



Legislative Bulletin.....July 29, 2005

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H.R. 3—Transportation Equity Act: A Legacy for Users (TEA-LU)—Conference Report

H.R. 3—Transportation Equity Act: A Legacy for Users (TEA-LU)— Conference Report (Young, Don)

Order of Business: The conference report is scheduled to be considered on Friday, July 29th, subject to a closed rule (H.Res. 399) providing for the consideration of the conference report for H.R. 3. The rule provides that “the Clerk shall not transmit to the Senate a message that it has adopted the conference report to accompany H.R. 3 until the House has received a message that the Senate has agreed to House Concurrent Resolution 226 as adopted by the House or passed H.R. 3514 without amendment.” H.Con.Res. 226, which the House agreed to by unanimous consent earlier this morning, struck the controversial section (Section 1942) that would require the Secretary of the Air Force to open and enable flying operations at the airfield at Malmstrom Air Force Base in Montana (i.e. partially undo a BRAC partial closure from the 1995 round). H.R. 3514 also contains language striking the Montana BRAC section.

In short, under the rule for the Transpo Conference Report, the House could not send the Conference Report to the Senate until the Senate agrees to strike the Montana air force base section (by passing H.Con.Res. 226 or H.R. 3514 without amendment).

On March 10, 2005, the House passed H.R. 3 by a vote of 417-9:

<http://clerk.house.gov/evs/2005/roll065.xml>

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Summary of Some Key Issues:

Total Funding Level: The conference report for H.R. 3 would reauthorize federal highway, highway safety, and mass transit programs for five years (FY2005-FY2009)—reportedly at a level of approximately \$286.5 billion (about 35% over the last multi-year authorization).

Note: according to the Budget Committee, it appears that the conference report exceeds the budget resolution by \$300-\$400 million, although the unavailability of a CBO cost estimate makes this budget breach impossible to confirm in a timely fashion.

Rescission: In addition, the bill includes an \$8.54 billion rescission of unobligated funds on the very last day of the bill (September 30, 2009) to offset the overall cost of the bill. However, the timing of the rescission could cast doubt on whether it will ever take effect and actually save taxpayer dollars.

In short, this is technically NOT a \$286.5 billion bill over five years. This is a \$295 billion bill over five years (minus one day) with a planned, one-time \$8.5 billion rescission on the last day of the last fiscal year covered by this bill.

The American Shareholders Association, Americans for Prosperity, Americans for Tax Reform, the Club for Growth, FreedomWorks, and the National Taxpayers Union have sent a letter to President Bush, urging him to veto the bill if it exceeds his cap of \$283.9 billion (which the bill does).

Minimum Guarantee and Scope (Section 1104): The scope of programs included in calculating whether a state is reaching its minimum guarantee (its rate of return from gas taxes paid) for highways (not transit) does include “high priority projects” (earmarks), but does not include “projects of regional and national significance” (projects with a cost exceeding \$500 million or 75% of a state’s apportioned funds). In other words, low-dollar earmarks count toward a state’s rate of return, but high-dollar ones do not.

The minimum guarantee remains at 90.5% for 2005 and 2006, increases to 91.5% in 2007 (with the possibility of raising it to 92.0% for donor states under certain circumstances), and then increases again to 92.0% in 2008 and 2009. Prohibits any negative adjustment from being made for any state (i.e. holds all states harmless).

Revenue Aligned Budget Authority (RABA) (Section 1105): Makes the annual RABA calculations account for two fiscal years at a time, instead of one. Prohibits RABA reductions in any fiscal year in which the Highway Trust Fund (other than the Mass Transit Account) exceeds \$6 billion. Highway program funding levels are tied to estimates of Highway Trust Fund receipts made at the time of enactment of the last multi-year authorization bill (TEA-21), and the levels are adjusted each year to reflect the latest information on Highway Trust Fund receipts. The annual calculation of this adjustment, known as revenue aligned budget authority or RABA, is intended to ensure that highway program funding tracks closely with actual and anticipated revenue to the Highway Account of the Highway Trust Fund.

Earmarks: The conference report contains a record-breaking 5800+ earmarks, amounting to billions of dollars over four years.

The Statement of Administration Policy (SAP) for the original House version of H.R. 3 expressed opposition to the proliferation of earmarks and categorical set-asides.

Historical note: President Ronald Reagan vetoed the 1987 highway bill, citing concerns with 152 earmarks. The Democrat Congress subsequently overrode his veto.

High-Priority Projects. The bill is accompanied by a list of 665 high priority projects (i.e. earmarks) for buses and bus facilities and a separate list of 5173 high priority projects for highways. A few examples include:

Bus Projects:

- \$220,000 for one line-item for trolley buses in Puerto Rico
- \$366,000 for one line-item for intermodal transportation at the Bronx Zoo
- \$835,000 for a second line-item for intermodal transportation at the Bronx Zoo
- \$4.2 million for intermodal transportation at the Philadelphia Zoo
- \$146,000 for a second line-item for trolley buses in Puerto Rico
- \$1.3 million for sidewalk lighting and landscaping around Cedar’s-Sinai Medical Center in Los Angeles
- \$1.3 million for a daycare center and park-and-ride facility in Champaign, IL
- \$1.7 million for an intermodal park and ride facility at the Museum of Latin American Art, Long Beach, CA
- \$2 million for a third line-item for intermodal transportation at the Bronx Zoo

Highway Projects:

- \$440,000 for a bike path in Powers, OR
- \$480,000 for pedestrian and bicycle sidewalks, lighting, and handicapped ramps in Miramar, FL
- \$200,000 for trails and bike paths on Bird Mountain, TN
- \$960,000 for a bike path in Riverhead, NY
- \$2.3 million for landscaping enhancements “for aesthetic purposes” along the Ronald Reagan Freeway, CA
- \$240,000 for boardwalks at Pismo Beach, San Luis Obispo, CA
- \$1.6 million to enhance the Battery Park bikeway perimeter, New York City
- \$200,000 for a historical trolley project in Issaquah, WA
- \$200,000 for trails, bike paths, and recreational facilities on Black Mountain, TN
- \$235,796 for extensions to the Mesabi Trail, Aurora, MN
- \$144,000 for paths and trails at the Stan Hywet Hall and Gardens, OH
- \$160,000 for a bike path, Petal, MS
- \$200,000 for a bike path “network”, Evanston, IL
- \$2.9 million for a bike path, Delta Ponds, OR
- \$240,000 for bike and pedestrian improvements, Windermere, FL
- \$2.4 million for bike trail, Smyrna, TN
- \$1.2 million for a bike trail, LaVergne, TN
- \$800,000 for regional bike routes on existing highways, Austin, TX
- \$480,000 to rehabilitate a historic warehouse, Lyons, NY
- \$320,000 for a bike path from San Luis Obispo to Avila Beach, CA
- \$280,000 for a bike path, Fairview Park, OH
- \$600,000 for horse-riding trails, Jefferson National Forest, VA
- \$2 million for a bike trail, Cookeville, TN
- \$2 million for an intermodal bikeway, Independence, OH

- \$640,000 for bike, pedestrian and other improvements at Georgia Veterans Memorial Park
- \$1.2 million for pedestrian bicycle access project, Newark NJ
- \$1.2 million for a bike path, East Long-meadow Redstone, MA
- \$8 million for the Harlem Hospital parking facility
- \$1.8 million for a bike path, Portage, WI
- \$2.6 million for pedestrian walkway and bikeway improvements along the NYC Greenway System in Coney Island, NY
- \$400,000 for a bike path in Dunkirk, NY
- \$532,000 for a bike and pedestrian trail, Gallatin, TN

Re-opener Clause: There appears to be no “re-opener clause” in the conference report. The House-passed bill included a provision that would have prohibited states from receiving their highway program funds for fiscal year 2006 before August 1, 2006, unless a subsequent law were enacted raising the guaranteed rates of return to 92% in fiscal year 2006, 93% in fiscal year 2007, 94% in fiscal year 2008, and 95% in fiscal year 2009 without reducing any state’s allotment from the year before. [Current law re-distributes to each state no less than 90.5% of each state's fuel taxes.] That provision was likely to have resulted in significantly higher funding levels by delaying the highway program next year unless the highway bill is “re-opened.” The White House threatened a veto if the bill contained a re-opener clause.

Fuel Surcharge: There appears to be no provision, originally part of the House-passed bill, that would have added a fuel surcharge to the prices charged by motor carriers, brokers, and freight forwarders when the price of fuel rises above a benchmark price-per-gallon.

Conservatives might be particularly interested in the items in **red-bold** below.

[Summary Highlights by Title:](#)

Title I—Federal-Aid Highways—Authorization of Programs

➤ **Authorizations from the Highway Trust Fund (other than the Mass Transit Account):**

--Interstate Maintenance Program

FY05: \$4.88 billion

FY06: \$4.96 billion

FY07: \$5.04 billion

FY08: \$5.12 billion

FY09: \$5.20 billion

--National Highway System

FY05: \$5.91 billion

FY06: \$6.01 billion

FY07: \$6.11 billion

FY08: \$6.21 billion

FY09: \$6.31 billion

--Bridge Program

FY05: \$4.88 billion
FY06: \$4.96 billion
FY07: \$5.04 billion
FY08: \$5.12 billion
FY09: \$5.20 billion

--Surface Transportation Program

FY05: \$6.86 billion
FY06: \$6.27 billion
FY07: \$6.37 billion
FY08: \$6.47 billion
FY09: \$6.58 billion

--Congestion Mitigation and Air Quality Improvement Program

FY05: \$1.67 billion
FY06: \$1.69 billion
FY07: \$1.72 billion
FY08: \$1.75 billion
FY09: \$1.78 billion

--Highway Safety Improvement Program

FY06: \$1.24 billion
FY07: \$1.26 billion
FY08: \$1.28 billion
FY09: \$1.30 billion

--Appalachian Development Highway System Program

FY05-09: \$470.0 million for each fiscal year

--Recreational Trails Program

FY05: \$60.0 million
FY06: \$70.0 million
FY07: \$75.0 million
FY08: \$80.0 million
FY09: \$85.0 million

--Indian Reservation Roads

FY05: \$300.0 million
FY06: \$330.0 million
FY07: \$370.0 million
FY08: \$410.0 million
FY09: \$450.0 million

--Park Roads and Parkways (earmarks 3% of funds for a state containing more than 50% of the total acreage of the National Park System)

FY05: \$180.0 million

FY06: \$195.0 million

FY07: \$210.0 million

FY08: \$225.0 million

FY09: \$240.0 million

--Refuge Roads

FY05-09: \$29.0 million for each fiscal year

--Public Lands Highways

FY05: \$260.0 million

FY06: \$280.0 million

FY07: \$280.0 million

FY08: \$290.0 million

FY09: \$300.0 million

--National Corridor Infrastructure

FY05: \$194.8 million

FY06: \$389.6 million

FY07: \$487.0 million

FY08: \$487.0 million

FY09: \$389.6 million

--Coordinated Border Infrastructure

FY05: \$123.0 million

FY06: \$145.0 million

FY07: \$165.0 million

FY08: \$190.0 million

FY09: \$210.0 million

--National Scenic Byways Program

FY05: \$26.5 million

FY06: \$30.0 million

FY07: \$35.0 million

FY08: \$40.0 million

FY09: \$43.5 million

--Construction of Ferry Boats and Ferry Terminal Facilities

FY05: \$38.0 million

FY06: \$55.0 million

FY07: \$60.0 million

FY08: \$65.0 million

FY09: \$67.0 million

- Puerto Rico Highway Program
 - FY05: \$115.0 million
 - FY06: \$120.0 million
 - FY07: \$135.0 million
 - FY08: \$145.0 million
 - FY09: \$150.0 million

- Projects of National and Regional Significance Program
 - FY05: \$177.9 million
 - FY06: \$355.8 million
 - FY07: \$444.8 million
 - FY08: \$444.8 million
 - FY09: \$355.8 million

- High Priority Projects Program
 - FY05-09: \$2.97 billion each fiscal year

- Safe Routes to School Program
 - FY05: \$54.0 million
 - FY06: \$100.0 million
 - FY07: \$125.0 million
 - FY08: \$150.0 million
 - FY09: \$183.0 million

- Deployment of Magnetic Levitation Projects
 - FY06: \$15.0 million
 - FY07: \$15.0 million
 - FY08: \$30.0 million
 - FY09: \$30.0 million

- National Corridor Planning and Development/ Coordinated Border Infrastructure Programs
 - FY05: \$140.0 million

- Highways for Life
 - FY06: \$15.0 million
 - FY07: \$20.0 million
 - FY08: \$20.0 million
 - FY09: \$20.0 million

- Highway Use Tax Evasion Projects
 - FY05: \$5.0 million
 - FY06: \$44.8 million
 - FY07: \$53.3 million
 - FY08: \$12.0 million
 - FY09: \$12.0 million

- Earmarks not less than 10% of the amounts made available in Titles I, III, and V of this bill for small businesses owned and controlled by **socially and economically disadvantaged individuals**.
- **Obligations ceilings** for federal-aid highway and highway safety construction programs (subject to certain exceptions):
 - FY05: \$34.42 billion
 - FY06: \$36.03 billion
 - FY07: \$38.24 billion
 - FY08: \$39.59 billion
 - FY09: \$41.20 billion
- **Administrative expenses** of the Federal Highway Administration:
 - FY05: \$353.0 million
 - FY06: \$370.6 million
 - FY07: \$389.1 million
 - FY08: \$408.5 million
 - FY09: \$423.7 million
- **Alaska Highway**: \$30 million for each of fiscal years 2005 through 2009 (up from \$18.8 million annually)
- **National Highway System Component**:
 - FY05: \$40.0 million
 - FY06: \$40.6 million
 - FY07: \$50.0 million
 - FY08: \$50.0 million
 - FY09: \$50.0 million
- **Public education campaign to improve driver performance at railway-highway crossings**: \$560,000 for each of fiscal years 2005 through 2009
- **Railway-Highway Crossing Hazard Elimination** in High-Speed Rail Corridors:
 - FY05: \$5.3 million
 - FY06: \$7.3 million
 - FY07: \$10.0 million
 - FY08: \$12.5 million
 - FY09: \$15.0 million
- **Minimum Guarantee and Scope**: The scope of programs included in calculating whether a state is reaching its minimum guarantee (its rate of return from gas taxes paid) for highways (not transit) does include “high priority projects” (earmarks), but does not include “projects of regional and national significance” (projects with a cost exceeding \$500 million or 75% of a state’s apportioned funds). The minimum guarantee remains at 90.5% for 2005 and 2006, increases to 91.5% in 2007 (with the possibility of raising it to 92.0% for donor states under certain circumstances), and then increases again to 92.0% in 2008 and 2009. Prohibits any negative adjustment from being made for any state (i.e. holds all states harmless).
- **Revenue Aligned Budget Authority (RABA)**: Makes the annual RABA calculations account for two fiscal years at a time, instead of one. Prohibits RABA reductions in any fiscal year in which the Highway Trust Fund (other than the Mass Transit Account) exceeds \$6 billion. Highway program funding levels are tied to estimates of

Highway Trust Fund receipts made at the time of enactment of the last multi-year authorization bill (TEA-21), and the levels are adjusted each year to reflect the latest information on Highway Trust Fund receipts. The annual calculation of this adjustment is intended to ensure that highway program funding tracks closely with actual and anticipated revenue to the Highway Account of the Highway Trust Fund.

- **HOV Lanes:** Prohibits non-state-operated HOV lanes from being allowed to welcome single-occupant cars. Allows tolls on non-state-operated HOV lanes.

Title I—Congestion Relief—Mobility and Efficiency

- **Real-time System Management:** Directs the Secretary of Transportation to establish a new real-time system management information program to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share that information to improve the security of the surface transportation system to address congestion problems.
- **National Significance Program:** Establishes a program to provide grants to states for projects of national and “regional significance.”
- **National Corridor Infrastructure Program:** Establishes a program to make allocations to states for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade.
- **Coordinated Border Program:** Establishes a coordinated border infrastructure program to distribute funds to border states to improve the safe movement of motor vehicles at or across the border between the U.S.-Canada border and the U.S.-Mexico border.
- **Projects in Canada and Mexico:** Allows projects in Canada or Mexico, proposed by a border state to directly facilitate cross-border vehicle and cargo movements at an international port of entry into the border region, to be constructed using federally-allocated state transportation funds.
- **Truck Parking Facilities:** Creates a new \$25 million program to increase the availability of long-term parking for commercial trucks, including funding parking facilities adjacent to commercial truck stops.
- **Freight Intermodal Distribution Program:** Creates a new freight intermodal distribution pilot grant program to facilitate and support intermodal freight transportation initiatives to relieve congestions and improve safety. Authorizes \$30 million for this program, \$25 million of which is designated for specific projects.
- **Magnetic Levitation Projects:** Authorizes federal assistance for the deployment of magnetic levitation transportation projects.
- **Delta Region Development Program:** Authorizes \$40 million over four years for an eight-state program to support and encourage multi-state transportation planning and corridor development.
- **Interstate Oasis Program:** Establishes an interstate oasis program and directs the Secretary develop standards for designating facilities as an oasis facility.

Title I—Subtitle D – Highway Safety

- **Highway Safety Improvement Act:** Directs the Secretary to carry out a Highway Safety Improvement Act “to achieve a significant reduction in traffic fatalities and serious injuries on public roads.” In Section 1401 of Subtitle D, stipulates a specific apportionment of funds to states based on a formula, and also stipulates a minimum apportionment of funds based on a formula.
- **Worker Injury Prevention and Free Flow of Vehicular Traffic:** Directs the Secretary to issue regulations to decrease the likelihood of worker injury and maintain free flow of vehicular traffic **by requiring workers to wear high visibility garments** (for those working in close proximity to a federal-aid highway). The regulations may also require other worker-safety measures as the Secretary determines to be appropriate.
- **Toll Facilities Workplace Safety Study:** Directs the Secretary to conduct a study on the safety of highway toll collection facilities to determine the safety of the facilities for the toll collectors.
- **Authorization of Funds:** Authorizes \$500,000 for FY06 for the above-mentioned activities.
- **Safe Routes to School Program:** Directs the Secretary to establish “a safe routes to school” program for the benefit of children in primary and secondary schools.” Stipulates a formula to apportion funds to the states for this program, and sets a \$1 million minimum for every state. Prior to apportionment of the funds for this program, \$3 million is set aside for administrative expenses.
- **Roadway Safety Improvements for Older Drivers and Pedestrians:** Directs the Secretary to carry out a program to improve traffic signs and pavement markings in all states.
- **Authorization of Funds:** Authorizes such sums as necessary for FY05-FY09.
- **Safety Incentive Grants for use of Seat Belts:** Authorizes **\$112 million for FY05** from the Highway Trust fund for this activity.
- **Safety Incentives to Prevent Operation of Motor Vehicles by Intoxicated Persons:** Directs the Secretary to withhold certain funds otherwise apportioned to a state if the state fails to enact or enforce a law by October 1, 2005 (and every year thereafter) stating that a person driving a vehicle with a blood alcohol concentration of .08 percent or greater has committed a DWI. Stipulates that the percentage of funds to be withheld is: 2% for 2004; 4% for 2005; 6% for 2006; and 8% for 2006 and thereafter. Provides that if a state enacts the DWI law outlined above within four years of the date that apportioned funds were initially withheld, the state’s funds will be increased by the amount withheld (presumably for all years withheld, but it is not clear from the text). Authorizes \$110 million for FY05 for the safety incentives program.
- **Work Zone Safety Grants:** Directs the Secretary to establish a work zone safety grant program to make grants to organizations to provide training to prevent or reduce highway work zone injuries and fatalities. Authorizes \$20 million for FY06-FY09.
- **Construction Work in Alaska:** Directs the Secretary to ensure persons working on a remote federal Alaskan highway construction project will receive meals and lodging, and provides for a per diem rate of \$75 per day.
- **National Work Zone Safety Information Clearinghouse:** Directs the Secretary to make grants to operate the National Work Zone Safety Information Clearinghouse, which collects and disseminates information relating to work zone safety improvement. Authorizes \$4 million for FY06-FY09.

- **Roadway Safety:** Directs the Secretary to enter into agreements to assist activities of nonprofit organizations dedicated solely to improving public road safety. Authorizes \$2 million for FY06-FY09.
- **Bicycle and Pedestrian Safety Grants:** Directs the Secretary to make grants to “a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety.” Authorizes \$2.3 million for FY05-FY09.

Title I—Federal-Aid Highways—Construction and Contract Efficiency

- Permits the imposition of **tolls on existing roads** in the Interstate Highway System.
- Establishes a **Highways for LIFE Pilot Program** to invest in longer-lasting highways and bridges based on new innovative technologies. This program may allocate up to 20%, but not more than \$5 million of the total cost of any one project. Over a five year period, each state would receive at least one project under the program, but the Secretary would be not be allowed to award more than 15 projects in a given fiscal year.
- Authorizes the construction of **ferry boats and terminal facilities**, including \$10 million for Alaska, \$5,000 for New Jersey, and \$5 million for the State of Washington.
- Establishes a **Historic Covered Bridge Preservation Program** to conduct research on the history such bridges and developing techniques for protecting them from rot, fire, natural disasters, or weight-related damage.
- Authorizes a “**nonmotorized**” **transportation pilot program** in four communities to roll out sidewalks and bike paths and pedestrian trails that connect to transit stations, schools, residences, and community activity centers. The program would authorize \$25 million per year for the pilot program. Those communities include: Columbia (MO), Marin County (CA), Minneapolis (MN), and Sheboygan County (WI).

Title I—Miscellaneous

- **BRAC Item (Section 1942):** Requires the Secretary of the Air Force to open the airfield at Malmstrom Air Force Base, Montana and enable flying operation for all fixed-aircraft at that base. This base was part of a 1995 base realignment and closure process. See: <http://www.fas.org/man/docs/fy01/usaf/br95.pdf> and <http://www.malmstrom.af.mil/>
- **Buy America:** the bill adds (by cross reference) Buy America requirements in the transportation title of the U.S. Code.
- **Value Engineering Analysis:** For projects over \$25 million, bridge projects over \$20 million, and other projects determined by the Secretary, the State shall require value engineering analysis or other cost-reduction analysis a systematic process of review and analysis of a project. The analysis must include recommendations on eliminating inefficient use of costly parts, for example.
- **\$37.5 million New Grant Program to Prohibit Racial Profiling:** Creates a new grant program. To qualify for grants “a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary

traffic stops on Federal-aid highways. ...Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.”

- **\$4 million Alaska and Tennessee Demonstration program for Pavement Marking Systems:** includes “an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic waterborne pavement markings.”
- Designates certain roads in Oklahoma as part of the national highway system and interstate system.
- **Motorist Information concerning full service restaurants:** rulemaking authority to determine whether “full service restaurants should be given priority on not more than 2 panels of the camping or attractions logo-specific service signs in the Manual on Uniform Traffic Control Devices of the Department of Transportation when the food logo-specific service sign is fully used,” etc.
- 90% federal share for costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota.
- Creation of Motorcycle Advisory Council
- Forgives the loan for debt outstanding “for project number Q-DPM-0013(001)”
- **\$12.5 million to Study Assessing User Fees By Electronically Tracking How Much You Drive:** Study at Public Policy Center of the University of Iowa to long-term field test an approach to assessing highway use fees based upon actual mileage driven by a specific vehicle on specific types of highways by use of an onboard computer, linked to satellites to calculate highway mileage traversed, etc.
- **\$1 million for Delta Region Transportation Needs Assessment:** Study of needs in eight states: Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee.
- **Alaska Way Viaduct Study**
- **Namings:** Patrick Moynihan Interstate Highway, Tip O’Neill, Jr. Tunnel in Boston, Richard Nixon Parkway in California, Amo Houghton Bypass, Billy Tauzin Energy Corridor
- \$50 million for Going-to-the-Sun Road, Glacier National Park, Montana
- \$9 million for Great Lakes intelligent transportation system to the State of Wisconsin
- \$10 million for the Oklahoma Plan for Tar Creek
- **Apollo Theater Leases:** The Economic Development Administration shall, “in order to facilitate the further financing of the project, approve, without compensation to the agency, a series of leases of the Apollo Theater, located in Harlem, New York, to be improved by Economic Development Administration project numbers 01-01-7308 and 01-01- 07552.”
- Infrastructure Awareness Program: \$3 million for a documentary about infrastructure that demonstrates advancements in Alaska, “the last frontier.”

Title II—Highway Safety

- **Makes the following authorizations:**

- \$1.06 billion over five years for Highway Safety Programs
- \$502.4 million over five years for Highway Safety Research and Development
- \$119.84 million over five years for Occupant Protection Incentive Grants
- \$498 million over four years for Safety Belt Performance Grants
- \$138 million over four years for State Traffic Safety Information System Improvements
- \$554.6 million over five years for the Alcohol-Impaired Driving Counter-Measures Incentive Grant Program
- \$19.96 million over five years for the National Driver Register
- \$116 million over four years for the High Visibility Enforcement Program
- \$25 million over four years for Motorcyclist Safety
- \$25 million over four years for Child Safety and Child Booster Seat Safety Incentive Grants
- \$72 million over four years for National Highway Traffic Safety Administration Administrative Expenses
- **Directs the Secretary of Transportation to conduct the following studies:**
 - A nationally representative study to collect on-scene motor vehicle collision data and to determine crash causation
 - A study of the frequency with which persons arrested drunk driving refuse to take a test to determine blood alcohol concentration levels
 - A study on educational, public information and other activities targeted at reducing motorcycle accidents and resulting fatalities and injuries where the operator of the motorcycle is impaired
 - A study on reducing the incidence of alcohol-related motor vehicle crashes and fatalities through research of advance vehicle-based alcohol detection systems
 - **\$1 million for a study on the risks associated with glare to oncoming drivers**
 - \$1 million for a pilot program for optimizing emergency medical services in a rural state
 - \$6.8 million over four years for a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers
- **Safety Belt Grants:** Authorizes grants to be given to each state upon enacting certain primary safety belt use laws
- **Catch-Up Grants:** Authorizes the Secretary of Transportation to provide states with “catch-up” grants if they did not receive a grant for certain reasons.
- **Establishes the following programs relating to alcohol:**
 - Check Point, Saturation Patrol Program
 - Prosecution and Adjudication Outreach Program
 - Programs for Effective Alcohol Rehabilitation and DWI Courts
 - Underage Drinking Program
 - Administrative License Revocation System
 - Self Sustaining Impaired Driving Prevention Program
- **NHTSA Accountability:** Establishes certain accountability related reviews of, and guidelines for, the National Highway Traffic Safety Administration
- **High Visibility Enforcement Program:** Establishes a new program to conduct at least two high-visibility traffic safety law enforcement campaigns to reduce alcohol-impaired or drug-impaired operation of motor vehicles

- **Motorcycle Grants**: Establishes grants for states that adopt “effective programs” to reduce crashes involving motorcyclists
- **Motorcyclists Awareness Program**: Establishes a statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists
- **Child Safety and Child Booster Seat Grants**: Establishes grants for states that are enforcing a law requiring that any child riding in a passenger motor vehicle who is too large to be secured in a child safety seat be secured in a child restraint that meets certain requirements
- **First Responder Program**: Directs the Secretary of Transportation to develop and implement a comprehensive program to promote compliance with state and local laws intended to increase the safe and efficient operation of first responder vehicles
- **Alcohol Commission**: Expresses a sense of Congress that, to further change the culture of alcohol-impaired driving on our nation’s highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving.

Title III—Public Transportation

- **Statewide Transportation Planning**: Directs each state to develop a statewide transportation plan and a statewide transportation improvement program, and stipulates what the plan should include on how to properly develop the plan.
- **Clean Fuels Grants Program**: Directs the Secretary to make grants to recipients to finance eligible projects. Allows up to 25 percent of the appropriated amount to fund clean diesel buses.
- **Capital Investment Grants**: Allows the Secretary to make grants to assist state and local governments to finance “new fixed guideway capital projects” and other capital investment projects (including bus replacement and rehabilitation, constructing bus-related facilities, etc.).
- **Allocation Amounts for Various Capital Projects**:
 - **Fixed Guideway Capital Projects**: \$600 million for FY07-FY09 for new fixed guideway capital projects under \$75 million.
 - **Ferry Boats Funding**: \$10.4 million will be available for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects using ferry boats and ferry boat terminals; \$2.5 million for the San Francisco Water Transit Authority; \$2.5 million for Massachusetts Bay Transportation Authority Ferry System; \$1 million for the Camden, New Jersey Ferry System; \$1 million for Governor’s Island, New York Ferry System; \$1 million for the Philadelphia Penn’s Landing Ferry Terminal; \$1 million for the Staten Island Ferry; \$650,000 for the Maine State Ferry Service, Rockland; \$350,000 for the Swans Island, Maine Ferry Service.
 - **Fuel Cell Bus Program**: \$487.5 million set aside for the national fuel cell bus technology development program.
 - **Intermodal Terminals**: \$35 million for each fiscal year for intermodal terminal projects.
- **Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities**: Allows the Secretary to make grants to states and local governmental

authorities for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities. The grants program sunsets on September 30, 2009.

➤ **Various Project Authorizations:**

- \$4.811 million for Alaska Railroad improvements to its passenger operations.
- \$5.208 million for over-the-road bus accessibility grants to operators of intercity, fixed-route over-the-road buses.
- \$1.686 million for over-the-road bus accessibility grants to operators of over-the-road buses *providing other than intercity, fixed-route service*.
- \$94.526 million to provide transportation services to elderly individuals and individuals with disabilities.
- \$49.6 million to carry out the clean fuels program.
- \$669.6 for capital projects to replace, rehabilitate, and purchase bus and related equipment and to construct bus-related facilities.
- \$1.204 billion for fixed guideway modernization.
- \$10.2 million for capital projects in Alaska in Hawaii
- \$2.976 for bus testing.
- \$2 million for Minnesota Red Rock Corridor/Rush Line/Central corridors studies.
- \$1.5 million for Trans-Hudson Midtown corridor study.
- \$500,000 for a Lane County, Oregon Bus Rapid Transit Phase II corridor study.
- \$1.5 million for a Portland Streetcar, Oregon corridor study.
- \$1.25 million for the San Gabriel Valley-Gold Line Foothill Extension corridor study.
- \$1.25 million Metra BNSF Naperville to Aurora corridor study.
- \$750,000 for Madison and Dane Counties, Wisconsin Transport 2020 corridor study.
- \$500,000 Middle Rio Grande Coalition of governments, Albuquerque to Santa Fe corridor study.
- \$1 million for the Piedmont Authority Regional Transportation East-West Corridor study.
- \$1.5 million for the Baltimore Red Line/Green Line Transit Project study.
- \$1 million for the Metra-West Line Extension, Elgin to Rockford study.
- \$300,000 for the South Carolina Department of Transportation Light Rail study.
- \$2.5 million for the New Jersey Transit Midtown Project study.
- \$42 million for the Baltimore Central LRT Double Tracking for FY05-FY06.
- \$154.165 million for the Charlotte South Corridor LRT for FY05-FY07
- \$130.145 million for the Chicago Transit Authority Douglas Branch Reconstruction for FY05-FY06.
- \$224.832 million for the Chicago Transit Authority Ravenswood Expansion Project for FY05-FY09.
- \$49.574 million for the Euclid Corridor Transportation Project for FY05-FY06.
- \$316,552 for the Denver Southeast Corridor LRT for FY05-FY08.
- \$11.2 million for the Fort Lauderdale Tri-Rail Commuter Rail Upgrade for FY05.

Title IV—Motor Carrier Safety

- Authorizations for motor carrier safety grants:
 - FY05: \$188.5 million
 - FY06: \$188.0 million
 - FY07: \$197.0 million
 - FY08: \$202.0 million
 - FY09: \$209.0 million
- Authorizations for the administration of the Federal Motor Carrier Safety Administration:
 - FY05: \$254.8 million
 - FY06: \$213.0 million
 - FY07: \$223.0 million
 - FY08: \$228.0 million
 - FY09: \$234.0 million
- **Increases penalties** for out-of-service violations and false records.
- **National Registry of Medical Examiners.** Establishes a national registry of medical examiners who are qualified to perform examinations and issue medical certificates.
- **Drivers License Modernization Plan.** Directs the Secretary of Transportation to develop and publish a comprehensive national plan to modernize the driver’s license information system.
- **Driver Education Program.** Authorizes \$16 million for an outreach and education program promoting, among other things, “a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.”
- **Insulin.** Orders the revision of a rule to allow truck drivers who use insulin to treat diabetes to operate their vehicles for interstate commerce.
- **Truck inspections.** Sets penalties for failure for truck operators to stop at an inspection site when asked to stop by an employee of the Federal Motor Carrier Safety Administration.
- **Don Young’s Way:** Designates the Knik Arm Bridge in Alaska as “Don Young’s Way.”

Title V—Research

- **Makes the following authorizations:**
- \$2.05 billion (total) over five years for the Highway Trust Fund
- \$982 million over five years for Surface Transportation Research, Development, and Deployment Program
- \$133.5 million over five years for training education
- \$135 million over five years for the Bureau of Transportation Statistics
- \$348.5 million over five years for University Transportation Research
- \$550 million over five years for Intelligent Transportation Systems (ITS) Research
- \$2 million over two years for the Wood Composite Materials Demonstration Project
- \$1.5 million for Asphalt Reclamation Study

- \$9.8 million over four years for Alkali Silica Reactivity
- \$2.5 million over four years Turner-Fairbanks Facility
- \$31 million over four years for a 20-year long-term bridge performance program to monitor and evaluate test bridges
- \$124 million over four years for an Innovative Bridge Research and Deployment Program
- \$5 million for the Garrett A. Morgan Technology and Transportation Education Program

- **Establishes the following programs and studies:**
- Transportation Pooled Fund Program to promote effective utilization of available resources for research, development, and technology transfer activities of mutual interest on a pooled funds basis
- Exploratory Advanced Research Program
- Long-Term Pavement Performance Program
- Authorizes a Turner-Fairbanks Highway Research Center to conduct highway research and development related to new highway technology
- Technology Deployment Program
- Innovative Pavement Research and Deployment Program
- Eisenhower Transportation Fellowship Program
- International Highway Transportation Outreach Program
- Surface Transportation Environment and Planning Cooperative Research Program (\$67.4 million over four years)
- National Cooperative Freight Transportation Research Program
- Future Strategic Highway Research Program (\$205 million over four years)
- An ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems
 - Establishes a “repository” for technical and safety data collected
 - Establishes a 20-member advisory committee
- A comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles
- Road Weather Research and Development Program
- Four centers for surface transportation excellence
- National Universities Transportation Centers to advance significant transportation research on “critical” national transportation issues and to expand the workforce of transportation professionals
- Transportation Safety Information Management System Project
- Surface Transportation Congestion Relief Solutions Research Initiative
- A Technical Assistance and Training Program
- Motor Carrier Efficiency Study
- Center for Transportation Advancement and Regional Development
- Transportation Scholarship Opportunities Program
- Directs the Secretary of Transportation to establish a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction
- Rural Interstate Corridor Communications Study

- Transportation Technology Innovation and Demonstration Program
- Intelligent Transportation Infrastructure Program
- Motorcycle Crash Causation Study Grants (\$2.8 million over two years)
- Advanced Travel Forecasting Procedures Program
- Thermal Imaging Inspection System Demonstration Project
- Automobile Accident Injury Research
- Rural Transportation Research Initiative
- Hydrogen-Powered Transportation Research Initiative
- Cold Region and Rural Transportation Research Grants
- Renewable Transportation Systems Research grants
- A Bureau of Transportation Statistics in the Research and Innovative Technology Administration
- Intermodal Transportation Database
- National Transportation Library, which will contain a collection of statistical and other information needed for transportation decision-making at the federal, state, and local levels
- National Transportation Atlas Database

Title VI - Transportation Planning and Project Delivery

- Establishes Metropolitan Planning Areas (with population of more than 50,000 individuals) for states to work in conjunction with urban areas to develop long-term transportation plans and improvement programs.
- Provides funding for environmental mitigation and pollution abatement and control of noxious weeds.
- Establishes a new program for the replacement existing school buses with clean school buses. The program is authorized for \$110 million over two years and such sums as necessary over the next three years.

Title VII--Hazardous Materials Transportation

- Requires employer notification of results of background checks for drivers hauling hazardous material
- Outlines certain provisions for states establishing their own standards for applicants for a hazardous materials endorsement to a commercial driver's license
- Prohibits a commercial motor vehicle operator registered to operate in Mexico or Canada from operating a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.
- Provides grants for training instructors to train hazmat employees
- Includes provisions regarding disclosure considerations and requirements of hazmat shipping papers
- Directs the Chairman of the Nuclear Regulatory Commission, with others, to maintain and update periodically, a current curriculum of courses necessary to train public

sector emergency response and preparedness teams in matters relating to the transportation of hazardous material

- Establishes a working group to develop uniform forms and procedures for a state to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the state
- Enhances the Secretary of Transportation's authority to discover hidden shipments of hazardous material
- Provides \$12.5 million over five years for the National First Responder Transportation Incident Response System.
- Requires the Transportation Secretary to regulate those who transport food to use sanitary transportation practices.

Title VIII - Transportation Discretionary Spending Guarantee

- Sets discretionary spending caps and obligation limits for the highway and mass transit budget categories.
- Provides for RABA calculations (see above explanation of RABA).

Title IX—Rail Transportation

- Authorizes \$800 million over eight years for High Speed Rail Planning and Development Programs
- Provides railroad loan guarantees of \$35 billion
- Outlines certain standards for the Federal Railroad Administration regarding tank cars
- Authorizes such sums as necessary for Alaska Railroad improvements
- Authorizes such sums as necessary for the Hawaii Port Infrastructure Expansion Program

- **Establishes the following programs and studies:**
- Capital Grants for Rail Line Relocation Projects
- A study regarding impact on public safety of train travel in communities without grade separation
- Program to review continuous welded rail joint bar inspection data from railroads
- Study of the Nation's railroad transportation system since the enactment of the Staggers Rail Act of 1980

Title X - Miscellaneous Provisions

- Sportfishing and Recreational Boating Safety Act of 2005 (appears to drop the text of S. 421 in to the bill).
- Rail Rehabilitation and Bridge Repair: such sums for various projects in Alabama

Title XI - Highway Reauthorization and Excise Tax Simplification

- The following is an overview of the tax title of H.R. 3:
<http://finance.senate.gov/sitepages/leg/072805highway.pdf>

Additional Background: Last year, the Administration proposed a \$256 billion, six-year bill and threatened to veto anything above that amount. The \$256 billion figure was a 21% increase over the amounts provided in TEA-21, the six-year bill enacted in 1998. The bill last Congress never emerged from a conference committee because of disagreements about overall funding levels, thus Congress has passed nearly a dozen separate extension bills to keep highway programs funded. The last multi-year authorization bill for federal highway programs expired in October 2003. The current extension expires on Saturday night, July 30, 2005.

Committee Action: On February 9, 2005, the bill was referred to the Transportation & Infrastructure Committee, which marked up the bill on March 2nd, passing by voice vote a manager's amendment that added thousands of earmarks to the bill. After the Senate passed an amended version of H.R. 3, the House requested a conference committee on May 26, 2005. The conference committee filed a final conference report on Thursday, July 28, 2005.

Administration Position: A Statement of Administration Policy (SAP) for the original House version of H.R. 3 said: "The Administration supports House passage of H.R. 3 as reported from committee." The original bill's overall funding level was reflected in the President's FY2006 budget proposal—**but the conference report's funding level does not.** The Administration continues to oppose any increase in fuel taxes or the use of general revenues to pay for highway programs. **The SAP included a veto threat for the bill if the bill's total net cost exceeds \$284 billion** or if the re-opener clause (explained above) is not removed.

The SAP also expresses opposition to the proliferation of earmarks and categorical set-asides and conveys a willingness to "work with Congress to resolve constitutional issues raised by the bill."

Read the complete SAP here:

<http://www.whitehouse.gov/omb/legislative/sap/109-1/hr3sap-s.pdf>

The Administration is reportedly supporting a higher level of funding this year (compared to its \$256 billion figure last year) because provisions passed in the American Jobs Creation Act (FSC-ETI) are expected to increase revenues to the Highway Trust Fund.

Cost to Taxpayers: No CBO score is available. However, according to the House Budget Committee, it appears that the bill will exceed the FY06 budget resolution by roughly \$386 million. The budget resolution provided \$284 billion over five years but provided a contingency procedure to adjust the appropriate allocation upward if additional revenues were secured and the deficit was not impacted. The conference report level appears to be \$286.5 billion, of which \$2.1 billion is paid for with new receipts to the Highway Trust Fund, leaving \$386 million above the resolution. In addition, the bill includes an \$8.54 billion rescission of unobligated funds on the very last day of the bill (September 30, 2009) to offset the overall cost of the bill. However, the timing of the rescission could cast doubt on whether it will ever take effect and actually save taxpayer dollars.

In short, this is technically NOT a \$286.5 billion bill over five years. This is a \$295 billion bill over five years (minus one day) with a planned, one-time \$8.5 billion rescission on the last day of the last fiscal year covered by this bill.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. The bill contains dozens of new programs and new mandates on states.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes, the bill contains a variety of new mandates on states, some of which are highlighted above.

Constitutional Authority: Although a statement of constitutional authority for the conference report is unavailable, the Transportation and Infrastructure Committee, in House Report 109-12 for the original version of H.R. 3, cites constitutional authority in Article I, Section 8, but fails to cite a specific clause. House Rule XIII, Section d(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]*

In the SAP for the original version of H.R. 3, the Administration noted that it will “work with Congress to resolve constitutional issues raised by the bill.” The SAP did not elaborate.

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