Restructuring of Core Highway Programs Under the Senate's MAP-21 Transportation Reauthorization Proposal

Current Formula Programs

- Interstate Maintenance
- National Highway System
- Highway Bridge Program
  - 15% For Off-System Bridges
- Equity Bonus
- Appalachian Highway Development System
- Border Infrastructure Program
- Railway Highway Crossings
- Surface Transportation Program (STP)
  - Transportation Enhancements (10% of STP)
- Congestion Mitigation and Air Quality
- Safe Routes to Schools
- Recreational Trails
- Highway Safety Improvement Program

All above programs are eliminated except Highway Safety Improvement Program (HSIP) and Congestion Mitigation and Air Quality (CMAQ). Transportation Enhancements, Safe Routes to School and Rec. Trails are eliminated but become eligible uses in a new reserve fund within CMAQ.

MAP-21 Core Program Structure

NATIONAL HIGHWAY PERFORMANCE PROGRAM (NHPP - New)
~$20.6 billion

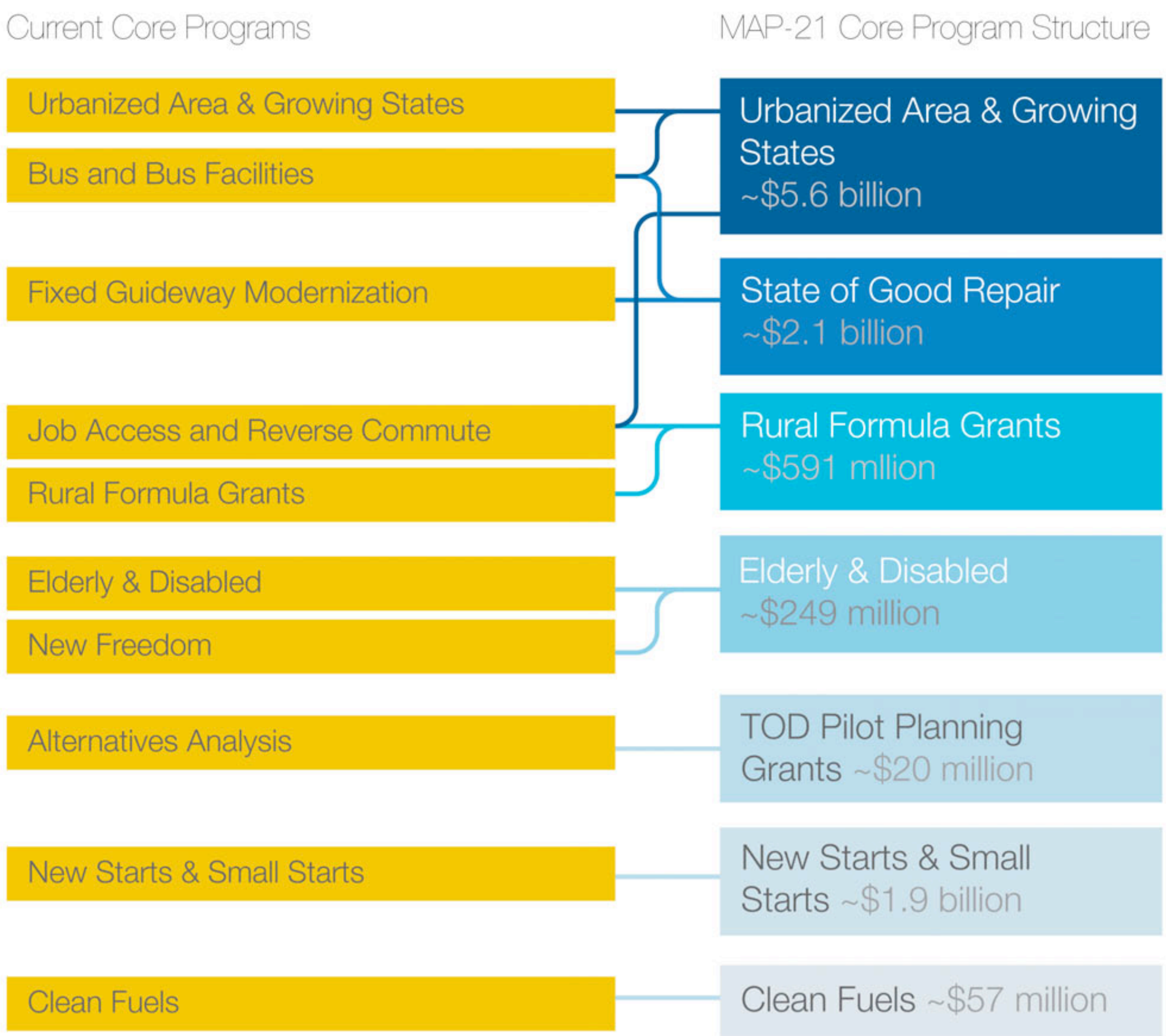
TRANSPORTATION MOBILITY PROGRAM (TMP - New)
~$10.4 billion

NATIONAL FREIGHT NETWORK PROGRAM (New)
~$2 billion

CONGESTION MITIGATION AND AIR QUALITY (CMAQ)
~$3.3 billion

HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP)
~$2.5 billion

Restructuring of Core Transit Programs Under the Senate's MAP-21 Transportation Reauthorization Bill



Estimated funding by program under MAP-21 (Figures in millions)

Trust Fund Programs	**FY12**
National Highway Performance Program	$20,210
National Highway System (NHS) Repair	*$12,126*
NHS Expansion and Other Repair	*$8,084*
Transportation Mobility Program	$10,210
Highway Safety Improvement Program	$2,439
CMAQ Program	$3,187
CMAQ	*$2,296*
Additional Activities	*$891*
National Freight Program	$1,985
Metropolitan Planning (FHWA)	$334
TIFIA	$1,000
State Planning and Research (FHWA)	$106
Systems Operations and ITS Deployment Grants	$50-100
Urbanized Area Formula Grants (including Growing States High Density)	$5,618
Urbanized Area purposes	*$5,451*
Job Access Reverse Commute (JARC) purposes	*$143*
Workforce Development	*$24*
State of Good Repair Grants	$1,988
High Intensity Fixed Guideway State of Good Repair	*$1,875*
High Intensity Motorbus State of Good Repair	*$113*
Rural Area Formula Grants	$591
Rural Area purposes (including JARC)	*$541*
Tribal Transit	*$30*
Appalachian Development	*$20*
Elderly and Disabled	$249
Clean Fuels Program	$57
Metropolitan and Statewide Planning (FTA)	$125
Transit Oriented Development Pilot Planning Grants	$20
General Fund Authorizations	
Projects of Regional and National Significance	**
New Starts	$1,880
Bus and Bus Facility State of Good Repair Grants	$75
Ferry Boats and Ferry Terminals	$67
Alternative Transportation in Parks	$27
Fixed Guideway State of Good Repair Competitive Grants	$7

** Authorized at $1,000M in FY13, no funds are authorized for FY12

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Accountability, Transparency and Planning

MAP-21 contains many provisions to help move the federal transportation program towards a performance-based approach, including the use of performance measures, targets, and national goals and objectives.

Performance Measures: Under current law states and regions are not required to use performance measures to help inform investment decisions or report on performance. MAP-21 establishes 6 sets of performance measures. States and regions are required to establish targets for each measure. In addition, they must project the impacts of their long-range plans and short-term investment programs will have on the performance measures and their ability to meet the targets. The performance targets do not have set time periods in law – though US DOT may require certain timeframes through rules. The measures include:

- National Highway System (NHS) condition and performance
    - Condition of Interstate pavement
    - Condition of NHS pavement
    - Condition of NHS bridges
    - Performance of Interstate
    - Performance of NHS
    - Accountability: States must report on performance every 2 years, starting in 4 years – the reports must include list of assets and their condition, investment strategies, lifecycle cost and risk management analysis, and performance gap identification. If a state does not make significant progress towards or meet its targets for two consecutive reporting periods then the next report must include a description of actions that it will undertake to meet its targets. [Ed. Note – it appears penalty for failure to meet targets under this section is not as strong due to the ‘minimum condition’ levels and related financial penalties in the National Highway Performance Program, which are the strongest performance provisions of this bill]

- Transit state of good repair
    - To be developed by US DOT
    - Accountability: Recipients of funding must submit reports annually, starting in 2 years, which include progress towards meeting targets for the past fiscal year and target for the next fiscal year. There are no penalties for not meeting performance targets.

- Highway safety
    - Serious injuries and fatalities per VMT
    - Serious injuries and fatalities per capita
    - Number of serious injuries and fatalities
    - Accountability: States must report on performance, based on a schedule to be developed by US DOT, starting in 4 years. If a state does not make significant

progress towards or meet its targets after 2 years then they must spend all of the HSIP funding on safety projects and cannot use HSIP funds for education, awareness, enforcement of safety laws, or support for emergency services. In addition they must annually submit an implementation plan that describes how funds will be spent, actions to be taken to meet targets, and identifies hazardous locations.

- Transit safety
  - To be developed by US DOT
  - Accountability: Recipients must submit reports, starting 1 year after final regulations are issued. There are no penalties for not meeting performance targets, but DOT is given significant authority to impose sanctions on recipients if they determine their safety plan's implementation and oversight are inadequate.

- Congestion mitigation and air quality (MPOs with population over 1 million only)
  - To be developed by US DOT
  - Accountability: Within 18 months US DOT must develop rules for schedules of performance plans. Regions will report on progress towards performance measures through "performance plans" which will include baseline performance for measures, targets and a description of how projects identified for funding will help meet targets.

- Freight movement
  - To be developed by DOT
  - Accountability: States must report on performance measures every 2 years, starting in 3 years. If a state does not make significant progress towards or meet its targets after 2 years then they must submit a freight improvement plan that includes trends, needs, issues, strategies, policies, inventory of bottlenecks and description of planned actions.

Federal-aid Highway Program National Goals: MAP-21 establishes goals for the federal-aid highway program. While the planning undertaken by states and MPOs is supposed to support the progress toward the achievement of the goals, the goals are otherwise not incorporated into the programs and progress towards achieving them is not measured (except where otherwise covered by a program performance measure such as safety and infrastructure condition). The national goals established include the following:

- Safety;
- Infrastructure condition;
- System reliability;
- Freight movement and economic vitality;
- Environmental sustainability; and
- Reduced project delivery delays.

Federal Transit Program National Goals: MAP-21 establishes goals for the federal transit program. The goals are not incorporated into the programs and progress towards achieving them is not measured (except where otherwise covered by a program performance measure such as safety and infrastructure condition). The national goals established include the following:

- Increase availability and accessibility of public transportation;
- Promote environmental benefits of public transportation;
- Improve safety of public transportation;
- Achieve and maintain a state of good repair of public transportation;
- Provide an efficient and reliable alternative to congested roadways;
- Increase the affordability of transportation for all users; and
- Maximize economic development opportunities.

Surface transportation national objectives: Under current law there are no national transportation objectives or goals. MAP-21 would establish a broad set of national transportation objectives combined with quantifiable goals for our multimodal, surface transportation program. These objectives and goals are not integrated into the planning process. However, US DOT is required to develop a National Surface Transportation and Freight Strategic Plan. As a part of this plan, DOT will establish baseline levels of performance and identify strategies and obstacles to achieve the goals and objectives. Progress towards meeting the goals and objectives would be reported on a biennial basis. As a part of the plan US DOT is directed to develop performance criteria and data collection systems to evaluate federal programs. In addition, it can require states and regions to report on how they used federal transportation funds to help achieve goals and objectives. The objectives include provisions related to travel times, transportation impacts on adjacent communities, pollution, and safety.

Other provisions:

- Statewide transportation plan. The requirements for content in the statewide transportation plan have been enhanced and will now need to more closely resemble MPO plans. Currently some states develop long-range plans that are high-level policy documents and often quite vague on specifics – these are known as “policy plans”.
- Transportation investment and data tools. Requires US DOT, within 2 years, to develop new or improve existing tools to support an outcome-oriented, performance-based approach to evaluate transportation projects including an evaluation of external effects on congestion, pollution, the environment and the public health. It also requires collection of data to help inform these new or improved tools.
- Performance pilot program. Establishes a performance pilot program for up to three state DOTs and three MPOs. The program will allow US DOT to conduct case studies to provide more detailed analysis of transportation programs and apply rigorous methods of measuring the effectiveness of participants in achieving surface transportation national objectives. A key outcome of this will be information to assist

US DOT in developing performance criteria for the surface transportation national objectives. The final report will be available within 18 months.
- Scenario planning. Defines and establishes criteria for scenario planning. While this is far short of T4's earlier goal, the inclusion of permissive language is important as current FHWA planning regulations prohibit the use of scenario planning as a part of the development of the official long-range transportation plan.

System Preservation

Roads and Bridges: MAP-21 significantly improves current law to improve the condition of roads and bridges with increased repair funding, use of performance measures and accountability provisions.

Funding: Under current law, funds within the Interstate Maintenance and Highway Bridge programs are dedicated for the repair and upkeep of existing infrastructure. MAP-21 consolidates these programs along with the National Highway System program into the National Highway Performance Program funded at $20.6B in FY12. The bill requires that 60% of these funds be used to repair the National Highway System. Under MAP-21, the National Highway System is broadened from ~160,000 to ~220,000 miles. In addition, the bill continues the requirement that states spend a certain amount of funds on the repair of off-system bridges.

Performance measures: Under current law, states are not required to establish performance targets for the condition of existing roads and bridges. States are currently required to report road and bridge condition data to US DOT. However this data it is difficult to access and analyze. MAP-21 requires states and regions use performance measures and set targets for the following:

- Condition of Interstate pavement
- Condition of NHS pavement
- Condition of NHS bridges

This information would be publicly available in reports published by each state every two years. US DOT will establish uniform standards that states will use to measure conditions of pavement and bridges.

Asset Management: MAP-21 requires states to develop asset management plans for their National Highway Performance Program funds. These risk-based plans are required to include strategies leading to a program of projects that would make progress toward achievement of the state targets for asset condition and performance of the National Highway System and a listing of asset conditions. The focus on asset management will help move away from a 'fix the worst first' concepts that can lead to higher costs in the long term.

Accountability: Under current law there is limited accountability for failure to adequately maintain existing highway infrastructure. The Secretary may partially or fully shut down a state's federal-aid program for failure to properly maintain infrastructure – this type of action is generally considered a 'nuclear option' and has never been exercised. MAP-21 retains this provision and provides other less severe mechanisms, including financial penalties levied against states for a failure to meet the following condition standards:

- **Interstate pavement**: US DOT is required to establish a 'minimum condition level' for interstate pavement. If a state fails to meet this standard for two biennial reporting periods, then it must spend 110% of its 2009 Interstate Maintenance apportionment, adjusted with an inflation factor, on the repair of interstate pavement until it meets the standard. One tenth of this penalty will be taken from a state's apportionment under the Transportation Mobility Program, excluding suballocated funds.
- **NHS bridges**: USDOT is required to establish a 'minimum condition level' for NHS bridges. If a state fails to meet this standard for two biennial reporting periods, then it must spend 60% of their 2009 Bridge Program apportionment, adjusted with an inflation factor, on the repair of NHS bridges until it meets the standard. One sixth, or 16.67%, of this penalty will taken from a state's apportionment under the Transportation Mobility Program, excluding suballocated funds.

Off-system Bridges: MAP-21 continues the requirement for states to invest in off-system bridges. An off-system bridge is a bridge on a local or rural minor collector roadway. Each state must spend at least an amount equal to its 2009 off-system bridge set-aside out of their Transportation Mobility Program funds, ~$792M nationally. This amount is not adjusted with an inflation factor and will not increase over time.

Other factors: MAP-21 eliminates the Highway Bridge Program and shifts the funding into the new National Highway Performance Program. However, non-NHS, federal-aid bridges are eligible for the 40% of the National Highway Performance Program funds not dedicated to the repair of the National Highway System.

Transit: MAP-21 improves the focus on state of good repair and the ability to articulate transit investment needs.

Under current law there is no requirement for transit agencies to evaluate or report on the condition of their infrastructure. This creates a situation where the exact number of structurally deficient bridges and the cost to fix them can be identified, but we cannot come up with comparable statistics for transit systems. MAP-21 will establish uniform standards for measuring the state of good repair of transit systems and require transit agencies to set targets using performance measures. In addition, transit agencies are required to develop asset management plans using criteria established by FTA.

Transit Funding and Operating Flexibility

Transit funding: The bill maintains transit funding for the next two years. In addition, it continues the practice of funding major transit programs from the Highway Trust Fund and a limited number of programs from the General Fund. The only exception being a small program for transit in national parks, which was previously funded out of the Trust Fund but is now is funded through a General Fund authorization.

Operating flexibility: Under current law only transit systems that operate in areas with a population under 200,000 may use their federal funds for operating assistance. MAP-21 makes significant improvements that will provide local communities with the option to use federal funds for operating assistance, though under certain circumstances.

- **Temporary and targeted.** Transit systems in these areas will be allowed to use a portion of funds for operating assistance for up to a three year period in times of economic crisis as determined by the unemployment level. They may use up to 25% in the first year and 20% in the second and third years. Any system that uses this flexibility is there after prohibited from using it for a period equal to the number of years it was used.
- **Small bus operators.** MAP-21 creates a tiered system for small bus operators that operate in areas with populations greater than 200,000. These systems are often similar in size to some of the operators in areas under 200,000 but do not have the same flexibility.
    - Operators with 76 to 100 buses during the peak hour will be able to use up to 50% of their federal funds for operating assistance permanently.
    - Operators with 75 or less buses during the peak hour will be able to use up to 75% of their federal funds for operating assistance permanently

Transit Oriented Development: MAP-21 includes several new provisions that will help promote transit-oriented development.

- Establishes a national goal of "encouraging mixed use, transit-oriented development" for the transit program. While this has little immediate effect it should assist in our efforts to improve FTA regulations to promote TOD.
- TOD planning grant pilot program. Creates new program ($20M) to provide funding to local communities for planning efforts to encourage TOD. Only local communities with a new or planning a New Starts project are eligible to apply.
- The bill does not include the TOD credit facility that would have removed a significant barrier to advancing TOD and helped promote affordable housing near transit stations.

Local Control

Suballocation: Under current law 62.5% of 90%, or 56.25%, of the Surface Transportation Program is suballocated to areas of the state based on population. In MAP-21 the Surface Transportation Program is consolidated with several other programs in the new Transportation Mobility Program of which 50% of funds are suballocated. While this is a reduction in percentage the dollar amount remains the same due to the increase in the overall size of the program.

Competitive Grants: MAP-21 contains three competitive grant programs, in addition to the New Starts program, including a Systems Operations and ITS Deployment Grant program, Projects of National and Regional Significance, and the "Additional Activities" program.

- Systems Operations and ITS Deployment Grant program. This program will distribute between $50M and $100M annually to local governments, MPOs, transit agencies, state DOTs or a multijurisdictional group of such organizations. Grants to a single recipient may not exceed 10% of total available funds and the federal cost-share may not exceed 50%.
- Projects of National and Regional Significance. This program is a competitive grant program authorized for up to $1B in general funds in FY13. It can fund highway, transit and intermodal projects with a total cost of at least $500M or 30% of a state's highway apportionment. A grant under this program may cover up to 50% of a project's cost and other federal funds may cover up to an additional 30%.
- "Additional Activities" program. This program consolidates the existing Transportation Enhancements, Safe Routes to School and Recreational Trails program into a single program funded at $910M. Fifty percent of the funds in this program are suballocated based on population throughout the state. States and MPOs over 200K must establish a competitive grant process to distribute these funds within their state or region to local entities.
- TOD Planning Grant Pilot program. This program, funded at $20M, will provide funding to local communities for planning efforts to encourage TOD. Only local communities with a new or planning a New Starts project are eligible to apply.

Safe Streets and Healthy Communities

Safety for Motorized and Nonmotorized Users: Under current law road and bridge projects are treated differently with regards to whether or not projects need to accommodate all users. Highway projects are exempt from this requirement, while bridge replacement projects are required to ensure accommodation with some exceptions. MAP-21 establishes a federal complete streets policy that would ensure that all surface transportation projects adequately accommodate the needs of all users. States may develop their own policies and in turn would not be subject to the federal policy. States must report on its implementation of its policy and the Secretary will determine whether or not it is compliance.

State and Regional Competitive Grants: Under current law there are three programs that provide funding for local projects such as bicycle and pedestrian projects – Transportation Enhancements, Safe Routes to School and Recreational Trails. In FY10 these programs were funded at 1.142B. MAP-21 consolidates these programs into a single program funded at ~$910M – a reduction of ~19%. In addition, this new program includes additional eligibilities such as environmental mitigation. In this program 50% of funds will be suballocated based on population and all funds will be distributed by a competitive grant processes to local governments and other eligible entities.

Fixing Dangerous Locations: MAP-21 enhances the Highway Safety Improvement Program by defining road user to include motorists, bicyclists and pedestrians. This will help ensure that locations hazardous to pedestrians and bicyclists will also be identified as hazardous locations and, hopefully, included for funding under the program.

National Freight Policy: MAP-21 establishes national, multimodal freight policy that focuses on improving the efficiency of goods movement while protecting public health and the environment. It also includes objectives for the policy. The Secretary will use this policy and objectives when developing the National Surface Transportation and Freight Strategic plan – which will assess progress towards meeting the policy and objectives as well as major challenges to effectively meeting the policy and objectives.

Passenger and Freight Rail

Passenger Rail: Builds on existing programs at Amtrak and the Federal Railroad Administration to promote and plan for the development of a robust intercity passenger rail system, including requirements for the development of national, regional and state rail plans.

MAP-21 does not authorize any new passenger rail programs. It should be noted that it also does not reduce authorized funding levels for existing passenger rail grant programs from the Passenger Rail Investment and Improvement Act of 2008, commonly known as PRIIA. These grants, subject to annual appropriations, can provide up to $950M in FY12 and $1.05B in FY13 for passenger rail projects. In addition, MAP-21 contains provisions to allow one of these grants – the Capital Investment Grants to Support Intercity Passenger Rail – to be used for operating costs to help states offset increased costs on state supported Amtrak routes. Currently there are 15 state supported Amtrak routes. There are also new or revised requirements for the development of national, regional and state rail plans.

MAP-21 does not allow highway funds to be ‘flexed’ for passenger rail purposes.

Freight Rail: MAP-21 does not authorize any freight rail programs. However, it does allow a state to ‘flex’ highway funds for freight rail purposes. A state may use up to 10% of the National Freight Program and up to 5% of the Transportation Mobility Program – a total of

$720M nationally, subject to the condition that project provide a better rate of return than a similar highway project.

Railroad Rehabilitation and Improvement Financing program (RRIF): MAP-21 modifies the RRIF program to allow applicants to use future dedicated revenues or income as collateral to help secure a RRIF loan. This will help commuter rail and passenger rail projects more effectively secure RRIF loans. In addition, MAP-21 modifies the eligible projects to include positive train control and pre-construction activities.

Rural Transportation

MAP-21 contains several improvements for rural transportation.

- Codifies rural transportation planning organizations and requires states to consult with these organizations in the development of the statewide transportation plan
- Requires states to develop a process to consult with nonmetropolitan officials in the development of the statewide transportation plan that is separate and discrete from existing consultation processes for other stakeholders
- Improves safety by requiring states to use both crash frequency and crash rate when identifying hazardous locations for improvements under Highway Safety Improvement Program. Previously the program did not explicitly require that crash rates be considered.
- Provides flexibility for local communities to invest in local street network improvements instead of a bypass or widening of 'Main Street' for projects funded under the Transportation Mobility Program. This provision recognizes the ability of street networks to improve the performance of significant corridors while preserving local economic development.
- Increases funding for rural transit and tribal transit programs
- Consolidates human services transportation programs to help improve efficiency
- Includes a pilot program for up to 20 states that will help maintain and expanded intercity bus service. The pilot program would allow unsubsidized private capital costs to be used as local match to for a portion of funds that may be used to help support the operations of intercity bus transportation.
- The federal-aid highway national program goals and the surface transportation national objectives both make specific reference to the needs of rural communities.

Workforce Development

- Does not include any provisions to allow state or local government to develop innovative contracting provisions that would help local workers gain training and job opportunities on federal-aid highway projects.

- MAP-21 requires urban transit agencies to use at least 0.5% of their formula funds for workforce development activities to increase minority and female employment in transit, educate and train employees, develop curriculum for workforce development, provide training and assistance for minority business opportunities and advance training related to maintaining environmentally friendly vehicles and facilities.
    - In addition it establishes a small competitive grant program ($2M) to fund innovative workforce development activities
- MAP-21 does not modify Davis-Bacon provisions.

Transportation Infrastructure Finance and Innovation Act (TIFIA)

Under current law the TIFIA program is funded at $122M annually. With this amount DOT can provide around ~$1.2B in loans each year. TIFIA loans are required to repaid using a dedicated revenue source such as tolls or a local sales tax.

For each of the past three years applications have been selected using project selection criteria as requests have exceeded available revenues. MAP-21 significantly increases funding to $1B annually – increasing the total amount of loans that can be provided in a single year to ~$10B. In addition MAP-21 makes other changes to the TIFIA program:

- Project costs. MAP-21 continues the requirements that a project have a cost of at least the lesser of $50M or 1/3 of a state's federal highway apportionment for the current fiscal year, or for ITS projects a cost of at least $15M. MAP-21 lowers the threshold for projects located in rural areas to $25M.
- Federal share of project costs. Under current law a TIFIA loan may only cover up to 1/3 of a project's total cost, MAP-21 modifies this provision to allow a loan to cover up to 49% of a projects cost. MAP-21 allows a TIFIA loan to be used for any non-federal share of project costs required for federal highway or transit funds, provided the loan will be repaid from non-federal sources.
- Project selection. Under current law projects are selected through a competitive process with statutorily set selection criteria. MAP-21 proposes to change the program to a rolling application process with the funds distributed on a first come, first served basis. In the event a project applies for a TIFIA loan but the available TIFIA funding to support loans for the fiscal year has been exhausted then the project may enter into a master credit agreement – obtaining a commitment for a loan the following fiscal year.
- Master credit agreement. MAP-21 adds a new provision to the program that would allow applicants to request a series of loans for a program of projects. This would allow an applicant to lock down financing terms for a series of loans to advance a program of projects over time. In addition, a single project may request a master credit agreement in the event the available TIFIA funding to support loans for the fiscal year has been exhausted.

- Non-subordination. Under current law a TIFIA loan cannot be subordinate to any other debt. While this provision helps protect taxpayers for projects where the repayment of the loan is related to the performance of the projects like a toll road, it creates significant hurdles for transit agencies with dedicated local taxes. Often these agencies have other outstanding debt, which effectively prohibits their use of the TIFIA program. MAP-21 modifies the non-subordination provisions to allow a TIFIA loan to be subordinate to existing debt when the applicant is a public agency with a repayment source unrelated to the performance a of project like a sales tax, the loan will not cover more than 1/3 of the project costs and the project must have a high credit rating that is otherwise required for a typical TIFIA loan.
- Rural infrastructure projects. Under current law TIFIA provisions apply uniformly to all eligible projects. MAP-21 creates special provisions for rural infrastructure projects, defined as projects in areas with a population less than 250,000. At least 10% of TIFIA funds annually are set-aside for rural projects. In addition, rural projects have a lower cost threshold of $25M and are eligible for an interest rate that is half of the typical interest rate.

Project Delivery

MAP-21 makes a number of modifications to the project review and permitting process with the intent of accelerating project delivery.

- Design exceptions. MAP-21 allows states to assume the responsibilities of the Secretary under this title for design, plans, specifications, estimates, contract awards, and inspections of Interstate projects, provided they are not designated as high-risk. Today the Secretary may not delegate this authority.
- Innovative project delivery incentives. MAP-21 allows for states to increase the federal share of a project if a state uses certain delivery methods, technologies and improves safety or reduces congestion in work zones – examples include design-build contracting, use of prefabricated bridge elements, and incentive based contracting to encourage early project completion.
- New Starts projects. MAP-21 streamlines the New Starts project approval process by eliminating the requirement for alternatives analysis.
- NEPA delegation. Under current law up to five states were authorized to take over NEPA review from USDOT for 5 years. MAP-21 makes this authority permanent and allows any state that meets the applicable criteria to request this authority.
- Categorical exclusions (CEs). MAP-21 contains several provisions intended to expand and expedite the use of categorical exclusions under the NEPA review process. A categorical exclusion is the least stringent form of review under the NEPA process and is reserved for projects that do not have a significant impact on travel patterns, communities or the environment. The bill directs DOT to expand the types of categorical exclusions to include projects located within existing right-of-way that do not add a through lane or interchange and either improves infrastructure condition or

safety/air quality/congestion. In addition, DOT is directed to allow certain CE determinations to be made by without significant documentation – projects would be moved from "documented CEs" to "listed CEs".

- Advance acquisition of right-of-way. MAP-21 allows a state to buy right-of-way prior to the completion of the NEPA process with state funds and be reimbursed afterwards with federal dollars. If the corridor purchased by the state is not selected as the preferred alternative through the NEPA process then the state will not be reimbursed. This authority is only supposed to be exercised when it will not bias the outcome of the NEPA process or limit the number of alternatives that will be considered. There are some concerns that despite the intent states and others may bias the outcomes of the NEPA process so that they may be reimbursed with federal funds – otherwise they will suffer a multi-million dollar mistake.
- Early coordination. MAP-21 includes provisions to allow states and MPOs to request memorandums of understanding with resource agencies to provide for early coordination on projects to allow reviews. This process has been shown to help accelerate review of project documents and reduce potential conflicts.
- Financial penalties. MAP-21 includes provisions that would require resource agencies to transfer funds to offices with responsibility for reviewing a project or issuing a permit if the agency does not make a final decision within certain timeframes. Amounts transferred under this provision range from $10,000 to $20,000 per project but cannot exceed 5% of a total office budget in any single fiscal year.

Metropolitan Planning Organizations (MPOs)

MAP-21 makes several modifications to metropolitan planning organizations with regards to tiering, smaller MPOs, and composition of their boards.

Tiering. The first and most significant difference is the concept of creating two tiers of MPOs – Tier I and Tier II MPOs. Tier I MPOs generally represent areas with populations over 1 million and will need to undertake the all of performance-based planning provisions established by the bill. Tier II MPOs generally would represent areas with a population below 1 million and would have scaled requirements to comply with the performance-based planning provisions. Both Tier I and Tier II MPOs will need to meet technical requirements established by US DOT.

Small MPOs. MAP-21 also contains provisions that impact MPOs that represent urbanized areas with populations between 50,000 and 200,000. These MPOs would need to meet minimum technical requirements established by US DOT within 3 years to remain an MPO. The requirements, which apply to all Tier II MPOs, would be limited to staffing resources and travel demand modeling and forecasting. MPOs can request an extension of time to meet the technical requirements. MPOs that represent these areas may choose to disband and transfer their planning responsibilities to the state. In addition, new urbanized areas within this population range are not required to establish an MPO.

Composition of MPO Boards. MAP-21 requires that within 1 year that MPO boards consist of (i) local elected officials, (ii) officials agencies that operate or administer major modes of transportation, and (iii) appropriate state officials.

Other Provisions

Commuter Benefit: The bill extends the transit commuter benefit until January 2013. The commuter benefit ensures that all employees are eligible for up to $240 in pre-tax transportation benefits. Under current law only drivers may receive the full benefit, while transit users receive approximately one-half of that amount.

Buy America: MAP-21 contains several provisions related to "Buy America" requirements for federal transportation projects. The bill improves transparency around the waiver of these provisions and requires reports on the waivers issued including value of waivers, specifications, and country of origin of materials purchased. In addition, the bill contains provisions that would ensure that all contracts for a project, as defined in a federal record of decision under NEPA, are subject to "Buy America" requirements if any of the contracts use federal funds.

Transferability of Federal-aid Highway Funds: Under current law a state can transfer up to 50% of funds from most core programs to other programs. For example, a state could transfer 50% of Interstate Maintenance funds to the Surface Transportation Program and use the transferred funds for projects eligible under the Surface Transportation Program. MAP-21 allows states to transfer up to 20% of funds from core programs to other programs. This will help ensure that funds intended for the repair of existing infrastructure must be used for those purposes. In addition, the bill keeps the current restrictions on transferring metropolitan planning, suballocated funds from the Transportation Mobility Program, and the "Additional Activities" funds (it applies the former transportation enhancement restriction to this new program).

Tolling and Pricing: Under current law states have limited authority to toll existing federal-aid highways. There are also four pilot programs that provide a limited number of states with enhanced authority to toll and price transportation facilities – Value Pricing Program, Interstate Reconstruction and Rehabilitation Program, Express Lanes Demonstration Program and the Interstate Construction Program.

MAP-21 does not enhance the general authority of states to toll existing federal-aid highways. It extends the Express Lanes Demonstration Program for an additional two years and removes the authority to expand a highway and toll both the original and new lanes. It does not extend or expand the Interstate Reconstruction and Rehabilitation Program. This program initially had a time limit of 10 years which had been extended several times and is capped at three participants; there are currently three approved participants – Missouri, Virginia and North Carolina. The bill retains the ability for states and regions to gain enhanced pricing authority through the Value Pricing Pilot Program. However it does not provide funding for the program, which was previously funded at $12M annually.

Clean Construction: MAP-21 contains new provisions related to the reduction of PM2.5 pollutants. One of these provisions is the requirement that MPOs that are a nonattainment or maintenance area for PM2.5 must spend 15% of their suballocated funds attributable to PM2.5 for projects to reduce PM2.5 pollution related to the use of diesel equipment on highway construction projects; suballocated funds are distributed to areas within a state based on pollutants for which the area is in nonattainment or maintenance. Funds can be used for idle reduction technology, diesel exhaust control technology, diesel engine repower and diesel engine upgrades subject to pollution reduction criteria.

High Occupancy Vehicle Lanes. MAP-21 includes new provisions that require a state to take corrective action to ensure HOV lanes function at a minimum operating speed. If a state does not take appropriate action within 180 days the Secretary may impose sanctions on the state. Corrective actions may include: (i) increasing occupancy requirements; (ii) increasing toll charged on non-HOV vehicles; (iii) tolling any non-HOV vehicles allowed to use the HOV lanes (motorcycles, fuel efficient vehicles, etc); (iv) limit or discontinue allowing non-HOV vehicles to use the HOV lanes; and, (v) increase the capacity of the HOV facility.

Recreational Trails: MAP-21 contains provisions that would require states to continue carrying out the Recreational Trails program as in place prior to enactment, unless they opt-out of the program. If a state does not opt-out, then funding equal to their 2009 Recreational Trails apportionment will be taken from their "Additional Activities" funding for the program. These funds would be used for recreational trail projects, complying with the administration of the program and return 1% of funding to the Secretary for administration of the program.

Major Programs	Description
National Highway Performance Program (NHPP) **$20.6B**	This program focuses on repairing and improving the National Highway System. The NHS is broadened from ~160,000 miles to ~220,000 miles. States are required to develop asset management plans and as a part of these plans establish performance targets for the performance of the system and the condition of roads and bridges. In addition the program includes provisions to hold states accountable for the repair of Interstate pavement and NHS bridges by requiring that they spend a certain amount of funding on the repair of those facilities if those facilities fall below minimum standards established by USDOT. Sixty percent of the funds in this program must be used for the repair of NHS roads and bridges.
Transportation Mobility Program (TMP) **$10.4B**	This program replaces the existing surface transportation program. It allows states and regions to invest in a broad set of roadways, transit projects, freight rail projects, bicycle and pedestrian projects, as well as other activities like travel demand management. Fifty percent of these funds are suballocated to areas in the state based on their population – while this percentage is lower than the current 62.5%, the absolute amount of funding suballocated remains the same because the size of the program has grown. Funding and responsibility for off-system bridges has been shifted to this program. Previously, off-system bridges were funded through the Highway Bridge Program (which was incorporated into the NHPP as part of the program consolidation).
Highway Safety Improvement Program **$2.5B**	This program provides funding to states to improve safety for all road users on all public roads. A road user is defined as both motorists and nonmotorized users. States are required to collect extensive data on crashes and create a database containing information on safety issues for all public roads including identification of hazard locations – 8% of all funds in this program are set-aside for data collection. States must also develop a strategic highway safety plan using the data collected. If states have not developed a strategic highway safety plan using a process approved by USDOT within a year, they are required to spend additional funding on safety projects. States are also required to develop safety performance targets on fatalities and serious injuries.
Congestion Mitigation Air Quality (CMAQ) **$3.3B**	There are two pots of funding in CMAQ - (1) traditional CMAQ ($2.3B) and (2) "Additional Activities" ($900M). (1) traditional CMAQ is designed to help states and regions meet national ambient air quality standards. In states with non-attainment or maintenance areas, 50% of the funds are suballocated to areas that are designated as nonattainment or maintenance. Funds cannot be used to construct new travel lanes except for HOV or HOT lanes. USDOT is required to develop performance measures for air quality and congestion reduction. MPOs serving areas with a population greater than 1 million that receive funds under this program are required to develop a performance plan that outlines baseline conditions, targets for each of the performance measures developed by USDOT, and a description of projects to be funded including how such projects will help meet the targets. (2) The "Additional Activities" funds may be used for transportation enhancements, safe routes to school, recreational trails and boulevard improvements. These funds will be distributed to local project sponsors through state-level and regional competitive grants.
TIFIA Program **$1B**	Expands the TIFIA program from $122 million to $1 billion annually and modifies the program from a competitive application process to a rolling, first-come-first-serve process. Provisions have been added that allow for applicants to enter into master credit agreements to provide funding for a program of related projects. In addition, there are modifications that make it easier for public transportation agencies with dedicated revenue sources to apply for TIFIA loans.

Major Programs	Description
National Freight Program **$2B**	States can use funds for highway projects that improve freight movement with a focus on the primary freight network and key rural freight corridors. A state may use up to 5% of funds for rail or maritime projects subject to certain conditions. USDOT is directed to establish a primary freight network consisting of 27,000 miles of key freight corridors. USDOT must also develop a National Freight Strategic Plan. The Plan will analyze performance and conditions on the primary freight network, identify bottlenecks, estimate future freight volumes and identify best practices for mitigating impacts of freight movement on communities. In addition, on a biennial basis, USDOT shall publish a Freight Condition and Performance Report. States must establish performance targets and report on progress every two years.
Urbanized Area Formula Grants **$5.2B**	This program provides grants to transit systems in areas above 50,000 in population. MAP-21 contains provisions to allow large transit operators flexibility to use a portion of these funds for operating assistance during economic downturns. The Job Access and Reverse Commute Program is changed from a stand-alone grant program to requirement that transit agencies use 3% of their Urbanized Area Formula Funds for access to jobs and reverse commute projects. In addition, the bill requires transit agencies to use 0.5% of urban formula funds for workforce development programs.
Elderly and Disabled Transit Grants **$248M**	The bill consolidates the Elderly and Disabled Program (Section 5310) and the New Freedom Program (Section 5317) into a single program. Projects can include capital or operating projects to serve the needs of seniors or individuals with disabilities. FTA is directed to establish performance measures for the program, and to increase interdepartmental coordination and coordination with transportation services funded through non-DOT funds.
Rural Transit Grants **$591M**	This program provides funding for transit systems that operate in rural areas. Planning and mobility management are added as an eligible expense for rural formula funds. Rural transit agencies are allowed to use a portion of their funds for projects eligible under the former Job Access and Reverse Commute Program. Tribal transit funding is increased from $15 million to $30 million per year. An Appalachian Development Public Transportation Assistance program is added, at $20 million per year.
State of Good Repair Grants **$2B**	The bill requires FTA to define “state of good repair” and establish related performance measures. Transit agencies are required to develop asset management plans and annual state of good repair targets. The current Fixed-Guideway Modernization Program is converted into a State of Good Repair grant program primarily distributed through formula but also including a small competitive grant program. Both fixed-guideway and BRT projects are eligible.
New Starts Program **$1.9B**	This Program provides grants for new transit projects. MAP-21 streamlines program by removing the requirement for alternatives analysis. Core capacity projects are explicitly eligible for New Starts funding. BRT projects remain eligible but must operate a majority of their route in a separated right-of-way. Projects must be evaluated based on justification, local financial commitment, and supportive land use and economic development impacts. In addition, 100% locally funded projects can serve as local match for a federally funded project within the same “program of interrelated projects.” Projects under $100 million will follow an expedited review process, and a new pilot program is created to explore procurement methods or innovative financing to expedite project delivery.