



Tuesday, June 23, 2015

**Senate Leaders Unveil 6-Year, \$278 Billion Highway Bill
EPW Committee to Mark Up “DRIVE Act” Thursday June 24**

This morning, the bipartisan leaders of the Senate Environment and Public Works Committee released the text of the bill that the panel is scheduled to consider this Thursday morning. EPW chairman James Inhofe (R-OK), ranking member Barbara Boxer (D-CA), and Sens. David Vitter (R-LA) and Tom Carper (D-DE) unveiled the “Developing a Reliable and Innovative Vision for the Economy Act” (DRIVE Act) at a Capitol Hill press conference this morning.

The bill would provide \$278 billion in Highway Trust Fund contract authority over six fiscal years (FY 2016-2021). This does not count the funding for the final two months of FY 2015 that would be provided by title VI of the bill (in the unlikely event that the bill is signed into law by the end of the month) but does count the \$100 million per year in contract authority for the emergency relief program that is created every October 1 by 23 U.S.C. §125 whether or not a highway bill is ever enacted.

The total spendable money for the Federal Highway Administration anticipated under the DRIVE Act is \$16 billion more than the Congressional Budget Office inflation-adjusted spending baseline over the 2016-2021 period:

	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>Six-Year</u>
CBO Baseline Ob. Limit	40,256	40,867	41,599	42,453	43,307	44,201	45,096	257,523
Plus Mandatory Oblig.	739	739	739	739	739	739	739	4,434
Total FHWA Oblig.	40,995	41,606	42,338	43,192	44,046	44,940	45,835	261,957
DRIVE Act Oblig. Limit	40,256	43,077	43,997	44,982	46,034	47,158	48,308	273,556
Plus Mandatory Oblig.	739	739	739	739	739	739	739	4,434
Total FHWA Oblig.	40,995	43,816	44,736	45,721	46,773	47,897	49,047	277,990
Senate Bill Over Baseline	0	+2,210	+2,398	+2,529	+2,727	+2,957	+3,212	+16,033

Before rejoicing over the increased highway spending levels, transportation advocates should remember that figuring out how to spend \$278 billion is the (comparatively) easy part. The hard part is figuring out how to pay for all

that spending. This will be the job of the Senate Finance Committee in the coming weeks.

If the Commerce Committee’s contract authority levels for their NHTSA and FMCSA titles of the eventual bill adhere to the CBO inflation-adjusted baseline, then the EPW bill will add \$11 billion to the required amount of bailouts from the general fund (or new tax increases) to keep the Highway Account of the HTF solvent through September 2021:

Fed. Highway Admin. Outlays	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>Six-Year</u>
CBO Baseline	41,852	42,548	43,089	43,566	44,143	44,667	45,376	263,389
DRIVE Act	41,852	43,100	44,594	45,513	46,332	47,112	48,067	274,719
Senate Bill Over Baseline	0	+552	+1,505	+1,947	+2,189	+2,445	+2,691	+11,330

Under the baseline, the Highway Account needs another \$69 billion in bailouts or revenues to get through 2021. The DRIVE Act would increase that needed amount to \$80 billion. (This does not begin to address the problems of the bailouts needed by the Mass Transit Account, which Finance must also address.)

In the event that Finance provides an amount of money that is less than is needed to fully fund the six-year DRIVE Act and its other not-yet-unveiled component pieces, the EPW leaders will have to reduce annual funding or else cut years off the end of the bill (or some combination of both) before the legislation can get to the Senate floor.

Interestingly, while the DRIVE Act’s spending is \$16.0 billion above baseline, \$15.8 billion of that is funding for the two new programs (the National Freight Program and the Assistance for Major Projects program).

Formula funding. The DRIVE Act increases funding for the NHPP, STP and CMAQ formula programs by about 12 to 14 percent each over the life of the bill (FY 2021 as an increase over FY 2015). But overall formula funding increases by 20 percent over the life of the bill because the bill creates a new formula funding program for freight. The National Freight Program would start at \$2.0 billion in 2016 and rise to \$2.5 billion in 2021. Each state would have freight program money taken “off the top” of their annual lump sum formula apportionment (like CMAQ and Metro Planning). States would receive shares of the \$2 to \$2.5 billion freight program equal to their shares of overall formula funding, but their ability to use the money on specific kinds of segments of the national freight transportation network would depend on how much of the total mileage of the national freight network lies within that state.

The new freight program (in section 1014 of the DRIVE Act) bears a lot of similarities to the program established in 2012 by MAP-21 but adds

designations for critical urban freight corridors and reboots the timeframes for the continual redesignations of the network. However, because the MAP-21 freight program did not have any money attached, the new program contains precise definitions of what kinds of projects are eligible for funding under the program and uses the threat of a cutoff of funding to force states to establish their freight advisory committees and establish their freight plans.

There are no major changes in the other existing MAP-21 formula programs. However, funding amounts for transportation alternatives are changed. Under MAP-21, the TA program receives 2.0 percent of total FHWA contract authority each year (in FY 2014 and an extended 2015, \$40.995 billion times .02 equaled \$819.9 million for TA). Under the DRIVE Act, the 2 percent target is ditched in favor of a flat \$850 million per year. This is an increase in the short term – but if TA stays at 2 percent of total FHWA funding, and the DRIVE Act is fully funded, then 2 percent of the FY 2021 \$49.047 billion would be \$980.9 million instead of \$850 million.

Allocated programs. The big new allocated program in the DRIVE Act is section 1015's "Assistance for Major Projects" (AMP). The bill provides between \$300 and \$450 million per year in contract authority for a discretionary program for surface transportation grants that bears some similarity to the TIGER program – but there are key differences. AMP selection authority is given to the Federal Highway Administrator, not the Secretary of Transportation. Because the program is housed within FHWA and paid for out of the Highway Account, the amount of non-highway grants are limited to no more than 20 percent of any year's program. And the stated purpose of AMP is to give extra federal funding to critical high-cost projects that are difficult to complete with existing funds and which generate specific benefits.

The bill cuts new TIFIA funding from \$1.0 billion per year down to \$675 million per year (acknowledging that lack of eligible projects due to program requirements, not lack of federal money, was the constraint). The bill attempts to broaden eligibility by removing the requirement for projects to have an investment-grade credit rating and also creates a "rural projects fund" to use TIFIA funding to capitalize State Infrastructure Banks.

Tolling. Acknowledging that even the higher spending levels envisioned by the bill will fall short of the amount needed to rebuild and expand capacity on the Interstate system, section 1019 of the DRIVE Act would allow unlimited tolling of new Interstate lane construction and would strike existing limitations on HOV conversion to HOT lanes. Section 1021 would also further expand the TEA21 Interstate toll pilot program by basically forcing DOT to approve most applicants and also forcing states to move quickly to toll lanes

once an application has been filed. And section 1209 of the bill sets up a marketplace where states can buy and sell toll credits.

Everything else. The remainder of the 270-page bill can best be described as “evolutionary, not revolutionary” – fine-tuning existing programs in response to state and stakeholder input without rocking the boat. While there are other new programs created, the big ones are dependent on future general fund appropriations (which probably won’t materialize unless significant increases are made in the Budget Control Act spending caps). There are additional environmental streamlining provisions in subtitle I-B that attempt to address stakeholders concerns on the lengthy EIS process, and takes positive steps, particularly directing DOT to create a website on their process to increase transparency and create a warehouse for information, in addition to directing DOT to provide a written response on the environmental review process within 45 days. And subtitle II-C contains a variety of provisions designed to make the operations of the highway program, and the Highway Trust Fund more transparent and efficient.

A table of funding authorizations in the draft bill is on page 5 of this *ETW Express* and a chart showing how the bill changes the apportionment of formula funding is on page 6. Then an eight-page section-by-section summary of the draft bill prepared by Eno staff starts on page 7.

FUNDING AUTHORIZATIONS UNDER THE SENATE "DRIVE ACT" AS INTRODUCED

Millions of dollars, by federal fiscal year.

Bill Section	Program	Auth. Type	Pro-Rated	Authorized Under the DRIVE Act-----						Six-year
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	
1001(a)(1)	Federal-aid Highway Program	HTF CA	37,798.0	40,579.5	41,421.3	42,327.1	43,300.4	44,394.7	45,515.9	257,538.9
	<i>Nat'l Highway Performance Progr.</i>		21,908.2	22,812.6	23,261.1	23,748.4	24,276.4	24,877.6	24,495.1	143,471.2
	<i>Surface Transportation Program</i>		10,077.1	10,177.9	10,378.0	10,595.4	10,831.0	11,099.3	11,374.7	64,456.4
	<i>Highway Safety Improvement Prog.</i>		2,192.4	1,855.8	1,927.2	1,972.2	2,020.9	2,076.4	2,133.4	11,985.8
	<i>Railway-Highway Crossings</i>		220.0	220.0	220.0	220.0	220.0	220.0	220.0	1,320.0
	<i>Congestion Mitigation & Air Qual.</i>		2,266.9	2,313.3	2,358.7	2,408.1	2,461.6	2,522.5	2,585.1	14,649.2
	<i>Metropolitan Planning</i>		313.6	336.9	344.1	351.7	360.0	369.3	378.8	2,140.7
	<i>National Freight Program</i>		0.0	1,983.0	2,082.2	2,181.3	2,280.5	2,379.7	2,478.8	13,385.5
	<i>Transportation Alternatives Prog.</i>		819.9	850.0	850.0	850.0	850.0	850.0	850.0	5,100.0
1001(a)(2)	TIFIA Program	HTF CA	1,000.0	675.0	675.0	675.0	675.0	675.0	675.0	4,050.0
1001(a)(3)(A)	Tribal Transportation Program	HTF CA	450.0	460.0	470.0	480.0	490.0	500.0	510.0	2,910.0
1001(a)(3)(B)	Federal Lands Transpo. Program	HTF CA	300.0	305.0	310.0	315.0	320.0	325.0	330.0	1,905.0
	<i>FLTP Set-aside: Park Service</i>			240.0	240.0	240.0	240.0	240.0	240.0	1,440.0
	<i>FLTP Set-aside: Fish & Wildl. Svc.</i>			30.0	30.0	30.0	30.0	30.0	30.0	180.0
1001(a)(3)(C)	Fed. Lands Access Program	HTF CA	250.0	255.0	260.0	265.0	270.0	275.0	280.0	1,605.0
1001(a)(4)	Territories & Puerto Rico	HTF CA	190.0	190.0	190.0	190.0	190.0	190.0	190.0	1,140.0
	<i>23USC§165 Set-aside: Puerto Rico</i>		150.0	150.0	150.0	150.0	150.0	150.0	150.0	900.0
	<i>23USC§165 Set-aside: Territories</i>		40.0	40.0	40.0	40.0	40.0	40.0	40.0	240.0
1001(a)(5)	Assistance for Major Projects	HTF CA	0.0	300.0	350.0	400.0	450.0	450.0	450.0	2,400.0
1001(b)(1)(A)	Highway R&D Program	HTF CA	115.0	135.0	135.0	135.0	135.0	135.0	135.0	810.0
1001(b)(1)(B)	Tech. & Innov. Deployment	HTF CA	62.5	62.5	62.5	62.5	62.5	62.5	62.5	375.0
1001(b)(1)(C)	Training and Education	HTF CA	24.0	24.0	24.0	24.0	24.0	24.0	24.0	144.0
1001(b)(1)(D)	Intelligent Transpo. Systems	HTF CA	100.0	100.0	100.0	100.0	100.0	100.0	100.0	600.0
1001(b)(1)(E)	University Transpo. Centers	HTF CA	72.5	72.5	72.5	72.5	72.5	72.5	72.5	435.0
1001(b)(2)(F)	Bureau of Transpo. Statistics	HTF CA	26.0	26.0	26.0	26.0	26.0	26.0	26.0	156.0
1003(a)(1)	FHWA Admin. Expenses	HTF CA	440.0	456.0	465.0	474.0	483.0	492.0	501.0	2,871.0
	<i>1007 Tax Evasion Set-Aside</i>		10.0	4.0	4.0	4.0	4.0	4.0	4.0	24.0
	<i>1017 SAFETEA-LU Allocated Safety</i>		3.0	3.0	3.0	3.0	3.0	3.0	3.0	18.0
	<i>23USC§140 On-the-job training</i>		10.0	10.0	10.0	10.0	10.0	10.0	10.0	60.0
	<i>23USC§140 DBE training</i>		10.0	10.0	10.0	10.0	10.0	10.0	10.0	60.0
1010	Ferry Boats and Facilities	HTF CA	67.0	75.0	75.0	75.0	75.0	75.0	75.0	450.0
1027	Fed./Tribal Nat. Signif. Projects	GF Auth.	0.0	150.0	150.0	150.0	150.0	150.0	150.0	900.0
1210	Regional Infra. Accelerator Demo	GF Auth.	0.0	12.0	0.0	0.0	0.0	0.0	0.0	12.0
2203	Perform. & Innov. Grants	GF Auth.	0.0	150.0	150.0	150.0	150.0	150.0	150.0	900.0
Total FHWA CONTRACT AUTHORITY (EXCLUDING E.R.)			40,895.0	43,715.5	44,636.3	45,621.1	46,673.4	47,796.7	48,946.9	277,389.9
1002(a)	FAHP Obligation Limitation		40,256.0	43,076.5	43,997.3	44,982.1	46,034.4	47,157.7	48,307.9	273,555.9
	CBO Baseline Oblig. Limitation		40,256.0	40,867.0	41,599.0	42,453.0	43,307.0	44,201.0	45,096.0	257,523.0
	DRIVE Act Over Baseline		0.0	+2,209.5	+2,398.3	+2,529.1	+2,727.4	+2,956.7	+3,211.9	+16,032.9

The \$258 Billion Question: How Will Federal-Aid Highway Program (FAHP) Formula Contract Authority Be Divided Between States and Amongst Programs Under the DRIVE Act?		
Per 23 U.S.C. §104 and section 1103 of the DRIVE Act		
	Current Law (MAP-21)	Proposed Bill (DRIVE Act)
What is the annual total FAHP contract authority amount?	FY 2013 - \$37,476,819,674 FY 2014 - \$37,798,000,000	FY 2016 - \$40,579,500,000 FY 2017 - \$41,121,300,000 FY 2018 - \$42,327,100,000 FY 2019 - \$43,300,400,000 FY 2020 - \$44,394,700,000 FY 2021 - \$45,515,900,000
How much is each State's share of total FAHP contract authority each year?	Each year the national FAHP contract authority total is multiplied by each state's share of total formula apportionments in FY 2012.	Each year the national FAHP contract authority total is multiplied by each state's share of total formula apportionments in FY 2014.
Donor state adjustment?	Then all state apportionments are adjusted, if necessary, to ensure that each state is apportioned at least 95 percent of the dollars it contributed to the HTF Highway Account in the most recent year for which data is available.	No change from MAP-21.
Transportation alternatives taken "off the top" of the national total?	An amount of FAHP contract authority equal to 2 percent of that year's total FHWA C.A. is set aside for transportation alternatives in 23 U.S.C, §213, with each state's share of the 2 percent based on its share of total transportation enhancement funding in FY 2009.	A fixed amount (\$850 million) is taken off the top of each year's total FAHP contract authority amount for TA under §213. Each state's share of the \$850 million is the same as the state's share of the TA program under MAP-21.
First item taken "off the top" of each state's total?	FHWA determines how much of each state's FY 2009 formula money went to CMAQ funding and then multiplies that percentage times the state's remaining apportionment total.	No change.
Second item taken "off the top" of each state's total?	Nothing.	FHWA then multiplies each state's share of that year's total apportionments and multiplies it times the amount of the annual National Freight Program authorization (ranging from \$2.0 to \$2.5 billion) and sets that money aside in the state's annual apportionment.
Metropolitan Planning takedown?	FHWA determines how much of each state's FY 2009 formula money went to MP and then multiplies that percentage times the state's apportionment total. This has the effect of slightly reducing the earlier CMAQ and NFP calculations.	No change except for the addition of the National Freight Program to the list of items to which the MP takedown applies.
NHPP State Total	63.7 percent of a state's remainder after TA, CMAQ and MP set-asides/takedowns.	65.0 percent of a state's remainder after TA, CMAQ, MP and NFP set-asides/takedowns.
STP State Total	29.3 percent of a state's remainder after TA, CMAQ and MP set-asides/takedowns.	29.0 percent of a state's remainder after the CMAQ, MP and NFP set-asides/takedowns.
HSIP State Total	7.0 percent of a state's remainder after TA, CMAQ and MP set-asides/takedowns.	6.0 percent of a state's remainder after the CMAQ, MP and NFP set-asides/takedowns.

SECTION-BY-SECTION SUMMARY OF S. ____, “DRIVE ACT”**TITLE I – FEDERAL-AID HIGHWAYS****Subtitle A – Authorizations and Programs**

Sec. 1001. Authorization of appropriations. Authorizes appropriations from the Highway Trust Fund (see table). Clarifies that such authorizations are contract authority and are subject to DBE set-asides as under prior authorization acts

Sec. 1002. Obligation ceiling. Sets annual obligation limitations on federal-aid highway contract authority as in previous authorization acts. (See table.)

Sec. 1003. Apportionment. Authorizes new contract authority for FHWA administrative expenses (see table). Amends 23 U.S.C. §104 to direct that a new National Freight Program be taken “off the top” of each state’s formula apportionment along with CMAQ and Metro Planning. Sets the annual Transportation Alternatives set-aside at a flat \$850 million per year instead of 2 percent of total FHWA contract authority. (See chart for further information.)

Sec. 1004. Surface transportation program. Makes emergency evacuation planning STP-eligible. Amends 23 U.S.C. §133(d) to increase the portion of STP that is to be suballocated on the basis of population from 50 percent to 55 percent. Rewrites 23 U.S.C. §133(g) to clarify that an “off-system” bridge is one on a public road other than the NHS and increasing the set-aside from MAP-21’s 15 percent of the FY 2009 bridge apportionment to the greater of 15 percent of total STP apportionments or 110 percent of the FY 2014 off-system bridge set-aside. Amends the existing 23 U.S.C. §133(g)(3) to make it the new §133(h) and to give states credit for any projects, not just bridge projects.

Sec. 1005. Metropolitan transportation planning. Amends 23 U.S.C. 134(c) to allow intermodal facilities that support intercity transportation to be included in a metro TIP. Adds a new paragraph to 134(d) allowing public transportation executives to serve as local municipality representatives on a MPO. Encourages MPOs to work with other planning entities and governments on natural disaster risk reduction. Requires intercity bus facilities (if any) to be included on transportation plans. Repeals 134(n) (additional requirements for certain nonattainment areas).

Sec. 1006. Statewide and nonmetropolitan transportation planning. Amends 23 U.S.C. 135 to make the same conforming changes relating to resiliency, natural disaster preparation and intercity bus facilities as contained in sec. 1005 of the bill.

Sec. 1007. Highway use tax evasion projects. Sets aside \$4 million per year of FHWA administrative expenses contract authority for HUTE projects under 23 U.S.C. 143(b).

Sec. 1008. Bundling of bridge projects. Amends 23 U.S.C. §144(c) to extend the blanket General Bridge Act waivers to bridges not susceptible to use due to the natural condition of the water (not the bridge). Adds a new §144(j) allowing states or other eligible entities to bundle, for planning purposes, two or more bridge projects eligible under §119 or §133 into one project with one contractor.

Sec. 1009. Flexibility for certain rural road and bridge projects. Allows DOT to use all flexibility and exceptions to title 23 and other regulations administered by DOT with respect to projects located in counties with a population of less than 20 persons per square mile of land area or the county with the lowest population density in its state and which are in the right-of-way of an existing road or bridge and which receives less than \$5 million in federal funding on a total project cost of less than \$30 million.

Sec. 1010. Construction of ferry boats and ferry terminal facilities. Amends 23 U.S.C. §147(d) to change the ferry program apportionment formula. The current formula is 20 percent passengers, 45 percent vehicles carried, and 35 percent route miles. The new formula is 35 percent passengers (including passengers in vehicles), 35 percent vehicles carried, and 30 percent route nautical miles. Adds a new §147(e) providing for a redistribution of unobligated amounts and a new (f) with a \$100 thousand minimum

apportionment for any state with any ferry at all. Adds a new (g) to implement data collection and increases the authorization from \$67 million per year to \$75 million per year. Amends the ferry toll provisions of 23 U.S.C. §129(c).

Sec. 1011. Highway safety improvement program. Amends 23 U.S.C. §148(a)(4)(B) to restrict HSIP eligibility to projects that only include the list of items, and adds to the list installation of vehicle-to-infrastructure communications equipment, pedestrian hybrid beacons, roadway improvements to provide separation between pedestrians and motor vehicles, and infrastructure safety projects not described in the list. Strikes (a)(10). Amends the high-risk rural road provision in §148(g)(1) to reverse the trigger from the positive “increases” to the double negative “does not decrease.”

Sec. 1012. Data collection on unpaved public roads. Adds a new 23 U.S.C. §148(k) allowing states to opt out of collecting data elements for the model inventory of public roads if more than 45 percent of their roads are gravel or unpaved and less than 10 percent of the fatalities occur on those roads (or a 75%/25% ratio instead of 45%/10%).

Sec. 1013. Congestion mitigation and air quality improvement program. Amends 23 U.S.C. §149 to localize projects (in §149(b)(1)(A)(i) to require the project to change air quality in the designated nonattainment area and making other similar changes). Makes “port-related freight operations” and mass transit project funding eligible under §149(b)(8)(A)(ii). Amends §149(g)(3) to require such programs be proven to reduce “directly emitted” PM_{2.5} and directs such funding be used on the most cost-effective projects and programs. Adds a PM_{2.5} nonattainment and maintenance exception for states with a population of 75 or fewer persons per square mile based on the most recent Census (21 states) under certain conditions.

Sec. 1014. National freight program. Rewrites 23 U.S.C. §167 establishing a national freight program. Lists goals for the program. Directs DOT to establish a national highway freight network to consist of the primary highway freight system, critical rural freight corridors, critical urban freight corridors, and any part of the Interstate system not designated as part of the primary highway freight system. Provides that the initially designated network shall be the one designated pursuant to §167(d) as in effect on the day before enactment of the DRIVE Act plus all NHS freight intermodal connectors. Requires DOT to re-designate the primary highway freight network every five years pursuant to factors listed in this section. The first redesignation shall limit the system to 30,000 centerline miles and each subsequent redesignation can increase the amount by up to 5 percent. After each redesignation, a state freight advisory committee can increase the number of designated miles in that state by up to 10 percent if the additional miles close gaps or establish connections or designate emerging routes. Establishes specific criteria for designation of critical rural and critical urban freight corridors. Requires DOT to develop and make public a new national freight strategic plan within 3 years of enactment. Adds a new §167(k) to provide that a state shall use its apportioned NFP funds to improve the movement of freight on the national highway freight network and requires the Secretary to calculate for each state the proportion that total national freight network mileage in the state bears to the total network miles. Any state with 3 percent or more of the total national freight network miles can use its NFP apportionment on the primary system, critical urban corridors, or critical rural corridors. States with less than 3 percent of the total network can use its apportionment for projects on any component of the national network. Eligible projects must contribute to the efficient movement of freight on the national network and be consistent with the state freight plan. Shuts off freight apportionments to any state after two years if the state has not established its freight advisory committee and developed its freight plan. Allows states to obligate up to 10 percent of their NFP money within the boundaries of public and private freight rail, water facilities, and intermodal facilities. Establishes a list of 22 eligible project activities under the NFP. Requires that fail to meet performance targets have to submit biennial improvement plans to DOT. Defines “intelligent freight transportation system.”

Sec. 1015. Assistance for major projects program. Adds a new 23 U.S.C. §171 to establish a new program (funded with \$300 million in contract authority in FY 2016, rising to \$450 million in FY 2021) to give extra federal funding to critical high-cost projects that are difficult to complete with existing funds and which generate benefits from a list of seven options. Projects must be title 23 or 49 eligible and must have total project costs that are the lesser of \$350 million but which must exceed 30 percent of the host state's total annual apportionment (10 percent for a rural state). (For multi-state projects the threshold is 75 percent of the largest state's apportionment.) FHWA (not DOT) shall conduct a transparent and competitive national solicitation process. The section gives several specific criteria FHWA must use in evaluating and selecting projects, and projects selected must meet geographic balance and rural/urban balance criteria (20 percent of each year's money is set aside for projects in rural areas). All grants for projects in non-rural areas must be at least \$50 million. Mass transit, rail and other intermodal projects cannot exceed 20 percent of each year's total funding, and no more than 20 percent of each year's funding can go to projects in any one state. Requires periodic reports to Congress on the program and GAO assessments thereof.

Sec. 1016. Transportation alternatives. Amends 23 U.S.C. §213 to make it consistent with the new apportionment process in §104 (a \$850 million per year TA set-aside instead of 2 percent of total FHWA funding). Clarifies that nothing in §213 prevents MPOs from further suballocating TA money within the MPO if done on a competitive basis.

Sec. 1017. Consolidation of programs. Continues sec. 1519(a) of MAP-21's preservation of two small allocated SAFETEA-LU programs totaling \$3 million per year to be paid out of FHWA administrative expenses.

Sec. 1018. State flexibility for National Highway System modifications. Requires DOT to help states review the classification of roads added to the NHS in October 2012 and to take any action necessary to ensure states can petition DOT to request a road be withdrawn from the NHS.

Sec. 1019. Toll roads, bridges, tunnels, and ferries. Amends 23 U.S.C. §129(a) by allowing tolling of new Interstate lane construction and withdrawing HOV lanes from the toll-free calculation in (a)(1)(B) and by striking (a)(4) limitations on HOV conversion and (a)(6) limitation on federal share. Requires that private buses serving the public shall be given equal access to toll facilities on the same terms as public buses.

Sec. 1020. HOV facilities. Amends 23 U.S.C. §166 to rewrite §166(b)(4) to allow states to designate classes of vehicles exempt from tolls and charge different toll rates to different classes of vehicle. Permanently extends the low-emission and energy-efficient language in (b)(5)(b).

Sec. 1021. Interstate system reconstruction and rehabilitation pilot program. Amends the Interstate toll pilot in section 1216(b) of TEA21 by striking paragraph (4) (which only permitted DOT to approve applications if there were basically no other options) and (6) preventing Interstate Maintenance funds from being used on a tolled facility. Adds new requirements forcing DOT to make timely responses to applications under the program and work with applicants to complete their applications. Requires states with approved projects to solicit contracts within one year and execute contracts within two years. Prohibits the use of NHPP funds for a facility that is being tolled unless used for a maintenance purpose. Allows a state to withdraw from the program at any time.

Sec. 1022. Emergency relief for federally owned roads. Allow emergency relief debris removal on tribal or federally owned roads. Adds a new definition of "open to public travel" for purposes of emergency relief under §125(e).

Sec. 1023. Bridges requiring closure or load restrictions. Amends 23 U.S.C. §144(h) to provide that DOT shall take emergency jurisdiction over bridges on federal lands or Indian reservations that are no longer adequate to support certain loads.

Sec. 1024. National electric vehicle charging and natural gas fueling corridors.

Adds a new 23 U.S.C. §151 requiring that DOT, within one year of enactment, DOT shall, in consultation with stakeholder groups, designate national electric car vehicle charging and natural gas fueling corridors from a list of nominees suggested by state and local officials.

Sec. 1025. Asset management. Amends several provisions of title 23 to redefine the condition of certain bridges, currently known as “structurally deficient,” and replace it with “being in poor condition.”

Sec. 1026. Tribal transportation program amendment. Amends 23 U.S.C. §202 to lower the administrative set-aside in the tribal transportation program from 6 percent to 5 percent and increase the bridge set-aside from 2 percent to 3 percent.

Sec. 1027. Nationally significant federal lands and tribal projects program. Directs DOT to establish a new discretionary program to construct, reconstruct or rehabilitate nationally significant federal lands and tribal transportation projects. Authorizes the appropriation of \$150 million per year from the general fund for the program.

Sec. 1028. Federal lands programmatic activities. Makes conforming changes to 23 U.S.C. §201 to synchronize data collection and research activities on federal and tribal lands with other programs.

Sec. 1029. Federal lands transportation program. Amends 23 U.S.C. §203 to allow transit capital spending and to allow DOT to plan with the Bureau of Reclamation.

Subtitle B – Acceleration of Project Delivery

Sec. 1101. Categorical exclusion for projects of limited federal assistance. Amends sec. 1317 of MAP-21 to inflate the \$5 million and \$30 million figures per the Consumer Price Index for All Urban Consumers.

Sec. 1102. Programmatic agreement template. Amends sec. 1318 of MAP-21 to require DOT to develop a “template programmatic agreement... that provides for efficient and adequate procedures for evaluating Federal actions” related to FHWA categorical exclusions.

Sec. 1103. Agency coordination. Amends 23 U.S.C 139(c)(6) to require agencies “participating in the collaborative environmental review process.... [to] provide comments, responses, studies, or methodologies on those areas within [the agency’s] special expertise.”

Sec. 1104. Initiation of environmental review process. Amends 23 U.S.C 139 to require DOT to provide project sponsors with a written response within 45 to either initiate or decline the environmental review process. Project sponsors may also request to designate a lead agency. The designated lead agency will be directed to “reduce duplication, to the maximum extent possible, between” NEPA and “the evaluation of alternatives in the metropolitan planning process.”

Sec. 1105. Improving collaboration for accelerated decision making. Amends 23 U.S.C. 139 (g)(1)(B)(i) to direct the lead agency to render a decision on environmental impact statement or an environmental impact statement within 30 as described in the project schedule in subsection (g)(1)(B). If a schedule does not exist, the lead agency has 180 days.

Sec. 1106. Accelerated decisionmaking in environmental reviews. Amends 23 U.S.C 139 to direct lead agencies who modify a final environmental impact statement in a minor way to “write on errata sheets attached to the statement instead of rewriting the draft statement.”

Sec. 1107. Improving transparency in environmental reviews. Amends 23 U.S.C 139 to direct DOT to create an online platform to “issue reporting standards to make publicly available the status of reviews, approvals, and permits required for compliance with NEPA.”

Sec. 1108. Integration of planning and environmental review. Amends 23 U.S.C. 168 to be retitled “Integration of planning and environmental review.” Allows the federal lead agency to adopt and use a new planning product in proceedings relating to any class of action in the environmental review process of a project.

Sec. 1109. Use of programmatic mitigation plans. Amends 23 U.S.C. 169(f) (programmatic mitigation plans) to strike “may use” and insert “shall consider” the recommendations of programmatic mitigation plans, and concludes with inserting “or other federal environmental law” before the period at the end.

Sec. 1110. Adoption of departmental environmental documents. Amends 23 U.S.C. by inserting (after sec. 306) sec. 307 “Adoption of Departmental environmental documents.” This section allows “an operating administration or secretarial office within the Department [to] adopt any draft environmental impact statement, final environmental impact statement, environmental assessment, or any other document issued under NEPA.”

Sec. 1111. Technical assistance for states. Amends 23 U.S.C. 326 to require DOT to give technical assistance to states in preparing MOUs.

Sec. 1112. Surface transportation project delivery program. Amends 23 U.S.C. 327(j) to allow DOT to terminate the participation of any state in the program if the state is underperforming its responsibilities.

Sec. 1113. Categorical exclusions for multimodal projects. Amends 23 U.S.C. 139(a) by defining a multimodal project as one “that requires approval by more than one DOT operating administration or secretarial office.” It also amends 49 U.S.C. 304 to define a lead authority as a DOT operating administration or secretarial office that has the lead responsibility for compliance with NEPA.

Sec. 1114. Modernization of the environmental review process. Directs DOT within 180 days of enactment to “modernize, simplify, and improve the implementation of NEPA.”

Sec. 1115. Service club, charitable association, or religious service signs. Allows a state to use federal dollars for “the maintenance of a sign of a service club, charitable association, or religious service that was erected as of the date of the enactment of this Act.”

Sec. 1116. Satisfaction of requirements for certain historic sites. Amends 23 U.S.C. 138 by directing DOT to ensure that historic sites are consistent with NEPA. Also amends 49 U.S.C. 49 to also ensure that historic sites are consistent with NEPA.

Sec. 1117. Bridge exemption from consideration under certain provisions. Amends 23 U.S.C. 138 to exempt “a common post-1945 concrete or steel bridge or culvert that is exempt from individual review under section 306108 or title 54 U.S.C” to be exempt under this section.

Sec. 1118. Elimination of barriers to improve at-risk bridges. Temporarily allows nesting swallows to be removed on eligible bridges for construction.

Sec. 1119. At-risk project preagreement authority. Allows DOT to reimburse preliminary engineering acts that are located in nonattainment areas.

Subtitle C – Miscellaneous

Sec. 1201. Credits for untaxed transportation fuels. Allows states to increase the federal share of a project by up to 5 percent if the state covers at least 5 percent of the project cost with “qualified revenues” from fees on the registration of vehicles that operate solely on a fuel that is not subject to federal fuel tax. Requires DOT to submit a report by 2023 describing the most efficient and equitable means of taxing motor vehicles that are not subject to federal fuel tax.

Sec. 1202. Justification reports for access points on the Interstate system. Adds “including new or modified freeway-to-crossroad interchanges” to 23 U.S.C. §111(e).

Sec. 1203. Exemptions. Amends 23 U.S.C. §127 to add a truck weight exemption for natural gas-fueled vehicles up to 82,000 pounds (but only for the extra weight of the natural gas tank and fueling system). Adds a truck weight exemption for emergency vehicles of up to 86,000 pounds. Adds size and weight exemptions for a segment of U.S. route 63 in Arkansas if added to the Interstate system.

Sec. 1204. High priority corridors on the National Highway System. Amends section 1105 of ISTEA to add several corridors to the list of high priority NHS corridors.

Sec. 1205. Repeat intoxicated driver law. Clarifies that states can use a single law or a combination of laws to qualify under 23 U.S.C. §164(a).

Sec. 1206. Vehicle-to-infrastructure equipment. Amends 23 U.S.C. §119(d) and §133(b) to allow the installation of vehicle-to-infrastructure communication equipment eligible for NHPP and STP funding.

Sec. 1207. Designated projects. Provides that any Congressional earmarks administered by FHWA that are more than 10 years old and which can have had less than 10 percent of their money obligated to date can be used for any STP-eligible purpose within 50 miles of the original earmark designation (so long as it is within the state or territorial lines of the original earmark).

Sec. 1208. Relinquishment. Allows states to relinquish park-and-ride facilities to local government for highway purposes.

Sec. 1209. Transfer and sale of toll credits. Directs DOT to establish a pilot program to implement a toll credit marketplace so up to 10 states can buy and sell credits toll credits issued pursuant to 23 U.S.C. 120(i).

Sec. 1210. Regional infrastructure accelerator demonstration program. Requires DOT to establish a program to assist entities in accelerating TIFIA-eligible projects. Authorizes the establishment of regional accelerators and authorizes the appropriation of \$12 million from the general fund to support the program.

TITLE II – TRANSPORTATION INNOVATION

Subtitle A – Research

Sec. 2001. Research, technology and education. Amends Section 503(b)(3) of title 23 of United States Code. Adds accelerated mobile, highway- speed, bridge inspection methods that provide quantitative data-driven decision-making capabilities without requiring lane closures to Highway Research and Development Program. Stipulates that Technology and Innovation Deployment Program use not less than 50% of authorized funds to make grants to carry out demonstration programs that will accelerate the deployment and adoption of transportation research activities. Secretary of Transportation must use transparent application and selection process in selecting these programs.

Sec. 2002. Intelligent transportation systems. Authorizes Secretary to establish a competitive national grant program to accelerate the deployment, operation, systems management, intermodal integration, and interoperability of the ITS program and ITS-enabled operational strategies (System Operations and ITS Deployment Grant Program). Allocates \$30,000,000 annually for said program. Adds emergency/natural disaster response and freight system enhancement as ITS goals by amending Section 514(a) of title 23, United States Code. Changes ITS Advisory Committee Report date from February 1 of each year to May 1.

Sec. 2003. Future Interstate study. Stipulates that within 180 days of DRIVE Act being enacted, the Secretary enters into an agreement with the Transportation Research Board of the National Academies to conduct a study on the actions needed to upgrade and restore the Dwight D. Eisenhower National System of Interstate and Defense Highways to its role as a premier system network that meets the needs of today and the next 50 years. Report must be submitted within 3 years from date of enactment. Authorizes funds up to \$5,000,000 for FY 2016 from the Highway Research and Development Program for this research.

Sec. 2004. Researching surface transportation system funding alternatives. Authorizes Secretary to research user-based alternative revenue mechanisms that preserve a user fee structure to maintain the long-term solvency of the Highway Trust Fund. Authorizes Secretary to provide grants to states, groups of states, and other appropriate entities to conduct said research. Stipulates that Secretary, along with Secretary of the Treasury, establish and lead a Surface Transportation Revenue Alternatives Advisory Council no later than 1 year after date of enactment. This Council will define functionality of at least 2 user-based alternatives, identify relevant issues, conduct public outreach, evaluate

research, and provide recommendations to the Secretary. Secretary must submit a biennial report to the Secretary of the Treasury, the Committee on Finance and the Committee on Environment and Public Works of the Senate, and the Committee on Ways and Means and the Committee on Transportation and Infrastructure of the House of Representatives, as well as a final report upon the completion of research activities. Authorizes funds of \$15,000,000 for FY 2016 and \$20,000,000 every year after through 2021.

Subtitle B – Data

Sec. 2101. Tribal data collection. Amends Section 201(c)(6) of title 23, United States Code, to add additional data submissions to the Secretary and the Secretary of the Interior from any entity carrying out a project under the tribal transportation program under section 202.

Sec. 2102. Performance management data support program. The Administrator of the Federal Highway Administration shall develop, use, and maintain data sets and data analysis tools to assist metropolitan planning organizations, States, and the Federal Highway Administration in carrying out performance management analyses (including the performance management requirements under section 150 of title 23, United States Code). Allocates an annual amount of \$10,000,000 for FY 2016-2021 to Administrator from the Highway Research and Development Program to carry out this section.

Subtitle C – Transparency and Best Practices

Sec. 2201. Every Day Counts Initiative. Authorizes Administrator of FHWA to continue Every Day Counts initiative to work with states, local transportation agencies, and interested stakeholders to identify and deploy innovative practices and products that (1) accelerate innovation deployment; (2) shorten the project delivery process; (3) improve environmental sustainability; enhance roadway safety; and (5) reduce congestion. The Administrator shall identify a collection of innovative practices at least every 2 years and will publish the findings on a publicly available website.

Sec. 2202. Department of Transportation Performance Measures. Stipulates that Secretary review and evaluate (1) the progress made toward aligning Federal reviews of projects funded under title 23, United States Code, and the improvement of project delivery associated with those projects; and as applicable, the effectiveness of the Department in achieving the goals described in section 150(b) of title 23, United States Code, through discretionary programs 1 year after date of enactment. Within 2 years and biennially after, Secretary must submit report of evaluation to Committee on Environment and Public Works in Senate and the Committee on Transportation and Infrastructure in the House; the same goes for the Inspector General, but applies 3 years after the date of enactment.

Sec. 2203. Grant program for achievement in transportation for performance and innovation. Establishes grant program to reward states, local governments, tribal organizations, and MPOs for implementing policies and procedures that (1) support performance-based management of the surface transportation system and improve transportation outcomes; or (2) use innovative technologies and practices that improve the efficiency and performance of the surface transportation system. Authorizes grant limit of \$15,000,000; and authorizes the appropriation of up to \$150,000,000 for each fiscal year from the general fund to carry out this section.

Sec. 2204. Highway Trust Fund transparency and accountability. Amends Section 104 of title 23, United States Code to allow Secretary to compile and release a report on the use of Federal-aid highway program funds made available under this title (the Highway Trust Fund Transparency and Accountability Report) 180 days after the date of enactment and then quarterly thereafter.

Sec. 2205. Report on Highway Trust Fund administrative expenditures. Not less than 150 days after the date of enactment, the Comptroller General of the United States shall submit to Congress a report describing the administrative expenses of the Federal

Highway Administration funded from the Highway Trust Fund during the 3 most recent fiscal years, and an updated report every 5 years following.

Sec. 2206. Availability of reports. Reports must be published on the Department website no less than 30 days after submission to Congress.

Sec. 2207. Performance period adjustment. Amends Section 119 of title 23, United States Code, on the National Highway Performance Program reporting. Amends Section 148(i) of title 23, United States Code, on the Highway Safety Improvement Program.

Sec. 2208. Design standards. Amends Section 109 of title 23, United States Code, to update design manuals and guideline publications. Authorizes design standard flexibility for local jurisdictions if they are the direct project sponsor, if the roadway design guide is recognized by the FHWA and adopted by the jurisdiction, and if the design complies with all applicable federal laws.

TITLE III – TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1998 AMENDMENTS

Sec. 3001. Transportation Infrastructure Finance and Innovation Act of 1998 amendments. Transit-Oriented Development (TOD): TIFIA eligibility expanded to include projects that “improve or construct public infrastructure that is located within walking distance of, and accessible to, a fixed guideway transit facility, passenger rail station, intercity bus station, or intermodal facility, including a transportation, public utility, and capital projects.”

The TIFIA amendments also modify the master credit agreement section, striking the requirement for a project to have an “investment grade rating from a rating agency.” TIFIA gives the Secretary authority to “enter into a master credit agreement for a program of related projects secured by a common security pledge on terms acceptable to the Secretary. “ Finally TIFIA creates a “Rural Projects Fund,” and designates a fund to capitalize State Infrastructure Banks. A State infrastructure bank established under this new section can use funds from the highway account, transit account, or rail account, to make loans or provide other forms of credit assistance to a public or private entity. These can be used up to 100 percent of the cost of carrying out a project eligible for assistance under this section; and with funds deposited into the rural projects fund, make loans to a public or private entity in an amount not to exceed 80 percent of the cost of carrying out a rural infrastructure project.

TITLE IV – TECHNICAL CORRECTIONS TO MAP-21

Sec. 4001. Technical corrections. Makes a variety of technical corrections to MAP-21, title 23, SAFETEA-LU, and the Transportation Research and Innovative Technology Act of 2012.

TITLE V – MISCELLANEOUS

Sec. 5001. Appalachian Development Highway System. Amends section 1528 of MAP-21 to extend the availability of FY12 and prior no-year funding for ADHS at a special federal share of up to 100 percent to the year 2050.

Sec. 5002. Appalachian regional development program. Adds a new 40 U.S.C. §14509 authorizing a high-speed broadband deployment initiative at the Appalachian Regional Commission.

TITLE VI – EXTENSION OF FEDERAL-AID HIGHWAY PROGRAMS

Sec. 6001. Extension of federal-aid highway programs. Extends all MAP-21 programs and contract authority for federal highway programs, which have currently been extended through July 31, 2015 at a pro-rated FY 2014 amount, through September 30, 2015 at the full-year FY 2014 amounts.

Sec. 6002. Administrative expenses. Extends FHWA administrative expense contract authority through September 30, 2015.