

JUNE 28, 2012

TO: DEMOCRATIC MEMBERS, T& I COMMITTEE  
FROM: COMMITTEE DEMOCRATIC STAFF  
RE: HIGHLIGHTS OF CONFERENCE REPORT ON H.R. 4348

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## Division A – Federal Aid Highways and Highway Safety

### Highways Provisions

- *Federal-aid Highway Program*: Restructures highway programs by eliminating or consolidating approximately 60 programs, and structures the Highway Program around four “core” formula programs:
  - National Highway Performance Program: Provides \$22.25 billion in FY 2013 and \$22.4 billion in FY 2013 to improve the condition and performance of the National Highway System. This program consolidates the existing Interstate Maintenance and National Highway System formula programs, and aspects of the existing Highway Bridge program that cover bridges on the Federal-aid system.
  - Surface Transportation Program: Provides \$10.2 billion in FY 2013 and FY \$10.3 billion in 2014 to assist states and local governments to improve the condition and performance of Federal-aid highways and bridges on any public road. This program would continue to provide broad eligibility and would be suballocated within the state to local governments based on population. It would also eligibility to include funding for bridges off the Federal-aid system (which are currently eligible under the Highway Bridge program).
  - Highway Safety Improvement Program (HSIP): Provides \$2.44 billion in FY 2013 and \$2.46 billion in FY 2014 annually to support projects that improve the safety of road infrastructure. Continues to set-aside \$225 million in HSIP funds for highway-railway grade crossings. Eliminates set-aside for high-risk rural roads, but continues eligibility for these activities under HSIP.
  - Congestion Mitigation and Air Quality program (CMAQ): Provides \$2.26 billion in FY 2013 and \$2.28 billion for CMAQ program. Drops S. 1813 provision providing CMAQ funds be suballocated. Removes current law prohibition on construction of single-occupancy vehicle lanes.
- *Distribution of Federal-aid Highway Funds*: Eliminates all formula factors for individual highway programs. Instead, distributes highway formula funds to states based on each state’s share of total highway funds distributed in FY 2012. These amounts would include both apportioned formula and allocated (discretionary or earmarked) amounts.
- *Equity Bonus Program*: Eliminates Equity Bonus program, which was designed to ensure that each state receives a minimum return of highway funds based on its share of gas tax

payments into the HTF. The agreement ensures that every state would be guaranteed a minimum return of 95 percent of its payments into the HTF. Currently, every state receives more back in Federal aid highway program funding that it contributes to the trust fund.

- *Transportation Alternatives:* Provides that 2 percent of amounts apportioned to states be set-aside for a new Transportation Alternatives (TA) program. This funding would be used to carry out transportation enhancements (TE) activities, the Safe Route to School program, the recreational trails program, to plan, design and construct “boulevards, main streets, and other roadways”; and to provide “transportation options and choices.” Under this consolidated program, funding for these activities would be reduced by approximately \$300 million annually.
  - Retains S. 1813 program structure, requiring that 50 percent of a state’s TA allocation to be suballocated within the state based on population and 50 percent of TA funds to remain with the State for project anywhere in the state. Metropolitan areas with populations above 200,000 would be given project selection authority over its portion of the suballocated amounts.
  - The conference report also changes the definition of TA by remove activities like museums, and expands definition to include environmental mitigation activities.
  - The conference report also allows states to transfer up to 50 percent of the amount of TA funds that are not suballocated within the states to other programs, and allows states to transfer funding out of the program to other programs if the state has a backlog of TA funds exceeding 100 percent of an annual TA set-aside.
- *National Freight Program:* The National Freight Program included in S. 1813 is dropped from the final agreement. Instead, the agreement establishes a national freight policy, which requires the designation of a primary freight network of up to 30,000 miles. The agreement also requires the development of a national freight strategic plan, and encourages states to develop state freight plans. To incentivize states to invest in freight projects, the conference report increases the Federal share for freight mobility projects identified on state freight plans. The federal share would increase from 80 percent to 90 percent for non-Interstate projects, and from 90 to 95 percent for projects on the Interstate system.
- *TIFIA:* Increases annual funding available for Federal credit assistance under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from \$122 million to \$750 million in FY 2013 and \$1 billion in FY 2014. Removes all evaluation criteria for projects seeking credit assistance, and provides funds for eligible projects on a first-come, first-served basis. In addition to providing project-by-project credit assistance, MAP-21 allows credit assistance to be provided for a program of projects through a master credit agreement.
- *Tolling and Public-Private Partnerships:* Expands ability of states to place tolls on any Federal-aid facility (including the Interstate) for any new capacity. In the case of new capacity being added to existing facility, the number of new tolled lanes cannot exceed the number of free lanes.) Removes the provision from S. 1813 that reduced highway formula funds for states that sell or lease toll facilities to private companies.

- *Federal Lands and Tribal Transportation*: Restructures the Federal Lands Highway Program into a new Federal Lands and Tribal Transportation program. The new program would have three major components:
  - Federal Lands Transportation – Provides \$300 million in funding annually for Federal lands transportation facilities owned by the National Parks Service (NPS), the Forest Service, Fish and Wildlife Service (FWS), the Army Corps of Engineers, and the Bureau of Land Management. \$260 million annually would be reserved for the NPS and FWS; the remaining \$40 million would be awarded on a competitive basis.
  - Federal Lands Access – Provides \$250 million annually to be allocated among states by formula based on amount of public land, number of visitors, miles of Federal roads, and number of Federally owned bridges.
  - Tribal Transportation – Includes a new controversial funding formula. Does not include a proposal to extend self-governance for tribes to the Department of Transportation.
- *Puerto Rico and Territorial Program*: Provides \$190 million annually for a new program combining the Puerto Rico and Territorial Highway programs. Of this amount, Puerto Rico would receive 75 percent of the funding (\$150 million), and the remaining 25 percent (\$40 million) would be set-aside for the territories.
- *Projects of National and Regional Significance (PNRS)*: Authorizes \$500 million from the General Fund in FY 2013 for high-cost surface transportation projects that provide significant national and regional economic benefits and increase global competitiveness.
- *Appalachian Development Highway System (ADHS) Program*: Eliminates the ADHS program, but continues eligibility under the new Transportation Mobility Program and increase Federal share on ADHS corridor projects to 100 percent.
- *Surface Transportation Research*: Provides \$400 annually for transportation research and education, and would authorize 35 competitive grants to be provided annually for University Transportation Centers.
- *Transportation Planning*: The conference agreement is largely consistent with existing law.

### **Streamlining Provisions**

#### Sec. 1301 Declaration of Policy

Sec. 1302 Advance Acquisition of Real Property Interests—Allows States to acquire real property interests before the completion of the NEPA review process required for the project. Stipulates that the acquisition cannot limit the choice of reasonable alternatives analyzed or prevent the lead agency from making an impartial decision, but if money is spent on one alternative it seems very likely it will influence the outcome of the NEPA analysis.

Sec. 1303 Letting of Contracts—Allows States to be reimbursed for pre-construction and design contracts let before the NEPA analysis has been completed. Again, it seems highly likely this will influence the outcome of the NEPA analysis.

Sec. 1304 Innovative Project Delivery Methods—Allows up to 100% Federal cost share for projects that use innovative technologies that increase the efficiency of construction and improve the safety and extend the life of highways and bridges.

Sec. 1305 Efficient Environmental Reviews for Project Decisionmaking—Requires the Secretary to promulgate a rulemaking to allow for the use of programmatic approaches to conduct environmental reviews. Allows the Secretary to designate a single modal administration to serve as the lead Federal agency in a multimodal project.

Sec. 1306 Accelerated Decisionmaking—Sets deadlines for decisions by lead agency and other Federal agencies with responsibilities for environmental review. Escalates dispute resolution for environmental reviews to Agency heads, Governors, CEQ, and finally President. Supposed “out” for other Federal agencies who do not receive needed information, but DOT can disagree and elevate dispute. Requires financial penalties for agencies that do not complete other environmental reviews by certain deadlines, thereby further impacting the budgets and resources of agencies that they are pressing to speed up reviews. Allows rescission to be avoided only if lead agency (DOT) certifies that agency in question has not received info or new info required additional analysis. Fines can be up to 7% of agency office budget for the fiscal year. This is unprecedented and will likely drive agencies to simply deny permits to avoid fines. Will also deplete the resources of agencies that are already not able to review permits fast enough and will drive all resources toward transportation projects at the expense of other projects that also need review.

Sec. 1307 Assistance to affected Federal and State agencies---Requires MOUs in cases where DOT funds dedicated staff at other agencies.

Sec. 1308 Limitations on Claims—Shortens the statute of limitations for filing a challenge to a project from 180 days to 150 after the Record of Decision. This time frame was already reduced from six years to six months in the last reauthorization, and could result in more challenges being filed.

Sec. 1309 Accelerating Completion of Complex projects within 4 years—Allows technical assistance to the States for projects, including staffing. Requires DOT to establish schedules for the completion of all reviews for a project within 4 years after the NOI was issued. Does not provide any waiver for this deadline for situations where project scope is changed. Links failure to complete to the financial penalties established in Section 1306. This could be very problematic for large scale, complex projects where scope and circumstances frequently change and require more analysis and review.

Sec. 1310 Integration of Planning and Environmental Review—Allows planning products to be adopted by the lead Federal agency and used by other Federal agencies in their environmental reviews. Several conditions apply.

Sec. 1311 Development of Programmatic Mitigation plans—Allows states or MPOs to develop programmatic mitigation plans to address the potential impact of future transportation projects.

Sec. 1312 State assumption of responsibility for categorical exclusions—Amends current program to stipulate that a state, as a condition of assuming responsibility for determining categorical exclusions, is not required to forego project delivery methods that are otherwise permissible for highway projects.

Sec. 1313 Surface Transportation project delivery program—Makes the current pilot program that lets DOT delegate NEPA review authority to five states permanent. Expands the option to all states and to include rail, public transit and multimodal projects—not just highways as the pilot program did. Does not allow Clean Air Act determinations to be delegated.

Sec. 1314 Application of categorical exclusions for multimodal projects—Allows lead agency to use CEs of cooperating agencies and modes.

Sec. 1315 Categorical Exclusions in Emergencies—In the case of an emergency declared by State in concurrence with the Secretary or a disaster under the Stafford Act, the Secretary shall promulgate a rulemaking to treat repairs or reconstruction as an activity that is CE of repair is in same capacity, and design and commenced within 2 years after the damage occurred.

Sec. 1316 Categorical exclusions for projects within the Rights of Way—Within 180 days the Secretary shall designate any project within an existing operational right of way as a CE. Operational right of way is defined as all real property interests acquired for the construction, operation, or mitigation of a project including the location of the roadway, bridges, interchanges, culverts, drainage, traffic control, landscaping and signage, and any rest areas with direct access to a controlled access highway. Activities that are CE do not have public participation in the development of the project.

Sec. 1317 Categorical exclusions for projects with limited Federal assistance—Designates projects with less than \$5m in Federal funds or with a total estimated cost of less than \$30m with no more than 15% of Federal funds as a CE, regardless of potential impact. Again, there will be no public involvement in the development of these projects.

Sec. 1318 Programmatic agreements and additional Categorical exclusions—Requires DOT to survey the use of CEs, solicit new ideas for CEs and move several types of CEs from the documented list to the undocumented list. Also encourage more programmatic agreements for environmental reviews and allows DOT to delegate CE qualification determinations to the States.

Sec. 1319 Accelerated decision making of environmental reviews---Allows for errata sheets to be used to modify a final EIS and promotes the use of a combined final EIS and Record of Decision.

Sec. 1320 Memoranda of agency agreements for early coordination—Sense of the Congress to use early coordination and MOUs .

Sec. 1321 Environmental Procedures Initiative—Requires DOT to establish an initiative to review and develop consistent procedures for environmental review and permitting of formula funded projects.

Sec. 1322 Review of State environmental reviews and approvals for the purpose of eliminating duplication of environmental reviews—Requires a GAO study to assess whether States have laws that are comparable to Federal environmental review laws.

Sec. 1323 Review of Federal projects and program delivery---Requires a DOT study of the completion times of CEs, EAs and EISs pre-2005, 2005 to present and after the date of enactment of this Act. GAO and IG studies also required.

### **Harbor Maintenance Trust Fund Provisions**

Sections 1536 and section 1537 provide a sense of Congress that the Administration fully utilize Harbor Maintenance Trust Fund (HMTF) collections for operation and maintenance activities at navigation channels in the United States.

Includes a provision that Congress ensure that “other programs, projects, and activities of the [Corps’] Civil Works Program ... are not adversely affected” by activities funded through the HMTF, for budgetary purposes.

Includes a new requirement that the President include, as part of his annual budget submission, an assessment of the percentage of eligible channels that would be maintained with the Corps’ budget request, as well as an assessment of the amount needed to reach 95 percent availability of navigation channels over a 3 year period.

### **Division B—Public Transportation**

- Authorizes \$10.584 billion for FY 13 and \$10.701 billion for FY 14 for transit, of which \$8.478 billion and \$8.595 billion are out of the Mass Transit Account of the Highway Trust Fund.
- Authorizes the following formula programs:
  - Urbanized Area Formula grants (\$4.398 billion for FY 2013 and \$4.459 billion for FY 14);
  - Elderly and Disabled Formula grants, which includes the former New Freedom program (\$254.8 million for FY 13 and \$258.3 billion for FY 14);
  - Rural Area Formula grants (\$599.5 million for FY 13 and \$607.8 million for FY 14);
  - Bus and Bus Facilities Formula grants (\$422 million in FY 13 and \$427.8 million in FY 14);
  - State of Good Repair grants (former Rail Modernization program) (\$2.136 billion in FY 13 and \$2.166 billion in FY 14); and
  - High Density Formula grants (\$518.7 million in FY 13 and \$525.9 million in FY 14).
- Consolidates the existing Elderly and Disabled and New Freedom programs into a single program; eliminates the Job Access and Reverse Commute program (JARC) but requires funding for these activities under the urban and rural formula programs.
- Allows transit systems operating fewer than 100 buses in peak service to use a portion of their Section 5307 grant funds for operating expenses. Does not include the Senate-passed provision to allow all transit systems in areas over 200,000 in population to use a portion of their 5307 funds for operating assistance during times of high unemployment.
- Streamlines the New Starts program; makes core capacity projects eligible for funding; and retains existing eligibility for Bus Rapid Transit projects. However, allows FTA to provide up to three BRT projects each year that meet the criteria of “fixed guideway” bus projects to receive an 80 percent Federal share under New Starts.

- Within the Rural program, provides \$30 million for the Public Transportation on Indian Reservations program within the rural program (\$5 million to be distributed competitively each year, and \$25 million as formula grants to tribes) and establishes a new \$20 million Appalachian Development Public Transportation Program.
- Replaces the existing Rail Modernization program with a program to move all systems towards a state of good repair. Eliminates funding tiers and earmarks and replaces these with a new structure that focuses on the age of the system, revenue vehicle miles and directional route miles. Sets aside 2.85 percent of program funds for a High-Intensity Motorbus program to fund bus systems that operate primarily in HOV lanes.
- Converts the existing competitive Bus and Bus Facilities program to a formula program (\$65 million of program funds are distributed evenly among states and territories with each getting a fixed amount; the rest distributed according to population and the bus factors under 5336)
- Strengthens transit safety; requires public transportation agencies to establish comprehensive safety plans; provides FTA with a regulatory and enforcement role over transit safety but retains the existing State Safety Oversight structure; authorizes FTA to withhold small amount of funds or direct all funds for SSOs that are not meeting established requirements.
- Does not include provisions to strengthen Buy America for transit projects, and removes anti-segmentation language as included in the Senate-passed bill.
- Includes veterans preference language for transit construction projects.
- Includes several privatization provisions contained in H.R. 7. Does not include the most egregious privatization provisions – a higher Federal share for transit systems to contract out or the changes to private sector participation in transit planning under Section 5306. However, the conference report :

- o Requires FTA to “better coordinate public and private sector-provided public transportation services” and “promote more effective utilization of private sector expertise, financing, and operational capacity to deliver costly and complex new fixed guideway capital projects

- o Requires FTA to provide technical assistance to recipients of Federal transit grant assistance on practices and methods to best utilize private providers of public transportation

- o Requires FTA, if requested by a New Starts project sponsor, to identify best practices for public-private partnerships models, develop standard public-private partnership transaction model contracts; and perform financial assessments that include the calculation of public and private benefits of a proposed public-private partnership transaction.

- o Requires FTA to identify any regulations or practices that impede greater use of public-private partnerships and private investment in public transportation capital projects and develop and implement approaches similar to SEP-15 for highways.

- o Requires FTA to conduct a study on the effects of contracting out public transit services on cost, availability and level of service, efficiency, and quality of service. The study must specifically look at “the extent of unionization among privately contracted employees” and “the impact to wages and benefits of employees when publicly provided public transportation services are contracted out to a private for-profit entity”

- o Requires FTA to publish policy guidance regarding how to best document compliance by recipients of Federal assistance with the requirements regarding private enterprise participation in transit planning

## **Division C—Transportation Safety and Surface Transportation Policy**

### **NHTSA Provisions**

*Funding:* Subtitle A authorizes \$747 million for FY 2013 and \$756 million for FY 2014 for the National Highway Traffic Safety Administration, for the following programs:

- \$243 million per year for the section 402 Highway Safety grants to States;
- \$130 million for FY 2013 and \$139 million for FY 2014 for Highway Safety Research and Development;
- \$306 million per year for National Priority Safety grants to States, of which –
  - o \$46 million per year for Occupant Protection grants;
  - o \$43 million per year for State Traffic Safety Information System Improvement grants;
  - o \$139 million per year for Impaired Driving grants;
  - o \$40 million per year for Distracted Driving grants;
  - o \$6 million per year for Motorcyclist Safety grants; and
  - o \$23 million for Graduated Driver Licensing grants;
- \$5 million per year for the National Driver Register;
- \$37 million per year for the High Visibility Enforcement program; and
- \$25.6 million for FY 2013 and \$25.9 million for FY 2014 for administrative expenses.

*Highway Safety Grants:* Requires States to develop and submit a highway safety plan to the Secretary as a condition of receiving section 402 grants. Plans must be approved by the Secretary and must include quantifiable annual performance measures. Prohibits States from using NHTSA grant funds to purchase, operate, or maintain red light cameras or speed cameras.

*Highway Safety Research:* Establishes a new \$2.5 million cooperative research and evaluation program, jointly managed by NHTSA and the Governor’s Highway Safety Association, to evaluate priority highway safety countermeasures. Also authorizes NHTSA to carry out research on in-vehicle technology to detect and prevent alcohol-impaired driving. The Secretary may use funds from the National Priority Safety grants program to conduct such research.

*National Priority Safety Grants:* Combines several existing incentive grant programs into a National Priority Safety grant program and sets aside funding within the program for specific grants to prioritize certain State activities.

- Occupant Protection Grants: Makes grants available to States that adopt and implement effective occupant protection programs. States with a seat belt use rate of higher than 90 percent are eligible to flex up to 75 percent of these grant funds to fund any activity



eligible under section 402. States with a seat belt use rate of lower than 90 percent must meet additional criteria to qualify for grant funds and are not eligible to flex any funding.

- State Traffic Safety Information System Improvement Grants: Makes grants available to States to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of State safety data.
- Impaired Driving Countermeasures Grants: Makes grants available to States to reduce driving under the influence of alcohol and/or alcohol. States with an average impaired driving fatality rate of 0.60 or higher must meet additional criteria to be eligible for grant funds and are more restricted in how they must expend funding. States with a rate between 0.30 and 0.60 have more flexibility, and States with a rate below 0.30 are automatically eligible for funding and have the most flexibility. In addition, any State that adopts and enforces a mandatory alcohol-ignition interlock law for individuals convicted of driving under the influence of drugs or alcohol are eligible for an additional incentive grant under this section.
- Distracted Driving Grants: Makes grants available to States that have laws in place prohibiting drivers from texting while driving or prohibiting cell phone use by drivers.
- Motorcyclist Safety: Makes grants available to States that adopt and implement effective programs to reduce the number of crashes involving motorcyclists.
- Graduated Driver's Licensing Program Grants: Makes grants available to States that have laws in place to require drivers younger than 21 to comply with a 2-stage licensing process that meets Federal requirements before receiving an unrestricted driver's license.

*Vehicle Provisions*: Authorizes NHTSA to conduct motor vehicle safety research and development and contains several provisions to improve transparency and accountability related to motor vehicle defects and recalls. Requires several rulemakings on child safety standards, including side impact crash protection, child seat anchor (or latch) systems, and reminders for unattended children left in rear seating positions.

*Event Data Recorders*: Does not require that event data recorders be installed in personal vehicles, as proposed in the Senate-passed bill.

*Visibility of Agricultural Equipment*: Requires NHTSA to issue a rule within two years to improve the daytime and nighttime visibility of agricultural equipment operating on a public road.

### **FMCSA Provisions**

*Safety Grants*: Retains current law structure and funding levels for motor carrier safety grants to States and authorizes the following programs and amounts for each of FY 2013 and 2014:

- Motor Carrier Safety Assistance Program (MCSAP) grants: \$212 million
- Commercial Driver's License Program Improvement grants: \$30 million
- Border Enforcement grants: \$32 million
- Performance and Registration Information Systems Management grants: \$5 million

- Commercial Vehicle Information Systems and Networks Deployment: \$25 million
- Safety Data Improvement Grants: \$3 million
- New Entrant Audits: \$32 million

*Motor Carrier Oversight:* Tightens registration requirements for new carriers, including requiring a carrier to pass a written proficiency examination prior to being granted registration. Requires new trucking companies to undergo a safety audit within 12 months of operation (down from 18 months under current law) and new motorcoach companies to undergo a safety audit within 120 days of operation. Requires motor carriers, brokers, and freight forwarders to update their registration within 30 days of a change in the carrier's information. Requires bus companies to update their registration information quarterly for the first two years of operation.

*Reincarnated Carriers:* Includes several provisions to strengthen FMCSA's oversight of carriers seeking operating authority from the agency, to ensure that carriers are not able to "reincarnate" as new carriers to mask safety violations or evade penalties or shut down orders.

*Financial Responsibility:* Requires DOT to review and issue a report on the appropriateness of minimum financial responsibility requirements within 6 months of enactment and every 4 years thereafter.

*Penalties and Enforcement:* Increases maximum penalties for carriers operating without a registration, for failure to respond to a subpoena, for denial of access to records, for violation of out of service orders, and for evasion of regulations. Authorizes new enforcement authority to revoke registration if a carrier poses an imminent hazard, to place a carrier's entire fleet out of service, and to respond to patterns of violations by motor carriers and their officers.

*Vehicle Safety:* Requires FMCSA to conduct an analysis of the need for crashworthiness standards for commercial motor vehicles. Includes several provisions to strengthen oversight of foreign motor carriers and drivers operating in the U.S. Requires a study of accidents that occur in rental trucks.

*Hours of Service and EOBRs:* Requires FMCSA to complete a field study by March 31, 2013 of the efficacy of the agency's "restart" provision in the most recent hours of service rule. Requires, within one year, FMCSA to issue a rule mandating electronic logging devices on commercial motor vehicles involved in interstate commerce. The requirements shall apply to vehicles two years after the date that regulations are published. Establishes the performance measures and requirements such devices must meet, and certification criteria, in order to be minimally compliant.

*Driver Safety:* Requires FMCSA to establish a national registry of medical examiners within one year and makes other improvements to oversight of driver medical qualifications; requires employers to periodically verify the CDL status of employees; requires FMCSA to issue final

regulations on driver training, including mandatory behind-the-wheel training within one year; and requires FMCSA to set up a national clearinghouse for drug and alcohol testing results for commercial drivers.

*CDLs for Veterans:* Requires DOT and DOD to jointly study how to facilitate the acquisition of commercial driver's licenses by members and former members of the Armed Forces and to develop accelerated licensing procedures for veterans who have documented driving experience that makes use of the accelerated procedures appropriate.

*Agricultural Exemptions:* Expands an existing hours of service exemption for drivers transporting agricultural commodities to apply up to a 150 mile radius (from 100 miles under current law), apply even if a vehicle crosses state lines, and to apply to trips between wholesale distribution points and retail distribution points. Creates a new exemption from all Federal motor carrier safety regulations (CDL requirements, drug and alcohol testing, hours of service, and vehicle inspection, repair, and maintenance requirements) for vehicles operated by farm or ranch owners, operators, their family members, or their employees. Vehicles weighing less than 26,000 pounds are completely exempted, and those weighing more than 26,000 pounds are exempt up to a 150 air mile radius from the farm or ranch.

*Broker and Freight Forwarder Oversight:* Requires FMCSA to determine that a broker or freight forwarder is qualified by experience to act and is fit, willing, and able to provide the service and to comply with applicable regulations of the Secretary; requires a broker or freight forwarder to employ an individual who has at least 3 years of experience or appropriate training; and prohibits a freight forwarder or broker from providing transportation as a motor carrier unless registered separately as a motor carrier. Raises the surety bond requirement to \$75,000 (to be reviewed every 4 years by FMCSA to ensure this amount continues to be adequate); establishes rules for when and how the surety bond is to be paid out, particularly in cases of financial insolvency; requires freight forwarder and broker insurance; and requires FMCSA to suspend a broker or freight forwarder's registration if the available financial security falls below the amount required.

Prohibits a person acting as a broker from providing interstate brokerage services unless that person is registered under and in compliance with the new broker and freight forwarder requirements; prescribes civil penalties up to \$10,000 for violators of the requirements; establishes a private right of action for injured parties; and extends liability to any corporate entity and individual officers.

*Truck Size and Weight:* Requires FMCSA to complete a comprehensive truck size and weight study within 2 years. The study must evaluate accident risk and frequency, impact to infrastructure including bridges, safety impacts, and freight diversion to other modes and must look at each State that currently allows vehicles in excess of Federal size and weight laws to operate, as well as the potential impacts of heavier and longer alternative truck configurations.

FMCSA must also compile a list of allowable weights in excess of Federal limits on each route of the National Highway System authorized under State law or a State grandfather right.

### **Motorcoach Provisions**

NHTSA must issue regulations:

- Within one year, requiring seat belts on motorcoaches;
- Within two years, establishing roof strength and crush resistance standards;
- Within two years, consider requiring anti-ejection safety countermeasures and rollover crash avoidance; and
- Within three years, consider requiring tire pressure monitoring systems and consider issuing a rule to upgrade performance standards for tires.

Any regulations NHTSA prescribes with respect to the above areas shall apply to all newly-manufactured motorcoaches three years after the publication of the final rule. The conference report does not authorize or mandate retrofit of existing buses with respect to any of the above standards. Instead, the conference report permits NHTSA to assess the feasibility, benefits, and costs with respect to applying such standards to existing buses.

NHTSA must conduct research and testing on the causes of and methods to prevent motorcoach fires, on interior impact protection, on compartmentalization safety countermeasures, and collision avoidance systems. NHTSA is directed to issue motor vehicle safety standards in each of these areas within two years of completion of the research and testing.

FMCSA must assign a safety fitness rating to each motorcoach company within three years of enactment, and must establish requirements to improve the accessibility to the public of safety rating information for motorcoach companies. FMCSA must also review and assess the requirements for a passenger endorsement on a driver's CDL within two years. FMCSA must also complete a rulemaking to consider requiring States to establish annual inspection programs for buses.

### **Hazardous Materials Provisions**

- Hazmat Training for Emergency Responders: Requires operations-level training for fire fighters that respond to accidents and incidents involving hazardous materials. Current law requires only basic, general awareness training.
- Hazmat Train-the-Trainer Program: Current law authorizes \$4 million annually in grants for labor organizations to train hazmat workers to become hazmat instructors. The conference report reauthorizes the training grant program but allows any national nonprofit organization to apply for the grants.
- Increases Civil Penalties for Hazmat Transportation Violations: Increases the maximum civil penalties for hazmat transportation violations and authorizes new penalties on individuals who obstruct investigations. Also prohibits carriers from transporting

hazmat, and shippers from offering hazmat for transportation, if they fail to pay a civil penalty assessed by the Secretary or fail to arrange and abide by an acceptable payment plan for the penalty.

- Hazmat Special Permits: Requires the development of clear and consistent procedures and criteria for evaluating applications for special permits and approvals, and requires the Secretary to conduct a review and analysis of special permits that have been in continuous effect for a 10-year period to determine which special permits may be converted into the hazmat regulations.

### **Rail Provisions**

The Conference Report does not include any provisions on rail. It also fails to include many of the provisions actively supported by House Democrats, including the awarding of rail contracts to minority and women-owned businesses and coverage of Buy America in the Federal Railroad Administration's grant and loan programs. The Conference Report also does not reauthorize the now-expired Rail Line Relocation Program.

