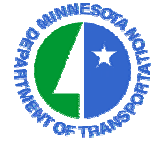




SAFETEA-LU

Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users



Executive Summary for Minnesota November 2005

Introduction

On August 10, 2005, the federal surface transportation act known as SAFETEA-LU was signed into law. SAFETEA-LU authorizes \$286.5 billion in spending in federal fiscal years (FFY) 2004-09 for numerous surface transportation programs, such as highways, transit, motor carrier, freight, safety and research. However, because FFY 2004 is complete, it only affects spending in FFY 2005-09.

From a national perspective, SAFETEA-LU amounts to an inflation-adjusted increase of about 5 percent for highways and 16 percent for transit over TEA-21— the previous six-year transportation act which expired nearly two years ago. SAFETEA-LU's funding increases come primarily from increased federal fuel tax revenues that resulted from changes in the treatment of ethanol in the 2004 American Jobs Creation Act. These changes included replacing the reduced tax rates on ethanol with a federal General Fund credit and transferring all ethanol revenue to the federal Highway Trust Fund. SAFETEA-LU's funding increases also rely on improving fuel tax evasion enforcement and spending down the balance in the federal Highway Trust Fund.

From Minnesota's perspective, SAFETEA-LU was greatly needed and will enable state, metropolitan and local agencies to deliver numerous transportation projects during the next five years.

This Executive Summary will provide some of the highlights in SAFETEA-LU for Minnesota. The information in this summary is preliminary and will be updated periodically as additional information becomes available. This summary covers the following areas:

- I. Funding and Finance**
- II. Highway Programs**
- III. Planning**
- IV. Environmental**
- V. Safety/Operations/ITS**
- VI. Transit/ Passenger Rail/Bike and Pedestrian**
- VII. Motor Carrier/Rail/Freight/Hazardous Materials**
- VIII. Research**

For additional information on SAFETEA-LU, visit the Minnesota Department of Transportation's Web site, www.dot.state.mn.us/safetea-lu.

I. Funding and Finance

A. Highway Funding

Minnesota will receive approximately \$3 billion in apportionments for highway programs during FFY 2005-09. These highway apportionments will come to the state primarily through formula funds (\$2.5 billion) and congressionally designated earmarks (\$465 million). The formula apportionments are about a 17 percent increase over TEA-21. The earmark funding is about a 162 percent increase over TEA-21. Over the life of SAFETEA-LU, it has been estimated that Minnesota will be appropriated Obligation Authority (spending authority) for about 95 percent of the formula apportionments (\$2.41 billion) and 90 percent of the earmark funding (\$419 million), which are the approximate Obligation Authority percentages that Minnesota received over the past two years. However, in FFY 2005, Minnesota only received Obligation Authority for approximately 83 percent of formula apportionments and 86 percent of earmark funding. It is not yet known what level of Obligation Authority will continue throughout the remaining years of SAFETEA-LU. Minnesota-specific SAFETEA-LU highway funding tables are available online at www.dot.state.mn.us/safetea-lu.

- **Formula Highway Funding** – The formula highway funding programs for Minnesota include Interstate Maintenance, National Highway System (NHS), Surface Transportation (STP), Bridge, Congestion Mitigation (CMAQ), Metropolitan Planning, Recreational Trails and Equity Bonus, as well as new/restructured programs for Highway Safety Improvement, Safe Routes to School, and Coordinated Border Infrastructure. Minnesota’s estimated formula highway funding apportionments decrease in FFY 2005 from FFY 2004. However, they begin to rebound in FFY 2006 (\$478 million) and FFY 2007 (\$550 million), and by FFY 2008 (\$594 million) and FFY 2009 (\$615 million), they represent one of the largest proportional formula funding increases in the nation. This is due primarily to the fact that ethanol-burning states like Minnesota are not receiving full credit for the 2004 federal ethanol changes until January 2007. It is important to remember that it is not yet known how much Obligation Authority (spending authority) Minnesota will receive for the above formula highway apportionments in FFY 2006-09.
- **Earmark Funding** – There are at least 142 specific earmarks for Minnesota in the SAFETEA-LU Highway Title totaling more than \$465 million. Most of these projects are listed in the High Priority Projects (HPP) sec. (1702) of the Highway Title. The state will receive 20 percent of HPP earmark funding in each year during FFY 2005-09, and the timing and flexibility of these funds will make it necessary for Mn/DOT and local governments to work together to determine how and when to best use this funding. Of the total dollar amount of these Highway Title earmarks, approximately 76 percent are for road and bridge projects, 13 percent for transit projects (includes \$50 million for St. Paul Depot), and 10 percent for bike and pedestrian projects (includes \$25 million for Minneapolis-St. Paul Non-Motorized Pilot Program). This does not include earmarks in other areas of SAFETEA-LU, such as the Transit and Research Titles or multi-state earmarks that include Minnesota. It also does not include the additional earmarks that will take place each year during the federal appropriations process (in FFY 2005, Minnesota received nearly \$88 million in additional earmarks for transportation projects). Minnesota’s list of SAFETEA-LU earmark projects are available online at www.dot.state.mn.us/safetea-lu.
- **Equity Bonus** – The SAFETEA-LU Equity Bonus (EB) Program replaces the TEA-21 Minimum Guarantee (MG) Program; however, the primary purpose is still to guarantee that each state’s share of specified formula highway funding apportionments is a certain percentage of its federal fuel tax contributions to the Highway Trust Fund. Under TEA-21, the minimum guaranteed to each state was 90.5 percent. Under SAFETEA-LU, it grows from 90.5 percent in FFY 2005-06, to 91.5 percent in FFY 2007 and 92 percent in FFY 2008-09. States that receive less than 100 percent of the federal fuel taxes they generate are called “donor” states, and states that receive more are called “donee” states. Historically, Minnesota has been a “donee” state, but with the

2004 federal ethanol changes, Minnesota is now a “donor” state and will be receiving the minimum SAFETEA-LU percentages indicated above. However, these ethanol changes also mean that Minnesota is now being credited with generating much more federal fuel tax revenue, which translates into higher formula funding levels for the state under SAFETEA-LU.

- **Penalties/Sanctions** – SAFETEA-LU does not contain any new penalties/sanctions, but it does continue the TEA-21 penalties/sanctions. Under the .08 blood-alcohol penalty, Minnesota was sanctioned approximately \$7 million in FFY 2004 – however with the state’s new .08 law going into affect August 2005, the sanctioned funds (\$7 million) will be returned to Minnesota in FFY 2006. Minnesota will continue to be sanctioned under the repeat offender penalty – these sanctions will be approximately \$10-15 million/yr. (this funding goes to the Minnesota Department of Public Safety and approximately half of the funding is used for highway safety enforcement /programs, and the other half for highway safety improvements).
- **Revenue Aligned Budget Authority (RABA)** – Beginning in 2007, RABA provides for adjustments in authorizations to reflect changes in estimates of Federal Highway Trust Fund receipts and thus serves to align budget authority with revised revenue. If RABA is positive, the first step will be to increase each state’s return on contributions to the Highway Trust Fund to 92 percent. A negative adjustment is possible only if on October 1, 2007, the balance of the Highway Trust Fund is less than \$6 billion. This limits exposure to reductions from negative RABA. However, negative RBA adjustments are still possible in the later years of SAFETEA-LU

B. Transit Funding

SAFETEA-LU maintains the federal General Fund and Highway Trust Fund guarantees for transit and shifts a small percentage of funding away from the Urbanized and Fixed Guideway Modernization formula programs to programs that benefit more states, rural areas and capital spending. Also, beginning in FFY 2006, Federal Transit Administration expenses, the Transit Research Program and the New Starts Program are funded completely from the federal general fund. All of the other transit formula and discretionary grant programs are funded completely from the Mass Transit Account of the federal Highway Trust Fund. This means that the congressional appropriations committees will now have to weigh New Starts projects against other transportation-related general fund priorities, such as FAA operations and Amtrak. Minnesota-specific SAFETEA-LU transit funding tables are available online at www.dot.state.mn.us/safetea-lu .

- **Formula Transit Funding** – Minnesota’s estimated FFY 2005-09 formula transit apportionments are \$366 million, which represents a sizable increase over TEA-21. Minnesota’s share of the transit formula funding will increase from 1.0090 percent under TEA-21 to 1.744 percent under SAFETEA-LU. The formula transit funding programs for Minnesota include the traditional programs such as Urbanized, Non-Urbanized/Rural, Elderly & Disabled, Metro Planning and Statewide Planning, as well as new/restructured programs for FFY 2006-09, such as Growing States, High-Density Urbanized Areas, Transit-Intensive Small Cities, Job Access & Reverse Commute, and the New Freedoms Initiative. For large, urbanized transit systems, funding will increase by about 4% in FY 2006 and 2007, 8% in FY 2008 and 6.5% in FY 2009, which will help offset inflation and increasing fuel costs.
- **Earmark Transit Funding** – SAFETEA-LU earmarks more than \$14 million for Minnesota bus and bus-related capital facilities. It also authorizes \$80 million for Northstar Commuter Rail and \$4 million for Red Rock/Rush Line/Central Corridors studies out of the New Starts and Alternatives Analysis Programs. (funding in the New Starts Program can only be accessed through the appropriations process if certain FTA program requirements are met). Again, this does not include the additional transit earmarks that will take place each year during the federal appropriations process.

C. Other Funding

- **Safety** – Safety funding will increase significantly under SAFETEA-LU. Under SAFETEA-LU's Highway Title, the new Highway Safety Improvement Program (HSIP) is established as a formula program. It will provide Minnesota over \$113 million in formula fund apportionments during FFY 2006-09. Approximately \$23 million of this funding will be set aside for the new Rail-Highway Crossings Program and approximately \$7.6 million will be set aside for the new High Risk Rural Roads Program during FFY 2006-09. Other SAFETEA-LU titles also provide funding for numerous safety-related programs. For example, SAFETEA-LU Title II funds National Highway Traffic Safety (NHTSA) programs at \$3.1 billion during FFY 2005-09, of which Minnesota is estimated to receive approximately \$35 million.
- **Motor Carrier/Rail/Freight** – SAFETEA-LU's Highway Title contains funding for numerous motor carrier/rail/freight-related programs, which are summarized in more detail later in this document. Title IV funds Federal Motor Carrier Safety (FMSCA) Programs at \$2.5 billion during FFY 2005-09. Title IX reauthorizes the Swift Rail Act and funds the Rail Line Relocation Capital Grant Program at approximately \$1.8 billion during FFY 2006-09. Title VIII funds Hazardous Materials Safety programs at \$235 million during FFY 2005-08. Minnesota's share of this funding has not yet been determined, but Motor Carrier Safety Assistance Program (MCSAP) grants are expected to increase by about 40 percent.

D. Tolling and Innovative Finance

- **Tolling** – The following tolling programs are authorized in SAFETEA-LU:
 - **Value Pricing Pilot Program (§1604(a))** – SAFETEA-LU continues this program and funds it at \$59 million during FFY 2005-09 (\$12 million of this funding is not available for toll projects). Minnesota's authority as one of the 15 original Value Pricing Pilot states also continues.
 - **Express Lanes Demonstration Program (§1604(b))** – This new program authorizes 15 toll projects nationwide. These projects can be on existing toll facilities, existing HOV facilities or added capacity on the interstate system for the purpose of reducing congestion. Toll revenues can only be used for debt service, reasonable return on private investment, operation/maintenance (including reconstruction, resurfacing, restoration and rehabilitation), or any Title 23 or 49 eligible activity if the toll facility is certified to be adequately operated and maintained. Only electronic tolling is allowed.
 - **Interstate System Construction Toll Pilot Program (§1604(c))** – This new program authorizes three interstate expansion toll projects nationwide. Non-compete agreements are prohibited. Revenues may only be used for debt service, reasonable return on private investment and operation/maintenance.
 - **Interstate System Reconstruction & Rehabilitation Toll Pilot Program** – This TEA-21 program continues until 2008, without change, and allows tolling on up to three existing interstate facilities that cannot be adequately maintained or functionally improved without tolling. Each project must be in a different state.
- **Private Activity Bonds (§1143)** – \$15 billion of tax exempt Private Activity Bonds are authorized for highway or freight transfer facility projects nationwide. This provision will make it more economical for the private sector to finance transportation projects. All federal requirements, such as Davis Bacon and Buy America, will apply to these projects.

- **State Infrastructure Banks (SIBs)** – SIBs provide low-interest loans for federal aid-eligible transportation projects. Under SAFETEA-LU, states are allowed to use up to 10 percent of their annual federal highway (NHS, STP, Bridge and Equity Bonus), transit and rail funding to capitalize their SIBs. Minnesota’s SIB is known as the Transportation Revolving Loan Fund (TRLF).
- **TIFIA** – The TIFIA program, which is the national equivalent of a SIB, has been modified to encourage more use. The total project cost threshold has been lowered to \$50 million (\$15 million for ITS projects), and eligibility is expanded to include freight facility projects and private facilities providing public benefit for highway users.
- **National Transportation Commissions** – SAFETEA-LU provides funding for a National Surface Transportation Policy and Revenue Study Commission (sec.1909(b)) and a National Surface Transportation Infrastructure Financing Commission (sec.11142) to evaluate how the federal Highway Trust Fund can meet future transportation funding needs.

II. Highway Programs

A. Core Formula Highway Programs – SAFETEA-LU continues the five core formula highway programs (Interstate Maintenance, NHS, Bridge, STP and CMAQ) with few changes and adds a new core formula program - Highway Safety Improvement Program. Some of the highlights include:

- **Bridge Program** - Preventive maintenance and scour countermeasures are added as eligible items; the minimum off-system set-aside is maintained at 15 percent and the 35% cap is removed; federal share of interstate bridges is set at 90 percent; and \$100 million per year set-aside for Bridge Discretionary Program is maintained (but all of the money is already earmarked for nine projects – none in Minnesota).
- **STP** – Many of the changes in STP do not take place until FFY 2006; some of the changes include removing the 10 percent set-aside for safety and transferring the funding to the new Highway Safety Improvement Program; the allocations to areas with certain populations continues as under TEA-21; eligibility is expanded to include such items as truck stop electrification systems and projects that improve high accident or high congestion intersections; and the annual set-aside for enhancements will be the higher of either 10 percent of STP or the FFY 2005 enhancement level.
- **CMAQ** – The weighting factors are revised (which should not affect Minnesota); eligibility is expanded to include such items as truck stop electrification systems, management and operations, emergency communications equipment, and diesel retrofits; states and MPOs must give priority to diesel retrofit and cost-effective congestion mitigation projects that are on an EPA approved list; and Minnesota is one of seven states that have the flexibility to use CMAQ funding to purchase alternative fuels or biodiesel.
- **Highway Safety Improvement Program** – This program replaces the former STP Hazard Elimination (HES) set-aside program. Set-asides in this new program include Rail-Highway Crossing Hazard Elimination and High Risk Rural Roads. The highlights of this program are explained in more detail in the Safety/Operations section of this summary.

B. Other Formula Programs – The other formula highway programs with applications for Minnesota include:

- **Coordinated Border Infrastructure Program** – This new program begins in FFY 2005 and replaces the TEA-21 Coordinated Border Discretionary Program. Minnesota will receive approximately \$18 million during FFY 2005-09 for highway, bridge, operations, safety/security, freight and international coordination projects within 100 miles of the Canadian border. The federal share will generally be 80 percent unless it is a qualified safety project.
- **Recreational Trails Program** – This program is continued with few changes. The Minnesota Department of Natural Resources will receive approximately \$8.5 million during FFY 2005-09 for recreational trails and trail-related facilities for non-motorized and motorized trail uses. Eligible activities have been expanded to include such items as right-of-way acquisition, trail safety and environmental programs, purchase/lease of construction and maintenance equipment, and up to 7 percent for administration. Funds may be used to match other federal program funds for purposes that would be eligible under this program.
- **Safe Routes to School Program** – The highlights of this program are explained in the Transit/Bike & Pedestrian section of this summary.

C. Discretionary Programs – Although most discretionary programs are set up to be competitive grant programs, much of the funding in these programs has been or will be earmarked for specific projects by Congress. SAFETEA-LU discontinues the following discretionary programs after FFY 2005: National Corridor Planning and Development, Coordinated Border Infrastructure, and ITS Deployment. Some of the more high profile discretionary programs that continue or are added under SAFETEA-LU include:

- **Interstate Maintenance Discretionary** - Available for reconstructing, rehabilitating, replacing, and adding capacity on the interstate; generally must be obligated within one year of being appropriated; will likely be earmarked at up to a 100 percent federal share
- **Transportation, Community, and System Preservation (TCSP)** - Generally must be obligated within one year of being appropriated; will likely be earmarked at up to a 100 percent federal share
- **Public Lands Discretionary** - Generally must be obligated within one year of being appropriated; will likely be earmarked at up to a 100 percent federal share
- **Projects of National and Regional Significance** - 80 percent federal share, available until expended, \$50 million earmark for Union Depot
- **National Corridor Infrastructure Improvement** - Replaces the National Corridor Planning and Development Program; 80 percent federal share, available until expended, \$50 million earmark for TH 53
- **Highways for LIFE Pilot Program** – New program for projects that demonstrate and promote state-of-the-art technologies; performance standards for quality, safety and speed of construction; and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction and improved quality and user satisfaction. This program probably will not be earmarked and will be maintained as a competitive grant program.
- **Other Discretionary Programs** – Other discretionary programs in the Highway Title, such as Scenic Byways, Work Zone Safety, Truck Parking Facilities and others, are explained in other sections of this summary.

- D. Federal Lands Highways Program** – The Federal Lands program includes the Indian Reservation Roads (IRR), Park Roads, Refuge Roads, and Public Lands Highways programs. One significant highlight under this program is the increased funding for Indian Tribes. The IRR Program is funded at \$1.86 billion during FFY 2005-09, nearly a 40 percent increase over TEA-21. SAFETEA-LU allows FHWA to work directly with Indian Tribes, allows direct contracting with state DOTs and makes it easier for Indian Tribes to enter into maintenance agreements with state DOTs. SAFETEA-LU also requires a nationwide inventory and analysis of tribal transportation facilities.
- E. Design/Build (D/B)** – SAFETEA-LU eliminates the \$50 million floor on the size of contracts that can use D/B. Also, regulations will be revised to allow transportation agencies to proceed with certain actions prior to receipt of final NEPA approval.
- F. High Occupancy Vehicle (HOV) Facilities** – SAFETEA-LU authorizes states to convert HOVs to High Occupancy Toll facilities and to allow EPA-certified low emission/energy efficient vehicles to use HOVs, as long as the HOV operational performance is not degraded.
- G. Disadvantaged Business Enterprises (DBE)** – SAFETEA-LU does not make significant changes to DBE requirements. One change is that the maximum annual gross receipts that a DBE must not exceed to stay qualified under the program has been raised to \$19,570,000 per year.
- H. Federal Stewardship and Oversight** – Annual reviews of state DOT financial management and project delivery systems are now required; minimum standards for estimating project costs are to be developed; value engineering or other cost-reduction analysis is required for highway projects exceeding \$25 million and bridge projects exceeding \$20 million; major projects, now defined as projects exceeding \$500 million in cost, are required to have project management plans in addition to the previously required finance plans; and finance plans are now also required for projects exceeding \$100 million in federal funds.

III. Planning

Many of the statewide and metropolitan planning provisions under SAFETEA-LU remain unchanged. The statewide transportation planning process is still the primary mechanism for cooperative transportation decision-making throughout the state and for consultation with transportation partners. For urbanized areas, the planning process undertaken by designated metropolitan planning organizations (MPOs) establishes a cooperative, continuous and comprehensive (3C) framework for making transportation investment decisions. For both processes, fiscal constraint and public involvement are still emphasized in the development of the Statewide Transportation Improvement Program (STIP) and metropolitan TIPs.

Some key modifications to statewide and metropolitan planning processes include:

- Statewide planning will promote consistency between transportation improvements and State and local planned growth and economic development patterns; Statewide planning will be coordinated with metropolitan planning **and** with statewide trade and economic development planning activities and related multi-state planning efforts; and Statewide planning will consider and implement projects, strategies and services that support the economic vitality of non-metropolitan areas. The metropolitan planning process is to promote consistency between transportation improvements and State and local planned growth and economic development patterns.
- Safety and security of the transportation system are separate planning factors that are to be considered during statewide and metropolitan planning processes.

- Statewide planning should consider coordination of planning activities between States. New authority is provided for two or more States to enter into planning agreements or compacts; the right to alter, amend or repeal these compacts is reserved.
- Long range transportation planning (statewide and metropolitan) will be developed in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation. Consultation will involve comparison of transportation plans to State and tribal conservation plans or maps, and to inventories of natural or historic resources (if available).
- Statewide and metropolitan long range transportation planning must also include discussion of potential environmental mitigation and potential mitigation areas. The discussion is to be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies. MPOs are encouraged to consult or coordinate with planning officials responsible for other types of planning activities affected by transportation, including planned growth, economic development, environmental protection, airport operations, and freight movement.
- Statewide and metropolitan long range planning should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system. MPOs' transportation plans must contain: operational and management strategies to improve the performance of existing transportation facilities; investment and other strategies that provide for multimodal capacity increases based on regional priorities and needs; and proposed transportation and transit enhancement activities.
- Representatives of users of pedestrian walkways, bicycle transportation facilities, the disabled are specifically added as parties to be provided with the opportunity to participate in the statewide and metropolitan planning processes.
- To enhance public participation, public meetings should be at convenient and accessible locations at convenient times; visualization techniques should be used to describe plans; public information should be available in an electronically accessible format, such as the Web.
- State Transportation Improvement Programs (STIP's) and metropolitan TIPs must cover a period of four years and be updated and approved at least every four years (more frequently if the governor elects to do so; for example, Minnesota's four -year STIP is expected to be updated annually).
- An annual list of MPOs' projects for which funds have been obligated in the preceding year must be published or made available for public review through the cooperative effort of the State, transit operators and MPOs.
- MPO plan updates continue to be required every five years for air quality attainment areas and every four years for MPOs with air quality non-attainment or maintenance standing.
- The USDOT Secretary will issue guidance on a schedule for implementation of the changes made to the transportation planning process; State and MPOs will not be required to deviate from their established plan and program update cycles to implement these changes; State or MPO plan or program updates shall reflect the changes beginning July 1, 2007.
- MPOs' 20-year long range plans provide guidance for, but are separate documents from their TIPs.
- Transportation Management Areas (TMAs) (urbanized areas larger than 200,000 population) continue to be required to have congestion management processes in place. The planning process

in TMAs requires DOT certification of compliance with federal law for the MPO's 3C planning process. Certification is shifted from a 3-year to a 4-year cycle.

- A State will have 30 days to reimburse an MPO for planning expenses after request from the MPO.
- Transportation conformity update frequency changes to every four years; provides options to the conformity analysis time horizon; allows for transportation control measures e MPO for reimbursement.
- The Metropolitan Planning Program is funded by a takedown of 1.25 percent (increased from 1.0 percent) from the Surface Transportation, Interstate Maintenance, Congestion Mitigation and Air Quality Improvement, Highway Bridge Replacement and Rehabilitation, and National Highway System programs, and transit authorizations.
- Intermodal connectors are added as a type of transportation facility to be considered in metropolitan planning.
- Transit operators are to be included with the MPO and State in the cooperative development of funding estimates for MPOs' financial plans.
- SAFETEA-LU changes transportation conformity updates to every four years; provides options to the conformity analysis time horizon; allows for transportation control measures substitutions; and includes a 12-month conformity lapse grace period.

IV. Environmental

- A. Streamlined Environmental Process** – SAFETEA-LU requires a new, streamlined review process for all Environmental Impact Statement projects and allows the same process to be optional for all other projects. Congress is requiring opportunities for the public and agencies to participate at major milestones in project decision-making, the development of project deadlines for reviews, and concurrent reviews by Federal agencies. This process includes:
- Lead Agency (USDOT) establishes Purpose and Need and Range of Alternatives with opportunities for public and agency involvement.
 - Participating Agency's role established for federal review agencies requiring establishment of review timelines, unless the agencies opt out of the project.
 - States can assume all categorical exclusion authority from FHWA via a memorandum of agreement. A programmatic agreement currently in-place between Mn/DOT and the Minnesota Division of FHWA already delegates most of this authority to Mn/DOT.
- B. Streamlined Legal Process** – Lawsuits against transportation projects on environmental grounds must be filed within 180 days after publication of a notice in the Federal Register announcing that the permit, license or approval is final. Currently, most of these permit decisions and approvals are not published in the Federal Register.
- C. Streamlined Section 4(f) process** – Significant streamlining provisions were made to the process for approving impacts to parks, recreational lands, wildlife and waterfowl refuges, and historic sites (Section 4(f)).
- a. Minor impacts to historic sites, with concurrence by the State Historic Preservation Officer, are exempt from Section 4(f) requirements. This avoids duplicating the Section 106 review process.
 - b. Other minor Section 4(f) impacts, as concurred by the park, recreation area, or wildlife or waterfowl authority, will not require an alternatives analysis and may proceed to mitigation

development. This eliminates the effort spent to justify that there are no feasible and prudent alternatives to minor impacts.

D. Scenic Byways – Minnesota will be able to submit eligible projects and compete nationally for a share of the \$175 million of funding allocated to Scenic Byways during FFY 2005-09. In addition, Indian Tribes may nominate a road under tribal jurisdiction for designation as an Indian Tribe Scenic Byway.

E. Other Environmental Provisions – Other significant environmental provisions include rulemaking to establish categorical exclusions for ITS deployment projects rather than requiring environmental assessments or impact statements; expanded eligibility to use funding for environmental restoration, pollution abatement, control of noxious weeds and aquatic noxious weeds, and the establishment of native species; and a new five-state (not MN) pilot program which will allow states to assume NEPA responsibilities for one or more highway projects.

V. Safety/Operations/ITS

SAFETEA-LU doubles funding for safety projects and emphasizes the development and enhancement of data systems for roadway safety decision-making. Some of the highlights include:

- **Highway Safety Improvement Program (HSIP)** – Beginning in FFY 2006, the new HSIP replaces the “old” HES program and is funded through a formula that considers fatalities, VMT, and lane miles. The HSIP has set-asides for the Rail-Highway Crossings and the High Risk Rural Roads programs. The HSIP must produce a program of safety projects and be evaluated on a regular basis for accuracy of data and priority of improvements.
- **Rail-Highway Crossings Program** – In FFY 2005, this program is still funded from a 10 percent STP safety set aside. However, during FFY 2006-09, this new formula program is funded as a set-aside from the HSIP. This program is for projects that reduce fatalities and injuries at rail crossings. 50 percent of the state’s funding must be used for the installation of protective devices at crossings. This is a separate program from the Rail-Highway Crossings in High Speed Rail Corridors Program (out of which there is earmark funding for the Minneapolis/St. Paul to Chicago segment of the Midwest High Speed Rail project).
- **High Risk Rural Roads Program** – This new program is to be used for construction and operational improvements on roadways functionally classified as rural major or minor collectors or rural local roads on which fatality and incapacitating injury rates exceed the statewide average or are likely to exceed the statewide average.
- **Strategic Highway Safety Plans** – SAFETEA-LU requires states to develop a Strategic Highway Safety Plan or a Comprehensive Highway Safety Plan (CHSP). A state’s CHSP must use crash data to identify safety problems, as well as establish and implement a schedule of highway safety improvement projects. Minnesota’s CHSP was developed in 2004. The CHSP must be reviewed to ensure that all requirements established in FHWA’s rulemaking are included, but it is believed that the current document meets the spirit of SAFETEA-LU. States that have developed a CHSP have additional flexibility to use up to 10 percent of HSIP funding for behavior and other safety projects (education, enforcement, emergency medical services) as addressed in the state’s CHSP provided a state certifies that infrastructure safety needs are met. How this certification process will work is yet to be determined by FHWA.
- **Roundabouts** – Roundabouts have been added to the list of safety projects that are eligible for 100 percent federal funding.

- **Primary Seat Belt Law Incentives** - SAFETEA-LU provides substantial incentives for states to adopt a Primary Seatbelt Enforcement Law. These incentive funds are eligible for use on behavioral safety programs eligible under Title II of SAFETEA-LU and for HSIP projects. Minnesota does not currently have a Primary Seatbelt Enforcement Law.
- **Occupant Protection Incentives** - A separate occupant protection incentive grant program could provide additional funding for Minnesota's occupant protection (seat belt and child passenger safety) programs. To qualify, Minnesota must implement four of the following six criteria: a safety belt law that applies to passengers in any seat in the vehicle; a seat belt law that allows primary enforcement; minimum fines for seat belt and car seat violations; a statewide enforcement programs for occupant protection; a child passenger protection program; or a child passenger protection law that requires minors to be properly secured in a child safety seat or appropriate restraint system. Minnesota currently meets only three of these criteria.
- **Safety Data Incentive Program** - Section 2006 of SAFETEA-LU establishes a program of incentive grants for states that adopt and implement effective programs to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of state highway and traffic data.
- **Traffic Safety Campaigns** - SAFETEA-LU establishes a new program to administer at least two high-visibility traffic safety law enforcement campaigns each year. Minnesota's participation in these campaigns will be coordinated by the Office of Traffic Safety/Department of Public Safety (OTS/DPS) as a part of the State and Community Highway Safety Grants program.
- **State and Community Highway Safety Grants Program** – This program, which is administered by OTS/DPS, is continued in SAFETEA-LU, and the funding is increased by approximately 30%. The fund for this section (402) is based on a formula of the State's population and public road miles.
- **Impaired Driver Enforcement Incentives** - SAFETEA-LU provides greatly increased funding for enforcement of impaired driving. Minnesota will qualify for these funds because our alcohol-related fatality rate is well below the criterion set in the law.
- **Motorcycle Safety Program** - SAFETEA-LU establishes a new grant program for states that have effective programs for reducing the number of single- and multi-vehicle crashes involving motorcyclists. The minimum amount of the grant will be \$100,000.
- **Child Safety and Child Booster Seat Incentive Grant Program** – This program requires states to enact qualifying child safety and booster seat laws.
- **Work Zone Safety Program** - SAFETEA-LU addresses safety of motorists, pedestrians, and highway construction workers in work zones by providing \$5 million annually for work zone safety training grants and requiring various safety measures within construction zones.
- **ITS** - ITS funding, which was found primarily in Title V (Research) in TEA-21, can now be found throughout Titles I-VI. Under SAFETEA-LU's Highway Title, the ITS Deployment Discretionary Fund has been eliminated and ITS highway funding has been mainstreamed into the formula highway fund programs.
- **Real Time Information Management Program** - SAFETEA-LU will establish a real-time system management information program to provide the capability to monitor, in real-time, the traffic and travel conditions of major highways of the U.S. and to share that information to improve the security of the transportation system, address congestion problems, support improved response to weather events and incidents, and facilitate national and regional highway traveler information. Data exchange formats will be established within 2 years. This may require Minnesota to enhance the

current Condition Acquisition Reporting System (CARS). NHS, CMAQ or STP funds can now be used for these initiatives.

- **Center for Excellence in Rural Safety** - \$3.5 million is designated to establish the Center for Excellence in Rural Safety at the Hubert H. Humphrey Institute, Minnesota during FFY 2006-09.
- **Rural Interstate Corridor Communications Study** - \$3 million is designated for a study along four corridors, including the Interstate 90 corridor across Minnesota and other states, to determine the feasibility of using fiber optic and wireless communications along an interstate highway corridor to improve communications for rural communities along the corridor.
- **Commercial Vehicle Information Systems and Networks (CVISN)** - \$100 million is available to fund the continued deployment of CVISN nationwide.
- **Safe Routes to School Program** - An explanation of the new Safe Routes to School Program can be found in the transit section below.

VI. Transit/Passenger Rail/Bike & Pedestrian

A. Formula Grant Programs - SAFETEA-LU continues many of the formula transit programs (Urbanized, Non-Urbanized/Rural, Elderly & Disabled, Fixed Guideway Modernization) and adds several new formula programs beginning in FFY 2006 (Growing States, High-Density Urbanized Areas, Transit-Intensive Small Cities, Job Access & Reverse Commute, and New Freedoms). Some of the highlights include:

- **Urbanized Program (5307)** – This formula program provides funding to all urbanized areas according to population, population density, and level of transit service, and includes an incentive award for small transit-intensive cities that provide more service per capita than do other comparable cities. The program also establishes a new formula for Growing States and High Density States.
- **Non-Urbanized/Rural Program (5311)** – This program provides capital and operating assistance for rural and small urban public transit. There is a significant increase in funding nationwide for this formula program. A new 20% set-aside is established to meet the needs of low-density states; the remaining 80% is distributed under the existing formula based on population in other-than-urbanized areas. New separate funding is provided for Indian tribes; \$8 million is available beginning in FFY 2006 nationwide, increasing to \$15 million in FFY 2009.
- **Elderly Persons and Persons with Disabilities (5310)** – This program allocates funds by a formula (based on the number of elderly and disabled persons in each state) for capital costs of providing services to elderly persons and persons with disabilities. Minnesota was selected as one of 7 states for a pilot program for 2006-2009 to determine whether expanding eligibility to operating assistance would improve services to elderly individuals and individuals with disabilities; up to 33% of apportioned funds may be used for this pilot program.
- **New Freedom Program (5317)** – This new formula program provides capital and operating funding for services and facility improvements in excess of those required by the Americans with Disabilities Act. The formula is based upon the population of persons with disabilities.
- **Job Access & Reverse Commute Program (5316)** – This program provides funding for local programs to provide job access and reverse commute services. It has been changed

from a discretionary fund program to a formula program, based on population and welfare recipient ratios.

- **Fixed Guideway Modernization Program** – This program provides formula grants for capital costs of existing fixed guideway systems. The formula remains unchanged; it is a function of miles of fixed guideway (including HOV and busway) in revenue service and passenger miles of service.

B. Discretionary Grant Programs – These programs include both competitive grant programs and congressionally earmarked programs.

- **Bus and Bus-Related Capital Facilities (5309)** – The following projects were earmarked for Minnesota during FFY 2006-09: Duluth Area Transit Facility improvements, \$1.6 million; Fond Du Lac Reservation bus purchases, \$98,000; Rush Line bus amenities, \$1.2 million; St. Paul Union Depot Multi-Modal Transit facility, \$1.6 million; and Metro Transit Bus Capital, \$9.5 million. In addition, other Bus and Bus Facility earmarks will be made each year during the federal appropriations process.
- **Major Capital Investment Grants Program (New Starts and Small Starts)** – This program provides transit capital assistance for new fixed guideway systems and extensions to existing fixed guideway systems, as well as new or extensions to non-fixed guideway transit corridor systems that meet the program criteria. The New Starts Program will receive \$6.6 billion during FFY 2005-09. Under this program, the Hiawatha LRT project was authorized for up to \$33 million for FY 2005. During FFY 2007-09, \$600 million of the New Starts funding will be set aside for a new Small Starts Program. Up to \$75 million in Small Starts Funds will be available for transit projects with a total project cost under \$250 million (e.g. Bus Rapid Transit projects). The 20% non-federal matching ratio is maintained for these programs. \$80 million dollars was authorized for the Northstar Corridor Commuter Rail project under this program – however funding in the New Starts Program can only be accessed through the appropriations process if certain FTA program requirements are met.
- **Alternative Analysis Program** – This program authorizes funds for alternatives analyses for New Starts projects specific programs during FY 2006 and 2007. Studies in the Red Rock, Rush Line, and Central Corridors were authorized up to \$2 million for each of FFY 2006 and 2007.
- **Alternative Transportation in Parks and Public Lands Program (Sec. 5320)** – The “Transit in the Parks” program provides grants for planning or capital projects in or near national parks or other public land areas.

C. Bicycle and Pedestrian Programs

- **Safe Routes to School Program** – This new formula highway program will provide Minnesota with approximately \$9.5 million in apportionments during FFY 2005-09. These funds will be for planning, design and construction of projects to improve ability of students to walk and bike to school and to fund a state coordinator position. This program also creates a national clearinghouse. No less than 10 percent and no more than 30 percent of these funds are to be set aside for non-infrastructure related activities to encourage walking and bicycling to school.
- **Non-motorized Transportation Pilot Program** – \$6.25 million per year FFY 2006-09 (total \$25 million) is designated for the Minneapolis-St. Paul community for non-motorized transportation infrastructure facilities (e.g. sidewalks, bike lanes, pedestrian and bike trails)

to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load and represent a major portion of the transportation solution.

- **Bicycle and Pedestrian Safety Grants** – This program provides \$2.3 million in Bicycle and Pedestrian Safety Grants for a national non-profit to operate a clearinghouse, develop information and educational programs, and disseminate techniques and strategies to improve bike and pedestrian safety.

VII. Motor Carrier/Rail/Freight/Hazardous Materials

SAFETEA-LU reauthorizes the Motor Carrier Safety Assistance Program and expands commercial vehicle safety activities under the program. It also:

- Establishes a consumer protection based system for regulating Household Goods Movers in interstate commerce;
- Replaces the Single State Registration System for registering a motor carrier's interstate operations with a national Unified Carrier Registration System; and
- Requires the establishment of a working group to develop uniform forms and procedures for states to register permits to hazardous materials transporters.
- **Motor Carrier Safety Assistance Program (MCSAP)** – MCSAP, which is administered by the Federal Motor Carrier Safety Administration (FMCSA), provides funding to state agencies to enforce Motor Carrier Safety (Title IV) and federal Hazardous Materials Transportation Regulations (Title VII). Minnesota received \$3.2 million in MCSAP funding in the last fiscal year. Mn/DOT, as sub grantee to the State Patrol, received about \$1.3 Million. Specific figures are not expected from FMCSA until October, but it is estimated that the MCSAP grants will increase by about 40%. Some of the changes in Title IV are enhancements of current programs, and Mn/DOT will participate in these changes as a MCSAP contractor. CVISN programs continue use of information technology system integration already in use by Mn/DOT and the other MCSAP agencies. Other major changes, for example, Commercial Drivers License system modernization, will be handled by the Department of Public Safety with Mn/DOT input and advice.
- **Truck Parking Facilities** – This discretionary program provides \$25 million (FFY 2006-09) to address the shortage of long term parking for commercial motor vehicles on the NHS. It is not known whether this program will be earmarked by Congress. This program may provide opportunities to add commercial vehicle parking facilities at rest areas, adjacent to truck stops/travel plazas, inspection/weigh stations, and park-and-ride facilities, as well as for related ITS deployment and construction of highway turnouts and improvement of interchange geometrics to access such facilities.
- **Idling Reduction Facilities** – This program allows the construction of idling reduction facilities on Interstate rights-of-way for commercial vehicles and authorizes fees to be charged for their use. No funding is provided for this program.
- **National Cooperative Freight Transportation Research Program** – This program will operate like the HCHRP but be strictly for freight research projects. \$15 million (FFY 2006-09) is provided for the program.
- **Freight Intermodal Distribution Pilot Program** - \$30 million (FFY2005-09) is provided for this pilot program to intermodal freight projects, but it has all been earmarked.
- **National Intermodal System Improvement Plan** – This plan is required to assess and forecast the impact of intermodal transportation on security, safety, technology and economic activity.

- **Rail Line Relocation Capital Grants** – This program is available for projects that relocate rail line for the purpose of mitigating the impact of rail traffic.
- **Rail Rehabilitation and Improvement Financing (RRIF)** - SAFETEA-LU increases funding and makes several process changes to the RRIF program.
- **Rail Transportation Study** – SAFETEA-LU directs USDOT to engage TRB to conduct a comprehensive study of the nation's rail system since the enactment of the Staggers Rail Act of 1980 and report to Congress.

VIII. Research

SAFETEA-LU provides a slight increase in research funding including many new programs and opportunities. However, the funding for the new research programs does not begin until FFY 2006, and much of this funding has already been earmarked.

- SAFETEA-LU authorizes six major research programs: Surface Transportation Research Development and Deployment Program, Training and Education, Bureau of Transportation Statistics, University Transportation Research, Intelligent Transportation Systems Research, and Intelligent Transportation System Deployment.
- A significant amount of research funding was earmarked. The Surface Transportation Research Development and Deployment Program has 48% of its funds earmarked. The University Transportation Research Program has 75% of its funds earmarked, which includes funding for the University of Minnesota as a National University Transportation Center at \$2 million in FFY 2005 and \$3.5 million for FFY 2006-09. The Intelligent Transportation Systems Research Program also has an earmark for the Humphrey Institute's Center for Excellence in Rural Road Safety at \$3.5 million during FFY 2006-09.
- The Training and Education (T&E) Program supports workforce development for the transportation career professional from early exposure in K-12 through secondary and college education, and continuing education for transportation professionals. Under SAFETEA-LU, the Local Technical Assistance Program (LTAP) within (T&E) received a slight increase, which equates to approximately \$14,000 annually for each LTAP center.
- In addition to the existing National Cooperative Highway Research Program and Transit Cooperative Research Program, two new cooperative research programs were established, the Surface Transportation Environment & Planning Cooperative Research Program, and the National Cooperative Freight Program.
- SAFETEA-LU Title V funds the new F-SHRP program at \$205 million for FFY 2006-09. This program provides for a time-specific, concentrated, short-term and results-oriented research program focused on solving the top problems of highway safety, reliability, capacity, and renewal.
- SAFETEA-LU increases State Planning and Research Program (SP&R) funding by approximately 20-30 percent. The final funding estimates for Minnesota are not yet available.
- SAFETEA-LU re-establishes the Bureau of Transportation Statistics (BTS) in the Research and Innovative Technology Administration (RITA), however there is a 13% reduction in annual funding for BTS.

- SAFETEA-LU Title V re-establishes and maintains a National Transportation Library within BTS which shall contain a collection of statistical and other information needed for transportation decision-making at the Federal, State, and local levels.

More Information

- Mn/DOT's SAFETEA-LU Web site: www.dot.state.mn.us/safete-lu
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