American Road & Transportation Builders Association

Moving Ahead for Progress in the 21st Century Act

A Comprehensive Analysis

July 2012

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ARTBA American Road & Transportation Builders Association

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Moving Ahead for Progress in the 21st Century Act

An Analysis

Executive Summary

After more than 1,000 days of extensions since the last federal surface transportation law expired, President Obama signed the "Moving Ahead for Progress in the 21st Century Act," or MAP-21, federal highway and transit program reauthorization into law July 6, 2012.
MAP-21 reauthorizes these programs through September 30, 2014, and makes a host of meaningful policy reforms.

Surface Transportation Investment

Program	FY 2012	FY2013	FY2014
Highway obligation limit	$39.144 billion	$39.699 billion	$40.256 billion
Mandatory spending	$0.639 billion	$0.639 billion	$0.639 billion
Highway total	**$39.783 billion**	**$40.338 billion**	**$40.895 billion**
Transit program[1]			
Formula programs	$8.361 billion	$8.478 billion	$8.595 billion
Capital Investment Grants	$1.955 billion	$1.907 billion	$1.907 billion
Research & Training	$0.044 billion	$0.089 billion	$0.089 billion
Administration	$0.099 billion	$0.104 billion	$0.104 billion
Transit total	**$10.459 billion**	**$10.578 billion**	**$10.695 billion**

The highway and transit formula programs continue to be funded with contract authority from the Highway Trust Fund (HTF). The transit New Starts program, research programs and administrative expenses continue to be funded through annual appropriations from the federal general fund. The law provides modest annual increases in both programs to reflect projected inflation. (The above chart provides details.)

To assure the HTF has sufficient resources to finance MAP-21's federal highway and transit investment levels, the new law:

- **Extends the federal motor fuel taxes through September 30, 2016, and the truck excise taxes through September 30, 2017;**
- **Transfers $2.4 billion from the Liquid Underground Storage Tank Trust Fund into the HTF; and**
- **Shifts $18.8 billion from the general fund to the HTF, including $16.6 billion to the Highway Account and $2.2 billion to the Mass Transit Account.**

To offset the budgetary impact of these transfers, MAP-21 generates $20.4 billion of new revenues over the next 10 years through provisions affecting pension funding stabilization, Pension Benefit Guarantee Corporation premiums, and provisions affecting the taxation of life insurance. These steps, however, do not provide recurring revenues, and the HTF's fiscal situation will revert to again being unable to support current investment levels after FY 2014.

Highway Program Details

Beginning October 1, 2012, MAP-21 collapses the 2005 surface transportation law—SAFETEA-LU—program structure into four main programs:

- **National Highway Performance Program;**
- **Surface Transportation Program;**
- **Highway Safety Improvement Program; and**
- **Congestion Mitigation and Air Quality Program.**

National Highway Performance Program

MAP-21 combines the SAFETEA-LU National Highway System (NHS) and Interstate Maintenance Programs and part of the Bridge Program into one new National Highway Performance Program (NHPP) to fund investment in the nation's core highways and to assure that investments in the NHS achieve performance standards set in the state's asset management plan.

Each state is required to set goals to maintain or improve NHS conditions and performance consistent with minimum levels established by the U.S. Secretary of Transportation, develop an asset management plan to achieve those

[1]There is no provision establishing an overall obligation ceiling for the public transportation program for FY 2013 and FY 2014.

goals, and report annually on progress toward the goals. Failure by a state to achieve maintenance standards for the Interstate Highway System (IHS) and bridges will trigger spending requirements set by the law.

Surface Transportation Program

The Surface Transportation Program (STP) is continued largely as in SAFETEA-LU. It would also allow funds to be used to support bridges off the federal system.

National Freight Policy

Although MAP-21 does not include a separate freight program, it does create a National Freight Policy designed to improve the condition and performance of the national freight network. It increases the federal share of costs to 95 percent for freight-related projects on the IHS and to 90 percent on other roads to encourage states to make freight-improvement investments.

Environmental Streamlining

MAP-21 includes several significant changes to the review and approval process for transportation projects. The law also includes a number of ARTBA's long-held priorities in reforming the review and approval process: greater "lead agency authority" for the U.S. Department of Transportation (DOT) and the integration of the planning and the National Environmental Policy Act (NEPA) processes.

MAP-21 allows for the expanded use of the categorical exclusion (CE) process, the least rigorous form of environmental review, in a number of additional areas. CEs may now be used for: projects within an existing right-of-way; certain components of multi-modal projects; repair and reconstruction of existing roads, highways and bridges; projects damaged by natural disaster; and projects receiving minimal federal funds.

It expands SAFETEA-LU's efforts to delegate responsibilities to states by allowing all states to assume control of either CEs or the entire environmental review process.

MAP-21 narrows the 180-day time limit to file lawsuits on a project decision started in SAFETEA-LU to 150 days. Further, the law establishes time limits on permitting decisions. Agencies must issue decisions on permits for transportation projects within 180 days of the application or the final NEPA decision on the project, whichever is later.

Public-Private Partnerships

MAP-21 makes strategic investments to attract private sector resources to transportation improvements. Specifically, it increases funding for the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from $122 million per year to $750 million in FY 2013 and $1 billion in FY 2014. The measure also increases the maximum potential TIFIA share of total project cost from 33 percent to 49 percent. The financial leverage reflected in TIFIA's statutory formula demonstrates that $1 billion in federal credit assistance would now have the potential to support more than $20 billion in project activity. This outcome, however, would require full utilization of the program's capacity.

The law expands the ability of states to use tolls on federal-aid highway capacity projects. However, the number of toll-free lanes must at least remain the same as before construction.

Other MAP-21 Policy Highlights

- **Removes the ban on using Congestion Mitigation & Air Quality (CMAQ) funds on projects that add new highway capacity for single occupancy vehicles;**
- **Requires the U.S. Secretary of Transportation to complete an annual online report in a user-friendly format with information on all projects for which federal funds were obligated;**
- **Establishes a Transportation Alternatives program that dedicates two percent of the amounts provided to states by formula for activities, including: bike and pedestrian trails, safe routes for children and individuals with disabilities, abandoned rail conversions, community improvement activities and environmental mitigation activities. The two percent threshold represents a $300 million reduction from the cumulative funds provided annually for these activities under SAFETEA-LU; and**
- **Requires the development of updated national bridge and tunnel inspection standards, including penalties for states that remain non-compliant, and a training program for bridge and tunnel inspectors.**

The following pages provide more detail on the new surface transportation law.

Moving Ahead for Progress in the 21st Century Act
An Analysis

President Obama signed into law the “Moving Ahead for Progress in the 21st Century Act”, or MAP-21, July 6, 2012. It authorizes federal highway and transit investment through September 30, 2014. Since most of the law’s new provisions take effect October 1, 2012, the bill is essentially a final three-month extension of SAFETEA-LU, the 2005 surface transportation law, combined with a new, two-year authorization of the federal highway, transit and safety programs covering fiscal years 2013 and 2014.

Surface Transportation Investment

Program	FY 2012	FY2013	FY2014
Highway obligation limit	$39.144 billion	$39.699 billion	$40.256 billion
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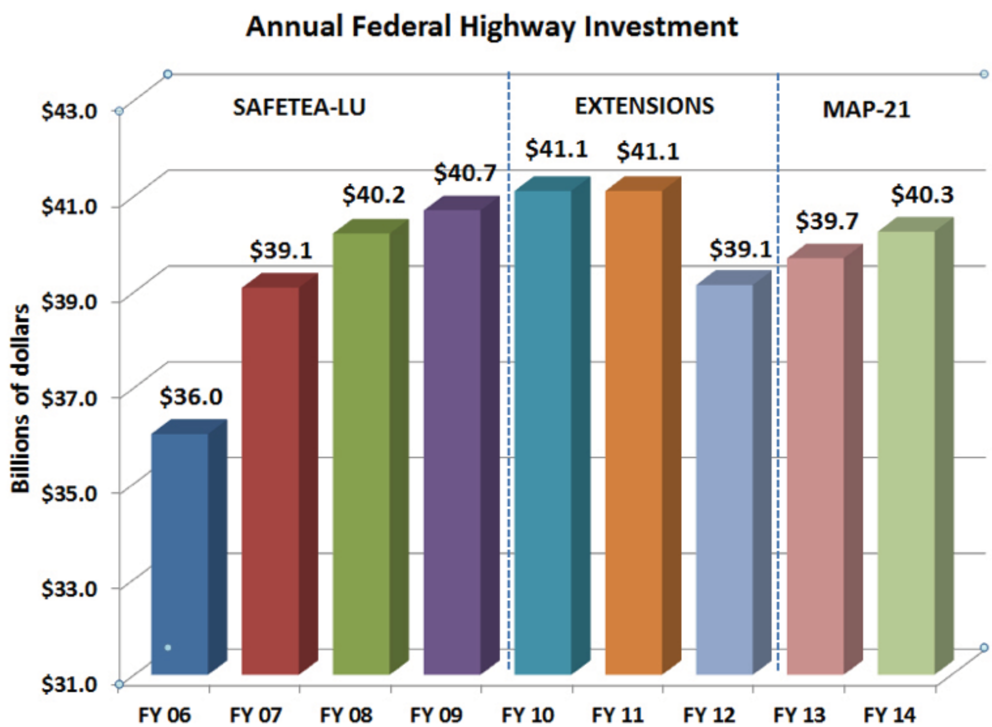
The highway and transit formula programs continue to be funded with contract authority from the Highway Trust Fund (HTF). The transit New Starts Program, research programs and administrative expenses continue to be funded through annual appropriations from the federal general fund. MAP-21 will provide modest annual increases in both programs to reflect projected inflation.

The chart above shows current investment levels (FY 2012) and what the measure provides over the next two years:

While MAP-21 essentially preserves current investment levels plus inflation for the next two years, it should not be overlooked that federal highway funding took a $2 billion cut in FY 2012 from the previous year. Although the Senate proposed restoring this reduction in its version of the measure, the final law kept it in place. As a result, MAP-21's highway investment levels are roughly the same as the amount the federal government invested back in FY 2008 (as depicted in the chart below) and transit investment remains at the FY 2010 levels.



[2]There is no provision establishing an overall obligation ceiling for the public transportation program for FY 2013 and FY 2014.

The fact that MAP-21 contains no earmarks and distributes almost all highway funds by formula to the states, however, will have a positive impact on construction market opportunities. As of July 2012, there were still almost $11 billion in unused SAFETEA-LU congressional earmarks and other funds that did not have an obligation deadline. While there may be legitimate reasons for the utilization of these resources to be delayed by almost three years and they will eventually work their way into the marketplace, MAP-21 funds will have a substantially more immediate impact in supporting projects.

The major reason why it took 33 months of extensions since SAFETEA-LU's expiration to enact MAP-21 was the inability of the HTF to support even existing levels of surface transportation investment. While the myths about the cause of the trust fund's demise range from the advent of hybrid cars to the high price of gasoline, the simple fact is that SAFETEA-LU's authorized funding levels were well above existing trust fund revenues. For the first three years of SAFETEA-LU (FY 2005-2007), Congress closed this gap by liquidating the HTF's surplus. Starting in FY 2008, however, new resources for the trust fund have been needed to prevent major cuts in highway and public transportation funding.

To assure HTF resources are sufficient to finance MAP-21's federal highway and transit investment levels, the new law:

- **Extends the federal motor fuel taxes through September 30, 2016, and the truck excise taxes through September 30, 2017;**
- **Transfers $2.4 billion from the Leaking Underground Storage Tank Trust Fund into the HTF; and**
- **Shifts $18.8 billion from the federal general fund to the HTF, including $16.6 billion to the Highway Account and $2.2 billion to the Mass Transit Account.**

To offset the budgetary impact of these transfers, the bill generates $20.4 billion of new revenues over the next 10 years through provisions affecting pension funding stabilization, Pension Benefit Guarantee Corporation premiums, and the taxation of life insurance. These steps, however, do not provide recurring revenues and, therefore, the HTF's fiscal situation will revert to being unable to support current investment levels after FY 2014.

Highway Program Structure

Beginning October 1, 2012, MAP-21 restructures and consolidates most of the SAFETEA-LU highway program structure into four main formula programs. The programs and projected funding levels are:

- **National Highway Performance Program ($22.25 billion in FY 2013 and $22.4 billion in FY 2014);**
- **Surface Transportation Program ($10.2 billion in FY 2013 and $10.3 billion in FY 2014);**
- **Highway Safety Improvement Program ($2.44 billion in FY 2013 and $2.46 billion in FY 2014); and**
- **Congestion Mitigation and Air Quality Program ($2.26 billion in FY 2013 and $2.28 billion in FY 2014).**

The graph on the adjacent page depicts this restructuring. As a result of this consolidation and the lack of earmarks, MAP-21 will substantially increase the ratio of highway program funds distributed by formula to the states.

State Apportionment Formula. For FY 2013, each state will receive a total apportionment of highway program funds equal to its total apportionment in FY 2012—i.e., dollar amounts will be identical. For FY 2014, each state will receive the same share of the total as in FY 2012 followed by an adjustment to assure that no state receives less than 95 percent of its contribution of motor fuel and truck taxes to the HTF[3].

Once the apportionment of funds among the states is determined, each state's total will be divided among programs using the following formula:

- **Congestion Mitigation and Air Quality (CMAQ) Program and Metropolitan Planning Program–each will receive the same share of the state's total apportionment as in FY 2009;**
- **Of the remaining funds:**
  - **63.7 percent will go to the National Highway Performance Program;**
  - **29.3 percent will go to the Surface Transportation Program; and**
  - **7 percent will go to the Highway Safety Improvement Program.**

[3]According to preliminary data from the Federal Highway Administration, no state's initial apportionment will have to be adjusted since the amount of funds to be apportioned is significantly larger than HTF tax revenues.

HIGHWAY PROGRAM STRUCTURE

SAFETEA-LU	MAP-21
• National Highway System • Interstate Maintenance • Bridge (On-System)	• National Highway Performance Program
• Surface Transportation • Bridge (Off-System) • Border Infrastructure • Appalachian Development Highway System	• Surface Transportation Program
• Congestion Mitigation & Air Quality Program	• Congestion Mitigation & Air Quality Program
• Highway Safety Improvement	• Highway Safety Improvement
• Transportation Enhancement • Safe Routes to School • Recreational Trails	• Transportation Alternatives

Highway Formula Programs

National Highway Performance Program

MAP-21 combines the existing National Highway System (NHS) Program, the Interstate Maintenance Program and a portion of the Bridge Program into a new formula program—the National Highway Performance Program (NHPP)—that focuses on maintaining and improving the NHS. The NHPP is the largest program in MAP-21, receiving almost two-thirds of the formula funds after provision is made for the CMAQ and Metropolitan Planning Programs. The NHPP has two primary goals: defining how states can spend NHPP funds and establishing a performance process to improve pavement and bridge conditions on the NHS.

States will be allowed to use NHPP funds for most of the purposes that were authorized under the Interstate Maintenance Program, NHS and Bridge programs under SAFETEA-LU. These include: construction, reconstruction, resurfacing, restoration, rehabilitation, preservation or operational improvements of segments of NHS (including bridges and tunnels); inspection of bridges and tunnels; training of bridge and tunnel inspectors; ferry boats; bicycle and pedestrian activities; safety improvements; traffic and traveler monitoring programs; state asset management programs; intelligent transportation systems; environmental mitigation; control of noxious weeds; and bus terminals serving the NHS. Funds can also be spent on federal-aid highways not on the NHS and eligible transit projects under certain conditions.

Surface Transportation Program

The Surface Transportation Program (STP) previously allowed recipients the most flexibility in using federal highway funds to meet their transportation needs. MAP-21 continues the program and expands flexibility by adding new eligible uses, including some that had been funded through separate programs under SAFETEA-LU. Eligible uses of STP funds now include, among others, bridge inspections, carpool projects, bike paths, rail-highway grade crossings, congestion pricing projects, recreational trails, development of state asset plans, and improvements to minor collectors (under certain circumstances), as well as construction improvements on highways and bridges, including Appalachian Development Highways (which no longer receive separate funding). States may also continue to "flex" STP funds to transit.

Under MAP-21, the STP receives just over 29 percent of the funds remaining after provision for the CMAQ and Metropolitan Planning Programs, making it the second largest program. Within each state, 50 percent of STP funds will be distributed by population among: (1) urbanized areas with more than 200,000 people; (2) other urban areas with a population over 5,000' and (3) rural areas under 5,000 people, while the remaining 50 percent can be spent anywhere in the state.

Flexibility is also increased by removing the requirement that 10 percent of STP funds be used for transportation enhancements. However, MAP-21 moves the 15 percent off-system bridge set-aside from the SAFETEA-LU bridge program into the STP program. Funding will be at the FY 2009 level unless a state has insufficient off-system bridge needs. Furthermore, if a state uses its own funds for repairs that remove an off-system bridge from the deficient list, it may credit 80 percent of the cost toward the non-federal share of the cost of other eligible bridge projects.

Highway Safety Improvement Program

MAP-21 largely retains the Highway Safety Improvement Program (HSIP) established by SAFETEA-LU. It would, however, make a number of policy reforms to this program. MAP-21 broadens the existing list of activities that constitute a "highway safety improvement project" to include: activities to maintain minimum levels of retroreflectivtiy; geometric improvements to roadways for safety purposes; roadway safety audits; roadway safety infrastructure improvements to assist older drivers; truck parking facilities; and systemic safety improvements (widely implemented improvements to address particular crash types).

Under HSIP, states will still be required to develop a strategic highway safety plan to achieve reductions in traffic fatalities and serious injuries on public roads. Data collection and linking targeted safety improvements to these findings remain a significant component of this program. The U.S. Secretary of Transportation will require regular updates of each state's strategic highway safety plan. States without an approved plan will be ineligible to participate in the annual redistribution of unused highway program spending authority from other states.

Congestion Mitigation & Air Quality Program

The Congestion Mitigation & Air Quality (CMAQ) is a set-aside program, which dedicates funding to help improve air quality issues associated with traffic congestion. CMAQ funds can be spent on a variety of different projects associated with improving air quality. MAP-21 makes several CMAQ program revisions aimed at increasing flexibility for how funding is spent and also attempts to ensure that areas not in attainment with federal Clean Air Act standards are prioritized for receiving CMAQ funds. Perhaps the most significant change to the CMAQ is the removal of a long-standing ban on the use of funds for projects that add new additional lane miles for single-occupancy vehicles.

Another important change is the eligibility of diesel retrofit projects for CMAQ funding. MAP-21 allows states to spend CMAQ funds on projects involving retrofitting diesel-powered construction equipment with newer, cleaner engines. It sets aside a portion of CMAQ funds specifically for improving air quality in areas which do not meet the federal government's standards for particulate matter (PM) or soot. States or metropolitan planning organizations (MPOs) may elect for these funds to be used specifically for retrofitting construction equipment with technology that reduces PM emissions. Specifically, this includes options such as diesel engine upgrades, repowers, idling control technology and exhaust control technology.

Environment & Planning

Project Delivery Reforms

MAP-21 includes a number of policy reforms to shorten the time involved in the transportation project review and approval process. Some are changes to the process itself while others provide states and project sponsors with the option to take advantage of new opportunities to reduce delay. Therefore, the effectiveness of many of MAP-21's initiatives will be determined based on how often and effectively they are utilized. While it is impossible to tell at this time to what degree some elements of MAP-21 will be utilized, they each provide the potential for significant improvements to the project delivery process.

Categorical Exclusions

One of the most noteworthy changes is the expansion of the use of categorical exclusions (CE) as part of the environmental review and approval process required for transportation projects under the National Environmental Policy Act (NEPA). CEs are the least burdensome form of environmental review required under NEPA and are reserved for projects with minimal environmental impacts. Projects with greater impacts are required to perform more time consuming environmental assessments (EA) or produce environmental impact statements (EIS). The difference between a CE and an EIS can be multiple years in additional time spent on project review. MAP-21 directs the U.S. Department of Transportation (DOT) to add new classes of transportation improvements which would automatically qualify for CE status.

MAP-21's expansion of the CE process is significant because the majority of federal-aid transportation projects are not large enough to warrant an EA or EIS as they are minor in scale and will not result in significant—if any—environmental impacts. By creating new classes of CEs, MAP-21 will allow states and federal agencies to often undertake a review process which is far less time consuming without weakening existing environmental protections.

MAP-21 allows multi-modal projects, projects within an existing right-of-way and projects involving limited federal assistance to qualify for CE status. Further, DOT is directed to develop guidelines for CE status for highway modernization projects (resurfacing, restoration, rehabilitation, reconstruction and adding shoulders or auxiliary lanes), highway safety projects and bridge rehabilitation projects.

Emergency Situations

MAP-21 calls for the development of CE guidelines for projects being constructed in response to an emergency or natural disaster. To qualify for CE status, the project must be of the same mode/type and in the same right-of-way as the facility it is replacing and started within two years after the emergency/natural disaster. It should also be noted that MAP-21 offers states additional flexibility in emergency situations by allowing the issuance of special permits to overweight vehicles delivering relief supplies and allows states to use any federal highway program apportionments, other than those dedicated for local governments, to replace transportation facilities damaged by a national emergency.

Deadlines for Permit Decisions & Lawsuits

MAP-21 establishes new deadlines for regulatory decisions by participating agencies. A decision on any permit, license, or approval must be made within 180 days of either the lead agency's final NEPA decision or the receipt of the application by the participating agency, whichever is later. Failure to meet the deadline established in MAP-21 will result in financial penalties to the offending federal agency. MAP-21 also reduces the time limit during which parties may file lawsuits on agency decisions regarding projects from 180 to 150 days. These two reforms will add predictability to the review and approval process by allowing project sponsors to know when permit decisions will be issued and further reduce the opportunity for time-consuming litigation initiated by opponents.

Environmental Impact Statement Process

For projects that do experience delay, MAP-21 sets up a relief mechanism. In cases where projects have spent two years or more in the Environmental Impact Statement (EIS) phase without a record of decision having been issued, the sponsor may appeal to DOT for a schedule to be set in order to complete the project review within a maximum of four additional years. While not mandatory, as the project sponsor must actively initiate the process, it provides an important tool for preventing excessive project delays by setting a deadline for completion of the review process.

MAP-21 also simplifies the EIS process, which is the lengthiest form of environmental review. During preparation of a final EIS, if changes from the original EIS are minor, the agency may simply list the corrections as opposed to producing an entirely new document. Also, lead agencies, to the maximum extent possible, are directed to combine final EISs and records of decision into a single document. By preventing the needless production of multiple additional documents, MAP-21 significantly reduces the amount of time involved in EISs.

Lead Agency Status for U.S. DOT

MAP-21 allows DOT, as the lead agency for all transportation projects, to name a single modal administration as the lead for a particular multi-modal project. The secretary also may, within 30 days of the closing of the comment period for a draft EIS, convene a meeting of the lead agency, participating agencies and the project sponsor to set a schedule for meeting deadlines. MAP-21 also allows states and/or local planning agencies to enter into agreements with the lead agency on any project. Such agreements can address a variety of areas, including: technical assistance; integrating planning and NEPA; timelines for agency action; and the reduction of duplicative efforts in state and federal environmental review processes. MAP-21 also includes a dispute resolution mechanism to resolve conflicts between the lead agency and participating agencies, which for the most serious disputes elevates decisions to the White House Council on Environmental Quality, and if a resolution cannot be reached there, the President.

The opportunities provided by MAP-21 to reduce the delay caused by inter-agency conflict in the area of lead agency are significant. However, the improvements are contingent on the degree to which states and MPOs choose to take advantage of them.

Programmatic Agreements

MAP-21 encourages the use of programmatic agreements in the environmental review process. These agreements spell out requirements for advancing projects up-front, as opposed to being developed throughout the review process. MAP-21 directs DOT to proceed with a rulemaking allowing for programmatic approaches to environmental reviews to avoid "repetitive discussions of the same issues" and instead "focus on actual issues ripe for analysis." It also allows for the use of programmatic mitigation plans, which may be developed by states or MPOs to address the potential environmental impacts of future transportation projects. Once the programmatic mitigation plan is developed, it may be integrated with other plans in the review and approval process and/or used to inform subsequent environmental reviews or permitting decisions.

While programmatic agreements are not required by MAP-21 (and indeed may not be appropriate for some projects), the law provides guidance that should improve the overall delivery process and help reduce delay when parties do choose to enter into such arrangements.

NEPA and Transportation Planning

MAP-21 advances the integration of NEPA and the transportation planning process by allowing planning products and analyses to be incorporated into a project's NEPA review. While this opportunity is not mandatory, integration would help prevent duplication of efforts if the work done during planning is still applicable to NEPA reviews. Moreover, MAP-21 explicitly states that while planning products may be incorporated into the process, planning itself is not subject to NEPA requirements.

Property Acquisition Prior to NEPA

MAP-21 allows project sponsors the option of acquiring property necessary for a project prior to the completion of NEPA reviews. There are, however, qualifications placed on this type of acquisition, including that it must not cause any "significant adverse environmental impact" and does not prevent the lead agency from making an impartial decision on alternatives to be considered. MAP-21 allows states the option of providing funds to a federal agency for assistance on the review of a particular project. However, if this option is utilized, MAP-21 directs the state and the recipient federal agency to enter into a memorandum of understanding detailing exactly how the funds will be used.

As with lead agency status, programmatic agreements, the integration of planning and NEPA reviews, prior acquisition of property under MAP-21 is optional. In projects where acquiring property prior to the completion of NEPA would be beneficial, MAP-21 provides a new opportunity to reduce delay in the project review and approval process.

Delegation of Environmental Reviews

The concept of delegating the responsibility for environmental reviews to the states, which started in SAFETEA-LU, is continued and expanded upon in MAP-21. Previously, SAFETEA-LU established a pilot program allowing five states (Calif., Alaska, Ohio, Texas and Okla.) to assume the role of the federal government during the NEPA process. MAP-21 gives all states the opportunity to participate in the program. States choosing to take part would conduct their own environmental reviews, potentially saving time as a result of not having to go through multiple federal agencies. MAP-21 also extends SAFETEA-LU's option for all states to assume responsibility for just CEs, rather than the entire NEPA process.

Of the five initial states allowed to participate in SAFETEA-LU's pilot program, only California chose to do so. While the reason for non-participation by the other states varied, potential liability and litigation costs were an overriding issue, as the state would also be assuming federal responsibilities for litigation over any project where delegation was used. Therefore, it is notable that MAP-21 authorizes states to use Surface Transportation Program funding for litigation costs associated with delegation of either the entire NEPA program or just CEs. It is unclear at this time if these provisions will address the previous state concerns regarding this opportunity. As such, it remains to be seen the extent to which states will utilize MAP-21's delegation provisions.

Studies, Projects & Initiatives

MAP-21 directs DOT to undertake a number of studies aimed at evaluating how best to improve the review and approval process. The law establishes a "project delivery initiative" which directs the secretary to advance methods of accelerating project delivery. Further, it establishes a clearinghouse for collecting different approaches to accelerating project delivery and directs the secretary to engage stakeholders, disseminate information and provide technical assistance in order to improve project delivery time.

In an effort to monitor the effects of reforms on the project delivery process, MAP-21 directs the President to submit a report to Congress, at least once every 120 days, on the progress of any project which has to prepare an annual financial plan (projects with a total cost of $100 million or more) and a sample of at least five percent of the projects requiring an EIS or EA. ARTBA will be aggressively monitoring these studies, initiatives and reports, offering input when opportunities arise.

Highway Policy Reforms

National Freight Policy

Although MAP-21 does not include a separate freight program, it creates a National Freight Policy designed to improve the condition and performance of the national freight network. The policy:

- **Requires the U.S. DOT secretary to establish a national freight network, to include up to 27,000 miles of roads that are critical to the movement of freight in the U.S., plus all other portions of the Interstate Highway System (IHS), and any rural road designated by a state that carries significant truck traffic;**
- **Calls on DOT to develop a freight strategic plan to assess the condition and performance of the national freight network, identify freight bottlenecks and major trade gateways, and suggest potential improvements and best practices for improving freight transportation;**
- **Directs the secretary to develop new and improved analytical methods and data to support an outcome-oriented, performance-based approach to freight-related transportation projects;**
- **Encourages states to develop a state freight plan, including identification of significant freight trends in the state, an inventory of freight bottlenecks, and a description of procedures the state will use to make investment decisions involving freight transportation; and**
- **Increases the federal share of costs to 95 percent for freight-related projects on the IHS and to 90 percent on other roads, to encourage states to make freight-improvement investments.**

These provisions demonstrate a clear prioritization of freight improvement projects and reinforce the federal government's constitutional responsibility to provide a national transportation system that facilitates interstate commerce.

Performance Management Process

MAP-21 establishes an unprecedented performance management process aimed at ensuring future federal investments achieve specific national objectives. It identifies seven national surface transportation goals: safety; infrastructure condition; congestion reduction; system reliability; freight movement and economic vitality; environmental sustainability; and reduced project delivery delays.

The secretary is directed to create, within 18 months, performance measures and standards for several of the law's core programs to achieve these goals. The measure requires the secretary to consult with project owners and other stakeholders in this process. States are then required to develop performance targets within one year reflecting the performance measures and standards for each of these programs. States must begin reporting on their progress to achieve these targets within four years of July 6, 2012.

NHPP Performance. The secretary is to develop measures for states to assess the condition of pavement on the IHS and NHS; the performance of these systems; the conditions of bridges on the NHS; minimum levels for the condition of pavement on the IHS; and data requirements.

The requirement to develop a minimum level of interstate highway pavement condition is important in this section, as penalties are imposed on states that do not meet the goal. States are required to develop a risk-based asset management plan to achieve their NHS performance targets. Failure to do so by the second fiscal year after the performance process is underway would result in the federal share of all projects funded by the NHPP being reduced to 65 percent. State asset plans must: list all assets on the NHS and their condition; set asset management objectives and measures; and lay out a financial plan and investment strategies for achieving the goals.

If IHS conditions fall below the minimum standards set by the secretary for two consecutive reporting periods, the state must:

- **Obligate an amount not less than its FY 2009 Interstate Maintenance Program apportionments to address these concerns. This amount is required to increase by two percent a year until the minimum condition levels are attained; and**
- **Transfer from its STP apportionments an amount equal to 10 percent of its FY 2009 Interstate Maintenance Program apportionment to the NHPP for activities to improve the condition of the Interstate system until minimum condition levels are attained.**
- **Furthermore, if more than 10 percent of the total deck areas of NHS bridges in the state are located on structurally deficient bridges, an amount equal to 50 percent of that state's FY 2009 Bridge Program apportionment, must be dedicated from the NHPP to NHS bridge improvements. This requirement will be in place for every fiscal year until deficient NHS bridge deck area is less than 10 percent of the total NHS bridge deck area in the state.**

Furthermore, if more than 10 percent of the total deck area of NHS bridges in the state are located on structurally deficient bridges, an amount equal to 50 percent of that state's FY 2009 Bridge Program, apportionment must be dedicated from the NHPP to NHS bridge improvements. This requirement will be in place for every fiscal year until deficient NHS bridge deck area is less than 10 percent of the total NHS bridge deck area in the state

HSIP Performance. The secretary is required to establish measures for states to assess serious fatalities and injuries per vehicle mile traveled and the total number of serious injuries and fatalities. If the secretary determines a state has not met or made progress toward its performance targets in the safety area within two years of establishment, a state must use an amount equal to its prior year HSIP apportionment only for highway safety projects. In other words, they may not take advantage of the flexibility offered elsewhere in the law to transfer this category's federal funds to a separate spending category. The state must also submit annual reports to the secretary on how they are working to achieve their performance targets.

MAP-21 replaces the previous funding set-aside for high-risk rural roads with new performance criteria specific to high-risk rural roads. It imposes a penalty if the fatality rate per capita on those roads increases over a two-year period—the state would be required to spend 200 percent of its FY 2009 high-risk rural road funding on these activities. MAP-21 also requires the secretary to submit a study to Congress on best practices for implementing cost-effective roadway safety infrastructure improvements on high-risk rural roads and to subsequently develop a manual based on those findings.

CMAQ Program Performance. The secretary is required to establish measures for a state to assess traffic congestion and on-road mobile source emissions. MPOs representing nonattainment or maintenance areas with a population over one million people are required to describe progress made in achieving their performance targets as part of their biennial performance plans.

National Freight Movement Performance. The secretary is required to establish measures for a state to assess freight movement on the Interstate System. To be eligible for the increased federal share MAP-21 makes available to national priority freight projects, a state must demonstrate how the project will help meet the state's freight performance targets. Given that there is no distinct freight program in the new law and it attempts to incentivize freight improvement projects, it is not surprising there is a less strict performance process in this area.

Transportation Infrastructure Finance & Innovation Act

MAP-21 makes strategic investments to attract private sector resources. Specifically, the law increases funds allocated to the Transportation Infrastructure Finance and Innovation Act (TIFIA) Program from $122 million per year to $750 million in FY 2013 and $1 billion in FY 2014. The TIFIA program maintains a minimum project cost of $50 million, but adds a $25 million minimum threshold for rural infrastructure improvements. Additionally, the law increases the maximum potential TIFIA share of total project costs from 33 percent to 49 percent. The financial leverage reflected in TIFIA's statutory formula demonstrates that $1 billion in federal credit assistance would now have the potential to support more than $20 billion in project activity, if fully utilized.

MAP-21 also raises the bar for projects to qualify for TIFIA credit assistance, but removes much of the DOT's discretion to select winners and losers amongst those deemed eligible. For instance, the TIFIA process now requires a project to meet certain creditworthiness standards, enable accelerated project delivery, and reduce the contribution of federal grant assistance. Those considerations were optional prior to MAP-21 and were used by DOT to choose amongst all eligible projects. Further, under MAP-21, considerations of national and regional significance, environmental benefits, and innovation no longer factor into decisions to award TIFIA assistance. Some critics of these selection criteria claimed they were too subjective.

The law also creates a rolling application process by which projects eligible for TIFIA assistance shall receive it as long as funds are available. In the event funds for one fiscal year have been exhausted, a project may choose to effectively "get in line" for the next available credit assistance when funds do become available. Previously, the TIFIA application process was executed through annual static notices of funding availability where many eligible projects were not selected and had no certain prospects of receiving future TIFIA assistance.

MAP-21 allows a group of related transportation improvements to apply together as a unified program for TIFIA assistance rather than limiting credit assistance to individual projects. This change enables state and local governments to potentially use a revenue-generating infrastructure project to help finance other improvements that cannot feasibly generate their own resources.

Public-Private Partnerships

MAP-21 requires the DOT to compile and publish best practices on using public-private partnerships (P3s) and may provide technical assistance to public entities exploring P3s. The DOT is also required to develop model contract provisions and encourage public entities to use the contracts as a base template for P3 agreements.

The law also clarifies that if a toll facility is subject to a P3, revenues may be used to make payments to a party holding the right to toll revenues under the P3 agreement.

The three amendments successfully added by retiring Senator Jeff Bingaman (D-N.M.) to the Senate-passed version of MAP-21 are not included in the final law. Those provisions would have prohibited the use of Private Activity Bonds on leases of existing highway assets, lengthened the depreciation schedule for leases of existing highway assets, and penalized states with reductions in federal formula funds if they leased existing highway assets to the private sector. ARTBA strongly opposed the Bingaman provisions throughout the reauthorization process.

Tolling

MAP-21 expands the ability of states to use tolls on federal-aid highway capacity expansion, so long as the number of toll-free lanes does not decrease as a result of the construction. Specifically, the law permits federal participation in the construction of one or more lanes or other improvements that increase capacity of a non-Interstate system highway, bridge or tunnel and conversion of that highway, bridge, or tunnel to a tolled facility if the number of toll-free lanes (not including auxiliary lanes) does not decrease. Further, federal participation is permitted under MAP-21 for construction of one or more lanes or other improvements that increase the capacity of an Interstate system highway, bridge or tunnel and conversion to a tolled facility if the number of toll-free non-High Occupancy Vehicle lanes (excluding auxiliary lanes) does not decrease.

MAP-21 strips away the requirement for a signed agreement with the secretary governing use of toll revenues and instead codifies requirements for such use into the law. In short, a public authority shall use all toll revenues received from the operation of the facility for: debt service for the toll project(s); a reasonable return on investment of any private person financing the project; costs necessary for the improvement and proper operation of the facility; payments required under a P3 agreement; and if the facility is being adequately maintained, the authority can also use the revenues for any other highway investment for which the federal government may be involved.

Further, MAP-21 requires a public authority with jurisdiction over a toll facility to conduct an annual audit to verify adequate maintenance and report those results to the secretary. If the secretary finds the authority is making improper use of the toll revenues, the secretary can force the authority to suspend toll collections until the authority agrees to comply with the limitations on toll revenue usage.

MAP-21 does not extend, nor expand, the various tolling pilot programs authorized under previous surface transportation authorizations. As such, the Interstate System Construction Toll Pilot Program, Value Pricing Pilot Program, and Interstate System Reconstruction and Rehabilitation Pilot Program will expire as scheduled, or as subject to their participation limits.

Bridge & Tunnel Inspection Standards

The measure directs the secretary to inventory all bridges on public roads and classify them according to "serviceability, safety, and essentiality for public use." The secretary then is to assign a risk-based priority for upgrading these bridges. The secretary is also charged with developing a national inventory of highway tunnels, to be revised annually, and reports are required from federal and state authorities on bridge inspections.

The secretary is directed to develop national inspection standards for bridges and tunnels. The standards are to: specify inspection methods; establish time periods between inspections; set qualifications for inspectors; create a procedure for national certification of inspectors; and require reports on results of inspections to the secretary. The secretary will annually review state compliance with these standards. States that do not comply with these standards, after being provided an opportunity to remedy the noncompliance will be required to dedicate NHPP and STP funds to meet the standards.

As noted earlier, bridge and tunnel inspections and the training of inspectors are eligible for federal highway funding from the NHPP and STP. The secretary is required to maintain a program to train bridge and tunnel inspectors.

This section also makes any bridge owned or operated by an agency that does not have taxing powers and that operates a federally assisted public transportation system eligible for federal highway funds (up to the amount which the agency has expended for transit capital and operating costs).

Projects of Regional & National Significance

MAP-21 continues the program established under SAFETEA-LU to support projects of regional and national significance. The new law authorizes $500 million in FY 2013 from the federal general fund to support projects of national and regional significance. To be eligible for assistance, project costs must exceed the lesser of $500 million or 50 percent of the relevant state's federal highway apportionment provided in the most recent fiscal year. The secretary administers this program through a competitive grant selection process.

Transportation Alternatives

The new law consolidates a number of non-infrastructure components of the previous highway program into a new Transportation Alternatives Program. States are now required to reserve two percent of their federal highway apportionments for this program to support the following:

- **Bicycle and pedestrian trails, traffic calming techniques, lighting and other safety-related infrastructure and Americans with Disability Act compliance;**
- **Safe routes for non-drivers;**
- **Conversion of abandoned railroad corridors to bicycle/pedestrian and other non-motorized**

transportation facilities;

- **Turnout, overlook and viewing area construction;**
- **Community improvement activities; and**
- **Environmental mitigation, including storm water runoff and vehicle-wildlife accidents.**

This new program replaces the previous Transportation Enhancement, Safe Routes to School, and Recreational Trails programs. While all the activities, other than transportation museums, remain eligible for Transportation Alternative funds, the total amount available for the consolidated activities is roughly $300 million less than they received annually during the last year of SAFETEA-LU.

Transparency & Accountability

MAP-21 requires the secretary to make data on the expenditure of federal highway and public transportation funds, by state and project, available on the DOT's public website. The law directs this information be updated as regularly as possible to reflect the real time obligation and expenditure of federal resources. Further, the Secretary is required to provide annual reports to Congress summarizing this information. This new provision will help track the impact of federal investments on the transportation construction marketplace, and provide a new opportunity to demonstrate the value and effectiveness of federal highway and public transportation investment.

Construction Manager General Contractor

MAP-21 allows states to utilize the "Construction Manager General Contractor" (CMGC) method of contracting, although the law does not use that term, only referring to it as a "two-phase contract." This contracting method allows pre-construction and construction elements of a project to be bid separately. It also allows the party selected for pre-construction to bid on the project's construction work. While DOT, through the Federal Highway Administration, has previously authorized the use of CMGC for highway projects (most notably in Utah) on a relatively narrow basis, this provision would give states much wider discretion in using it, provided it is authorized in state law. This MAP-21 provision will also allow a state to move forward with a pre-construction phase of a project prior to the completion of the NEPA review process, but does not allow the awarding of the construction contract until the NEPA review process is complete.

Innovative Project Delivery

MAP-21 encourages the use of "innovative project delivery methods." It allows the federal share for any of the approved innovative project delivery methods to be 100 percent, rather than the customary 80 percent, for federal-aid highway projects, as an incentive for states to introduce "innovative technologies and practices." Examples of approved innovative project delivery methods include prefabricated bridge elements and systems, in-place recycling technology, design-build and CMGC contracting methods, intelligent compaction equipment, and incentives for early completion of a project. However, only a maximum of 10 percent of a state's total federal apportionment may be used for this purpose, and the total federal share of any project may only increase up to five percent.

Disadvantaged Business Enterprise Program

MAP-21 states Congress' "finding" that the federal Disadvantaged Business Enterprise (DBE) program merits continuation because of "significant obstacles" and discrimination against minority- and women-owned businesses in the federally assisted surface transportation markets. The law adjusts the upper limit for participation in the DBE program to minority-controlled firms (or groups of firms) with average annual gross receipts during the preceding three fiscal years of $22.41 million or less. This is consistent with the current limit that resulted from annual adjustments for inflation under prior law. In turn, the secretary is to continue making annual inflation-based adjustments to this limit. As part of DOT's monitoring of the DBE program's implementation, the Secretary is also to establish minimum requirements for related reports from the states.

Project Approval & Oversight

High Risk Projects. The law prohibits the secretary from assigning his/her project oversight responsibilities to a state transportation department when he/she determines an Interstate project to be in a "high risk category," as defined by the secretary.

Value Engineering. MAP-21 requires states to develop and carry out a value-engineering program. The state is to conduct a value engineering analysis for required projects before completion of final design, document findings in a final report for each such project, and submit an annual value engineering report to DOT. Required projects for such a value engineering analysis would include federal-aid highway projects on the NHS estimated at $50 million or more; federal-aid bridge projects on the NHS estimated at $40 million or more; and any other project as determined by the secretary. This requirement does not apply to design-build projects.

Financial Plans. For major federal-aid highway projects (i.e. those with an estimated total cost of $500 million or more, or otherwise required by the secretary), MAP-21 will maintain existing requirements that states submit a project management plan and annual financial plan to DOT. However, the measure also allows the state to include a "phasing plan" as part of the project's financial plan, which presents options for completing the project short of its original scope if funds become insufficient for completing the entire project as planned.

Advanced Modeling Techniques. MAP-21 requires the secretary to encourage the use of "advance modeling technologies"—including three-dimensional digital modeling—on federal-aid highway projects. The Secretary is to compile best practices relating to current use of these technologies for dissemination to state departments of transportation.

Oversight Program. The law requires the secretary to review the department's existing oversight program for federal-aid highway projects, specifically assessing the program's ability to identify cost or schedule overruns. Within two years, the Secretary is to report to Congress on his/her findings in this area and recommend changes to the oversight program as needed.

Other Highway Policy Provisions

- **MAP-21 prohibits the use of incarcerated convicts as labor on federal-aid highway projects.**
- **Transportation agencies are to encourage contractors on federal-aid highway contracts to hire qualified military veterans as laborers on these projects. However, contractors are not to give them preference over qualified minorities, females or former employees.**
- **MAP-21 requires that existing "Buy America" provisions apply to an entire project as long as federal-aid funding is provided for any contract or portion of it. This will prevent the "segmenting" of a project by a state transportation agency in an effort to avoid the application of "Buy America" to exclusively state-funded portions.**
- **The secretary is required to revise existing regulations to allow state transportation agencies to determine culvert and storm sewer material types on federal-aid highway projects.**
- **MAP-21 requires revisions of DOT guidance to clarify that the provisions of the Manual on Uniform Traffic Control Devices are not considered a substitute for "engineering judgment."**
- **MAP-21 largely retains the current transportation planning process on both a metropolitan and statewide level. Minor changes are made, including the establishment of MPOs for urban areas with populations of 50,000 or more. Additionally, transit officials are made part of MPOs with populations of 200,000 or more.**

Transportation Safety

Highway Worker Safety

The law directs the secretary to promulgate regulations to ensure that, at a minimum, positive protection measures are used to separate workers from motorized traffic in all highway construction work zones. These regulations are to apply to projects under traffic in areas that offer workers no means of escape—such as tunnels and bridges—unless a project owner demonstrates such steps are unnecessary.

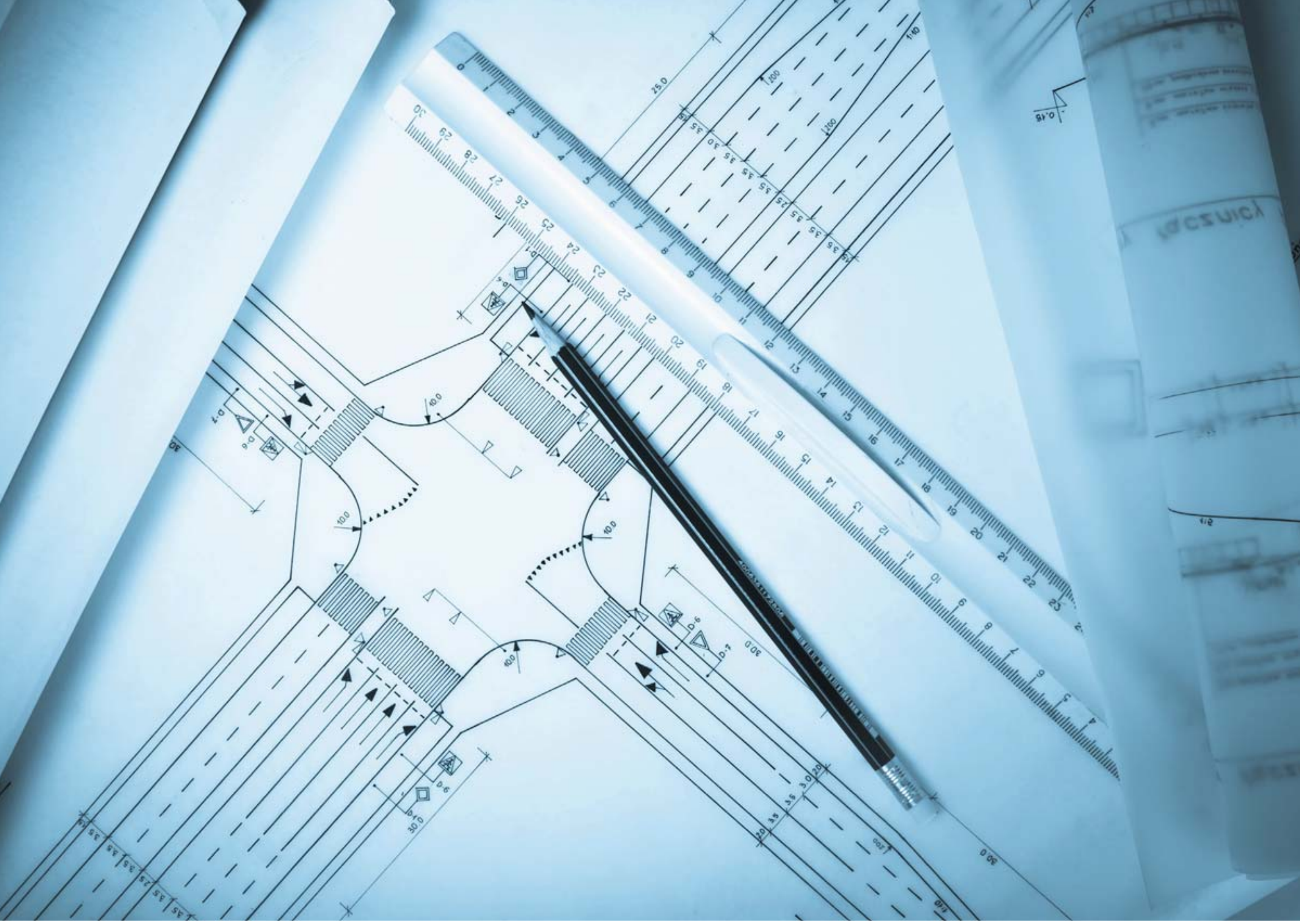
The secretary shall also issue regulations that require temporary longitudinal traffic barriers be used to protect workers on highway construction projects in long-duration stationary work zones. These regulations are to apply to situations when the project design speed is anticipated to be high and workers are required to be within one lane-width from the edge of a live travel lane, unless the project is outside an urban area and traffic volumes are less than 100 vehicles per hour, or the project owner demonstrates such steps are unnecessary.

Finally, the regulations require that such positive protective devices are paid for on a unit-pay basis, unless doing so would create a conflict with innovative contracting approaches, such as design-build or some performance-based contracts, under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump-sum basis.

Other Highway Safety Provisions

MAP-21 extends and modifies existing requirements mandating states to create and enforce a variety of driver safety laws. Typically, for every year a state does not have a particular law in place, it will be penalized by losing a percentage of its formula funds or those funds will be held back until the specified law is enacted and/or enforced. The following are modified by the law:

- **If "Open Container" laws are not in place, 2.5 percent of the state's apportioned funds are held in reserve. Once funds are released, they are eligible for use in safety behavior-based programs to prevent driving under the influence or in the HSIP.**
- **If a state does not impose minimum penalties for repeat offenders for driving while intoxicated or under the influence, 2.5 percent each of the state's apportioned NHPP and STP funds will be reserved.**
- **Once funds are released, they are eligible for use in safety behavior-based programs to prevent driving under the influence or through the HSIP.**
- **For a state that has not enacted or is not enforcing vehicle weight limitations, 50 percent of its NHPP formula funds would be withheld until the law is enacted or enforced. This is a change from prior withholding of 100 percent of funds.**
- **Other withholding penalties are changed as follows for states that do not enforce and enact specified federal requirements:**
  - **Control of Junkyards—penalty withholding is reduced from 10 percent to seven percent;**
  - **Enforcement of Vehicle Size & Weight Laws—penalty is reduced from 10 percent to seven percent.**
  - **Proof of Payment of the Heavy Vehicle Use Tax—penalty is reduced from 25 percent to eight percent;**
  - **Use of Seat Belts—penalty is reduced from three percent to two percent;**
  - **National Minimum Drinking Age—penalty withholding amount is reduced from 10 percent to eight percent of apportioned funds;**
  - **Drug Offenders—penalty withholding amount will be increased from three percent to eight percent of apportioned funds;**
  - **Zero Tolerance Blood Alcohol Concentration for Minors—penalty withholding amount is reduced from 10 percent to eight percent of apportioned funds;**
  - **Operation of Motor Vehicles by Intoxicated Persons—penalty withholding amount drops from eight percent of apportioned funds to six percent; and**
  - **Commercial Driver's License—penalty withholding amount increases from four percent of apportioned funds for the first instance of state non-compliance to eight percent for subsequent instances.**



Research & Technology

MAP-21 authorizes a total of $400 million annually for FY 2013 and FY 2014 for the following transportation research and education programs:

- **$115 million per year for the Highway Research and Development Program;**
- **$62.5 million per year for the Technology and Innovation Deployment Program;**
- **$24 million per year for Training and Education;**
- **$100 million per year for the Intelligent Transportation Systems Program;**
- **$72.5 million per year for the University Transportation Centers Program; and**
- **$26 million per year for the Bureau of Transportation Statistics.**

MAP-21 tries to compensate for limited resources by emphasizing performance goals, practical applications, and results to improve the real-world impact of federal transportation research. Numerous SAFETEA-LU research and education provisions are amended or rewritten to require more emphasis on setting plans and priorities, coordinating research, investing in development and technology transfer, and spelling out specific objectives for federally-funded research—i.e., getting more real-world results for the dollars invested in research and education.

Transportation Research, Deployment & Education Programs

MAP-21 substantially rewrites the federal highway research and technology deployment statutes.

Transportation Research. The focus of the Highway Research Program is changed to emphasize outcome-oriented results. In pursuit of this objective, the law adds new goals to the program that include: coordinating research and technology transfer activities; partnering with state highway agencies to facilitate research and technology transfer activities; setting long-range plans and priorities; educating transportation professionals; and leveraging federal funds through public-private partnerships.

For research funded under this program, the federal share of costs would be increased to 80 percent, up from a cap of 50 percent under SAFETEA-LU.

A prize competition, funded at up to $4 million annually, is authorized to develop innovative strategies to improve the safety, efficiency and sustainability of the U.S. transportation system and advance the Federal Highway Administration's (FHWA) research and technology objectives and activities to improve system performance.

Deployment. The Technology Deployment Program is replaced by a new "Research and Technology Development and Deployment Program." The purpose of this initiative is to conduct research and develop technologies to address current and emerging highway transportation needs.

MAP-21 instructs the secretary to carry out a highway research and development program to: improve highway safety; improve infrastructure integrity; strengthen transportation planning and environmental decision-making; reduce congestion, improve highway operations and enhance freight productivity; conduct advanced research and capitalize on the research capabilities of FHWA's Turner-Fairbank Highway Research Center; and report on best practices related to life-cycle cost analysis of highway improvements. Under each topic, the law provides a comprehensive list of research objectives and recommended activities.

MAP-21 establishes a new "Technology and Innovation Deployment Program" for the purpose of "significantly accelerating the adoption of innovative technologies by the surface transportation community" and providing leadership and incentives to promote adoption of state of the art technologies and business practices in highway construction and the construction of longer-lasting highways. The secretary is instructed to carry out demonstration programs, provide technical assistance and training to researchers and implement the findings of the Future Strategic Highway Research Program authorized under SAFETEA-LU.

In addition, up to $12 million annually is authorized to promote the deployment of innovative technologies to improve the performance and life-cycle cost of highway pavements.

MAP-21 also continues to require publication of the biennial "Conditions and Performance Report" to Congress and specifies some additional information to be provided.

Training and Education. The measure makes a handful of changes to the SAFETEA-LU Training and Education Program:

- **Technical Assistance Centers. MAP-21 codifies the federal share of the cost of Local Technical Assistance Centers at 50 percent, although it would allow federal workforce development and state planning funds to be used for the local match. For Tribal Technical Assistance Centers, the federal share would continue to be 100 percent.**
- **Centers for Surface Transportation Excellence. The law authorizes the secretary to make grants to "establish and maintain centers for surface transportation excellence to promote strategic national surface transportation programs relating to the work of state departments of transportation in the areas of environment, surface transportation safety, rural safety and project finance." MAP-21 provides no details as to how this is to be financed.**

University Transportation Centers

The University Transportation Centers (UTC) Program is reauthorized with some changes. The purpose of the program is to: advance transportation expertise through education, research and technology transfer; provide a knowledge base outside the DOT; to educate the next generation of transportation leaders.

UTCs will be selected through a competitive process based on criteria listed in the MAP-21, including ability to conduct and disseminate research, commitment to workforce development, quality of the research plan and ability to conduct research in a cost-efficient manner.

MAP-21 authorizes three types of UTCs, to be selected in a competition within one year of enactment of the law:

- **National Transportation Centers—Five centers, funded at $3 million annually for each, will focus on national transportation issues. A 100 percent match is required, which could be funded from federal workforce development or state planning funds.**

- **Regional Centers—The new law calls for 10 regional centers, funded at $2.75 million annually for each. The matching requirements will be the same as the National Transportation Centers.**

- **Tier 1 Centers—MAP-21 provides $1.5 million per year individually for 20 "Tier 1 Centers," with a local match equal to 50 percent of the federal grant.**

Intelligent Transportation Systems Research

MAP-21 authorizes $100 million each year for the Intelligent Transportation System (ITS) Program, down from $110 million annually under SAFETEA-LU. It completely revises the ITS program, adding a number of sections to the U.S. Code. The following is a brief summary of each provision:

- **Use of Funds. The secretary shall encourage the deployment of ITS technologies through demonstration programs, grant funding, incentives and other methods and shall develop a comprehensive plan to integrate incentives into current deployment strategies.**

- **Goals. The goals of the ITS program under MAP-21 are to enhance surface transportation efficiency, increase safety, protect the environment, increase transportation options and support national defense transportation needs by expediting deployment of intelligent transportation systems, disseminating information, improving regional cooperation, promoting private investment, developing a knowledgeable workforce, and introducing vehicle-based safety enhancing systems.**

- **Authorization. The secretary is authorized to conduct an ongoing ITS program to test intelligent transportation systems and provide technical assistance for dissemination in cooperation with government, private and educational entities, including establishment of an information clearinghouse and a technical advisory committee.**

- **Research and Development. Specifies the research priorities for the ITS program and authorizes the federal government to pay up to 80 percent of the cost of ITS research and development projects.**

- **National Architecture and Standards. Instructs the secretary to develop national standards to support and promote widespread adoption of ITS systems.**

- **Vehicle-to-Vehicle Communication. Instructs the secretary to report to Congress within three years on the state of vehicle-to-vehicle and vehicle-to-infrastructure communication technology.**

Other changes include repeal of the International Highway Transportation Outreach Program, the Surface Transportation-Environment Cooperative Research Program and the National Cooperative Freight Research Program, and a rewrite of the operations of the DOT's Bureau of Transportation Statistics.

Public Transportation

Some of the same themes included in the highway portions of the MAP-21 law continue in the federal transit programs. On a positive note, the measure includes a number of provisions intended to make public transportation investment more efficient and accountable. However, the $10.578 billion in FY 2013 and $10.756 billion in FY 2014 in overall federal transit funding levels in the bill are nominal increases from the FY 2012 level of $10.458 billion.

Capital Investment/Program Structure

Funding for the “Fixed Guideway Capital Investment Grants,” also known as the “New Starts” capital transit construction programs, is reduced to $1.907 billion in both FY 2013 and FY 2014. This is $48 million less than the FY 2012 appropriated funding level of $1.955 billion. MAP-21 continues to fund this program out of the federal general fund and is therefore subject to the whims of the appropriations process each year. Also, MAP-21 expands the eligibility of these funds beyond the traditional “New Starts” and “Small Starts” project classification to include a new “core capacity improvements” program that allows for a capital investment in an existing fixed guideway system which increases that system’s capacity by at least 10 percent.

Policy Reforms

While the public transportation investment increases are modest, numerous reforms to the law will likely streamline the project approval process and provide for quicker review by the Federal Transit Administration (FTA). For instance, the law requires that FTA reply to applicants within 45 days whether or not a project can enter the Project Development Phase and that this phase take no longer than two years to complete. Also, the secretary may use special warrants, at his/her discretion, to approve fixed guideway and core capacity improvement projects that are less than $100 million, of which the federal share of the project is less than 50 percent. Furthermore, MAP-21 creates a pilot program allowing the secretary to approve up to three projects that either “demonstrates innovative project development and delivery methods or innovative financing arrangements to expedite project delivery.”

Throughout the transit section of the law, there are examples of long called for accountability and program consolidation, including combining the Elderly and Disabled and New Freedom Programs and the elimination of the Jobs Access Reverse Commute Program. On accountability, the law directs the secretary to establish a set of performance measures to help achieve national goals. States and MPOs will then have to implement plans related to these objectives and provide annual progress reports to the secretary. MAP-21 also directs the secretary to establish and implement a national transit asset management plan, requires states and MPOs to do the same, calls on the secretary to define the term "state of good repair," and mandates states and MPOs to report on transit system conditions.

MAP-21 also expands opportunities for transit capital funds to be used for non-construction purposes. Previous law allowed urban areas with a population under 200,000 to use transit capital funds for operating assistance. MAP-21 broadens this option to areas that operate less than 100 buses at a time.