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DEVELOPING A RELIABLE AND INNOVATIVE VISION FOR THE ECONOMY (DRIVE) ACT

JULY 15, 2015.—Ordered to be printed

Mr. INHOFE, from the Committee on Environment and Public
Works, submitted the following

R E P O R T

[To accompany S. 1647]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred the bill (S. 1647) to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

PURPOSE OF THE LEGISLATION

S. 1647, as amended, authorizes Federal-aid highway and highway safety construction programs through Fiscal Year 2021.

GENERAL STATEMENT AND BACKGROUND

Legislation authorizing Federal investment in our nation's highways date back nearly 100 years, to the passage of the Federal Aid Road Act of 1916 and the Federal Highway Act of 1921. However, it was the enactment of the Federal-Aid Highway Act of 1956 which significantly increased Federal investment in America's highway system, directed considerable funding to the building of the Interstate System, and established the Highway Trust Fund as the mechanism for financing the highway program. In addition, passage of the Highway Revenue Act of that same year increased some of the existing highway-related taxes, established new taxes, and provided that most of the revenues from these taxes be deposited in the Highway Trust Fund as the means to finance the Federal-aid highway program. A number of multi-year authorization

SEC. 4407. RIGHTS-OF-WAY.

Notwithstanding any other provision of law, the reciprocal rights-of-way and easements identified on the map numbered 92337 and dated June 15, 2005, are [hereby enacted into law] *granted*.

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MAP-21

[Public Law 112–141]

SECTION 1. SHORT TITLE; ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) [23 U.S.C. 101 note] **SHORT TITLE.**—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP-21”.

DIVISION A—FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS

TITLE I—FEDERAL-AID HIGHWAYS

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) **FEDERAL-AID HIGHWAY PROGRAM.**—For the national highway performance program under section 119 of title 23, United States Code, the surface transportation program under section 133 of that title, the highway safety improvement program under section 148 of that title, the congestion mitigation and air quality improvement program under section 149 of that title, and to carry out section 134 of that title—

(A) * * *

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SEC. 1102. [23 U.S.C. 104 note] OBLIGATION CEILING.

(a) **GENERAL LIMITATION.**—Subject to subsection (e), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

- (1) \$39,699,000,000 for fiscal year 2013;
- (2) \$40,256,000,000 for fiscal year 2014; and
- (3) [\$33,528,284,932] \$40,256,000,000 for the period beginning on October 1, 2014, and ending on [July 31, 2015] *September 30, 2015*.

(b) **EXCEPTIONS.**—The limitations under subsection (a) shall not apply to obligations under or for—

- (1) section 125 of title 23, United States Code;
- (2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);
- (3) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

significance. The purpose of the program is to leverage Federal funds by attracting substantial private or other non-Federal investment in critical surface transportation improvements.

The TIFIA program provides direct loans, loan guarantees, and lines of credit to large and nationally or regionally significant highway, transit, railroad, intermodal freight and port access projects with a dedicated revenue stream at terms that are more favorable than those available in the private sector and that will leverage private and other non-Federal investment in transportation improvements. Eligible applicants include State departments of transportation, transit operators, special authorities, local governments, and private entities.

MAP-21 greatly expanded the TIFIA program to help communities leverage their transportation resources and stretch Federal dollars further than they have been stretched before by increasing the funding for the oversubscribed TIFIA program from \$122 million to \$1 billion per year. MAP-21 also increased the maximum share of project costs that can be covered by a TIFIA loan from 33 percent to 49 percent, allowed TIFIA to be used to support a related set of projects, allowed upfront commitments of future TIFIA program dollars through the use of master credit agreements, and set aside funding for projects in rural areas at more favorable terms.

The DRIVE Act continues to build upon the success of the TIFIA program by making additional modifications to improve access to the program and expand leveraging opportunities.

This section updates the TIFIA program to enable it to be better utilized by rural areas and more accessible for small projects. This is accomplished by using the leveraging ability of the program to support State infrastructure banks and allowing U. S. DOT to set-aside program funding for the explicit purpose of replacing the fees typically collected from TIFIA borrowers to pay for independent financial analysis and outside counsel for rural projects. This section also makes technical modifications to the TIFIA program and reinstates the ability of a State to capitalize their State infrastructure bank with their Federal-aid highway funds.

TITLE IV—TECHNICAL CORRECTIONS

Sec. 4001. Technical corrections

This section makes technical corrections to titles 23 and 49 of the United States Code, to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), and to Division E of MAP-21 (the Transportation Research and Innovative Technology Act of 2012). SAFETEA-LU established reciprocal easements in section 4407 between the United States Forest Service and the State of Alaska. The technical amendment to this section cures a perceived defect and now will allow the exchange of all remaining reciprocal easements to continue. As soon as possible, the Committee intends the Secretary of Agriculture (Secretary) to prepare and deliver to the State of Alaska an easement for the construction and operation of each highway located in a transportation and utility corridor identified on Map 92337 where the State of Alaska has already secured all necessary Federal and State permits for the construction of each highway facility. The

Secretary of Agriculture is encouraged to participate as a cooperating agency in the environmental analysis and permitting of the remaining State highways to be located in Map 92337's transportation and utility corridors linking the communities of Southeast Alaska. The Committee intends that the Secretary of Agriculture will not withhold or deny the issuance of an easement for a proposed transportation or utility project that otherwise has all necessary construction permits and authorizations from other State and Federal agencies.

TITLE V—MISCELLANEOUS

Sec. 5001. Appalachian development highway system

This section extends the authorization for the Appalachian Development Highway System (ADHS). MAP-21 expressed the Sense of the Senate that "the timely completion of the [ADHS] is a transportation priority in the national interest." The Committee continues to support this viewpoint. MAP-21 also provided that the Federal share for the cost of constructing highways and access roads on the ADHS "shall be 100 percent" through fiscal year 2021. This was intended to provide an incentive to complete the ADHS by allowing States within the ADHS to use Federal funds on ADHS projects without an accompanying State contribution. This section amends this Federal share language from MAP-21 by providing that the Federal share for the use of funds on the ADHS may be up to 100 percent of the project cost, as determined by the State. This will allow a State to provide State and local funds to match Federal ADHS funding. The MAP-21 language prohibits a State from matching ADHS funds. As such, this revision was necessary in order to clarify that a State may, but is not required to, contribute State funds for ADHS projects. For a State that does not elect to contribute funds, the Federal share for the cost of constructing highways and access roads on the ADHS shall be 100 percent.

Sec. 5002. Appalachian regional development program

This section would authorize a high-speed broadband deployment initiative under which the Appalachian Regional Commission (ARC) may provide assistance to increase access to and support broadband adoption efforts in the Appalachian region. Funding for this new initiative would come from the annual funding authorization for the ARC. This section also reauthorizes funding for the ARC for each of fiscal years 2012 through 2021 at the fiscal year 2012 authorized funding level. This section also extends the termination date for the ARC until October 1, 2021.

Sec. 5003. Water infrastructure finance and innovation

This section strikes 33 USC 3907(a)(5), which limits any project receiving Federal credit assistance under the water infrastructure finance and innovation program from being financed with tax exempt bonds.