# STATE OF COLORADO

**DEPARTMENT OF TRANSPORTATION**

**Office of Policy & Government Relations**
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| | |
|---|---|
| **DATE:** | July 6, 2012 |
| **TO:** | Transportation Commissioners, Executive Director, Senior Management Team, Branch Managers, and Office Directors |
| **FROM:** | Kurtis Morrison, Office of Policy & Government Relations |
| **RE:** | Federal Transportation Reauthorization Bill (MAP-21) Summary and Analysis |

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## Summary

On July 6, 2012, the President signed H.R. 4348, the Moving Ahead for Progress in the 21st Century Act (MAP-21). The legislation updates and replaces the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users Act of 2005 (SAFETEA-LU), specifically reauthorizing federal transportation programs, providing budget authority for federal transportation apportionments, and updating federal statutes governing the U.S. Department of Transportation (USDOT) and its various agencies and programs. A brief summary of the bill's provisions follows.

- ***Duration.*** MAP-21 is a 27-month authorization bill, providing spending authority through September 30, 2014. This authorization completes two full federal fiscal years and the remaining three months of the current federal fiscal year. The bill also reauthorizes the three federal motor fuel taxes that support the Highway Trust Fund through September 30, 2016. This is good news for the department, since, even though a six-year bill was preferred, many expected that the best outcome from Congress would be a mere 16-month bill.
- ***Federal Spending and Colorado Apportionments.*** The bill continues existing funding levels with a small inflationary adjustment. Colorado's federal highway apportionments are estimated to be $517.0 million in FY 2013 and $522.4 in FY 2014. By comparison, Colorado's federal apportionment for FY 2012 is $517.0 million.
- ***Program Consolidation.*** MAP-21 consolidates approximately 90 federal transportation programs into 30 new and existing programs, providing state DOTs with more discretion and significant policy decisions to be made as a result. CDOT supported program consolidation.
- ***Performance Management.*** MAP-21 has a much stronger emphasis on performance management. Once the USDOT promulgates standards to evaluate Interstate System and National Highway System performance, the bill imposes new performance measure reporting requirements on state DOTs. While these changes require substantial work by CDOT, the department performance management team previewed draft bills throughout the reauthorization process, and will be better prepared to implement the federal requirements as a result.
- ***Innovative Financing.*** The bill significantly increases funding for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, inflating program spending from $122 million in the current fiscal year to $750 million and $1 billion in FY 2013 and FY 2014. The program provides federal credit assistance in the form of loan guarantees, direct loans, and lines of credit to finance surface transportation projects. CDOT and the Transportation Commission supported this provision and requested support from our congressional delegation.
- ***Environmental Streamlining.*** The bill contains several provisions to accelerate project delivery in relation to the National Environmental Policy Act (NEPA). These provisions reduce approval time by allowing more federally funded projects – projects following a natural disaster, receiving less than $5 million in federal funding, or receiving less than 15 percent in federal funding but having an overall cost up to $30 million – to fall under categorical exclusions. CDOT supported responsible environmental streamlining efforts.

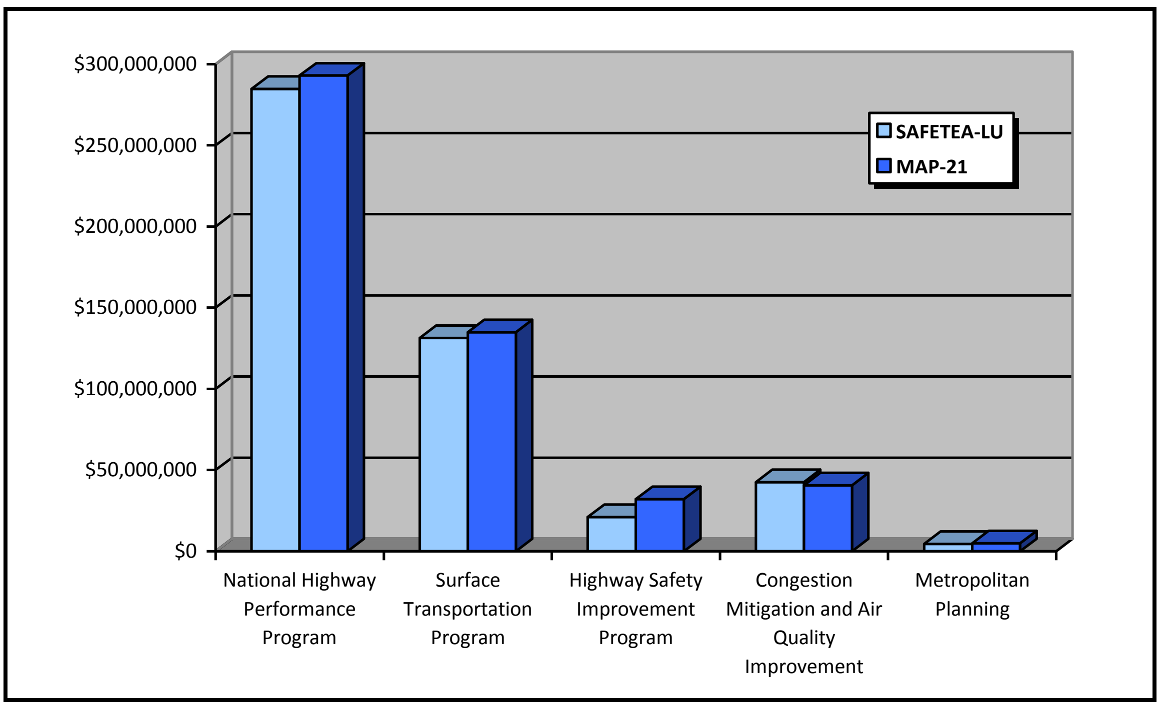
**Federal Apportionments and Budget Authority**

***Highway Trust Fund Solvency.*** The bill fails to address long-term fiscal solvency of the federal Highway Trust Fund (HTF). As in previous fiscal years, MAP-21 relies on significant general fund transfers to backfill HTF revenue shortfalls. Since 2008, Congress has transferred approximately $35 billion from other sources to prop up the HTF. MAP-21 continues to rely on general revenues by transfers to the HTF of $6.2 billion and $12.6 billion in FY 2013 and FY 2014.[1]

***State DOT Apportionments.*** MAP-21 retains flat highway funding levels, in addition to a 1.4 percent increase for inflation. The bill provides $37.544 billion and $37.865 billion in FY 2013 and FY 2014 for formula apportionments to the states. Apportionments continue to be set in federal law and distributed according to formula grant. Of particular note, MAP-21 incorporates into the formula a requirement that all states receive at least a 95 percent return on revenue, a small increase over the previous return rate minimum.

Chart 1 summarizes Colorado's apportionments under MAP-21 as estimated by the USDOT. In sum, funding for Colorado is estimated to be $517.0 in FY 2013 and $522.4 million in FY 2014.

**Chart 1.**
**Colorado Apportionments: Primary USDOT Formula Grants**
**Pre- and Post-MAP-21**




**Program Changes**

Current federal law provides two dedicated funding pots for highway and bridge repair: Interstate Maintenance and Highway Bridge programs. States are required to use 15 percent of the Highway Bridge

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[1] All fiscal year references in this memorandum refer to the federal fiscal year, in effect from October 1 through September 30.

Program to support non-federal aid (off-system) bridges.[2] The two programs comprise 32 percent of total funding, in which half may be transferred to other programs.[3] As discussed in the following subsections, MAP-21 does not provide dedicated funding streams for highway and bridge repairs. Rather, Congress opted to re-consolidate these programs, in turn providing more flexibility for state DOTs.

***National Highway Performance Program (NHPP).*** MAP-21 consolidates the Interstate Maintenance Program, National Highway System formula programs, and the on-system portion of the Highway Bridge Program into a consolidated National Highway Performance Program. The new program is heavily focused on system improvement and preservation, and serves as the primary formula grant program to state DOTs. Eligible NHPP projects include:[4]

- National Highway System projects, bridges, and tunnels;
- inspection and evaluation of on-system bridges, tunnels, and related assets (i.e. retaining walls, signage, etc.);
- training of bridge and tunnel inspectors;
- construction of and improvements to off-system federal-aid highways;
- transit projects;
- bicycle transportation and pedestrian walkways;
- safety improvements for on-system highways
- capital and operating costs for traffic and traveler information facilities and programs;
- development of a state asset management plan;
- intelligent transportation systems capital improvements;
- environmental restoration and mitigation;
- pollution abatement;
- noxious weed control; and
- construction of publicly owned bus terminals servicing the National Highway System.

This program provides new discretion for the Transportation Commission to determine how much funding is provided to state bridges (versus pavement condition).

***Surface Transportation Program (STP).*** Off-system bridges are now funded under the STP program, while on-system bridges are funded under the NHPP. States are required to dedicate the equivalent of at least 15 percent of their 2009 Highway Bridge Program funds for off-system bridges.[5] STP funds may still be used for transit projects as was permitted under SAFETEA-LU.[6] Congress expanded the list of eligible activities to be funded by STP. This change provides additional flexibility to state DOTs in determining how STP funds may be spent. Appendix A summarizes all eligible activities under STP, compared with SAFETEA-LU.

***Transportation Alternatives Program (TA).*** Prior to MAP-21, three federal programs provided dedicated funding for bicycle and pedestrian projects: Recreational Trails (RT); Safe Routes to Schools (SRTS); and Transportation Enhancements (TE). MAP-21 folds all three programs into a single, newly

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[2] 23 U.S.C. § 144.

[3] 23 U.S.C. § 126.

[4] 23 U.S.C. § 119(d).

[5] 23 U.S.C. § 133(g)(2)(A).

[6] 23 U.S.C. § 133(b).

created program – Transportation Alternatives.[7] Under the new TA program, eligible activities funded by the program are a hybrid of eligible projects from the previous three programs, plus new eligibility for environmental mitigation and minor road construction projects not currently allowed under RT, SRTS, or TE. The new program may fund projects originally eligible under the RT and SRTS programs; planning, designing, or constructing boulevards and other roadways largely in rights-of-way;[8] and new alternatives summarized in Table 1.

**Table 1.**
**Transportation Alternatives Program:**
**Eligible Activities Qualifying as "Transportation Alternatives"**

| | | |
|---|---|---|
| Trail Facilities | construction, planning, and design of on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act | 23 U.S.C. § 101(a)(29)(A). |
| Safe Routes for Non-Drivers | construction, planning, and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs | 23 U.S.C. § 101(a)(29)(B). |
| Use of Abandoned Railroad Corridors | conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users | 23 U.S.C. § 101(a)(29)(C). |
| Scenic Areas | construction of turnouts, overlooks, and viewing areas | 23 U.S.C. § 101(a)(29)(D). |
| Community Improvement Activities | community improvement activities, including:<br>o inventory, control, or removal of outdoor advertising;<br>o historic preservation and rehabilitation of historic transportation facilities;<br>o vegetation management practices in transportation rights-of-way to improve roadway safety, prevent against invasive species, and provide erosion control;<br>o archaeological activities relating to impacts from implementation of a transportation project. | 23 U.S.C. § 101(a)(29)(E). |
| Environmental Mitigation Activity | environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to:<br>o address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff;<br>o reduce vehicle-caused wildlife mortality or to restore and maintain connectivity among terrestrial or aquatic habitats. | 23 U.S.C. § 101(a)(29)(F). |

Funding for the TA program is set at approximately $809 million, constituting a one-third decrease over prior spending levels for the three programs that now comprise the new program (See Table 2). The TA program requires states to suballocate 50 percent of TA program funds to MPOs and other parts of the state; remaining funds are distributed as a discretionary grant program. In the event of an emergency, a state is authorized to transfer all TA program funds (that remain after MPO allocations) to repair damaged infrastructure.

[7] The Transportation Enhancements program was a significant point of contention during conference negotiations, with House conferees insisting on the program's full elimination. However, the program was re-branded and retained in the final bill version with significant alterations and sharp funding reductions.

[8] 23 U.S.C. § 213(b).

**Table 2.**
**Transportation Alternatives Funding**
**Compared with Pre-consolidated Program Funding Levels**

| | | | | |
|---|---|---|---|---|
| Recreational Trails | $96,570,616 | Transportation Alternatives | $808,760,000 | |
| Safe Routes to Schools | $202,439,733 | | | |
| Transportation Enhancements | $927,507,454 | | | |
| | **$1,226,517,803** | | **$808,760,000** | **-34.1%** |

***Congestion Mitigation and Air Quality (CMAQ).*** Under current law, the Congestion Mitigation and Air Quality program assists states in meeting ambient air quality standards. CMAQ funds are distributed to the states as a formula grant based on population and air quality classification. Funds are restricted from use on projects that serve single-occupancy vehicle travel.[9] MAP-21 leaves the CMAQ program largely unchanged.[10] However, the bill does make the following alterations to the CMAQ statute:

- eliminating the restriction on projects for single-occupancy vehicle travel;
- allowing states to transfer up to 50 percent of their CMAQ formula allocation to other programs; and
- requiring regions with populations over one million to develop a performance plan outlining baseline conditions, targets for USDOT performance measures, and a description of projects to be funded and how projects will meet such targets.

***Metropolitan Planning Organizations.*** Current law calls for the designation of a metropolitan planning organization (MPO) for each urbanized area with a population of 50,000 or greater.[11] MAP-21 retains the 50,000 population baseline.[12] Therefore, all Colorado MPOs will remain within this definition.

## Planning and Performance Management

***Performance Goals.*** MAP-21 provides a number of new performance goals, measures, and reporting requirements. The bill establishes the following goals for the federal-aid highway program:[13]

- ***safety*** **–** achieving a significant reduction in traffic fatalities and serious injuries;
- ***infrastructure*** **–** maintaining the highway infrastructure asset system in a state of good repair;
- ***congestion reduction*** **–** achieving significant congestion reduction on the National Highway System;

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[9] 23 U.S.C. § 149.

[10] Prior to the release of the MAP-21 conference report, earlier bill versions and drafts would have altered CMAQ by allowing the program's use on new lanes for single-occupancy vehicles. A proposal was also made to consolidate the Transportation Enhancements program with CMAQ. Neither policy change was included in the final bill.

[11] 23 U.S.C. § 134(d)(1).

[12] In the Senate version of MAP-21, MPOs for new urbanized areas were set at a population threshold of 200,000; the House version called for a 100,000 population threshold. Neither provision was retained in the final conference report.

[13] 23 U.S.C. § 150(b).

- ***system reliability*** **–** improving the efficiency of surface transportation system;
- ***freight*** **–** improving the national freight network, strengthening the ability of rural communities to access national and international trade markets, and supporting regional economic development;
- ***environmental sustainability*** **–** enhancing the performance of the transportation system while also protecting the natural environment; and
- ***reduced project delivery delays*** **–** accelerating project completion by eliminating delays in the project development and delivery process, including reducing regulatory burdens.

***Performance Measures and State Reporting Requirements.*** To achieve the newly established goals, Congress directed the USDOT to promulgate rules, within 18 months of MAP-21's enactment, to establish new performance measures and standards.[14] Specific standards to be established for each program are summarized in Table 3.

**Table 3.**
**USDOT Rulemaking Authority to Establish Performance Measures**

| | | |
|---|---|---|
| National Highway Performance Program | Minimum standards for states to use in developing and operating bridge and pavement management systems<br><br>Measures for states to use in assessing:<br>• condition of Interstate System pavements;<br>• conditions of National Highway System (excluding Interstates) pavements;<br>• conditions of National Highway System bridges;<br>• performance of the Interstate System; and<br>• performance of the National Highway System (excluding Interstates) | 23 U.S.C. § 150(c)(3). |
| Highway Safety Improvement Program | Measures to assess:<br>• serious injuries and fatalities per vehicle mile traveled; and<br>• the number of serious injuries and fatalities | 23 U.S.C. § 150(c)(4). |
| Congestion Mitigation and Air Quality Program | Measures to assess:<br>• traffic congestion; and<br>• on-road mobile source emissions | 23 U.S.C. § 150(c)(5). |
| National Freight Movement | Measures to assess freight movement on the Interstate System | 23 U.S.C. § 150(c)(6). |

When promulgating rules for the new standards, the USDOT is given flexibility to establish different minimum levels for various geographic regions.[15] Upon completion of the rulemaking process, each state is required to set performance targets reflecting the measures listed in Table 4.[16] No later than four years following the enactment of MAP-21 (July 2016), and every two years thereafter, the states are required to report to the USDOT on:[17]

- the condition and performance of the National Highway System in the state;
- effectiveness of the investment strategy document in the state asset management plan for the National Highway System;
- progress in achieving the new performance targets; and

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[14] 23 U.S.C. § 150(c).

[15] 23 U.S.C. § 150(c)(3)(B).

[16] 23 U.S.C. § 150(d)(1).

[17] 23 U.S.C. § 150(e).

- means in which the state is addressing congestion at freight bottlenecks.

***Metropolitan Transportation Planning.*** MAP-21 also requires MPOs to establish performance targets to address the performance measures described above. For selection of performance targets, MPOs must be coordinated with state departments of transportation and public transportation providers.[18] MAP-21 also requires all MPOs with populations of 200,000 or greater to include representation by public transportation providers in their governing structures.[19]

***Risk-based Asset Management Plan.*** As part of the NHPP, states are required to develop "risk-based asset management plans" for the National Highway System. The purpose of the plan is to improve or preserve the condition of the assets and the performance of the highway system. The plan must, at a minimum, include:[20]

- a summary listing of the pavement and bridge assets on the National Highway System within the state, including a description of the condition of those assets;
- asset management objectives and measures;
- performance gap identification;
- lifecycle cost and risk management analysis;
- a financial plan; and
- investment strategies.

If a state fails to develop and implement a state asset management plan, that state's federal transportation funding will be reduced by 35 percent.[21]

***Regional Transportation Planning Organizations.*** MAP-21 authorizes a state to establish a regional transportation planning organization (RTPO) to enhance, planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvements programs. Specific emphasis is placed on addressing the needs of non-metropolitan areas. Colorado impacts with this provision are expected to be minimal, as the state has already established ten rural Transportation Planning Regions across the state, along with the five urban MPO regions. An RTPO must establish, at a minimum, a policy committee consisting of non-metropolitan local officials and representatives from the state, private sector, transportation service providers, economic development personnel, and the public. The obligations of an RTPO are:[22]

- developing and maintaining, in cooperation with the state, regional long-range multimodal transportation plans;
- developing a regional transportation improvement program for consideration by the state;
- fostering the coordination of local planning, land use, and economic development plans with state, regional, and local transportation plans and programs;
- providing technical assistance to local officials;
- participating in national, multistate, and state policy and planning development processes to ensure the regional and local input from non-metropolitan areas;
- providing a forum for public participation in the statewide and regional transportation planning processes;

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[18] 23 U.S.C. § 5303(h)(2)(B)(i).

[19] 49 U.S.C. § 5303(d)(2)(B).

[20] 23 U.S.C. § 119(e).

[21] 23 U.S.C. § 119(e)(5).

[22] 23 U.S.C. § 135(m).

- considering and sharing plans and programs with neighboring RTPOs, MPOs, and tribal organizations; and
- serving other roles, as necessary, to support the statewide planning process.

Any state that opts against establishing an RTPO is required to consult with affected non-metropolitan local officials to determine projects that may be of regional significance.[23]

## Environmental Processes

Current law requires federally funded projects to adhere to the National Environmental Policy Act ("NEPA") processes and requirements. MAP-21 makes the following NEPA-related changes.

***Financial Penalties for Federal Agencies.*** If deadlines (i.e. failing to make a final decision within certain timeframes) are missed by federal agencies, the failure automatically triggers a funding rescission for the director's office budget of the decision-making agency.

***Increasing Categorical Exclusions.*** A categorical exclusion is an action that does not have a significant effect on the environment, and, therefore, does not require an environmental assessment or an environmental impact statement. MAP-21 provides for categorical exclusions in the following situations:

- projects within rights-of-way;
- repair or reconstruction projects following natural disasters;
- projects receiving $5 million or less in federal funding; and
- projects with a total cost under $30 million receiving a federal share of less than 15 percent.

***Other Provisions.*** The bill also lowers the range for judicial action from 180 days to 150 days; allows states to move forward with numerous activities, including right-of-way acquisition, prior to the completion of NEPA; allows states to use programmatic mitigation plans; and allows states to permanently take over responsibility for compliance with NEPA.

## Transit

Since the Reagan Administration, Congress continues to strike an 80/20 balance between highway and transit funding: 80 percent to highway funding; and 20 percent to mass transit funding. MAP-21 continues the 80/20 split and authorizes new FTA oversight over public transit systems safety measures. The bill leaves existing U.S. Federal Transit Administration (FTA) funding mechanisms intact and authorizes $10.6 billion and $10.7 billion in spending for FY 2013 and FY 2014. Colorado is estimated to receive approximately $10.4 million in formula funding. Information on chief FTA grant programs is provided in the following subsections.

***Bus and Bus Facilities.*** Funding for transit buses was reduced from $984 million in FY 2012 to $422 in FY 2013. Under SAFETEA-LU, bus funding was largely determined through congressional earmarking. However, with the elimination of earmarks, the FTA awarded bus funding on a discretionary basis. Under MAP-21, Congress converted the program from a discretionary grant to a formula grant program. The funding reduction and change to a formula grant reflects Congress' unhappiness with the bus and bus facilities program, thereby opting to give more flexibility to states rather than the FTA.

[23] 23 U.S.C. § 135(m)(5).

***State of Good Repair Program.*** MAP-21 eliminates the Fixed Guideway Modernization program and replaces it with a new State of Good Repair (SGR) program. Congress created SGR to serve as a national transit asset management system, including providing performance measures to evaluate transit conditions and provide assistances to transit agencies to determine repair needs. Funds saved through cuts to the bus grant program were redistributed to the SGR.

***Other FTA Grant Programs.*** The New Starts program funds subway and light-rail systems. The bill authorizes more bus rapid transit projects to receive New Starts funds. This authorization will partially offset bus funding reductions. MAP-21 also combines the New Freedom program with the Elderly and Disabled formula grant program. The bill also eliminates the Job Access and Reverse Commute ("JARC") program. Funds are transferred to other formula programs to the urban and rural formula grant programs.

***Commuter Benefit.*** Under current federal law, the federal government provides a tax deduction of up to $125 per month to defray commuter costs. For persons choosing to drive, the deduction limit is set at $240 per month for parking costs. The Senate bill version included a parity provision to set both the commuter benefit and parking benefit at equal levels. The provision was stripped out in conference and no change was enacted.

## Highway Safety

During conference negotiations, a number of concessions were made to strip out the Senate's more stringent highway safety provisions. However, Congress did restructure the existing highway safety grant programs, adopting a single grant application and reporting process for all National Highway Traffic Safety Administration (NHTSA) grants. Three new grant programs were established; two grant programs were eliminated. A prohibition was established preventing the use of formula grant funds to support red light or speed cameras. Funding remains flat with a small increase for inflation see (see Table 4).

**Table 4.**
**NHTSA Highway Traffic Safety Grants**
**Pre- and Post-MAP-21**

| | | | |
|---|---|---|---|
| Highway Safety Program (402) | $235,000,000 | $235,000,000 | $235,000,000 |
| Occupant Protection Incentive Grants (405) | $25,000,000 | $42,400,000 | $43,520,000 |
| Safety Belt Performance Grants (406) | $48,500,000 | - | - |
| State Traffic Safety IT Improvement (405) | $34,500,000 | $38,425,000 | $39,440,000 |
| Impaired Driving Countermeasures (405) | $139,000,000 | $139,125,000 | $142,800,000 |
| Grant Administration | $25,328,000 | $25,500,000 | $25,500,000 |
| High Visibility Enforcement | $29,000,000 | $29,000,000 | $29,000,000 |
| Child Safety and Booster Seat Grants | $7,000,000 | - | - |
| Motorcyclist Safety Incentive Grants (405) | $7,000,000 | $3,975,000 | $4,080,000 |
| ***New Programs Established by MAP-21*** | | | |
| Distracted Driving Incentive Grants (405) | - | $22,525,000 | $23,120,000 |
| State Graduated Driver Licensing Laws (405) | - | $13,250,000 | $13,600,000 |
| Research Into Anti-DUIT Technology (405) | - | $5,300,000 | $5,440,000 |
| **TOTAL** | **$550,328,000** | **$554,500,000** | **$561,500,000** |

***Highway Safety Improvement Program.*** MAP-21 requires the states to adopt performance-related goals to be incorporated into state and regional planning and programming processes. Unlike the earlier Senate version, the final MAP-21 contains no financial penalty for states failing to update their strategic highway safety plan. MAP-21 also establishes a new distracted driving incentive grant program, a priority of Secretary LaHood. The program is funded at $23 million per year. The Seat Belt Incentive Grant Program is eliminated, recognizing that every state that may "pass such a law has already enacted it." The bill also places new emphasis on incentive grants for states that enact graduated driver licensing laws.

### Innovative Financing/Tolling/Public Private Partnerships

***TIFIA.*** The Transportation Infrastructure Finance and Innovation Act (TIFIA) program provides loans, loan guarantees, and lines of credit for surface transportation projects. Under current law, TIFIA's maximum share of project costs is capped at 33 percent. MAP-21 raises this cap to a 49 percent federal cost share. MAP-21 also provides $750 million and $1 billion in FY 2013 and FY 2014 for the TIFIA credit assistance program. This represents a significant increase over annual SAFETEA-LU funding levels of approximately $122 million per year. MAP-21 also changes the TIFIA competitive application process to a rolling application basis containing no selection criteria.

***Tolling.*** MAP-21 provides several updates regarding the tolling of federal highways. The bill specifically allows states to toll existing non-Interstate highways, toll new lanes on Interstates, and convert an existing facility to a toll facility if capacity is expanded, and eliminates priority for toll revenue for projects providing alternatives to single-occupant vehicle travel. The bill provides no expansions of existing tolling pilot programs.[24]

### Materials

***Buy America.*** Under existing law, surface transportation projects that receive federal funds are, with certain exceptions for cost and availability, required to use a set percentage of domestic-produced steel, iron, and other manufactured goods. MAP-21 continues this policy, but goes one step further in specifying that all contracts for a project are subject to Buy America requirements if such contracts receive federal dollars.[25] Provisions in the Senate bill requiring increased transparency for Buy America waivers were dropped from the final bill.

### Freight and Motor Carrier Safety

MAP-21 made few changes to the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA is primarily a regulatory agency and does not focus on distribution of federal grants. The bill authorizes the department to withhold, amend, or revoke a motor carrier's registration if a carrier fails to disclose a poor record of safety or other relevant facts to its compliance or noncompliance with federal regulations. The bill also authorizes a study on driver fatigue, establishes a new national freight policy, and encourages states to develop state-specific state freight plans.[26]

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[24] The Senate version of MAP-21 contained a provision to prevent privatized toll roads from being included in the formula calculation of how much each state receives in federal highway funds. Only three states, including Colorado (due to the Northwest Parkway) would have been impacted by the amendment. This language was not included in the final bill version.

[25] 23 U.S.C. § 313(g).

[26] 23 U.S.C. § 1115.

## Appendix A.
## Surface Transportation Funding: Eligible Activities
## Pre- and Post-MAP-21

<table>
<tr><th></th><th>SAFETEA-LU</th><th>MAP-21</th></tr>
<tr><td colspan="3">New/Amended Eligible Activities</td></tr>
<tr><td>Highway and Bridge Improvements</td><td>• construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways and bridges</td><td>• construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways<br>• construction of a new bridge or tunnel at a new federal-aid highway location</td></tr>
<tr><td>Bicycle/ Pedestrian/ Parking</td><td>• carpool projects<br>• fringe and corridor parking facilities and programs<br>• bicycle transportation and pedestrian walkways<br>• modification of public sidewalks to comply with the Americans with Disabilities Act</td><td>• carpool projects<br>• fringe and corridor parking facilities and programs<br>• bicycle transportation and pedestrian walkways<br>• modification of public sidewalks to comply with the Americans with Disabilities Act<br>• electric and natural gas vehicle infrastructure</td></tr>
<tr><td>Safety Improvements</td><td>• highway and transit safety infrastructure improvements and programs<br>• hazard eliminations,<br>• wildlife hazard mitigation projects<br>• railway-highway grade crossings</td><td>• highway and transit safety infrastructure improvements and programs<br>• hazard eliminations,<br>• wildlife hazard mitigation projects<br>• railway-highway grade crossings<br>• bridge safety barrier and net installation</td></tr>
<tr><td>Transportation Enhancements</td><td>• transportation enhancement activities</td><td>• transportation alternative activities</td></tr>
<tr><td>Bridge/Tunnel Inspection</td><td>N/A</td><td>• inspection and evaluation of bridges and tunnels<br>• training of inspectors</td></tr>
<tr><td>Innovative Financing/Tolling</td><td>N/A</td><td>• projects and strategies designed to support congestion pricing<br>• electronic toll collection<br>• travel demand management strategies and programs</td></tr>
<tr><td>State Asset Mgmt. Plan</td><td>N/A</td><td>• development of a state asset management plan</td></tr>
<tr><td>Misc.</td><td>N/A</td><td>• recreational trails projects<br>• ferry boat and ferry terminal facility construction<br>• border infrastructure projects<br>• truck parking facilities</td></tr>
<tr><td colspan="3">Continued Eligible Activities</td></tr>
<tr><td>Transit</td><td colspan="2">• capital costs for transit projects eligible for assistance, including vehicles and facilities, whether publicly or privately owned, used to provide intercity passenger service by bus</td></tr>
<tr><td>R&D</td><td colspan="2">• highway and transit research and development and technology transfer programs</td></tr>
<tr><td>Traffic Management</td><td colspan="2">• traffic monitoring and management<br>• traffic control facilities and programs<br>• advanced truck stop electrification systems</td></tr>
<tr><td>Planning</td><td colspan="2">• surface transportation planning programs</td></tr>
<tr><td>Control Measures</td><td colspan="2">• transportation control measures</td></tr>
<tr><td>Management Systems</td><td colspan="2">• development and establishment of management systems under 23 USC 303</td></tr>
<tr><td>Habitat and Wetlands Mitigation</td><td colspan="2">• natural habitat and wetlands mitigation efforts related to transportation projects<br>• contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands<br>• development of conservation and mitigation plans</td></tr>
<tr><td>Intersections</td><td colspan="2">• projects relating to federal aid highway intersections with disproportionately high accident rates and congestion</td></tr>
<tr><td>Intelligent Transportation Systems</td><td colspan="2">• infrastructure-based intelligent transportation systems capital improvements.</td></tr>
<tr><td>Environmental Restoration/ Abatement</td><td colspan="2">• environmental restoration and pollution abatement projects</td></tr>
<tr><td>Noxious Weeds</td><td colspan="2">• control of noxious weeds and aquatic noxious weeds and establishment of native species</td></tr>
</table>

23 U.S.C. § 133(b)