



Legislative Bulletin.....September 29, 2006

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H.R. 6233—To amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes

H.R. 6233—To amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes—as introduced (Young, R-AK)

Order of Business: H.R. 6233 is expected to be considered on Friday, September 29, 2006, under a motion to suspend the rules and pass the bill. A similar bill (H.R. 5689) was originally passed by the House on June 28, 2006, by voice vote, and the current text reflects changes made by the Senate.

Summary: H.R. 6233 makes numerous technical corrections to federal surface transportation programs authorized by SAFETEA-LU (P.L. 109-59). Below are the *highlights*:

- Provides \$90 million in new contract authority for the magnetic levitation technology program (a mass transit program) or MAGLEV over three years. Under SAFETEA-LU, 50% of this funding is earmarked for a Nevada project and the rest for a project “east of the Mississippi.”
- Annually reduces core highway formula programs by 0.2% for FY 2006-2009 and transfers the contract authority to the F-SHARP highway research program. This takedown would transfer some \$200 million in total “above the line,” but would not affect the Equity Bonus (EB) calculations, even though some states will lose funding. This is to address the fact that the research programs in Title V of SAFETEA-LU were over-earmarked.
- Does ***not*** include \$51 million in new contract authority for a “Going-to-the Sun Road” project in Glacier National Park, Montana. The pension reform conference report (P.L. 109-280) included this fix to ensure that the project (authorized in SAFETEA-LU) will receive guaranteed funding.
- Makes some 218 changes to address certain (“broken”) surface transportation projects, clarifying recipients and increasing certain project funding levels (and decreasing others to achieve budget neutrality). For instance, these changes include a marine dry-dock in Ketchikan, Alaska, and a bridge in Miami, Florida. **Note:** These member

projects are not new in that, without a technical error, all would have fully executed under SAFETEA-LU.

- Provides \$21 million in new contract authority for university transportation center research funding.
- Offsets the costs of the bill's provisions by increasing the scheduled rescission of contract authority on September 30, 2009, under SAFETEA-LU, from \$8.593 billion to \$8.710 billion (an increase of \$117 million). While some conservatives may be concerned that this rescission of contract authority will never materialize, it is important to remember that the obligation limitations, which control the amount of annual transportation spending regardless of what has been authorized, are not being changed. This will ensure that SAFETEA-LU's "real world" funding will not surpass \$286 billion.
- Amends the requirement that second-offense drunk drivers have their licenses revoked for one year (without states being subject to financial penalty) and instead, allows for either a one year suspension *or* a 45 day suspension followed by a reinstatement period, so long as an ignition interlock device (breathalyzer) is installed on the individual's vehicle.
- Clarifies that the Federal Highway Administration's current application of the Buy America test—with regard to the policy only being applied to components or parts of a bridge project and not the entire bridge project—is inconsistent with congressional intent.
- Makes technical changes to 10 bus/transit projects and clarifies that funding for the hydrogen fuel cell shuttle deployment demonstration project in Allentown, Pennsylvania is for the DaVinci Center.
- Adds a new transit project authorization that was not originally included in SAFETEA-LU or either the House passed or Senate technical corrections bills. However, the bill does *not* provide, or even authorize, any money for the project. Specifically, the provision authorizes the inclusion of the Livermore, California Amador Valley Transit Authority Bus Rapid Transit in the federal New Starts capital program for preliminary engineering. The authorization would be in addition to the section 3043(C) project authorization (#102) in SAFETEA-LU for the BART rail extension to Livermore, California. New Start funds are provided in annual appropriations bills typically *after* the Federal Transit Administration has evaluated and rated the project and entered into a contingent funding agreement known as a Full Funding Agreement.
- Section 110 adds three new earmarks totaling \$3.4 million in contract authority to the SAFETEA-LU Section 1934(c) Transportation Improvements category: \$200,000 for right-of-way acquisition in Pinal County Arizona; \$200,000 for road design in Navajo Route 20/Navajo Nation, Coconino County, Arizona; and \$3,000,000 for the Patton Island Bridge Corridor in Alabama. However, this funding is offset by reducing another Section 1934(c) SAFETEA-LU earmark by an equivalent amount.

Background: On August 10, 2005, the President signed the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, P.L. 109-59) into law to provide \$286 billion over five years for all federal surface transportation programs. The bill also included over 6,300 member earmarks, representing 8% of the bill's overall

funding and a substantial increase over the preceding transportation authorization bill's (TEA-21, 1998-2003) then-record level of 1,850 earmarks.

Does the Bill Comply with House Rules Regarding Earmarks? H.R. 6233 is being considered under a motion to suspend the rules (including H.Res. 1000) and pass the bill. As a result, the bill technically does not have to include a list of all the earmarks (and the requesting member) or a statement that no earmarks are included.

However, the so-called Boehner protocol was agreed to during floor consideration of H.Res. 1000, in which the Majority Leader and the Rules Committee Chairman agreed to enforce the spirit of this new rule and not just the letter—in an attempt to address potential loopholes around the new rule.

Mr. DREIER. Mr. Speaker, the majority leader, and I, in my role as chairman of the Committee on Rules, have made a commitment not only to the appropriators but to all Members of this body that we will enforce this rule with respect to unreported measures and amendments, including managers' amendments, submitted to the Rules Committee. If the House considers a bill that has not been reported by a committee, the committee of jurisdiction must comply with the earmark rule and provide a list of earmarks along with the name of the Member who requested the earmark. If the House considers a manager's amendment on a bill, the committee must comply with the earmark rule and provide a list of earmarks along with the name of the Member who requested the earmark. *By adopting this new rule, we as a body are not only making the commitment to live under its provisions, but every Member must make a commitment to adhere to the spirit of this new rule. This is more than just adding a new rule. It is making a commitment to change the culture of this institution.* (emphasis added)

It should be noted that Chairman Dreier did not specifically state that the Boehner protocol would cover bills on the suspension calendar. However, it is clear from the debate that the protocol was meant to apply broadly and not be narrowly construed. To that end, T&I Committee staff has indicated that Chairman Young intends to submit a statement into the record, stating that no new funding was provided for member projects in this legislation.

Cost to Taxpayer: According to CBO, the bill reduces contract authority by \$4 million over five years.

Does the Bill Create New Federal Programs or Rules?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

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