

Summary of Major Provisions in Transportation Bill Affecting IBTTA Members, 7.7.2012

On June 29, the U.S. House of Representatives and Senate both approved the conference report on the “Moving Ahead for Progress in the 21st Century Act” or MAP-21. We held a [conference call](#) the same day to review the major provisions in the bill that affect tolling, interoperability, public private partnerships, TIFIA, and other issues.

We worked with numerous coalitions, associations and groups to advance provisions in the new transportation bill that are favorable to tolling and remove provisions that would have been negative to tolling. We wish to offer special thanks to IBTTA members, AASHTO, ARTBA, Bipartisan Policy Center, Mileage-Based User Fee Alliance, Transportation Transformation Group (T2), U.S. Chamber of Commerce, U.S. Tolling Coalition, Alliance for Toll Interoperability, and E-ZPass Interagency Group, among others. Below is a summary of the major provisions in the bill that affect the toll industry and IBTTA members. You can read more detailed information about the bill and IBTTA’s analysis [here](#). This web page will soon include a summary of all of the conference call Q & A focused on specific provisions in the bill. If you participated in this conference call, we kindly ask you to complete a [short survey](#) to give us your feedback.

Tolling

- Section 1512 provides opportunities for tolling new Interstate mileage (greenfield) and maintains the opportunity to convert existing Interstate bridges or tunnels to tolled facilities if they are associated with a major reconstruction. New language also covers the conversion of HOV lanes to high occupancy toll (HOT) lanes.

TIFIA

- Increases annual funding available for Federal credit assistance under the Transportation Infrastructure Finance and Innovation Act (TIFIA) program from the current funding level of \$122 million to \$750 million in FY 2013 and \$1 billion in FY 2014.
- Removes all subjective evaluation criteria for projects seeking credit assistance and provides funds for eligible, credit worthy projects on a rolling basis.
- The use of tolls and user fees are specifically referenced as approved revenue streams to repay any Federal credit assistance provided. In addition to providing project-by-project credit assistance, the conference report allows credit assistance to be provided for a program of projects through a master credit agreement.

Interoperability

- Bill language: “Not later than 4 years after the date of enactment of this Act, all toll facilities on the Federal-aid highways shall implement technologies or business practices that provide for the interoperability of electronic toll collection programs.”
- This language is a significant improvement over language offered several years ago which would have empowered the USDOT to establish interoperability standards and enforce them nationally within two and a half years. The conference agreement imposes

no responsible entity to oversee or enforce the declarative statement. This language appears to be a recognition of IBTTA's request that the toll industry itself be allowed to pursue the achievement of national interoperability through the industry's own efforts, without the establishment of mandates on technology or business rules. We will continue to work through IBTTA's Interoperability Committee with ATI, E-ZPass, and other stakeholders to achieve a result that makes sense for our members, our industry, and our stakeholders.

Public Private Partnerships

- The bill requires US DOT to compile best practices, develop standard P3 transaction model contracts, and provide technical assistance upon request.

Toll Pilot

We believe the pilot program is intact. There is nothing in the conference report that repeals Section 1604(c) of SAFETEA-LU which is the toll pilot program. Here is the language from SAFETEA-LU: “(8) PROGRAM TERM.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.” Since SAFETEA-LU was signed on August 10, 2005, the toll pilot program should be effective through August 10, 2015.

Leased Assets: NOT included in the Bill

Of special interest to IBTTA members were several amendments to the Senate bill introduced by Senator Jeff Bingaman. Please note that these amendments WERE NOT included in the final conference report. We worked vigorously with numerous coalition partners to remove these provisions, which would have made it less attractive for states to convert existing toll facilities to leased assets operated by concessionaires. We believe these provisions would have sent the unwanted message that tolling is a less attractive option for funding and financing key surface transportation facilities. The removal of these amendments, therefore, is a net positive for tolling.

If included, these amendments WOULD HAVE:

- Removed the miles of a concessioned highway from the inventory of a state's total mileage for purposes of allocating federal fuel taxes to a state. Example, Indiana would lose money because the operation of its toll road was transferred to a concessionaire.
- Prohibited accelerated depreciation for brownfield asset lease deals. Depreciation term would go from 15 to 45 years.
- Prohibited the use of private activity bonds to conclude a brownfield asset lease deal.