirements to be more in line with foreign requirements. Notwithstanding "Buy America" requirements, this has the potential to facilitate a global market for passenger car equipment.

House Bill (H.R. 7)

H.R. 7 would repeal the congestion grant program, which authorizes grants to states or Amtrak to reduce congestion or facilitate ridership growth on high-priority rail corridors. This program was folded into Track 1 of the Federal Railroad Administration's High-Speed and Intercity Passenger Rail Grant Program in 2009, and although the congestion grant program was authorized at $100 million annually through FY2013, Congress provided no funding for this program—or any other intercity passenger rail grant program—in FY2011 or FY2012. H.R. 7 would also reduce the authorized funding level for Amtrak's operating assistance grants, a subject not addressed in MAP-21 (see **Table 8**).[92]

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[91] 49 U.S.C. 24401.

[92] Amtrak is also authorized to receive capital grants for $1.275 billion in FY2012 and $1.325 billion in FY2013, and $22 million in FY2012 and $23 million in FY2013 for Amtrak's Office of the Inspector General.

Table 8. Authorized Funding for Amtrak Operating Assistance

(millions of dollars)

	FY2011	FY2012	FY2013
Current law	$592	$616	$631
H.R. 7	—	466	473
Senate MAP-21	—	N/A	N/A

Source: P.L. 110-432, H.R. 7.

Note: Congress appropriated $562 million (FY2011) and $466 million (FY2012) for Amtrak Operating Assistance grants.

H.R. 7 would also amend the law covering food and beverage service on Amtrak trains. Currently Amtrak is prohibited from providing food and beverage service on any train unless the revenues at least equal the costs. Nonetheless, Amtrak has continued to provide food and beverage service, although the service is not self-supporting (as is the practice of most airlines), contending that such service is an expectation, if not a requirement, on the part of many passengers. H.R. 7 would repeal the self-supporting requirement, would require that the Federal Railroad Administration put the provision of food and beverage service on Amtrak's trains out to competitive bidding, and would allow the service to be subsidized only to the extent that a net loss on the service was foreseen in the bid selected.

Freight Rail

Senate Bill

Section 36401 would amend a federal grant program, created in SAFETEA-LU, for relocating railroad lines having adverse affects on traffic flow or economic development to include the lateral or vertical relocation (e.g., an overpass or underpass) of a road, not just the rail line.[93] Section 36408 would amend the Railroad Rehabilitation and Improvement Financing (RRIF) Program, a government loan program for freight and passenger railroads, to accept as collateral a state or local subsidy or dedicated revenue stream. It also would expand eligible uses of a RRIF loan to include pre-construction activities such as preliminary engineering, environmental review, and permitting.

The Senate bill proposes some modest changes to laws governing the Surface Transportation Board (STB), which regulates certain aspects of the rail industry. It would raise the ceiling on the maximum total dollar value of freight charges that shippers (railroad customers) can bring before the STB under its simplified rate case procedures, from $1 million to $1.5 million in rate relief under the "three-benchmark" procedure, and from $5 million to $10 million under the "simplified stand-alone-cost" procedure.[94] The bill would impose shorter procedural deadlines for rate relief cases brought under the more complex "stand-alone cost" methodology. The STB would be required to study whether to incorporate railroad asset replacement costs in its annual examination of railroad revenue adequacy, a change advocated by railroads but rejected by the

[93] This grant program is codified at 49 U.S.C. 20154.

[94] See Ex Parte No. 646 (Sub-No. 1), available on the STB's website, for further information on these procedures.

STB in 2008.[95] The bill would require the STB to compile and report on its website railroad service complaints and conduct a review of the agency's staffing needs.

House Bill (H.R. 7)

H.R. 7 would repeal a capital grant program for class II and III freight railroads (smaller, regional and shortline railroads). The bill contains provisions intended to facilitate access to the RRIF loan program.

Positive Train Control

Congress mandated positive train control (PTC) in 2008[96] in response to a deadly collision between a commuter and freight train in the Los Angeles area and releases of poisonous chemicals from rail tank cars after derailments in other parts of the country. Passenger railroads (intercity and commuter) and freight railroads on routes carrying toxic-by-inhalation products are required to install PTC. PTC relies on radio signaling between devices along the track and in the locomotive that is supposed to override human error in train control. Railroads and others have objected to PTC as a high-cost remedy for relatively rare types of accidents. Lack of adequate spectrum in urban areas to carry the radio signals has been cited as an obstacle to implementation.

The Senate bill would allow DOT to extend the deadline beyond December 31, 2015, for implementing PTC technology, upon application by a railroad, if it is determined to be infeasible. DOT could extend the deadline by one year increments but not beyond December 31, 2018. The Senate bill would also make PTC implementation an eligible use of RRIF funding (see below) and requires a joint DOT/FCC study of the spectrum needs for PTC.

The House bill (H.R. 7) would extend the deadline for implementing PTC to 2021 for routes with passenger traffic and essentially eliminates the deadline for routes carrying certain toxic chemicals. H.R. 7 would allow railroads the option of implementing equivalent safety measures and adjusting the routes over which the technology would be installed.

Highway Safety

Senate Bill

Highway safety programs are the responsibility of the National Highway Traffic Safety Administration (NHTSA). The Senate bill would retain most of the existing NHTSA grant programs and would create another: an incentive grant program to encourage states to make texting while driving, and the use of a cell phone by drivers under age 18, primary traffic offenses.[97] It would promote greater awareness of motor vehicle defect reporting, and would

[95] See the filings and decisions issued under Ex Parte No. 679.

[96] The Rail Safety Improvement Act of 2008 (P.L. 110-432); see §104.

[97] At the beginning of 2012, in 32 states, the District of Columbia, and Guam, texting while driving was a primary offense, and 30 states and the District of Columbia had some version of cell phone use by drivers under 18 or novice drivers as a primary offense. See http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html.

increase the maximum civil penalty for violations of vehicle safety defect rules from $15 million to $230 million (see **Figure A-10**). And it would require, beginning with model year 2015, that passenger motor vehicles be equipped with event data recorders.[98]

House Bill (H.R. 7)

NHTSA currently has 10 programs making grants to states—one formula program and nine incentive grant programs—plus several other programs promoting highway safety. The House bill, H.R. 7, would consolidate all of these into one general highway safety grant program, at a reduced level of funding. The House bill would prohibit the use of federal funding to measure the rate of motorcycle helmet usage or to create checkpoints for motorcyclists.

The Senate bill would authorize significantly higher highway safety grants in FY2012 and FY2013 than the House bill (see **Table 9**).

Table 9. Highway Safety Grants to States

(millions of dollars)

	FY2011	FY2012	FY2013	Annually, FY2014-FY2016
Current	620	550	—	—
H.R. 7	—	—	493	493
Senate MAP-21	—	682	691	—

Source: Current law: figures taken from DOT budget table in H.Rept. 112-284; H.R. 7 §5002; Map-21: S. 1449 §101.

Commercial Vehicle Safety

Both the House (H.R. 7) and Senate bills would create a clearinghouse of drug and alcohol test results by commercial drivers in order to prevent drivers who have failed a test from avoiding penalties by switching employers. Both bills would also strengthen DOT's ability to act against "reincarnated carriers"—bus companies whose operations have been suspended due to safety violations which then resume operations under a new name. The two bills provide similar levels of funding for truck safety grants to states in FY2013 (see **Table 10** and **Figure A-11**).

[98] See Division C, in, Sen. Harry Reid, "SA 1761, Amendment of a Perfecting Nature to S. 1813 to reauthorize Federal-Aid highway and highway safety construction programs, and for other purposes," available at https://docs.google.com/file/d/0B23rveCvG52eWlIWVTBWNWhUZ2FTbk5Tb3FGeGstZw/edit.

Table 10. Truck Safety Grants to States

(millions of dollars)

	FY2011	FY2012	FY2013	Annually, FY2014-FY2016
Current	310	307	—	—
H.R. 7	—	—	307	307
Senate MAP-21	—	310	315	—

Source: Current law: figures taken from DOT budget table in H.Rept. 112-284; H.R. 7 §6101 & §6102; MAP-21: S. 1950 §606.

Transit Safety

Currently, DOT is prohibited from setting standards for transit agency operations.[99] Although transit is among the safest modes of transportation, several fatal rail transit incidents in 2009 and 2010 led to questions about the effectiveness of state oversight of transit safety. The transit safety section in MAP-21 (§20021) is similar to a proposal made by the Administration in 2009, and to the Public Transportation Safety Act of 2010 (S. 3638), which was reported out of the Senate Committee on Banking, Housing, and Urban Affairs in 2010. It would

- authorize DOT to establish and enforce minimum safety standards for rail transit systems that are not otherwise regulated by DOT (e.g., commuter rail operations are regulated by FRA);
- direct DOT to establish a safety certification program, under which states could receive assistance from FTA in overseeing rail transit operations; and
- require that state safety oversight agencies be financially independent of the transit system(s) they oversee, to avoid the moral hazard of a transit agency having influence over the pay or staffing of its oversight agency.

It would authorize "not less than $10 million" for grants to states to carry out this program.

H.R. 7 would not authorize DOT to set safety standards. It would amend current law to allow DOT to require that the federal urbanized area formula grant funds for a transit agency be spent on safety and state of good repair projects before any other projects received funding. It would also direct DOT to certify whether state safety oversight organizations have the technical capacity, resources, and authority to carry out their oversight responsibilities. It would authorize $4.6 million annually for financial assistance to state safety oversight organizations.

[99] 49 USC §5334(b)(1): "except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter."

Transportation Research and Education

MAP-21 would authorize $400 million for each of FY2012 and FY2013 for transportation research and education; H.R. 7 would authorize $440 million annually (see **Table 11**). Both bills would direct the Secretary of Transportation to carry out a technology deployment program; MAP-21 includes a competitive grant program to accelerate ITS deployment. Both bills would authorize the Secretary to conduct prize competitions to promote surface transportation innovations. Both bills would direct DOT to conduct studies on improving many aspects of transportation, including safety, lifecycle cost analysis, reducing congestion, assessing infrastructure investment needs, and options for financing. MAP-21 would authorize 35 grants to be awarded on a competitive basis annually to university transportation centers for transportation research; H.R. 7 would authorize 30 such grants annually.[100]

Table 11. Transportation Research and Education Funding

(millions of dollars)

	FY2011	FY2012	FY2013	Annually, FY2014-FY2016
Current	409	389	—	—
H.R. 7	NA	NA	440	440
S. 1813	NA	400	400	NA

Source: Current, FHWA FY2013 Budget Justification, Exhibit IV-1; H.R. 7 §7002; MAP-21 §50001.

Harbor Maintenance Expenditures

Both MAP-21 and H.R. 7 contain a provision stating that it is the sense of Congress that revenues in the Harbor Maintenance Trust Fund should be fully spent by the Army Corps of Engineers for maintenance of waterside infrastructure (such as channel dredging and maintenance of jetties and breakwaters). Currently, Congress appropriates just over half of the cargo tax collected for this purpose.[101]

House-passed H.R. 4348, however, includes language that would require that the total level of budgetary resources provided for a fiscal year equal the level of receipts credited to the Harbor Maintenance Trust Fund. The provision would restrict the use of such amounts to harbor maintenance programs.

[100] There are currently 60 university transportation centers which form consortiums to apply for federal research grants: Research and Innovative Technology Administration, U.S. DOT, University Transportation Centers Program 2011 Grant Solicitation, July 26, 2011, p. 5 (http://utc.dot.gov/about/grants_competitions/2011/grant_solicitation/pdf/entire.pdf).

[101] For further discussion of this issue, see CRS Report R41042, *Harbor Maintenance Trust Fund Expenditures*, by (name redacted).

Appendix. Funding and Financial Data

This Appendix contains 11 figures.

Figure A-1. CBO Highway Trust Fund Projections

Highway Trust Fund Projections
CBO March FY 2012 Baseline 2011-2022
(In Billions of dollars)
March 20, 2012

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Highway Account												
Resources												
Contract Authority (FHWA)	39.9	40.2	40.2	40.2	40.2	40.2	40.2	40.2	40.2	40.2	40.2	40.2
Contract Authority -- flexed to transit	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0
Contract Authority (Safety)	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2	1.2
Obligation Limitation (FHWA)	41.1	39.1	39.7	40.3	40.9	41.5	42.3	43.1	43.9	44.8	45.7	46.6
Obligation Limitation (flexed to transit)	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0
Obligation Limitation (Safety)	1.3	1.2	1.2	1.3	1.3	1.3	1.3	1.4	1.4	1.4	1.5	1.5
Cash Flow												
Beginning of Year Balance	20.7	14.3	5.5	a	a	a	a	a	a	a	a	a
Est. Flexing -- Transfer of Cash	-1.1	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0	-1.0
Revenues & Interest b	32.0	33.2	32.6	33.1	34.2	35.1	35.7	36.0	36.2	36.4	36.7	37.1
Outlays	37.3	41.0	41.7	42.5	43.1	43.2	43.5	44.0	44.7	45.0	45.4	45.9
End of Year Balance	14.3	5.5	a	a	a	a	a	a	a	a	a	a
Transit Account												
Resources												
Contract Authority (FTA)	8.4	8.4	8.4	8.4	8.4	8.4	8.4	8.4	8.4	8.4	8.4	8.4
Contract Authority -- flexed from Highways	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Obligation Limitation (FTA includes flexing)	9.3	9.4	9.5	9.6	9.7	9.9	10.0	10.2	10.4	10.6	10.7	10.9
Cash Flow												
Beginning of Year Balance	8.5	7.3	5.2	2.3	a	a	a	a	a	a	a	a
Est. Flexing -- Transfer of Cash	1.1	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Revenues & Interest b	4.9	4.9	4.9	4.9	5.0	5.1	5.1	5.1	5.2	5.2	5.2	5.2
Outlays	7.2	8.1	8.8	9.4	9.8	10.4	10.7	10.7	10.1	10.2	10.4	10.6
End of Year Balance	7.3	5.2	2.3	a	a	a	a	a	a	a	a	a
Memorandum												
Cumulative Shortfall a												
Highway Account Shortfall	n.a.	n.a.	-4.6	-14.9	-24.8	-34.0	-42.8	-51.8	-61.4	-71.0	-80.7	-90.6
Transit Account Shortfall	n.a.	n.a.	n.a.	-1.2	-5.0	-9.4	-14.0	-18.5	-22.4	-26.5	-30.8	-35.2

a. CBO projects that the highway account of the Highway Trust Fund will be exhasted in Fiscal Year 2013 and the transit account in fiscal year 2014. Under current law, the Highway Trust Fund cannot incur negative balances. However, following the rules in the Deficit Control Act of 1985, CBO's baseline for highway spending assumes that obligations presented to the Highway Trust Fund will be paid in full. The memorandum to this table illustrates the cumulative shtfall of fund balances, assuming spending levels consistent with obligation limitations contained in the March 2012 baseline for highway spending.

b. The non-permanent portions of the taxes that are deposited in the Highway Trust Fund scheduled are scheduled to expire at the end of March 31, 2012. Those include taxes on certain heavy vehicles and tires and all but 4.3 cents of federal taxes levied on fuels. However, under the baseline construction rules, CBO's baseline projections assume that all of the expiring taxes credited to the fund conti

Estimates of trust fund balances or shortfalls reflect CBO's best estimate of likely outcomes under current law.
Actual balances could be higher or lower, depending on the accuracy of revenue and spending estimates.

Source: Congressional Budget Office.

Figure A-2. American Energy and Infrastructure Jobs Act of 2012

(H.R. 7 as reported)

Highway Authorizations: American Energy and Infrastructure Jobs Act of 2012
H.R. 7 as Reported

4/11/2012

		FY 2013	FY 2014	FY 2015	FY 2016	Total	Average	Source	CA or STA	CA Citation
Title I - Federal-aid Highways										
1101(a)(1)	National Highway System Program (§1106 & 23 USC 119)	17,400,000,000.0C	17,600,000,000.0C	17,600,000,000.0C	17,750,000,000.0C	70,350,000,000.0C	17,587,500,000.0C	HTF-HA	CA	23 USC 118(a)
1104	Metropolitan Planning (1.15% takedown) (23 USC 104(f))	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
	State Planning and Research (2% setaside) (23 USC 505)	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
1101(a)(2)	Surface Transportation Program (§1107 & 23 USC 133)	10,500,000,00C	10,550,000,00C	10,600,000,00C	10,750,000,00C	42,400,000,00C	10,600,000,000.0C	HTF-HA	CA	23 USC 118(a)
1104	Metropolitan Planning (1.15% takedown) (23 USC 104(f))	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
	On-the-Job Training Supportive Services (takedown)(23 USC 140(b))	[10,000,000]	[10,000,000]	[10,000,000]	[10,000,000]	[40,000,000]	10,000,000.00			
	Disadvantaged Business Enterprise Supportive Services (takedown)(23 USC 140(c))	[10,000,000]	[10,000,000]	[10,000,000]	[10,000,000]	[40,000,000]	10,000,000.00			
	State Planning and Research (2% setaside) (23 USC 505)	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
	Subject to Suballocation Based on Population (50% after SPR setaside)	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
1101(a)(3)	Highway Safety Improvement Program (§1301 & 23 USC 148)	2,600,000,00C	2,605,000,00C	2,610,000,00C	2,630,000,00C	10,445,000,00C	2,611,250,000.0C	HTF-HA	CA	23 USC 118(a)
	Rail-Highway Crossing Program (§1302 & 23 USC 130)	[220,000,000]	[220,000,000]	[220,000,000]	[220,000,000]	[880,000,000]	220,000,000.00			
	State Planning and Research (2% setaside) (23 USC 505)	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
1101(a)(4)	Tribal Transportation Program (§1116 & 23 USC 202)	465,000,000	465,000,00C	465,000,000	465,000,000	1,860,000,00C	465,000,000.00	HTF-HA	CA	23 USC 201(c)
1101(a)(5)	Federal Lands Transportation Program (§1501 & 23 USC 203)	535,000,000	535,000,00C	535,000,000	535,000,000	2,140,000,00C	535,000,000.00	HTF-HA	CA	23 USC 201(c)
1101(a)(6)	Recreational Trails Program (23 USC 206)	85,000,000	85,000,00C	85,000,000	85,000,000	340,000,00C	85,000,000.00	HTF-HA	CA	23 USC 118(a)
1104	Research, Technical Assistance and Training (takedown) (23 USC 104(i))	[840,000]	[840,000]	[840,000]	[840,000]	[3,360,000]	840,000.00			
	Uses related to motorized recreation (30% setaside) (23 USC 206(d)(3)(i))	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
	Uses related to nonmotorized recreation (30% setaside) (23 USC 206(d)(3)(ii))	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
1101(a)(7)	Appalachian Development Highway System Program (40 USC 14501)	470,000,000	470,000,00C	470,000,000	470,000,000	1,880,000,00C	470,000,000.00	HTF-HA	CA	40 USC 14501 & 1118(c) of Act
1101(a)(8)	Congestion Mitigation and Air Quality Improvement Program (23 USC 149)	2,000,000,00C	2,000,000,00C	2,000,000,00C	2,000,000,00C	8,000,000,00C	2,000,000,000.0C	HTF-ATA	CA	
	State Planning and Research (2% setaside) (23 USC 505)	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
1101(a)(9)	Ferry Boat and Ferry Terminal Facilities Program (23 USC 147)	67,000,000	67,000,00C	67,000,000	67,000,000	268,000,000	67,000,000.00	HTF-ATA	CA	23 USC 118(a)
1101(a)(10)	Puerto Rico Highway Program (23 USC 165)	150,000,000	150,000,00C	150,000,000	150,000,000	600,000,000	150,000,000.00	HTF-ATA	CA	23 USC 118(a)
1101(a)(11)	Territorial Highway Program (23 USC 215)	50,000,000	50,000,00C	50,000,000	50,000,000	200,000,000	50,000,000.00	HTF-ATA	CA	23 USC 118(a)
1104	FHWA Administrative Expenses	400,000,000	400,000,00C	400,000,000	400,000,000	1,600,000,00C	400,000,000.00	HTF-HA	CA	23 USC 118(a)
1109	Equity Bonus (23 USC 105)	3,900,000,00C	3,900,000,00C	3,900,000,00C	3,900,000,00C	15,600,000,00C	3,900,000,000.0C	HTF-HA	CA	23 USC 118(a)
1102 (b)(12)	Exempt from Obligation Limitation	[639,000,000]	[639,000,000]	[639,000,000]	[639,000,000]	[2,556,000,000]	639,000,000.00			
1102(c)(4)(A)	Subject to Special No-year Limitation	[2,000,000,000]	[2,000,000,000]	[2,000,000,000]	[2,000,000,000]	[8,000,000,000]	2,000,000,000.00			
	State Planning and Research (2% setaside) (23 USC 505)	[computed]	[computed]	[computed]	[computed]	[computed]	[computed]			
1201	Transportation Infratructure Finance and Innovation (23 USC 608)	1,000,000,00C	1,000,000,00C	1,000,000,00C	1,000,000,00C	4,000,000,00C	1,000,000,000.0C	HTF-HA	CA	23 USC 118(a)
1201	Administrative Costs (setaside)	[3,250,000]	[3,250,000]	[3,250,000]	[3,250,000]	[13,000,000]	3,250,000.00			
1202	State Infrastructure Bank Capitalization (23 USC 611)	750,000,000	750,000,00C	750,000,000	750,000,000	3,000,000,00C	750,000,000.00	HTF-HA	CA	23 USC 118(a)
	Total -- Title I	**40,372,000,000**	**40,627,000,000**	**40,682,000,000**	**41,002,000,000**	**162,683,000,000**	**40,670,750,000.00**			
	Highway Account of the Highway Trust Fund - Contract Authority	*38,105,000,000*	*38,360,000,000*	*38,415,000,000*	*38,735,000,000*	*153,615,000,000*	*38,403,750,000.0C*			
	Alternative Transportation Account of the Highway Trust Fund - Contract Authority	*2,267,000,000*	*2,267,000,000*	*2,267,000,000*	*2,267,000,000*	*9,068,000,000*	*2,267,000,000.0C*			
	Total	*40,372,000,000*	*40,627,000,000*	*40,682,000,000*	*41,002,000,000*	*162,683,000,000*	*40,670,750,000.00*			
1102	*Federal-Aid Highway Program Obligation Limitation-Highway Account Program:*	*37,366,000,00C*	*37,621,000,00C*	*37,676,000,00C*	*38,000,000,00C*	*150,663,000,00C*	*37,665,750,000.0C*			
1103	*Federal-Aid Highway Program Obligation Limitation-Alternative Transportation Account Program:*	*2,707,000,00C*	*2,707,000,00C*	*2,707,000,00C*	*2,707,000,00C*	*10,828,000,00C*	*2,707,000,000.0C*			
Title VII - Research and Education										T&I will fix CA for research in manager's amendment on floor; counted as CA for this table
7001(a)(1)	Highway Research and Development Program (23 USC 503)	141,750,000	141,750,00C	141,750,000	141,750,000	567,000,000	141,750,000.00	HTF-ATA	CA	7001(b) attempts, but not effective
7005(a)	Centers for Surface Transportation Excellence (Setaside) (23 USC 503(j))	[3,000,000]	[3,000,000]	[3,000,000]	[3,000,000]	[12,000,000]	3,000,000.00			
7001(a)(2)	Technology and Innovation Deployment Program (23 USC 503a)	60,750,000	60,750,00C	60,750,000	60,750,000	243,000,000	60,750,000.00	HTF-ATA	CA	7001(b) attempts, but not effective
7001(a)(3)	Training and Education (23 USC 504)	25,500,000	25,500,00C	25,500,000	25,500,000	102,000,000	25,500,000.00	HTF-ATA	CA	7001(b) attempts, but not effective
7001(a)(4)	Intelligent Transportation Systems Research (23 USC 512, 514-517)	110,000,000	110,000,00C	110,000,000	110,000,000	440,000,000	110,000,000.00	HTF-ATA	CA	7001(b) attempts, but not effective
7001(a)(5)	University Transportation Research (49 USC 5506)	75,000,000	75,000,00C	75,000,000	75,000,000	300,000,000	75,000,000.00	HTF-ATA	CA	7001(b) attempts, but not effective
7001(a)(6)	Bureau of Transportation Statistics (49 USC 111)	27,000,000	27,000,00C	27,000,000	27,000,000	108,000,000	27,000,000.00	HTF-ATA	CA	7001(b) attempts, but not effective
	Total -- Title VII	**440,000,000**	**440,000,000**	**440,000,000**	**440,000,000**	**1,760,000,000**	**440,000,000.00**			
	Alternative Transportation Account of the Highway Trust Fund - Contract Authority	*440,000,000*	*440,000,000*	*440,000,000*	*440,000,000*	*1,760,000,000*	*440,000,000.00*			
7002	*Obligation Limitation on Research Programs Authorized by §7001(a*	*440,000,00C*	*440,000,00C*	*440,000,00C*	*440,000,00C*	*1,760,000,00C*	*440,000,000.0C*			
	GRAND TOTAL									
	Total Authorizations	40,812,000,000	41,067,000,000	41,122,000,000	41,442,000,000	164,443,000,000	41,110,750,000.00			
	Recap:									
	Federal-aid Highway Program									
	Contract Authority from Highway Account of the Highway Trust Fund	*38,105,000,00C*	*38,360,000,00C*	*38,415,000,00C*	*38,735,000,00C*	*153,615,000,000*	*38,403,750,000.0C*			
	Exempt from Obligation Limitation	*639,000,00C*	*639,000,00C*	*639,000,00C*	*639,000,00C*	*2,556,000,000*	*639,000,000.0C*			
	Subject to Obligation Limitation	*37,466,000,00C*	*37,721,000,00C*	*37,776,000,00C*	*38,096,000,00C*	*151,059,000,000*	*37,764,750,000.0C*			
	Contract Authority from Alternative Transportation Account of the Highway Trust Fund	*3,147,000,00C*	*3,147,000,00C*	*3,147,000,00C*	*3,147,000,00C*	*12,588,000,000*	*3,147,000,000.0C*			
	Subject to Obligation Limitation	*3,147,000,00C*	*3,147,000,00C*	*3,147,000,00C*	*3,147,000,00C*	*12,588,000,000*	*3,147,000,000.0C*			
	Total	*41,252,000,00C*	*41,507,000,00C*	*41,562,000,00C*	*41,882,000,00C*	*166,203,000,000*	*41,550,750,000.0C*			

Source: FHWA.

Figure A-3. MAP-21 Authorizations

(Title I)

Authorizations: Moving Ahead for Progress in the 21st Century Act (MAP-21)

S. 1813 As Passed

(Contract Authority From Highway Account of Highway Trust Fund Unless Otherwise Indicated)

Section	Program	FY 2012	FY 2013	Total	Average	Source	CA or STA	CA Citation
	Division A--Federal-aid and Highway Safety Construction Programs							
	Title I - Federal-aid Highways							
1101(a)(1)	Federal-aid Highway Program 1/	39,143,000,000	39,806,000,000	78,949,000,000	39,474,500,000	HTF-HA	CA	23 USC 118
	Estimated Split among Programs (23 USC 104(b)):							
	National Highway Performance Program (§1106 & 23 USC 119)	[20,622,776,823]	[20,972,083,238]	[41,594,860,061]	[20,797,430,031]			
52005	State Planning and Research (2% setaside) (23 USC 505) 2/	[computed]	[computed]	[computed]	[computed]			
1102(b)(12)	Exempt from Obligation Limitation	[639,000,000]	[639,000,000]	[1,278,000,000]	[639,000,000]			
	Transportation Mobility Program (§1108 & 23 USC 133)	[10,418,057,947]	[10,594,517,912]	[21,012,575,859]	[10,506,287,930]			
52005	State Planning and Research (2% setaside) (23 USC 505) 2/	[computed]	[computed]	[computed]	[computed]			
	Subject to Suballocation Based on Population (50% after SPR setaside)	[computed]	[computed]	[computed]	[computed]			
	Replacement, rehabilitation, resurfacing, restoration, or preservation of, or operational improvements to. bridges not on Federal-aid Highways 3/	[computed]	[computed]	[computed]	[computed]			
	Highway Safety Improvement Program (§1112 & 23 USC 148)	[2,488,955,823]	[2,531,113,494]	[5,020,069,317]	[2,510,034,659]			
52005	State Planning and Research (2% setaside) (23 USC 505) 2/	[computed]	[computed]	[computed]	[computed]			
1112	Safety Data Improvement Activities (8% setaside 2012-2013, 4% thereafter) (23 USC 148(g)(2))	[computed]	[computed]	[computed]	[computed]			
	Congestion Mitigation & Air Quality Improvement Progam (§1113 & 23 USC 149)	[3,252,768,409]	[3,307,863,457]	[6,560,631,866]	[3,280,315,933]			
52005	State Planning and Research (2% setaside) (23 USC 505) 2/	[computed]	[computed]	[computed]	[computed]			
	Additional Activities (setaside) (23 USC 149(l)) 4/	[computed]	[computed]	[computed]	[computed]			
	Subject to suballocation (50% based on population (23 USC 149(l)(3)(A)) 4/	[computed]	[computed]	[computed]	[computed]			
	Setaside for Recreational Trails Program (further setaside)(23 USC 149(l)(7)) 4/	*[computed]*	*[computed]*	*[computed]*	*[computed]*			
	Subject to Suballocation to nonattainment and maintenance areas based on weighted population (50% after SPR setaside & Additional Activities setaside) 5	[computed]	[computed]	[computed]	[computed]			
	National Freight Program (§1115 & 23 USC 167)	[2,026,721,170]	[2,061,049,560]	[4,087,770,730]	[2,043,885,365]			
52005	State Planning and Research (2% setaside) (23 USC 505) 2/	[computed]	[computed]	[computed]	[computed]			
2205	Primary Freight Network (setaside) 6/	[computed]	[computed]	[computed]	[computed]			
	Metropolitan Transportation Planning (§1201 & 23 USC 134)	[333,719,828]	[339,372,339]	[673,092,167]	[336,546,084]			
1101(a)(2)	Transportation Infrastructure Finance and Innovation Program (§3002 & 23 USC Ch. 6)	1,000,000,000	1,000,000,000	2,000,000,000	1,000,000,000	HTF-HA	CA	23 USC 608(b)(2)
3002	Rural Infrastructure Projects (10% setaside) (§3002 & 23 USC 608(a)(3))	[computed]	[computed]	[computed]	[computed]			
3002	Administrative Costs of Program (up to 1% setaside) (§3002 & 23 USC 608(a)(6))	[computed]	[computed]	[computed]	[computed]			
1101(a)(3)(A)	Tribal Transportation Program (§1116 & 23 USC 202)	450,000,000	450,000,000	900,000,000	450,000,000	HTF-HA	CA	23 USC 201(b)
1116	National Priority Program for Tribal Transportation Facility Bridges (up to 2% takedown) (23 USC 202(d)	[computed]	[computed]	[computed]	[computed]			
1116	Safety Projects (up to 2% takedown) (23 USC 202(e))	[computed]	[computed]	[computed]	[computed]			
1116	Transportation Planning for Tribal Governments under ISDEA (up to 2% takedown) (23 USC 202(c))	[computed]	[computed]	[computed]	[computed]			
1101(a)(3)(B)	Federal Lands Transportation Program (§1116 & 23 USC 203)	300,000,000	300,000,000	600,000,000	300,000,000	HTF-HA	CA	23 USC 201(b)
1101(a)(3)(B)	Setaside for National Park Service and Fish and Wildlife Service	[260,000,000]	[260,000,000]	[520,000,000]	[260,000,000]			
1116	Transportation Planning, Asset Management Systems, Data Collection (up to 5% setaside) (23 USC 201(c)(7	[computed]	[computed]	[computed]	[computed]			
1101(a)(3)(C)	Federal Lands Access Program (§1116 & 23 USC 204)	250,000,000	250,000,000	500,000,000	250,000,000	HTF-HA	CA	23 USC 201(b)
1116	Transportation Planning, Asset Management Systems, Data Collection (up to 5% setaside) (23 USC 201(c)(7	[computed]	[computed]	[computed]	[computed]			
1101(a)(4)	Territorial and Puerto Rico Highway Program (§1114 & 23 USC 165)	180,000,000	180,000,000	360,000,000	180,000,000	HTF-HA	CA	23 USC 118
1114(a)	Puerto Rico Highway Program (75% setaside) (§1114 & 23 USC 165(b))	[135,000,000]	[135,000,000]	[270,000,000]	[135,000,000]			
1114(b)	For purposes eligible under National Highway Performance Program (50% further setaside)	*[67,500,000]*	*[67,500,000]*	*[135,000,000]*	*[67,500,000]*			
1114(b)	For purposes eligible under Highway Safety Improvement Program (25% further setaside)	*[33,750,000]*	*[33,750,000]*	*[67,500,000]*	*[33,750,000]*			
1114(b)	For purposes eligible under chapter 1 of 23 USC (remainder)	*[33,750,000]*	*[33,750,000]*	*[67,500,000]*	*[33,750,000]*			
1114(a)	Territorial Highway Program (25% setaside) (§1114 & 23 USC 165(c))	[45,000,000]	[45,000,000]	[90,000,000]	[45,000,000]			
1105(a)	FHWA Administrative Expenses	480,000,000	480,000,000	960,000,000	480,000,000	HTF-HA	CA	23 USC 118
1109(a)	On-the-Job Training Supportive Services (setaside) (§1109 & 23 USC 140(b))	[10,000,000]	[10,000,000]	[20,000,000]	[10,000,000]			
1109(b)	Disadvantaged Business Enterprise Supportive Services (setaside) (§1109 & 23 USC 140(c))	[10,000,000]	[10,000,000]	[20,000,000]	[10,000,000]			
1110	Highway Use Tax Evasion Projects (setaside NTE) (§1110 & 23 USC 143)	[10,000,000]	[10,000,000]	[20,000,000]	[10,000,000]			
1110	Intergovernmental Enforcement Efforts, Including Research and Training (further setaside) (§1109 & 23 USC 143)	*[2,000,000]*	*[2,000,000]*	*[4,000,000]*	*[2,000,000]*			
1516(a)	Operation Lifesaver, to provide public information and education to help prevent and reduce motor vehicle accidents, injuries, and fatalaties; to improve driver performance at railway-highway crossings; National Work Zone Safety Clearinghouse; Public Road Safety Clearinghouse; Bicycle and Pedestrian Safety Clearinghouse; National Safe Routes to School Clearinghouse; Work Zone Safety Grants; and Grants to Prohibit Racial Profiling (setaside	[15,000,000]	[15,000,000]	[30,000,000]	[15,000,000]			
1118(i)	Projects of National and Regional Significance (§1118) General Fund	-	1,000,000,000	1,000,000,000	500,000,000	GF	STA	N/A
1119	Construction of Ferry Boats and Ferry Terminal Facilities (23 USC 147(f)) General Fund	67,000,000	67,000,000	134,000,000	67,000,000	GF	STA	N/A
1517	Rescission of funds earmarked for projects and funds apportioned under chapter 1 of 23 USC	(2,391,000,000)	(3,054,000,000)	(5,445,000,000)	(2,722,500,000)			
	Total -- Division A	**39,479,000,000**	**40,479,000,000**	**79,958,000,000**	**39,979,000,000**			
	Highway Account of the Highway Trust Fund - Contract Authority	*41,803,000,000*	*42,466,000,000*	*84,269,000,000*	*42,134,500,000*			
	General Fund - Subect to Appropriation	*67,000,000*	*1,067,000,000*	*1,134,000,000*	*567,000,000*			
	Rescission	*(2,391,000,000)*	*(3,054,000,000)*	*(5,445,000,000)*	*(2,722,500,000)*			
		39,479,000,000	*40,479,000,000*	*79,958,000,000*	*39,979,000,000*			
1102	*Federal-Aid Highway Program Obligation Limitation*	*41,564,000,000*	*42,227,000,000*	*83,791,000,000*	*41,895,500,000*			

Source: FHWA, MAP-21.

Figure A-4. MAP-21 Authorizations

(Title II)

Division E - Transportation Research and Innovative Technology Act of 2012								
51001(a)(1)	Highway Research and Development Program (23 USC 503(b), 503(d) & 509)	90,000,000	90,000,000	180,000,000	90,000,000	HTF-HA	CA	MAP-21 51001(b)(1)
52003(a)	Research, field trials and other activities related to future sustainable transportation revenue mechanisms under 23 USC 503(b)(2)(E)(iii) (setaside of NLT 50%) (23 USC 503(b)(2)(E)(v	[computed]	[computed]	[computed]	[computed]			
52003(a)	Air Quality and Congestion Mitigation Measure Outcomes Assessment Research (setaside NTE) (23 USC 503(d)(5))	[1,000,000]	[1,000,000]	[2,000,000]	[1,000,000]			
51001(a)(2)	Technology and Innovation Deployment Program (23 USC 503(c)	90,000,000	90,000,000	180,000,000	90,000,000	HTF-HA	CA	MAP-21 51001(b)(1)
52003(a)	Acceleration of deployment and implementation of asphalt pavement technology (setaside) (23 USC 503(c)(3)(C)(i)	[6,000,000]	[6,000,000]	[12,000,000]	[6,000,000]			
52003(a)	Acceleration of deployment and implementation of concrete pavement technology (setaside) (23 USC 503(c)(3)(C)(ii)	[6,000,000]	[6,000,000]	[12,000,000]	[6,000,000]			
51001(a)(3)	Training and Education (23 USC 504)	24,000,000	24,000,000	48,000,000	24,000,000	HTF-HA	CA	MAP-21 51001(b)(1)
51001(a)(4)	Intelligent Transportation Systems Program (23 USC 512-518)	100,000,000	100,000,000	200,000,000	100,000,000	HTF-HA	CA	MAP-21 51001(b)(1)
53001	System Operations and ITS Deployment Grant Program (setaside NLT 50%) (23 USC 513(d))	[computed]	[computed]	[computed]	[computed]			
51001(a)(5)	University Transportation Centers (49 USC 5505)	70,000,000	70,000,000	140,000,000	70,000,000	HTF-HA	CA	MAP-21 51001(b)(1)
51001(a)(6)	Bureau of Transportation Statistics (49 USC chapter 65)	26,000,000	26,000,000	52,000,000	26,000,000	HTF-HA	CA	MAP-21 51001(b)(1)
	Total -- Division E	**400,000,000**	**400,000,000**	**800,000,000**	**400,000,000**			
	Highway Account of the Highway Trust Fund - Contract Authority	*400,000,000*	*400,000,000*	*800,000,000*	*400,000,000*			
	General Fund - Subject to Appropriation	-	-	-	-			
	Rescission	-	-	-	-			
		400,000,000	*400,000,000*	*800,000,000*	*400,000,000*			
	GRAND TOTAL							
	Total Authorizations	39,879,000,000	40,879,000,000	80,758,000,000	40,379,000,000			
	Recap:							
	Federal-aid Highway Program							
	Contract Authority from Highway Account of the Highway Trust Fund	*42,203,000,000*	*42,866,000,000*	*85,069,000,000*	*42,534,500,000*			
	Exempt from Obligation Limitation	*639,000,000*	*639,000,000*	*1,278,000,000*	*639,000,000*			
	Subject to Obligation Limitation	*41,564,000,000*	*42,227,000,000*	*83,791,000,000*	*41,895,500,000*			
	General Fund - Subect to Appropriation	*67,000,000*	*1,067,000,000*	*1,134,000,000*	*567,000,000*			
	Rescission	*(2,391,000,000)*	*(3,054,000,000)*	*(5,445,000,000)*	*(2,722,500,000)*			
		39,879,000,000	*40,879,000,000*	*80,758,000,000*	*40,379,000,000*			

1/ Combined amount authorized for:
National Highway Performance Program (§1106 & 23 USC 119)
Transportation Mobility Program (§1108 & 23 USC 133)
Highway Safety Improvement Program (§1112 & 23 USC 148)
Congestion Mitigation & Air Quality Improvement Progam (§1113 & 23 USC 149)
National Freight Program (§1115 & 23 USC 167)
Metropolitan Transportation Planning (§1201 & 23 USC 134)

2/ 2% of each State's apportionments from the National Highway Performance Program, Transportation Mobility Program, Highway Safety Improvement Program, Congestion Mitigation and Air Quality Improvement

3/ The setaside for bridges not on Federal-aid highways is equal to the amount setaside for such bridges in FY 2009 under the Highway Bridge Program

4/ Amount to be setaside is computed as the amount of funds attributable to the inclusion of the 10 percent of STP funds apportioned to the State for fiscal year 2009 in the formula for CMAQ. Funds from this setaside may be used for Transportation Enhancements, Recreational Trails Program, Safe Routes to School Program, planning, designing or contructing boulevards, main streets and other roadways largely in the ROW of former Interstate System routes or of the divided highways. Of the amount set aside for these addditional activities, 50% is subject to suballocation among individual urbanized areas with a population over 200,000, other urban areas, and rural areas. The remaining 50% may be used anywhere in the State. Unless the Governor of a State notifies the Secretary that he is opting out, a further setaside is made for the Recreational Trails Program equal to the amout apportioned to the State for the Recreational Trails program in FY 2009.

5/ After making the setaside for State Planning and Research and Additional Activities, suballocation to areas based on nonattainment/maintenance area population (weighted by severity) takes place, unless the State has never had a nonattainment area under the Clear Air Act for ozone, carbon monoxide, or small particulate matter (PM 2.5).

6/ Setaside begins with fiscal year after the Secretary of Transportation has designated the primary freight network. Amount set aside is the lesser of the State's total National Freight Program apportionment for the year or the product of 110% of the State's National Freight Program apportionment times the ratio of the State's primary freight network mileage to the sum of primary freight network mileage plus any Interstate System mileage not included on the primary freight network.

Source: FHWA, MAP-21.

Figure A-5. MAP-21 Apportionments

(Estimated FY2012)

FHWA, HCFB-1 | U.S. DEPARTMENT OF TRANSPORTATION | 15-Mar-12

TA | FEDERAL HIGHWAY ADMINISTRATION | 11:30 AM

SUMMARY OF ESTIMATED FY 2012 APPORTIONMENTS UNDER THE MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT (MAP-21) AS PASSED BY THE SENATE

State	National Highway Performance Program	Transportation Mobility Program	Highway Safety Improvement Program	CMAQ Program	National Freight Program	Metropolitan Planning	Total
Alabama	427,672,633	216,048,416	51,615,663	28,489,617	42,029,897	3,129,519	768,985,745
Alaska	271,512,572	137,160,661	32,768,759	38,444,042	26,683,132	2,310,840	508,880,006
Arizona	370,000,582	186,914,087	44,655,243	68,012,624	36,362,126	5,715,491	711,660,153
Arkansas	287,692,737	145,334,434	34,721,537	25,280,144	28,273,252	1,742,974	523,045,078
California	1,828,219,496	923,566,056	220,647,181	566,125,899	179,669,847	51,605,155	3,769,833,633
Colorado	267,921,311	135,346,455	32,335,331	54,755,485	26,330,198	5,183,208	521,871,987
Connecticut	268,565,712	135,671,989	32,413,103	55,168,641	26,393,527	4,826,146	523,039,118
Delaware	88,761,333	44,839,777	10,712,575	16,371,606	8,723,096	1,811,175	171,219,562
Dist. of Col.	78,442,844	39,627,161	9,467,240	13,197,735	7,709,038	1,676,885	150,120,903
Florida	1,102,316,310	556,859,791	133,038,175	69,008,580	108,331,086	21,853,124	1,991,407,066
Georgia	688,477,112	347,799,645	83,092,065	102,754,816	67,660,682	7,840,821	1,297,625,141
Hawaii	94,267,428	47,621,304	11,377,103	15,280,824	9,264,213	1,865,652	179,676,525
Idaho	154,255,197	77,925,470	18,617,007	19,011,756	15,159,562	1,629,135	286,598,128
Illinois	703,938,295	355,610,208	84,958,070	140,489,549	69,180,143	16,519,366	1,370,695,631
Indiana	469,175,205	237,014,371	56,624,594	65,613,049	46,108,598	4,850,749	879,386,566
Iowa	253,578,291	128,100,757	30,604,276	22,492,725	24,920,625	1,870,699	461,567,374
Kansas	216,793,701	109,518,197	26,164,757	21,556,056	21,305,588	2,056,901	397,395,199
Kentucky	370,625,918	187,229,990	44,730,714	28,409,584	36,423,582	2,565,135	669,984,923
Louisiana	385,741,793	194,866,112	46,555,044	25,018,974	37,909,107	4,271,165	694,362,196
Maine	103,209,787	52,138,737	12,456,354	15,157,771	10,143,031	1,954,742	195,060,421
Maryland	312,796,859	158,016,344	37,751,345	68,325,076	30,740,381	7,123,675	614,753,680
Massachusetts	315,588,178	159,426,442	38,088,228	78,425,157	31,014,700	9,392,222	631,934,927
Michigan	569,481,230	287,686,207	68,730,493	107,022,886	55,966,259	10,861,834	1,099,748,909
Minnesota	372,777,181	188,316,748	44,990,349	55,801,263	36,634,999	4,953,365	703,473,906
Mississippi	284,607,368	143,775,791	34,349,165	25,160,725	27,970,034	1,827,824	517,690,908
Missouri	518,936,152	262,152,229	62,630,225	46,147,431	50,998,898	5,216,259	946,081,194
Montana	214,966,640	108,595,216	25,944,250	21,316,557	21,126,032	1,732,241	393,680,936
Nebraska	157,110,047	79,367,662	18,961,557	18,070,064	15,440,125	1,673,451	290,622,907
Nevada	160,628,628	81,145,152	19,386,214	35,919,578	15,785,917	2,866,272	315,731,761
New Hampshire	91,233,483	46,088,639	11,010,938	15,144,520	8,966,049	1,672,917	174,116,545
New Jersey	494,731,541	249,924,727	59,708,979	123,746,560	48,620,169	12,384,322	989,116,297
New Mexico	202,562,148	102,328,809	24,447,156	19,666,285	19,906,970	1,630,903	370,542,271
New York	867,677,530	438,326,752	104,719,702	223,439,491	85,271,757	26,078,192	1,745,513,424
North Carolina	563,226,101	284,526,289	67,975,564	77,213,877	55,351,531	5,904,145	1,054,197,506
North Dakota	141,404,786	71,433,797	17,066,095	16,325,508	13,896,677	1,778,625	261,905,488
Ohio	724,801,137	366,149,540	87,475,999	132,203,884	71,230,457	12,097,319	1,393,958,335
Oklahoma	355,774,447	179,727,436	42,938,295	29,095,864	34,964,040	2,641,194	645,141,276
Oregon	271,464,772	137,136,514	32,762,990	31,124,428	26,678,434	3,656,790	502,823,928
Pennsylvania	890,155,664	449,682,086	107,432,580	135,994,784	87,480,815	13,369,617	1,684,115,546
Rhode Island	121,240,767	61,247,491	14,632,506	14,941,622	11,915,041	1,926,256	225,903,683
South Carolina	339,824,493	171,669,959	41,013,301	28,808,445	33,396,545	2,917,439	617,630,181
South Dakota	152,278,017	76,926,654	18,378,381	18,841,446	14,965,253	1,781,831	283,171,583
Tennessee	458,544,920	231,644,244	55,341,628	58,312,381	45,063,897	4,877,321	853,784,392
Texas	1,614,353,479	815,526,844	194,835,765	224,002,720	158,651,980	21,567,207	3,028,937,995
Utah	166,501,436	84,111,933	20,095,001	18,916,929	16,363,072	2,894,653	308,883,024
Vermont	106,886,621	53,996,172	12,900,109	16,437,849	10,504,375	2,103,808	202,828,935
Virginia	538,928,652	272,251,888	65,043,113	79,346,134	52,963,678	7,580,695	1,016,114,160
Washington	389,731,420	196,881,562	47,036,551	56,333,620	38,301,191	7,985,870	736,270,213
West Virginia	250,289,620	126,439,412	30,207,368	23,482,040	24,597,428	1,786,755	456,802,623
Wisconsin	400,161,017	202,150,307	48,295,295	47,749,286	39,326,169	4,528,749	742,210,822
Wyoming	142,944,230	72,211,482	17,251,890	14,812,526	14,047,967	1,629,196	262,897,291
Apportioned Total	20,622,776,823	10,418,057,947	2,488,955,823	3,252,768,409	2,026,721,170	333,719,828	39,143,000,000

Source: Federal Highway Administration.

Figure A-6. MAP-21 Apportionments

(Estimated FY2013)

FHWA, HCFB-1 — U.S. DEPARTMENT OF TRANSPORTATION — 15-Mar-12

TA — FEDERAL HIGHWAY ADMINISTRATION — 11:30 AM

SUMMARY OF ESTIMATED FY 2013 APPORTIONMENTS UNDER THE MOVING AHEAD FOR PROGRESS IN THE 21ST CENTURY ACT (MAP-21) AS PASSED BY THE SENATE

State	National Highway Performance Program	Transportation Mobility Program	Highway Safety Improvement Program	CMAQ Program	National Freight Program	Metropolitan Planning	Total
Alabama	434,916,507	219,707,822	52,489,923	28,972,172	42,741,795	3,182,527	782,010,745
Alaska	276,111,423	139,483,874	33,323,792	39,095,203	27,135,088	2,349,981	517,499,362
Arizona	376,267,613	190,080,018	45,411,608	69,164,614	36,978,024	5,812,299	723,714,177
Arkansas	292,565,646	147,796,094	35,309,647	25,708,336	28,752,141	1,772,496	531,904,360
California	1,859,185,684	939,209,320	224,384,479	575,714,880	182,713,076	52,479,237	3,833,686,677
Colorado	272,459,334	137,638,939	32,883,023	55,682,927	26,776,176	5,271,000	530,711,400
Connecticut	273,114,650	137,969,987	32,962,113	56,103,081	26,840,578	4,907,891	531,898,300
Delaware	90,264,763	45,599,268	10,894,023	16,648,906	8,870,847	1,841,853	174,119,661
Dist. of Col.	79,771,500	40,298,361	9,627,595	13,421,277	7,839,613	1,705,288	152,663,635
Florida	1,120,987,227	566,291,823	135,291,562	70,177,440	110,165,986	22,223,270	2,025,137,308
Georgia	700,138,465	353,690,638	84,499,470	104,495,266	68,806,711	7,973,628	1,319,604,179
Hawaii	95,864,120	48,427,909	11,569,808	15,539,649	9,421,129	1,897,252	182,719,866
Idaho	156,867,955	79,245,364	18,932,339	19,333,775	15,416,334	1,656,730	291,452,496
Illinois	715,861,528	361,633,496	86,397,081	142,869,146	70,351,909	16,799,169	1,393,912,329
Indiana	477,122,045	241,028,895	57,583,695	66,724,396	46,889,580	4,932,911	894,281,523
Iowa	257,873,373	130,270,514	31,122,648	22,873,705	25,342,728	1,902,385	469,385,354
Kansas	220,465,729	111,373,205	26,607,933	21,921,170	21,666,460	2,091,741	404,126,237
Kentucky	376,903,541	190,401,272	45,488,358	28,890,782	37,040,520	2,608,583	681,333,057
Louisiana	392,275,446	198,166,734	47,343,588	25,442,743	38,551,208	4,343,510	706,123,229
Maine	104,957,943	53,021,858	12,667,338	15,414,511	10,314,832	1,987,851	198,364,333
Maryland	318,094,979	160,692,808	38,390,773	69,482,359	31,261,058	7,244,335	625,166,313
Massachusetts	320,933,577	162,126,790	38,733,363	79,753,514	31,540,024	9,551,307	642,638,574
Michigan	579,127,043	292,559,006	69,894,643	108,835,628	56,914,209	11,045,811	1,118,376,340
Minnesota	379,091,242	191,506,438	45,752,391	56,746,419	37,255,519	5,037,264	715,389,272
Mississippi	289,428,018	146,211,050	34,930,968	25,586,895	28,443,788	1,858,784	526,459,502
Missouri	527,725,838	266,592,535	63,691,049	46,929,071	51,862,712	5,304,611	962,105,817
Montana	218,607,722	110,434,591	26,383,691	21,677,614	21,483,862	1,761,582	400,349,062
Nebraska	159,771,161	80,711,983	19,282,726	18,376,133	15,701,649	1,701,795	295,545,447
Nevada	163,349,339	82,519,580	19,714,575	36,527,980	16,053,297	2,914,820	321,079,592
New Hampshire	92,778,786	46,869,283	11,197,440	15,401,036	9,117,915	1,701,252	177,065,713
New Jersey	503,111,251	254,157,925	60,720,323	125,842,566	49,443,692	12,594,086	1,005,869,844
New Mexico	205,993,125	104,062,044	24,861,239	19,999,390	20,244,152	1,658,527	376,818,477
New York	882,374,160	445,751,084	106,493,433	227,224,086	86,716,081	26,519,902	1,775,078,746
North Carolina	572,765,965	289,345,565	69,126,927	78,521,717	56,289,069	6,004,149	1,072,053,392
North Dakota	143,799,885	72,643,735	17,355,159	16,602,027	14,132,058	1,808,751	266,341,615
Ohio	737,077,742	372,351,342	88,957,659	134,443,139	72,436,951	12,302,222	1,417,569,054
Oklahoma	361,800,517	182,771,641	43,665,580	29,588,686	35,556,258	2,685,930	656,068,611
Oregon	276,062,814	139,459,318	33,317,926	31,651,610	27,130,311	3,718,728	511,340,706
Pennsylvania	905,233,027	457,298,753	109,252,262	138,298,249	88,962,556	13,596,070	1,712,640,917
Rhode Island	123,294,330	62,284,894	14,880,350	15,194,701	12,116,857	1,958,883	229,730,015
South Carolina	345,580,404	174,577,687	41,707,980	29,296,399	33,962,212	2,966,854	628,091,536
South Dakota	154,857,286	78,229,629	18,689,672	19,160,581	15,218,733	1,812,011	287,967,913
Tennessee	466,311,706	235,567,810	56,278,999	59,300,070	45,827,185	4,959,932	868,245,702
Texas	1,641,697,228	829,340,151	198,135,872	227,796,855	161,339,210	21,932,510	3,080,241,827
Utah	169,321,620	85,536,612	20,435,368	19,237,342	16,640,228	2,943,682	314,114,852
Vermont	108,697,056	54,910,754	13,118,610	16,716,271	10,682,297	2,139,442	206,264,430
Virginia	548,056,969	276,863,262	66,144,807	80,690,090	53,860,771	7,709,096	1,033,324,995
Washington	396,332,649	200,216,321	47,833,251	57,287,792	38,949,933	8,121,134	748,741,080
West Virginia	254,528,999	128,581,029	30,719,017	23,879,776	25,014,057	1,817,019	464,539,898
Wisconsin	406,938,902	205,574,307	49,113,316	48,558,058	39,992,271	4,605,456	754,782,311
Wyoming	145,365,404	73,434,592	17,544,101	15,063,419	14,285,910	1,656,791	267,350,217
Apportioned Total	20,972,083,238	10,594,517,912	2,531,113,494	3,307,863,457	2,061,049,560	339,372,339	39,806,000,000

Source: Federal Highway Administration.

Figure A-7. Apportionment Change Under MAP-21 Privatization Adjustment

(Estimated average FY2013 to 2016)

State	Average Annual Funding MAP-21 (as reported by EPW)	MAP-21 (as passed by the Senate)	Delta	% Change
Alabama	774,586,943	775,498,245	911,302	0.12%
Alaska	512,586,625	513,189,684	603,058	0.12%
Arizona	716,843,798	717,687,165	843,367	0.12%
Arkansas	526,854,874	527,474,719	619,845	0.12%
California	3,797,292,638	3,801,760,155	4,467,517	0.12%
Colorado	526,522,801	526,291,694	-231,108	-0.04%
Connecticut	526,848,871	527,468,709	619,838	0.12%
Delaware	172,466,704	172,669,611	202,907	0.12%
Dist. of Col.	151,214,365	151,392,269	177,904	0.12%
Florida	2,005,912,230	2,008,272,187	2,359,957	0.12%
Georgia	1,307,076,884	1,308,614,660	1,537,777	0.12%
Hawaii	180,985,266	181,198,196	212,929	0.12%
Idaho	288,685,673	289,025,312	339,639	0.12%
Illinois	1,383,573,830	1,382,303,980	-1,269,850	-0.09%
Indiana	928,435,322	886,834,045	-41,601,277	-4.48%
Iowa	464,929,374	465,476,364	546,990	0.12%
Kansas	400,289,777	400,760,718	470,941	0.12%
Kentucky	674,865,011	675,658,990	793,979	0.12%
Louisiana	699,419,845	700,242,712	822,868	0.12%
Maine	196,481,217	196,712,377	231,160	0.12%
Maryland	619,231,471	619,959,997	728,526	0.12%
Massachusetts	636,537,864	637,286,751	748,887	0.12%
Michigan	1,107,759,345	1,109,062,624	1,303,279	0.12%
Minnesota	708,597,923	709,431,589	833,666	0.12%
Mississippi	521,461,705	522,075,205	613,500	0.12%
Missouri	952,972,333	954,093,505	1,121,172	0.12%
Montana	396,548,460	397,014,999	466,539	0.12%
Nebraska	292,739,768	293,084,177	344,408	0.12%
Nevada	318,031,512	318,405,676	374,164	0.12%
New Hampshire	175,384,789	175,591,129	206,340	0.12%
New Jersey	996,320,898	997,493,070	1,172,172	0.12%
New Mexico	373,241,256	373,680,374	439,119	0.12%
New York	1,758,227,530	1,760,296,085	2,068,556	0.12%
North Carolina	1,061,876,151	1,063,125,449	1,249,298	0.12%
North Dakota	263,813,175	264,123,552	310,376	0.12%
Ohio	1,404,111,756	1,405,763,695	1,651,938	0.12%
Oklahoma	649,840,406	650,604,944	764,538	0.12%
Oregon	506,486,436	507,082,317	595,882	0.12%
Pennsylvania	1,696,382,437	1,698,378,232	1,995,795	0.12%
Rhode Island	227,549,137	227,816,849	267,712	0.12%
South Carolina	622,128,924	622,860,859	731,935	0.12%
South Dakota	285,234,170	285,569,748	335,578	0.12%
Tennessee	860,003,253	861,015,047	1,011,794	0.12%
Texas	3,051,000,407	3,054,589,911	3,589,504	0.12%
Utah	311,132,890	311,498,938	366,048	0.12%
Vermont	204,306,316	204,546,682	240,366	0.12%
Virginia	1,023,515,411	1,024,719,577	1,204,166	0.12%
Washington	741,633,115	742,505,646	872,532	0.12%
West Virginia	460,129,917	460,671,260	541,343	0.12%
Wisconsin	747,616,995	748,496,566	879,572	0.12%
Wyoming	264,812,202	265,123,754	311,552	0.12%
All States	39,474,500,000	39,474,500,000	-	-

* Differences to State apportionments are based on Bingaman amendment no. 1759 to S. 1813 (MAP-21) as agreed to by the Senate.

Source: Federal Highway Administration.

Figure A-8. Apportionments under H.R. 7

(Estimated average FY2013 to FY2016)

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U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

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SUMMARY OF ESTIMATED AVERAGE FY 2013 TO 2016 FEDERAL-AID HIGHWAYS APPORTIONMENTS UNDER THE AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012 (H.R. 7)
(as introduced and referred to the Committee on Transportation and Infrastructure)

State	NHS	STP	HSIP	Rail-Hwy Xing	SIB	ADHS	Rec Trails	MPO	Equity Bonus	Highway Account Total	CMAQ	Grand Total
Alabama	319,080,380	187,711,078	53,342,102	4,258,648	13,862,451	117,500,000	1,721,218	3,133,210	-	700,609,087	10,000,000	710,609,087
Alaska	120,745,971	52,290,500	11,956,250	1,100,000	4,578,286	-	1,537,718	1,624,872	108,616,390	302,449,987	10,000,000	312,449,987
Arizona	358,637,316	145,802,090	47,989,274	2,149,593	13,671,771	-	2,007,477	6,307,978	90,751,197	667,316,696	43,674,417	710,991,113
Arkansas	247,747,718	136,195,641	38,756,556	3,784,045	10,461,178	-	1,544,383	1,624,872	-	440,114,393	10,000,000	450,114,393
California	1,547,963,247	996,432,763	223,437,447	15,607,100	68,499,619	-	5,899,021	48,453,267	463,859,880	3,370,152,343	436,932,090	3,807,084,433
Colorado	297,493,276	128,826,809	37,427,914	2,744,891	11,477,056	-	1,494,335	5,185,908	33,025,881	517,676,071	39,388,779	557,064,850
Connecticut	151,628,546	233,035,769	19,527,308	2,727,816	10,003,098	-	936,235	4,597,622	-	422,456,394	36,485,655	458,942,049
Delaware	87,277,812	52,290,500	11,956,250	1,100,000	3,750,000	-	852,363	1,624,872	-	158,851,797	10,000,000	168,851,797
Dist. of Col.	87,277,812	52,290,500	11,956,250	1,100,000	3,750,000	-	825,098	1,624,872	-	158,824,532	10,000,000	168,824,532
Florida	754,732,055	409,152,089	122,146,696	7,335,767	31,827,305	-	2,612,987	21,741,447	445,396,671	1,794,945,016	10,000,000	1,804,945,016
Georgia	536,964,209	264,969,304	82,309,807	7,101,715	21,883,677	12,032,000	1,744,067	8,086,589	262,231,830	1,197,323,199	52,567,235	1,249,890,434
Hawaii	87,277,812	52,290,500	11,956,250	1,100,000	3,750,000	-	944,502	1,624,872	-	158,943,936	10,000,000	168,943,936
Idaho	142,168,853	55,021,250	17,692,007	1,620,466	5,318,006	-	1,752,422	1,624,872	14,405,881	239,603,756	10,000,000	249,603,756
Illinois	632,135,738	356,851,129	79,552,299	10,066,399	26,444,701	-	1,487,739	15,716,787	131,591,748	1,253,846,539	84,500,649	1,338,347,189
Indiana	422,744,108	208,769,245	46,214,934	6,917,720	16,772,733	-	1,357,872	5,505,421	142,576,724	850,858,758	34,958,527	885,817,285
Iowa	276,507,221	147,318,678	36,029,615	5,115,714	11,380,719	-	1,369,688	1,799,329	-	479,520,964	10,000,000	489,520,964
Kansas	246,909,878	133,902,607	41,360,123	5,607,633	10,448,130	-	1,371,094	1,949,504	-	441,548,967	10,000,000	451,548,967
Kentucky	319,915,344	156,803,914	39,816,630	3,550,649	12,783,472	39,997,000	1,425,821	2,528,832	23,645,417	600,467,079	11,324,334	611,791,413
Louisiana	284,325,061	269,289,133	42,868,994	5,264,341	14,762,028	-	1,606,350	4,092,613	-	622,208,520	10,000,000	632,208,520
Maine	93,753,548	60,013,578	11,956,250	1,294,087	4,101,398	-	1,355,312	1,624,872	-	174,099,045	10,000,000	184,099,045
Maryland	278,174,354	198,705,786	36,938,664	2,590,757	12,716,220	13,912,000	1,095,760	6,940,591	97,434,644	648,508,776	51,248,982	699,757,758
Massachusetts	253,240,021	279,678,314	29,211,113	3,594,197	13,911,816	-	1,130,311	9,095,391	6,190,589	596,051,751	66,102,368	662,154,119
Michigan	454,560,283	286,002,720	77,094,180	7,024,612	20,235,765	-	2,808,511	10,618,165	153,734,385	1,012,078,621	64,602,236	1,076,680,856
Minnesota	312,707,473	163,154,519	49,402,785	5,334,426	12,999,504	-	2,425,540	4,376,905	54,934,677	605,335,830	26,535,112	631,870,942
Mississippi	256,399,863	129,134,033	40,994,164	3,154,138	10,555,921	5,029,000	1,406,017	1,624,872	-	448,298,008	10,000,000	458,298,008
Missouri	441,724,820	244,060,818	62,529,810	5,391,908	18,519,662	-	1,670,103	4,988,460	52,695,398	831,580,978	18,564,316	850,145,295
Montana	197,788,108	53,779,778	19,007,418	1,689,542	6,696,328	-	1,598,125	1,624,872	30,272,216	312,456,388	10,000,000	322,456,388
Nebraska	188,430,559	88,286,052	24,666,222	3,372,215	7,458,765	-	1,233,922	1,624,872	-	315,072,607	10,000,000	325,072,607
Nevada	151,726,091	54,707,821	17,483,174	1,100,000	5,541,608	-	1,436,208	2,705,650	46,732,802	281,433,353	22,571,617	304,004,970
New Hampshire	87,277,812	52,290,500	11,956,250	1,100,000	3,750,000	-	1,243,335	1,624,872	-	159,242,769	10,000,000	169,242,769
New Jersey	365,334,073	293,312,934	43,862,564	4,321,063	17,386,016	-	1,161,602	12,515,023	234,856,354	972,749,629	86,914,074	1,059,663,703
New Mexico	241,860,156	71,450,771	26,654,651	1,332,942	8,413,633	-	1,423,723	1,624,872	-	352,760,749	10,000,000	362,760,749
New York	621,245,515	703,575,976	79,787,499	9,511,513	34,761,856	9,541,000	2,168,647	25,025,259	-	1,485,617,266	174,575,513	1,660,192,779
North Carolina	447,414,461	267,256,770	64,243,656	5,974,840	19,276,948	33,652,000	1,523,086	6,070,241	180,997,337	1,026,409,340	38,415,745	1,064,825,085
North Dakota	177,063,912	52,290,500	17,862,435	3,298,650	6,118,242	-	1,152,723	1,624,872	-	259,411,333	10,000,000	269,411,333
Ohio	592,488,443	370,633,896	73,967,475	8,579,438	25,666,372	23,171,000	1,623,471	11,800,806	148,160,522	1,256,091,424	77,317,571	1,333,408,995
Oklahoma	320,284,858	190,791,259	54,671,122	5,140,206	14,001,381	-	1,818,009	2,394,669	-	589,101,503	10,000,000	599,101,503
Oregon	243,397,130	166,302,723	32,354,782	3,208,727	10,940,169	-	1,619,082	3,189,567	-	461,012,179	16,827,157	477,839,336
Pennsylvania	587,484,862	592,685,165	78,286,932	9,015,520	31,144,835	114,022,000	1,949,371	13,252,956	-	1,427,841,641	98,926,656	1,526,768,296
Rhode Island	87,277,812	68,002,648	11,956,250	1,100,000	4,138,849	-	857,796	1,624,872	-	174,958,227	10,000,000	184,958,227
South Carolina	287,576,318	159,909,916	55,922,548	3,846,962	12,458,606	-	1,204,718	3,024,444	130,897,734	654,841,246	10,000,000	664,841,246
South Dakota	167,745,304	56,547,580	20,021,904	2,143,122	6,046,421	-	1,181,819	1,624,872	-	255,311,021	10,000,000	265,311,021
Tennessee	399,985,954	189,624,774	55,154,672	4,180,339	15,956,961	25,192,000	1,630,311	4,785,215	87,975,542	784,485,768	17,738,993	802,224,760
Texas	1,535,959,421	697,574,718	200,756,250	15,010,917	60,244,975	-	3,975,714	23,881,289	648,841,550	3,186,244,835	137,911,199	3,324,156,034
Utah	202,978,020	66,660,992	19,925,401	1,261,886	7,166,278	-	1,612,078	2,821,492	-	302,426,147	10,000,000	312,426,147
Vermont	87,277,812	52,290,500	11,956,250	1,100,000	3,750,000	-	1,006,957	1,624,872	-	159,006,391	10,000,000	169,006,391
Virginia	445,202,207	283,421,952	59,121,894	4,494,854	19,495,500	38,963,000	1,501,340	7,607,514	101,534,220	961,342,481	45,829,310	1,007,171,792
Washington	317,752,263	230,820,117	44,255,777	4,467,753	14,671,579	-	1,806,322	6,946,561	16,573,648	637,294,019	36,287,406	673,581,426
West Virginia	141,190,956	87,370,771	22,034,938	2,084,448	6,201,883	36,989,000	1,326,854	1,624,872	53,918,777	352,742,499	10,000,000	362,742,499
Wisconsin	339,332,819	156,228,118	48,960,014	4,928,440	13,476,066	-	2,246,824	4,587,933	67,011,173	636,771,387	19,800,059	656,571,446
Wyoming	209,394,903	52,290,500	11,956,250	1,100,000	6,772,212	-	1,476,016	1,624,872	-	284,614,753	10,000,000	294,614,753
Apportioned	17,455,562,491	10,458,100,000	2,391,250,000	220,000,000	750,000,000	470,000,000	84,160,000	324,974,323	3,828,863,186	35,982,910,000	2,000,000,000	37,982,910,000
Planning % Takedown	203,074,323	121,900,000	-	-	-	-	-	(324,974,323)	-	-	-	-
Rail-Highway Crossings	-	-	220,000,000	(220,000,000)	-	-	-	-	-	-	-	-
Admin $ Takedown	-	-	-	-	-	-	840,000	-	-	840,000	-	840,000
DBE Training	-	10,000,000	-	-	-	-	-	-	-	10,000,000	-	10,000,000
On-the-Job Training	-	10,000,000	-	-	-	-	-	-	-	10,000,000	-	10,000,000
Total App Programs	17,658,636,814	10,600,000,000	2,611,250,000	-	750,000,000	470,000,000	85,000,000	-	3,828,863,186	36,003,750,000	2,000,000,000	38,003,750,000

Source: Federal Highway Administration.

Figure A-9. Apportionments Under H.R. 7

(Estimated FY2013)

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SUMMARY OF ESTIMATED FY 2013 FEDERAL-AID HIGHWAYS APPORTIONMENTS UNDER THE AMERICAN ENERGY AND INFRASTRUCTURE JOBS ACT OF 2012 (H.R. 7)
(as introduced and referred to the Committee on Transportation and Infrastructure)

State	NHS	STP	HSIP	Rail-Hwy Xing	SIB	ADHS	Recreational Trails	MPO	Equity Bonus	Highway Account Total	CMAQ	Grand Total
Alabama	315,333,174	185,936,832	53,091,146	4,258,648	13,863,734	117,500,000	1,721,218	3,099,129	-	694,803,882	10,000,000	704,803,882
Alaska	119,327,959	51,796,250	11,900,000	1,100,000	4,577,159	-	1,537,718	1,607,197	110,603,704	302,449,987	10,000,000	312,449,987
Arizona	354,425,563	144,423,969	47,763,501	2,149,593	13,669,965	-	2,007,477	6,239,364	91,096,833	661,776,265	43,674,417	705,450,681
Arkansas	244,838,226	134,908,319	38,574,220	3,784,045	10,461,570	-	1,544,383	1,607,197	-	435,717,961	10,000,000	445,717,961
California	1,529,784,328	987,014,477	222,386,251	15,607,100	68,502,875	-	5,899,021	47,926,225	465,051,200	3,342,171,476	436,932,090	3,779,103,566
Colorado	293,999,585	127,609,137	37,251,828	2,744,891	11,475,408	-	1,494,335	5,129,499	33,673,353	513,378,038	39,388,779	552,766,817
Connecticut	149,847,856	230,833,114	19,435,439	2,727,816	10,006,306	-	936,235	4,547,612	-	418,334,378	36,485,655	454,820,033
Delaware	86,252,842	51,796,250	11,900,000	1,100,000	3,750,000	-	852,363	1,607,197	-	157,258,653	10,000,000	167,258,653
Dist. of Col.	86,252,842	51,796,250	11,900,000	1,100,000	3,750,000	-	825,098	1,607,197	-	157,231,388	10,000,000	167,231,388
Florida	745,868,658	405,284,781	121,572,038	7,335,767	31,828,939	-	2,612,987	21,504,957	444,034,263	1,780,042,391	10,000,000	1,790,042,391
Georgia	530,658,227	262,464,813	81,922,568	7,101,715	21,883,567	12,032,000	1,744,067	7,998,628	261,576,774	1,187,382,360	52,567,235	1,239,949,595
Hawaii	86,252,842	51,796,250	11,900,000	1,100,000	3,750,000	-	944,502	1,607,197	-	157,350,791	10,000,000	167,350,791
Idaho	140,499,255	54,501,189	17,608,772	1,620,466	5,317,035	-	1,752,422	1,607,197	16,697,420	239,603,756	10,000,000	249,603,756
Illinois	624,712,083	353,478,171	79,178,033	10,066,399	26,443,182	-	1,487,739	15,545,830	132,524,976	1,243,436,413	84,500,649	1,327,937,062
Indiana	417,779,500	206,795,957	45,997,509	6,917,720	16,770,016	-	1,357,872	5,445,537	142,730,348	843,794,459	34,958,527	878,752,986
Iowa	273,259,984	145,926,222	35,860,108	5,115,714	11,380,020	-	1,369,688	1,779,757	-	474,691,493	10,000,000	484,691,493
Kansas	244,010,226	132,636,959	41,165,538	5,607,633	10,448,864	-	1,371,094	1,928,298	-	437,168,611	10,000,000	447,168,611
Kentucky	316,158,333	155,321,802	39,629,306	3,550,649	12,782,074	39,997,000	1,425,821	2,501,325	24,115,358	595,481,669	11,324,334	606,806,003
Louisiana	280,986,014	266,743,811	42,667,310	5,264,341	14,764,939	-	1,606,350	4,048,096	-	616,080,862	10,000,000	626,080,862
Maine	92,652,529	59,446,330	11,900,000	1,294,087	4,101,363	-	1,355,312	1,607,197	-	172,356,818	10,000,000	182,356,818
Maryland	274,907,540	196,827,618	36,764,881	2,590,757	12,716,817	13,912,000	1,095,760	6,865,096	97,444,030	643,124,498	51,248,982	694,373,480
Massachusetts	250,266,029	277,034,793	29,073,685	3,594,197	13,914,085	-	1,130,311	8,996,457	7,093,443	591,103,000	66,102,368	657,205,368
Michigan	449,222,033	283,299,421	76,731,478	7,024,612	20,238,192	-	2,808,511	10,502,667	153,848,870	1,003,675,785	64,602,236	1,068,278,020
Minnesota	309,035,109	161,612,382	49,170,362	5,334,426	12,999,858	-	2,425,540	4,329,296	55,403,022	600,309,997	26,535,112	626,845,110
Mississippi	253,388,763	127,913,458	40,801,301	3,154,138	10,556,171	5,029,000	1,406,017	1,607,197	-	443,856,044	10,000,000	453,856,044
Missouri	436,537,306	241,753,955	62,235,629	5,391,908	18,519,457	-	1,670,103	4,934,199	53,634,177	824,676,734	18,564,316	843,241,050
Montana	195,465,331	53,271,451	18,917,995	1,689,542	6,693,641	-	1,598,125	1,607,197	33,213,105	312,456,388	10,000,000	322,456,388
Nebraska	186,217,675	87,451,572	24,550,176	3,372,215	7,458,017	-	1,233,922	1,607,197	-	311,890,774	10,000,000	321,890,774
Nevada	149,944,255	54,190,723	17,400,922	1,100,000	5,540,278	-	1,436,208	2,676,219	46,808,134	279,096,738	22,571,617	301,668,355
New Hampshire	86,252,842	51,796,250	11,900,000	1,100,000	3,750,000	-	1,243,335	1,607,197	-	157,649,625	10,000,000	167,649,625
New Jersey	361,043,675	290,540,539	43,656,206	4,321,063	17,386,911	-	1,161,602	12,378,892	234,184,436	964,673,324	86,914,074	1,051,587,398
New Mexico	239,019,807	70,775,418	26,529,251	1,332,942	8,410,966	-	1,423,723	1,607,197	-	349,099,305	10,000,000	359,099,305
New York	613,949,753	696,925,773	79,412,127	9,511,513	34,768,991	9,541,000	2,168,647	24,753,051	-	1,471,030,855	174,575,513	1,645,606,368
North Carolina	442,160,130	264,730,658	63,941,412	5,974,840	19,277,347	33,652,000	1,523,086	6,004,213	180,623,835	1,017,887,522	38,415,745	1,056,303,267
North Dakota	174,984,514	51,796,250	17,778,398	3,298,650	6,116,055	-	1,152,723	1,607,197	-	256,733,788	10,000,000	266,733,788
Ohio	585,530,397	367,130,663	73,619,484	8,579,438	25,665,724	23,171,000	1,623,471	11,672,445	148,670,036	1,245,662,659	77,317,571	1,322,980,230
Oklahoma	316,523,508	188,987,899	54,413,913	5,140,206	14,002,885	-	1,818,009	2,368,621	-	583,255,041	10,000,000	593,255,041
Oregon	240,538,731	164,730,829	32,202,564	3,208,727	10,940,516	-	1,619,082	3,154,873	-	456,395,321	16,827,157	473,222,478
Pennsylvania	580,585,577	587,083,103	77,918,619	9,015,520	31,150,254	114,022,000	1,949,371	13,108,799	-	1,414,833,243	98,926,656	1,513,759,899
Rhode Island	86,252,842	67,359,886	11,900,000	1,100,000	4,139,223	-	857,796	1,607,197	-	173,216,945	10,000,000	183,216,945
South Carolina	284,199,088	158,398,447	55,659,452	3,846,962	12,460,654	-	1,204,718	2,991,546	130,643,525	649,404,393	10,000,000	659,404,393
South Dakota	165,775,342	56,013,092	19,927,708	2,143,122	6,044,955	-	1,181,819	1,607,197	-	252,693,235	10,000,000	262,693,235
Tennessee	395,288,612	187,832,440	54,895,189	4,180,339	15,955,821	25,192,000	1,630,311	4,733,165	88,264,657	777,972,533	17,738,993	795,711,526
Texas	1,517,921,472	690,981,240	199,811,762	15,010,917	60,238,306	-	3,975,714	23,621,524	648,229,936	3,159,790,870	137,911,199	3,297,702,069
Utah	200,594,293	66,030,912	19,831,659	1,261,886	7,163,853	-	1,612,078	2,790,801	-	299,285,483	10,000,000	309,285,483
Vermont	86,252,842	51,796,250	11,900,000	1,100,000	3,750,000	-	1,006,957	1,607,197	-	157,413,247	10,000,000	167,413,247
Virginia	439,973,856	280,743,046	58,843,746	4,494,854	19,495,633	38,963,000	1,501,340	7,524,764	101,820,644	953,360,885	45,829,310	999,190,195
Washington	314,020,655	228,638,404	44,047,568	4,467,753	14,672,645	-	1,806,322	6,871,001	17,478,504	632,002,852	36,287,406	668,290,259
West Virginia	139,532,842	86,544,942	21,931,272	2,084,448	6,202,331	36,989,000	1,326,854	1,607,197	56,523,612	352,742,499	10,000,000	362,742,499
Wisconsin	335,347,774	154,751,449	48,729,674	4,928,440	13,475,296	-	2,246,824	4,538,028	72,753,901	636,771,387	19,800,059	656,571,446
Wyoming	206,935,818	51,796,250	11,900,000	1,100,000	6,768,099	-	1,476,016	1,607,197	-	281,583,381	10,000,000	291,583,381
Total Apportioned	17,250,568,438	10,359,250,000	2,380,000,000	220,000,000	750,000,000	470,000,000	84,160,000	321,439,466	3,848,742,096	35,684,160,000	2,000,000,000	37,684,160,000
Planning % Takedown	200,689,466	120,750,000	-	-	-	-	-	(321,439,466)	-	-	-	-
Rail-Highway Crossings	-	-	220,000,000	(220,000,000)	-	-	-	-	-	-	-	-
Admin $ Takedown	-	-	-	-	-	-	840,000	-	-	840,000	-	840,000
DBE Training	-	10,000,000	-	-	-	-	-	-	-	10,000,000	-	10,000,000
On-the-Job Training	-	10,000,000	-	-	-	-	-	-	-	10,000,000	-	10,000,000
Total Authorized	17,451,257,904	10,500,000,000	2,600,000,000	-	750,000,000	470,000,000	85,000,000	-	3,848,742,096	35,705,000,000	2,000,000,000	37,705,000,000

Source: Federal Highway Administration.

Figure A-10. Funding for Highway Safety Programs Proposed in Senate

Authorizations: Motor Vehicle and Highway Safety Improvement Act of 2011 (Mariah's Act) as Introduced
S. 1449 As Introduced
(Contract Authority From Highway Account of Highway Trust Fund Unless Otherwise Indicated)

DRAFT

		FY 2012	FY 2013	Total	Average	Source	CA or STA	CA Citation
Title I - Highway Safety								
101(a)(1)	Highway Safety Programs (23 USC 402)	243,000,000	243,000,000	486,000,000	243,000,000	HTF-HA	CA	§101(c)
102(g)	Cooperative research an evaluation program for priority highway safety countermeasures (23 402(l))	[2,500,000]	[2,500,000]	[5,000,000]	[2,500,000]			
101(a)(2)	Highway Safety Research and Development (23 USC 403)	130,000,000	139,000,000	269,000,000	134,500,000	HTF-HA	CA	§101(c)
103	Driver Licensing and Fitness to Drive Clearinghouse (23 USC 403(f))	[amount is for 2 years]		[1,280,000]	[640,000]			
101(a)(3)	Combined Occupant Protection Grants (23 USC 405)	44,000,000	44,000,000	88,000,000	44,000,000	HTF-HA	CA	§101(c)
101(a)(4)	State Traffic Safety Information System Improvements (23 USC 408)	44,000,000	44,000,000	88,000,000	44,000,000	HTF-HA	CA	§101(c)
101(a)(5)	Impaired Driving Countermeasures (23 USC 410)	139,000,000	139,000,000	278,000,000	139,000,000	HTF-HA	CA	§101(c)
101(a)(6)	Distracted Driving Grants (23 USC 411)	39,000,000	39,000,000	78,000,000	39,000,000	HTF-HA	CA	§101(c)
101(a)(7)	National Driver Register (49 USC chapter 303)	5,000,000	5,000,000	10,000,000	5,000,000	HTF-HA	CA	§101(c)
101(i)	Development & placement of broadcast media to support enforcement of State distracted driving laws (limiting amount)	[5,000,000]	[5,000,000]	[10,000,000]	[5,000,000]			
101(a)(8)	High Visibility Enforcement Program (§2009 of SAFETEA-LU)	37,000,000	37,000,000	74,000,000	37,000,000	HTF-HA	CA	§101(c)
101(a)(9)	Motorcyclist Safety (§2010 of SAFETEA-LU)	6,000,000	6,000,000	12,000,000	6,000,000	HTF-HA	CA	§101(c)
101(a)(10)	Administrative Expenses of NHTSA for 23 USC chapter 4)	25,581,280	25,862,674	51,443,954	25,721,977	HTF-HA	CA	§101(c)
101(a)(11)	Driver Alcohol Detection System for Safety Research (23 USC 413)	12,000,000	12,000,000	24,000,000	12,000,000	HTF-HA	CA	§101(c)
101(a)(12)	State Graduated Driver Licensing Laws (23 USC 414)	22,000,000	22,000,000	44,000,000	22,000,000	HTF-HA	CA	§101(c)
	Total -- Title IV	**746,581,280**	**755,862,674**	**1,502,443,954**	**751,221,977**			
	Highway Account of the Highway Trust Fund - Contract Authority	*746,581,280*	*755,862,674*	*1,502,443,954*	*751,221,977*			
	General Fund - Subect to Appropriation		-	-	-			
	Rescission	-	-	-	-			
		746,581,280	*755,862,674*	*1,502,443,954*	*751,221,977*			

Source: FHWA, S. 1449.

Figure A-11. Funding for Commercial Vehicle Safety Programs Proposed in Senate

Authorizations: Commercial Motor Vehicle Safety Enhancement Act of 2011 as Introduced

S. 1950 As Introduced

(Contract Authority From Highway Account of Highway Trust Fund Unless Otherwise Indicated)

DRAFT

		FY 2012	FY 2013	Total	Average	Source	CA or STA	CA Citation
Title IV - Compliance, Safety, and Accountability								
606	Compliance, Safety, and Accountability 49 USC 31102	249,717,000	253,814,000	503,531,000	251,765,500	HTF-HA	CA	49 USC 31104(i)(2)
	Administrative expenses under 49 USC 31102) (NTE 1.5% setaside) 49 USC 31104(d)(1)(A)	[computed]	[computed]	[computed]	[computed]			
	Training of non-Government employees development of training materials for §§31102, 31311 & 31313 (limiting amount???) 49 USC 31104(d)(2)	[computed]	[computed]	[computed]	[computed]			
	Motor Carrier Safety Assistance Program (setaside NLT) 49 USC 31102(b)	[168,388,000]	[171,813,000]	[340,201,000]	[170,100,500]			
606	Data and Technology Grants (49 USC 31109)	30,000,000	30,000,000	60,000,000	30,000,000	HTF-HA	CA	49 USC 31104(i)(2)
	Administrative expenses under 49 USC 31109) (NTE 1.4% setaside) 49 USC 31104(d)(1)(B)	[computed]	[computed]	[computed]	[computed]			
303(d)(1)	Development of IT for capture/storage of medical certificates under 49 USC 31311(a)(24) (setaside)	[1,000,000]	[1,000,000]	[2,000,000]	[1,000,000]			
606	Driver Safety Grants (49 USC 3313)	31,000,000	31,000,000	62,000,000	31,000,000	HTF-HA	CA	49 USC 31104(i)(2)
	Administrative expenses under 49 USC 31313) (NTE 1.4% setaside) 49 USC 31104(d)(1)(C)	[computed]	[computed]	[computed]	[computed]			
	Training of non-Government employees development of training materials for §§31102, 31311 & 31313 (limiting amount???) 49 USC 31104(d)(2)	[computed]	[computed]	[computed]	[computed]			
606	Administrative Expenses of FMCSA (§31104(h)(1))	250,819,000	248,523,000	499,342,000	249,671,000	HTF-HA	CA	49 USC 31104(i)(2)
404	Development, design, and implementation of national clearinghouse controlled substance and alcohol test results of commercial motor vehicle operators (§402 of Act)	[5,000,000]	[5,000,000]	[10,000,000]	[5,000,000]			
	Total -- Title IV	**561,536,000**	**563,337,000**	**1,124,873,000**	**562,436,500**			
	Highway Account of the Highway Trust Fund - Contract Authority	*561,536,000*	*563,337,000*	*1,124,873,000*	*562,436,500*			
	General Fund - Subect to Appropriation		-	-	-			
	Rescission	-	-	-	-			
		561,536,000	*563,337,000*	*1,124,873,000*	*562,436,500*			

Source: FHWA, S. 1950.

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