

JOINT EXPLANATORY STATEMENT OF
THE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
OF THE U.S. HOUSE OF REPRESENTATIVES AND
THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, AND
THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION OF THE U.S. SENATE

ON H.R. 1195,
THE SAFETEA-LU TECHNICAL CORRECTIONS ACT OF 2008
April 30, 2008

PURPOSE OF THE LEGISLATION

H.R. 1195 amends the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) (P.L. 109-59) to correct drafting errors, make technical changes, and clarify Congressional intent on several provisions of SAFETEA-LU to ensure that all policies, programs, and projects embodied in the authorization law are implemented as intended by Congress.

BACKGROUND AND NEED FOR LEGISLATION

The SAFETEA-LU conference report was adopted by Congress on July 29, 2005, and was signed into law by President Bush on August 10, 2005. This legislation authorizes the Federal surface transportation programs for highways, highway safety, and public transportation for the five-year period (fiscal years 2005-2009), and provides guaranteed funding of \$244.1 billion to carry out these programs.

Since enactment of SAFETEA-LU, a number of drafting, technical, and funding errors have been identified in the law. A technical corrections bill is needed to rectify these errors so that Federal surface transportation programs and projects reflect the agreements that were reached in SAFETEA-LU and can be implemented as intended by Congress.

In particular, H.R. 1195 makes critical corrections to the transportation research program authorized in SAFETEA-LU. Errors were made in the research program funding calculations that resulted in lower than intended funding levels in several research programs. These technical changes will recapture critical research funds for many essential programs, including:

- the Future Strategic Highway Research Program, a concentrated, results-oriented research program focused on solving the most critical problems in highway safety, reliability, capacity, and renewal;
- the University Transportation Center Program, which advances U.S. technology and expertise in the many disciplines comprising transportation through the mechanisms of education, research, and technology; and

- the development and publication of the U.S. Department of Transportation's biennial Conditions and Performance report, which provides Congress and other policy makers with an objective appraisal of highway, bridge, and transit finance, physical condition, operational performance, and future investment requirements.

The bill also corrects a drafting error regarding the Magnetic Levitation Transportation Deployment program authorized in section 1307 of SAFETEA-LU; makes technical corrections to projects contained in sections 1301, 1302, 1702, and 1934 of SAFETEA-LU; and makes project description changes to public transportation projects receiving funds for alternatives analysis under section 3037(c) of SAFETEA-LU, new starts under section 3043 of SAFETEA-LU, and bus and bus facilities projects under section 3044 of SAFETEA-LU. Furthermore, the bill makes technical corrections and conforming changes to the Motor Carrier Safety and Hazardous Materials Transportation titles of SAFETEA-LU.

Finally, the bill increases the rescission of unobligated balances of highway contract authority on September 30, 2009, that is already contained in SAFETEA-LU to offset the creation of contract authority (a total of \$115 million) in other sections of this bill.

The amount of annual transportation spending and outlays for fiscal years 2005 through 2009 does not change as a result of this bill.

SUMMARY OF THE LEGISLATION

Section 1. Short Title; Table of Contents.

This section cites the Act as the "SAFETEA-LU Technical Corrections Act of 2008".

TITLE I – HIGHWAY PROVISIONS

Section 101. Surface Transportation Technical Corrections.

Subsection (a) Correction of Internal References in Disadvantaged Business Enterprises. This provision corrects erroneous paragraph cross-references.

Subsection (b) Correction of Distribution of Obligation Authority. This provision makes a technical correction to the provision governing the distribution of obligation authority. It eliminates the qualifier "among the States" because it is unduly restrictive, and proper administration of this provision requires its deletion.

Subsection (c) Correction of Federal Lands Highways. This provision clarifies that funding can be invested on forest roads, not only forest highways, to facilitate the passage of aquatic species beneath forest roads.

Subsection (d) Correction of Description of National Corridor Infrastructure Improvement Project. The table of project descriptions in section 1302(e) of the Safe, Accountable, Flexible and

Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) (P.L. 109-59) does not include “LA” in the State listing for Project No. 1. The correction is needed to accurately describe the project in question.

Subsection (e)(1) Makes correction to Kentucky high priority corridor designation.
Subsection (e)(2) Correction of Interstate Route 376 High Priority Designation, to include the correct description of the route designated for connection to I-80.

Subsection (f) Correction of Infrastructure Finance Section. The correction is necessary to properly redesignate the sections in question.

Subsection (g) Correction of Project Federal Share. This correction strikes language in SAFETEA-LU that limited that application of the Federal share sliding scale to section 1301, 1702, and 1934 projects in specified States. This correction allows all States to use the Federal sliding scale to determine the Federal share of any project in sections 1301, 1702, and 1934 of SAFETEA-LU. In addition, this provision changes the SAFETEA-LU Federal share sliding scale provision to include Interstate projects.

This provision recognizes the importance of providing an increased Federal share for Federal-aid Highway projects in States that have a high percentage of public lands to ensure that Federal-aid Highway projects are not delayed because of the difficulty of providing the non-Federal share in such States. States receiving the increased Federal share under section 120 of title 23, United States Code, do so because of the regions in those States that have public lands. For this reason, States should take steps to ensure that those areas that cause the Federal share to increase benefit from the increased Federal share.

Subsection (h) Transportation Systems Management and Operations Defined. SAFETEA-LU contains several references to “transportation systems management and operations”, including references to the term under section 101(a) of title 23, United States Code. However, there is no definition of the term in section 101(a) of title 23, United States Code, and SAFETEA-LU does not add a definition. This provision adds the definition of “transportation systems management and operations” to title 23.

Subsection (i) Correction of Reference in Apportionment of Highway Safety Improvement Program Funds. This provision makes uniform the apportionment of Highway Safety Improvement Program funding on the basis of “Federal-aid highways” ratios in all cases.

Subsection (j) Correction of Amendment to Advance Construction. This provision is a technical amendment to changes made in SAFETEA-LU to the advance construction program in section 115 of title 23, United States Code.

Subsection (k) Correction of High Priority Projects. This provision corrects duplicative subsection designations in section 117 of title 23, United States Code. The amendment also makes technical changes to section 117, including spelling out acronyms.

Subsection (l) Correction of Transfer of Unused Protective-Device Funds to Other Highway Safety Improvement Program Projects. This provision corrects an error in SAFETEA-LU with regard to using funds specified for protective devices at rail crossings on other highway safety

improvement program projects if a State has certified that it has met all of its protective device needs.

Subsection (m) Correction of Highway Bridge Program. This provision makes various technical and clarifying changes to the Highway Bridge Program. It also makes changes to a Vermont bridge project which was designated under bridge set-asides in section 1114 of SAFETEA-LU.

Subsection (n) Metropolitan Transportation Planning. Subsection (n)(1) clarifies that, in addition to other funds made available to the Lake Tahoe Region Metropolitan Planning Organization, the Secretary of Transportation shall set aside $\frac{1}{2}$ of one percent of all funds authorized to be appropriated to carry out section 204 of title 23, United States Code, for the Lake Tahoe region. These funds shall be made available to the Lake Tahoe Region Metropolitan Planning Organization to carry out the transportation planning process, environmental reviews, preliminary engineering, and design to complete environmental documentation for transportation projects in the region. Subsections (n)(2) and (n)(3) of this provision clarify that: (1) the full funding requirement applies to either a project or an identified phase of a project, and (2) the metropolitan planning organization in a transportation management area is responsible for carrying out the planning process.

Subsection (o) Correction of National Scenic Byways Program Coverage. This provision adds "All-American Roads" and "America's Byways" categories to the National Scenic Byways Program.

Subsection (p) Correction of Reference in Toll Provision. This provision corrects the statutory reference to the reduced toll amounts applicable to low-emission and energy-efficient vehicles in high-occupancy-vehicle lanes.

Subsection (q) Correction of Recreational Trails Program Apportionment Exceptions. This correction is needed to describe accurately the two exceptions in section 206(d)(3)(A) of title 23, United States Code.

Subsection (r) Correction of Infrastructure Finance. Two nationally recognized statistical rating organizations ("NRSROs") provide rating categories different from those enumerated in section 601 of title 23, United States Code. The change in this subsection adds to the current definition of "investment-grade rating" the rating categories used by these NRSROs: "bbb minus" and "BBB (low)".

Subsection (s) Correction of Miscellaneous Typographical Errors. Paragraph (s)(1): This correction is necessary to address a gap in subsection designations. Paragraph (s)(2): This correction clarifies that tribal governments are eligible recipients of the Safe Routes to School program. Paragraph (s)(3): This correction inserts "and" between "plan" and "administer". Paragraph (s)(4): This correction clarifies the programs that are subject to the rescission.

Section 102. Maglev.

This section creates contract authority for the Magnetic Levitation Transportation Deployment program. SAFETEA-LU inadvertently did not include a provision making contract authority available for this program. This provision corrects the error.

In addition, the provision clarifies that 50 percent of the funds will be allocated to the Nevada Department of Transportation who will cooperate with the California-Nevada Super Speed Train Commission on the MAGLEV project between Las Vegas and Primm, Nevada, as a segment of the high-speed MAGLEV system between Las Vegas, Nevada, and Anaheim, California. The other 50 percent of the funds will be allocated to projects located east of the Mississippi River using such criteria as the Secretary of Transportation deems appropriate. SAFETEA-LU originally allocated 50 percent of the resources available under the MAGLEV Deployment program to a "project" east of the Mississippi River. In including this clarification, the intent is to limit the eligible projects to three existing projects east of the Mississippi River: Pittsburgh, Baltimore-Washington, and Atlanta-Chatanooga.

Section 103. Projects of National and Regional Significance and National Corridor Infrastructure Improvement Projects.

Subsection (a) makes technical corrections to the project definitions for project numbers 4, 19, and 22 of the Projects of National and Regional Significance Program. No new budget authority is authorized for the program.

Subsection (b) makes technical corrections to the project definition for project number 23 in the National Corridor Infrastructure Improvement Program. No new budget authority is authorized for the program.

Section 104. Idling Reduction Facilities.

This section repeals section 111(d) of title 23, United States Code, which permits idling reduction facilities in Interstate rights-of-way.

Section 105. Project Authorizations.

Subsection (a) makes technical corrections to projects in the table contained in section 1702 of SAFETEA-LU.

Subsection (b) clarifies that if a High Priority Project is changed in this Act, only the unused obligation authority is made available.

Subsection (c) requires the Secretary of Transportation to transfer to the Commandant of the Coast Guard the funds made available to carry out project number 4985 contained in section 1702 of SAFETEA-LU in accordance with the Truman-Hobbs Act.

Subsection (d) provides that a State may use up to \$1 million of its Surface Transportation Program funding for certain activities designed to prevent highway fuel tax evasion.

Subsection (e) provides 100 percent Federal share for project numbers 1284 and 3093 in the table contained in section 1702 of SAFETEA-LU. These projects are on federally owned land.

No new budget authority is authorized for the High Priority Projects Program.

Section 106. Nonmotorized Transportation Pilot Program.

This section amends a project designation for the Nonmotorized Transportation Pilot Program, changing “Minneapolis-St. Paul” to “Minneapolis”.

Section 107. Correction of Interstate and National Highway System Designations.

Subsection (a) strikes section 1908(a)(3) of SAFETEA-LU, which refers to Interstate “designations” in paragraph (2), because paragraph (2) does not designate any routes as Interstate System routes pursuant to section 103(c)(4) of title 23, United States Code.

Subsection (b) corrects the National Highway System designation included in section 1908(b) of SAFETEA-LU.

Section 108. Budget Justification; Buy America.

Subsection (a) clarifies a provision included in section 1926 of SAFETEA-LU requiring the Department of Transportation to submit a budget justification concurrently with the President’s annual budget submission to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subsection (b) amends a Sense of Congress provision in SAFETEA-LU related to the Buy America test as applied to bridge projects. This subsection clarifies section 1928 of SAFETEA-LU regarding the Sense of Congress concerning Buy America requirements for Federal-aid highway bridge projects. Congress does not believe that the Federal Highway Administration (“FHWA”) is implementing the Buy America Act in a way consistent with the statutory intent. This provision is intended to clarify that the “additional cost test” should be conducted on the basis of an entire bridge project, not on separate components of the bridge project. The FHWA has applied the test to separate components of a bridge project if the project is broken into several components for contracting purposes. The original Sense of Congress, as well as the amendment included in this bill, is intended to clarify Congressional intent.

Section 109. Transportation Improvements.

This section makes technical corrections to projects in the table contained in section 1934 of SAFETEA-LU. No new budget authority is authorized for Transportation Improvements.

Section 110. I-95/Contee Road Interchange Design.

This section modifies the authorization in section 1961 of SAFETEA-LU from a study to design of the I-95/Contee Road interchange. The State of Maryland has already completed the study for the interchange. No new budget authority is authorized for the project.

Section 111. Highway Research Funding.

Subsections (a) through (f) make necessary changes to correct a SAFETEA-LU drafting error that caused the Surface Transportation Research Development and Deployment (“STRDD”) account in Title V to be oversubscribed. The oversubscription of the STRDD program under section 5101(a)(1) of SAFETEA-LU has resulted in significantly reduced funding for the U.S. Department of Transportation to conduct its legacy research programs and research activities. The section provides funding for the Future Strategic Highway Research Program authorized under section 5210 of SAFETEA-LU as a percentage deduction from Federal-aid highway apportionments.

Paragraph (g)(1) strikes a duplicative subsection (h) in section 502 of title 23, United States Code. Paragraph (g)(2) corrects the section heading in section 5512(a)(2) of SAFETEA-LU to accurately identify the provision contained therein. Paragraph (g)(3) makes technical corrections to maintenance-of-effort and program administration provisions of the University Transportation Research program.

Section 112. Rescission.

This section increases the rescission of unobligated balances of highway contract authority that is contained in SAFETEA-LU to offset contract authority provided in other sections of this bill.

Section 113. TEA-21 Technical Corrections.

Subsection (a) extends an authorization to use a percentage of Surface Transportation Program funds on roads functionally classified as minor collectors. This authorization was included in the Intermodal Surface Transportation Efficiency Act (“ISTEA”) and the Transportation Equity Act of the 21st Century (“TEA-21”) but was inadvertently left out of SAFETEA-LU.

Subsection (b) makes technical corrections to projects 1096, 1646, and 614 contained in section 1602 of TEA-21. No new budget authority is authorized for these projects.

Section 114. High Priority Corridor and Innovative Project Technical Corrections.

Subsection (a) makes corrections to two high priority corridors on the National Highway System that were designated in section 1304 (b) of SAFETEA-LU.

Subsection (b) modifies project number 89 included in section 1107(b) of ISTEA.

Section 115. Definition of Repeat Intoxicated Driver Law.

This section amends the definition of “repeat intoxicated driver law” in section 164(a)(5)(A) of title 23, United States Code, to clarify that the definition includes a State law that provides a driver’s license suspension for not less than one year, or a combination of suspension of all driving privileges for the first 45 days of the suspension period followed by reinstatement of limited driving privileges if an ignition interlock device is installed on each motor vehicle owned or operated by the offender. This provision conforms the public policy in chapter 1 of title 23, United States Code, to the public policy in chapter 4 of title 23, United States Code, under the section 410, Alcohol-Impaired Countermeasures Incentive Grant Program, as reauthorized in SAFETEA-LU.

Although the interlock provision was included in both the House- and Senate-passed bills, it was not included in the SAFETEA-LU Conference Report. This bill incorporates this change by giving States more flexibility to either continue with the current one-year license suspension requirement, or permit a 45-day license suspension, after which limited driving privileges are reinstated provided that an ignition interlock device is placed on the offender’s vehicle.

Repeat offenders are a significant part of the drunk driving problem in the United States. National Highway Traffic Safety Administration data found that repeat offenders represent about one-third of all Driving Under the Influence (“DUI”) arrests each year. It is estimated that between 50 and 75 percent of repeat offenders whose licenses have been suspended continue to drive illegally. An ignition interlock device prevents offenders who have alcohol in their bloodstream from operating their vehicle, but allows them to continue to drive to work, school, or an alcohol treatment program.

Section 116. Research Technical Correction.

This section revises the contract authority amounts provided in subtitle D of SAFETEA-LU to match the fiscal year 2009 authorizations provided in the University Research section in section 5101(a)(4) of SAFETEA-LU.

Section 117. Buy America Waiver Notification and Annual Reports.

Subsection (a) requires the Secretary of Transportation to publish in the Federal Register a detailed justification for the issuance of a Buy America waiver, at least one day prior to the waiver being issued, and to provide up to 60 days for public comment on the waiver.

Subsection (b) requires an annual report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate on all the projects for which waivers were granted.

These provisions, including the period for public comment, are in no way designed to delay the issuance of waivers. A waiver can be issued at any time after it has been noticed in the Federal Register. The intent of the provision is to ensure public disclosure of the issuance of waivers and the justification for each waiver, as well as to provide an opportunity for the public to comment on waivers that will or have been issued. This provision is also designed to provide Congress with an annual report including data on the number and purpose of the Buy America waivers issued.

Section 118. Efficient Use of Existing Highway Capacity.

This section directs the Secretary of Transportation to conduct a study of the impacts of utilizing highway shoulders as travel lanes. The provision also requires the Secretary to report the results of the study within one year from the date of enactment of this Act.

Section 119. Future Interstate Designation.

This section designates the Audubon Parkway and the Natcher Parkway in the vicinity of Owensboro, Kentucky, as the future Interstate 69 Spur and Interstate 66 Spur, respectively, pursuant to the requirements of title 23, United States Code.

Section 120. Project Flexibility.

This section provides greater flexibility in the use of funds available for project number 1322 of section 1702 of SAFETEA-LU.

Section 121. Effective Date.

This section establishes the effective date for policy and project changes so that all changes can be implemented without disruption to the funding or policy continuity in the underlying authorization act.

TITLE II – TRANSIT PROVISIONS

Section 201. Transit Technical Corrections.

Subsection (a) corrects a drafting error in section 5302 of title 49, United States Code, in which the term “sightseeing” was inadvertently deleted from the exception clause in the definition of public transportation.

Subsection (b)(1) conforms the language in section 5303 of title 49, United States Code, regarding the Lake Tahoe Region Metropolitan Planning Organization’s planning process for the Lake Tahoe region, to identical language under section 134 of title 23, United States Code. Subsection (b)(2) clarifies that the full funding requirement applies to either a project or an identified phase of a project. Subsection (b)(3) clarifies that the metropolitan planning organization in a transportation management area is responsible for carrying out the planning process.

Subsection (c)(1) amends the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”) (P.L. 109-59) exemption for Urbanized Areas whose populations first exceeded 200,000 after the 2000 census and are thus no longer allowed to use Federal transit funds for operating expenses. The provision extends the exemption through 2009 and provides that the amount of operating funds available to these areas is limited to an amount equal to 50 percent of the area’s fiscal year 2002 apportionment. Subsection (c)(2) replaces the term “mass transportation” with “public transportation”. Subsection (c)(3) makes a conforming citation change in section 5307 of title 49, United States Code. Subsection (c)(4) makes conforming citation change in section 5303 of title 49, United States Code.

Subsections (d)(1) and (d)(2) clarify that comparable, but not necessarily equal, weight should be given to each project justification criteria of proposed new and small start projects. In SAFETEA-LU, Congress specifically directed the Federal Transit Administration (“FTA”) to consider a variety of factors when rating new projects, but to date, FTA continues to rely heavily on the cost effectiveness factor and gives inadequate consideration to other factors, such as economic development and environmental benefits. Congress intends that FTA fully employ each of the multiple measures in evaluating new and small start projects. This clarifying language will assist FTA in more fully interpreting SAFETEA-LU with regard to new and small start project ratings. Subsection (d)(3) amends a subsection heading to accurately reflect the subject matter of the subsection and makes a conforming citation change in section 5309 of title 49, United States Code.

Subsection (e) conforms the language in the Government’s share of costs subsection of section 5311 of title 49, United States Code, to ensure that current policies regarding non-Federal share for state administrative costs and project administrative expenses are continued and makes a conforming citation change.

Subsection (f) replaces the term “mass transportation” with “public transportation” in the subsection heading in section 5312 of title 49, United States Code.

Subsection (g) makes a conforming citation change in section 5314 of title 49, United States Code.

Subsection (h) makes a conforming citation change in section 5319 of title 49, United States Code.

Subsection (i) amends section 5320 of title 49, United States Code, to correct a typographical error and make conforming citation changes. It also authorizes the Federal Transit Administration to transfer up to 10 percent in program administrative expenses to appropriate federal land management agencies for the administration of the Alternative Transportation in Parks and Public Lands program, which is authorized to be known as the “Paul S. Sarbanes Transit in Parks Program”.

Subsection (j) makes a conforming citation change in section 5323 of title 49, United States Code.

Subsection (k) clarifies that contracts for architectural, engineering, and design services shall be awarded competitively as provided under chapter 11 of title 40, United States Code, or under an approved state procurement program adopted before enactment of SAFETEA-LU that is equivalent to the requirements under Federal law.

Subsection (l) makes technical corrections to section 5336 of title 49, United States Code. Subsection (l)(1) reorders the apportionment process under section 5336 of title 49, United States Code, to clarify that the one percent set-aside for the new Small Transit Intensive Cities program is performed before the remainder of the funds is apportioned. The paragraph also makes a conforming citation change and a subsection designation change in section 5336 of title 49, United States Code. Subsection (l)(2) makes a conforming citation change in section 3034 of SAFETEA-LU that references subsection (a)(2) of section 5336 of title 49, United States Code.

Subsection (m) corrects a drafting error in section 5337 of title 49, United States Code, to update the authorization dates for the fixed guideway modernization program apportionments from “1998 through 2003” to “2005 through 2009”.

Subsection (n) makes a conforming citation change in section 5338 of title 49, United States Code.

Subsection (o) makes technical corrections to sections 3011, 3037, 3040, 3043, 3044, 3046, and 3050 of SAFETEA-LU. Subsection (o)(1) amends section 3011(f) to include an additional project to the list of projects exempted from the adjustments made in the Federal Transit Administrator’s Dear Colleague letter of April 29, 2005. Subsection (o)(2) makes a project description change to a project receiving funds for alternatives analysis under section 3037(c). Subsection (o)(3) corrects a drafting error in section 3040 to increase the total of Mass Transit Account funding under the fiscal year 2008 obligation limitation, thus decreasing the amount of general funds. This change is necessary to comport with the authorizations under section 5338 of title 49, United States Code, and section 251(c) of the Balanced Budget and Emergency Deficit Control Act. Subsection (o)(4) amends new starts project descriptions under subsections 3043(b), (c) and (d); amends subsection 3043(e) to provide that small starts projects which are recommended by the Secretary for funding or a project construction grant agreement in FY2008 and FY2009 are authorized to receive such funding or agreement; and includes clarifying language at the end of section 3043 regarding the Secretary’s consideration of locally-financed project elements. Subsection (o)(5) makes project description changes to bus and bus facilities projects under section 3044. Subsection (o)(6) makes a project description change to a national research and technology project under section 3046. Subsection (o)(7) clarifies Congressional intent regarding the role of the Department of Transportation in resolving issues related to a commuter rail extension.

Subsection (p) clarifies FTA’s role in considering transit tunnels to ensure that congestion relief, improved mobility, and other benefits of transit tunnels are specifically considered by FTA, in addition to the various costs necessary to relieve congestion, improve mobility, and decrease air and noise pollution in those projects which do not include a transit tunnel, but where a transit tunnel was one of the alternatives analyzed.

Subsection (q) allows the City of Knoxville, Tennessee, to purchase land for the Knoxville, Tennessee Central Station under the regulations for acquisition of land for hardship or protective buying in section 622.101 of title 49, Code of Federal Regulations.

Subsection (r) allows San Francisco Bay area transit authorities to be reimbursed for maintenance and operating costs of additional transit service in the wake of the April 29, 2007 Oakland, California I-80 freeway exit collapse while repairs were being done. The language allows up to \$3 million of discretionary fiscal year 2007 bus and bus facilities funds to be used for these reimbursements.

TITLE III – OTHER SURFACE TRANSPORTATION PROVISIONS

Section 301. Technical Amendments Relating to Motor Carrier Safety.

Subsection (a) eliminates the reference to the distribution of funds for Motor Carrier Safety Assistance Program high-priority activities.

Subsection (b) corrects references in sections 4107(b) and 7112 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users. (“SAFETEA-LU”) (P.L. 109-59).

Subsection (c) corrects references within section 4114 of SAFETEA-LU.

Subsection (d) corrects paragraph references which fall under an effective date enumerated by SAFETEA-LU.

Subsection (e) corrects a reference in title 49, United States Code, by striking “Act” and inserting “section”.

Subsection (f) corrects a paragraph reference made in section 4121 of SAFETEA-LU.

Subsection (g) corrects a typographical error in section 4122(2)(A) of SAFETEA-LU.

Subsection (h) corrects a typographical error in section 31309(f) of title 49, United States Code.

Subsection (i) clarifies the title of the United States Code that should be referenced.

Subsection (j) redesignates sections in the Aircraft and Motor Vehicle chapter of title 18, United States Code, because there is duplicative numbering in the title.

Subsection (k) corrects a reference and re-numbers sections due to incorrect numbering in section 5503 of title 49, United States Code.

Subsection (l) clarifies the U.S. Department of Transportation's role in retaining fees collected to cover the cost of operating and upgrading the Unified Carrier Registration (“UCR”) program.

Subsection (m) clarifies the definition of motor carrier found in the UCR section of the code to prevent confusion or inconsistent interpretations.

Subsection (n) corrects a typographical error in section 14504a(c)(2) of title 49, United States Code.

Subsection (o) corrects a typographical error in section 14504a(f)(1)(A)(ii) of title 49, United States Code.

Subsection (p) corrects a typographical error and two statutory inconsistencies in section 14504a of title 49, United States Code.

Subsection (q) allows the display of decals on commercial motor vehicles that identify the payment of highway use taxes, not subject to the International Fuel Tax Agreement, if the State had an applicable State law requiring such decals in effect on October 1, 2006.

Subsection (r) clarifies that the definition of driveaway saddlemount vehicle includes all saddlemount combinations.

Section 302. Technical Amendments Relating to Hazardous Materials Transportation.

Subsection (a) corrects references made in section 7102(2) of SAFETEA-LU.

Subsection (b) corrects a reference in section 5103a(g)(1)(B)(ii) of title 49, United States Code, by striking “Act” and inserting “subsection”.

Subsection (c) corrects section references within section 5125 of title 49, United States Code.

Subsection (d) inserts clarifying language into section 7124(3) of SAFETEA-LU.

Subsection (e) corrects the reference in section 5121(h) of title 49, United States Code, by striking “exemptions” and inserting “special permits”.

Subsection (f) corrects the section designation and heading of section 5128 of title 49, United States Code, by changing the word “Authorizations” to the singular tense.

Subsection (g) corrects the capitalization of the word “transportation” in section 5701 of title 49, United States Code.

Subsection (h) clarifies the delegation authority of the Secretary of Transportation in the Norman Y. Mineta Research and Special Programs Improvement Act.

Subsection (i) changes references from “shippers” to “offerers” in section 5110(d)(1) of title 49, United States Code.

Subsection (j) corrects a section reference in section 19(1) of the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006.

Section 303. Highway Safety.

Subsection (a) makes a technical correction to section 402(c) of title 23, United States Code, regarding the Highway Safety Formula program by correcting the minimum apportionment from one-half of one percent to $\frac{3}{4}$ of one percent.

Subsection (b) clarifies a provision of title 23, United States Code, section 402 which enables the National Highway Traffic Safety Administration to produce a consolidated application encompassing as many grant applications as practical.

Subsection (c)(1) strikes paragraph (2) of section 2002(b) of SAFETEA-LU and redesignates the subsequent paragraphs accordingly. The phrase contained in section 2002(b)(2) has no meaning within the context of this subsection and is a typographical error. Subsection (c)(2) strikes subparagraph (C) of section 2007(b)(1) and re-punctuates the preceding paragraphs accordingly. Subsection (c)(3) clarifies that, in addition to suspensions of driver's licenses under subclause (i) of section 410(c)(7)(A) of title 23, United States Code, clause (B) also covers revocations of driver's licenses under subclause (ii) of the section. Subsection (c)(4) redesignates subsections of section 411 of title 23, United States Code.

Section 304. Correction of Study Requirement Regarding On-Scene Motor Vehicle Collision Causation.

This section provides the Secretary with discretion to determine whether an independent peer review of the on-scene motor vehicle collision causation study, completed in December 2004, would duplicate the review required under Section 2003(c)(1) of SAFETEA-LU.

Section 305. Motor Carrier Transportation Registration.

Subsection (a) amends Section 31138 of title 49, United States Code, to strike references to "commercial motor vehicle". The provision requires the Secretary of Transportation to prescribe regulations to require minimum levels of financial responsibility for the transportation of passengers for compensation in interstate or foreign commerce. The provision further permits the Secretary to prescribe regulations to require minimum levels of financial responsibility for the transportation of passengers for commercial purposes, but not for compensation, by motor vehicles in interstate or foreign commerce.

Subsection (b) amends Section 31139 of title 49, United States Code, to strike references to "commercial motor vehicle". The provision requires the Secretary of Transportation to prescribe regulations to require minimum levels of financial responsibility for the transportation of property by motor carrier or private motor carrier in interstate or foreign commerce.

Subsection (c) amends the definitions of foreign motor carrier, foreign motor private carrier, motor carrier, and private carrier in section 13102 of title 49 United States Code, by striking "commercial motor vehicle" and inserting "motor vehicle".

Subsection (d) amends Section 13903(a) of title 49, United States Code, and requires the Secretary of Transportation to register a person to provide service as a freight forwarder if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with applicable regulations.

Subsection (e) amends Section 13904(a) of title 49, United States Code, and requires the Secretary of Transportation to register a person to be a broker for transportation of property if the Secretary finds that the person is fit, willing, and able to be a broker for transportation and to comply with applicable regulations of the Secretary.

Section 306. Applicability of Fair Labor Standards Act Requirements and Limitation on Liability

Section 306 clarifies the applicability of the provisions of the Fair Labor Standards Act to certain employees of motor carriers.

Subsection (a) states that section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) (“FLSA”), which sets out overtime requirements, applies to a covered employee, as defined in subsection (c), beginning on the date of enactment of the SAFETEA-LU Technical Corrections Act of 2008, notwithstanding the motor carrier exemption set forth in section 13(b)(1) of title 29, United States Code.

Subsection (b) provides that an employer shall not be liable for a violation of section 7 of the Fair Labor Standards Act with respect to a covered employee if the violation occurred in the one-year period beginning on the date of enactment of SAFETEA-LU (August 10, 2005), and the employer did not have actual knowledge that the employer was subject to the requirements of the FLSA with respect to the covered employee as of the date of the violation. Subsection (b) further clarifies that the one-year period of relief from liability does not establish a cause of action for an employer to recover amounts paid before the date of enactment of the SAFETEA-LU Technical Corrections Act of 2008 in settlement of, in compromise of, or pursuant to a judgment rendered regarding a claim or potential claim based on an alleged or proven violation of section 7 of the FLSA occurring in the one-year period with respect to a covered employee.

Subsection (c) defines a covered employee for the purposes of this section. Covered employee means an individual: (1) who is employed by a motor carrier or motor private carrier (as such terms are defined by section 13102 of title 49, United States Code, as amended by section 305); (2) whose work, in whole or in part, is defined as that of a driver, driver's helper, loader, or mechanic and affects the safety of operation of motor vehicles in transportation on public highways in interstate or foreign commerce, except commercial motor vehicles; and (3) who performs duties on motor vehicles weighing 10,000 pounds or less.

TITLE IV – PUBLIC BUILDING PROVISIONS

Section 401. Conveyance of GSA Fleet Management Center to Alaska Railroad Corporation.

Subsection (a) directs the Administrator of General Services to convey, by quitclaim deed, not later than two years after the date of enactment of this Act, to the Alaska Railroad Corporation, all right, title, and interest of the United States in and to a parcel of real property known as the GSA Fleet Management Center.

Subsection (b) identifies the location of the parcel of land. The 78,000-square-foot parcel is located at the intersection of 2nd Avenue and Christensen Avenue, Anchorage, Alaska.

Subsection (c) provides the consideration that the Federal Government shall receive to convey the property. As consideration for the property, the Administrator shall require the Corporation to either convey a replacement facility to GSA or pay the fair market value of the property based on its highest and best use as determined by an independent appraisal commissioned by the Administrator and paid for by the Alaska Railroad Corporation.

Subsection (d) provides that, if an appraisal is required to determine the fair market value of the GSA Fleet Management Center parcel of property, the appraisal shall be performed by an appraiser who is mutually acceptable to the Administrator and the Alaska Railroad Corporation.

Subsection (e) directs that all proceeds derived from any payment for the property will be deposited in the Federal Building Fund. The Administrator may use such funds for authorized activities upon written notice to the Committee on Transportation and Infrastructure and the Senate Committee on Environment and Public Works.

Subsection (f) states the Administrator may require such additional terms and conditions to the conveyance as the Administrator considers appropriate to protect the interests of the United States.

Subsection (g) provides that the exact acreage and legal description of the parcels to be conveyed be determined by surveys satisfactory to the Administrator and the Alaska Railroad Corporation.

Section 402. Conveyance of Retained Interest in St. Joseph Memorial Hall.

Subsection (a) directs the Administrator of General Services to convey, by quitclaim deed, to the city of St. Joseph, Michigan, any interest retained by the United States in St. Joseph Memorial Hall.

Subsection (b) defines St. Joseph Memorial Hall. St. Joseph Memorial Hall is the property subject to conveyance from the Secretary of Commerce to the city of St. Joseph, Michigan, by quitclaim dated May 9, 1936, recorded in Liber 310, at page 404, in the Register of Deeds for Berrien County, Michigan.

Subsection (c) provides the terms and conditions of the conveyance. As consideration for the conveyance, the city of St. Joseph, Michigan, shall pay \$10,000 to the United States. The Administrator may require additional terms and conditions for the conveyance to protect the interests of the United States.

TITLE V – OTHER PROVISIONS

Section 501. DeSoto County, Mississippi.

This provision increases the total authorization of appropriations for the construction of a wastewater infrastructure project in DeSoto County, Mississippi, to \$75 million.

Section 502. Department of Justice Review.

This section requires that, consistent with applicable standards and procedures, the Department of Justice shall review allegations of impropriety regarding item 462 in section 1934(c) of SAFETEA-LU to determine if a violation of Federal criminal law has occurred.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 109th Congress, on June 27, 2006, the bipartisan leadership of the Committee on Transportation and Infrastructure introduced H.R. 5689, a bill to make technical corrections to SAFETEA-LU. On June 28, 2006, the House passed H.R. 5689 by voice vote. On September 14, 2006, the Senate Committee on Environment and Public Works reported H.R. 5689 with an amendment in the nature of a substitute. The bill was never considered by the full Senate.

On September 29, 2006, the bipartisan leadership of the Committee on Transportation and Infrastructure introduced H.R. 6233. The legislation included provisions from the previously passed House bill (H.R. 5689), as well a number of provisions included at the request of the Senate. On September 29, 2006, the House passed H.R. 6233 by voice vote. The House also passed H. Con. Res. 491, providing for a correction to the enrollment of H.R. 6233, by unanimous consent.

No further action was taken in the Senate on the SAFETEA-LU technical corrections bill in 109th Congress.

In the 110th Congress, on February 27, 2007, the bipartisan leadership of the Committee on Transportation and Infrastructure introduced H.R. 1195, a bill to make technical corrections to SAFETEA-LU. H.R. 1195 is based upon H.R. 6233, as passed by the House in the 109th Congress. The bill includes additional corrections and conforming changes identified by the U.S. Department of Transportation and changes to previously-authorized projects requested by Members of Congress.

On March 1, 2007, the Committee on Transportation and Infrastructure met in open session and considered H.R. 1195. The Committee adopted a manager's amendment and ordered the bill, as amended, reported by voice vote.

On March 26, 2007, the House passed H.R. 1195 by voice vote.

On June 6, 2007, the Senate Committee on Environment and Public Works approved an amendment in the nature of a substitute to H.R. 1195.

On June 13, 2007, the Senate Committee on Banking, Housing, and Urban Affairs reported S. 1611, a bill to make technical corrections to the public transportation provisions of SAFETEA-LU.

On July 31, 2007, the bipartisan leadership of the Committee on Transportation and Infrastructure introduced H.R. 3248, the "SAFETEA-LU Technical Corrections Act of 2007". H.R. 3248 represented a bipartisan, bicameral agreement on these issues among the bipartisan leaderships of the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Environment and Public Works, Banking, Housing, and Urban Affairs, and Commerce, Science, and Transportation of the Senate.

On August 1, 2007, the House passed H.R. 3248 by a vote of 422-1.

On March 7, 2008, the Senate Committee on Environment and Public Works reported H.R. 1195, the ‘SAFETEA-LU Technical Corrections Act of 2008’, with an amendment in the nature of a substitute. The amendment included the agreements that were part of H.R. 3248.

On April 17, 2008, the Senate passed H.R. 1195, as amended, by a vote of 88-2.

TECHNICAL CORRECTIONS TO SAFETEA-LU PROJECTS AND OTHER PROVISIONS

Pursuant to clause 9(d) of rule XXI of the Rules of the House of Representatives, the term ‘congressional earmark’ is defined as a provision or report language which is included primarily at the request of a Member of Congress and that provides, authorizes, or recommends a specific amount of discretionary budget authority or other spending authority. It is not clear that the definition of ‘congressional earmark’ under clause 9(d) of rule XXI of the Rules of the House of Representatives applies to technical corrections to SAFETEA-LU projects because technical corrections to SAFETEA-LU projects do not provide new budget authority for such projects.

However, in the interests of full disclosure and transparency, the Committee on Transportation and Infrastructure has required Members of Congress to comply with all requirements of clause 9(d), 9(e), or 9(f) of rule XXI relating to congressional earmarks, limited tax benefits, or limited tariff benefits.

On March 21, 2007, the Committee reported H.R. 1195 and included a table listing the technical corrections to SAFETEA-LU projects. *See* H. Rept. 110-62, pp. 34-64.

Again, although not specifically required by House Rules, in the interests of full disclosure and transparency, the Committee on Transportation and Infrastructure has prepared the following table listing such provisions in the Senate Amendment to H.R. 1195: