

APWA *Washington* REPORT

August 2005

TRANSPORTATION

SAFETEA-LU

\$286.4 BILLION SURFACE TRANSPORTATION BILL SIGNED INTO LAW

On August 10, just outside Chicago, IL, President Bush signed into law a \$286.4 billion federal surface transportation bill at a ceremony which included Congressional leaders, the Secretary of Transportation Norman Y. Mineta and state and local officials.

The much anticipated Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) authorizes federal highway, public transportation and safety programs through September 30, 2009. The new act represents a 38 percent funding increase over its predecessor TEA-21, and each state is guaranteed to receive no less than a 19 percent increase in total funding, as compared to TEA-21.

Enactment of SAFETEA-LU capped a nearly two-year effort in Congress to rewrite TEA-21, which expired on September 30, 2003. During that time Congress passed 12 temporary extensions of the expired law to keep federal funds flowing to state and local transportation programs.

For 2005 to 2009, SAFETEA-LU provides \$198.8 billion for highways and bridges, \$45.3 billion for public transportation and \$5.7 billion for motor carrier and transportation safety programs. Highway funding will grow from \$34.4 billion in 2005 to \$41.2 billion in 2009, while transit funding will rise from \$7.6 billion in 2005 to \$10.3 billion in 2009.

To address the concerns of donor states – states which contribute more in motor fuel tax revenues to the Federal Highway Trust Fund than they receive in return for highway programs – SAFETEA-LU boosts each state's current minimum return of 90.5 percent to 92 percent by 2008. The rate of return will remain 90.5 percent in 2005 and 2006, then rise to 91 percent in 2007 and reach the level of 92 percent in 2008 and 2009.

The new act includes more than \$14.8 billion for some 5,091 high priority project earmarks. In addition, 25 projects totaling approximately \$1.8 billion are authorized under the Projects of National and Regional Significance program designed to help states pay for high cost highway projects with national or regional benefits.

Reauthorization of TEA-21 was a top priority for APWA, and SAFETEA-LU reflects several key priorities advocated by the association. It retains the basic goals and structure of TEA-21, with its enhanced role for local decision-making and its important emphasis on flexibility, intermodal goals and on addressing local and regional needs.

SAFETEA-LU also continues guaranteed funding for transportation programs and retains a 'funding firewall' to ensure that transportation revenues are spent only on transportation programs, both a priority for APWA. It also includes a number of provisions to streamline the environmental review and project delivery process, another key priority. For instance, it sets a 180 day statute of limitation on legal challenges to project permits and environmental reviews and clarifies transportation agencies' lead role in determining project purpose and need.



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SAFETEA-LU places an important emphasis on addressing safety needs. Key provisions include the establishment of the \$5.1 billion Highway Safety Improvement Program (HSIP), a new core program. HSIP includes a \$90 million annual set-aside for high risk rural road safety needs, an important priority for rural communities. SAFETEA-LU also establishes a new \$612 million Safe Routes to School program to fund projects to allow children to walk and bike safely to school.

In the area of infrastructure financing, SAFETEA-LU extends authority to all 50 states and the District of Columbia to establish State Infrastructure Banks, revolving funds eligible to be capitalized with federal transportation funds, and it provides \$15 billion in private activity bonding authority for certain highway projects. In addition, it calls for the creation of a National Surface Transportation Infrastructure Financing Commission to examine the future of highway trust fund revenues and consider alternative approaches to generating revenues. The Commission will have two years to prepare and submit a report to Congress and the Secretary of Transportation.

To assist with the growing needs of metropolitan planning organizations, SAFETEA-LU increases the metropolitan planning take-down from one percent to 1.25 percent. For off-system bridge needs, it removes the Highway Bridge Program's 35 percent cap on the setaside for off-system bridges -- bridges not on the federal-aid system -- although it does not raise the current minimum setaside of 15 percent.

With enactment of new legislation, the process of implementing its many programs and provisions is underway. Technical corrections legislation is expected to be taken up in Congress this fall to address drafting and other errors in the law.

More information about SAFETEA-LU, including text of the bill, is available on APWA's website, www.apwa.net/advocacy, under the SAFETEA-LU Links section. Additional information will continue to be posted there as it becomes available.

Transportation Appropriations

SENATE COMMITTEE APPROVES \$65 BILLION TRANSPORTATION SPENDING BILL

The Senate Appropriations Committee approved a fiscal year 2006 spending bill (HR 3058) which would provide about \$65 billion for transportation programs. The bill, passed July 21, includes programs within the Departments of Transportation as well as the Treasury Department and the Department of Housing and Urban Development. The full Senate is expected to consider the bill in September.

The bill provides \$40.2 billion for federal highway programs, about \$3 billion more than the funding level in the House-passed bill. For transit programs, the bill includes \$8.2 billion, \$300 million less than the House approved. It provides \$1.45 billion for Amtrak, \$200 million more than in the House bill, and \$3.5 billion for the Airport Improvement Program, \$100 million less than the House approved.

An amendment addressing the June 23rd Supreme Court eminent domain decision was offered and then withdrawn. It would have prohibited funds in the bill from being used to support projects using the power of eminent domain unless employed for a public purpose, which was defined as a transit, airport, seaport or highway project or one for the removal of blight.

The House appropriations bill contains a provision to prohibit the use of the bill's funding where eminent domain power is used to take property for economic development.

Small Community Air Service

DOT ISSUES GRANTS TO SMALL COMMUNITIES TO IMPROVE AIR SERVICE

The U.S. Department of Transportation (USDOT) has issued grants totaling nearly \$19 million for 68 small communities in 29 states to improve their air services. The grants were awarded as part of the Small Community Air Service Development Program, which helps communities address the challenges of local air service, such as high fares and insufficient levels of service.

The grants will go toward financial incentives to air carriers, studies to determine air service needs, and marketing programs that encourage communities to use commercial carriers offering local air service. All of the grant recipients have made financial commitments toward their grant projects and most recipients have teamed with the local business community to improve their air service.

A total of 84 proposals were submitted by individual communities or groups of communities in 36 states this year seeking a total of almost \$51 million, with 37 proposals being selected for funding.

Grants under the Small Community Air Service Development Program were first awarded in 2002. Many of the previous grant recipients have already benefited from the grants or will soon gain new or upgraded air service because of the grants. Additionally, passenger traffic has increased at most local airports where a grant went into effect over the past three years.

Complete community proposals and US DOT's final order are available on the Internet at <http://dms.dot.gov>, docket number OST-2005-20127. A list of recipient communities and funding totals is available on www.dot.gov/affairs/chart05.htm.

ENVIRONMENT

Energy Bill

ENERGY BILL SIGNED INTO LAW WITHOUT MTBE LIABILITY WAIVER

President Bush on August 8 signed into law a comprehensive energy bill which does not contain an MTBE liability waiver, a significant victory for local governments. Instead of the waiver, the new law contains a compromise provision allowing MTBE producers to have their cases heard in federal court.

Originally in the House-passed bill, the liability waiver would have prevented local governments from recovering clean up costs associated with water supply contamination caused by the fuel additive methyl tertiary butyl ether, known as MTBE, and would have imposed a \$25 billion to \$85 billion unfunded mandate on local governments. APWA joined organizations representing local governments to oppose it.

The compromise was agreed to after Senate conferees rejected a proposal to create an \$11.4 billion clean-up fund in exchange for the liability waiver.

Overall, the energy bill provides \$14.5 billion in tax incentives to energy companies and requires refiners to double production of ethanol to 7.5 billion gallons by 2012 for use as an oxygenate in gasoline. It extends daylight savings time by one month and imposes reliability standards on electric utilities to avoid blackouts. It also authorizes a \$1.8 billion program to promote clean coal technology and a new loan guarantee program for new energy technologies.

EPA-Interior Appropriations

EPA'S 2006 ENACTED BUDGET IS CUT, CLEAN WATER SRF FUNDING REDUCED

President Bush signed into law August 2 a \$26.3 billion fiscal year 2006 spending measure for the U.S. Environmental Protection Agency (EPA), the Interior Department and other independent agencies. EPA will receive \$7.9 billion under the new law, \$100 million less than current funding.

The measure includes deep cuts to the Clean Water State Revolving Loan Fund program which will receive \$900 million in fiscal year 2006, down from current funding of \$1.1 billion. The cut represent the largest to EPA's budget.

For the Drinking Water State Revolving Loan Fund, the legislation provides \$850 million, up slightly from \$843 million enacted for 2005. EPA's superfund program will receive \$1.3 billion, \$13 million more than current levels.

Water Infrastructure

\$38 BILLION WATER INFRASTRUCTURE BILL PASSES SENATE COMMITTEE

Before departing for the Congressional August Recess, the Senate Environment and Public Works Committee approved a bipartisan bill which would provide \$38 billion over five years to cities and municipalities to help improve aging water infrastructure.

The Water Infrastructure Financing Act (S 1400) amends the Water Pollution Control Act and the Safe Drinking Water Act and authorizes \$35 billion through state revolving funds (SRF). The Clean Water SRF would receive \$20 billion; the Drinking Water SRF would receive \$18 billion.

The bill also authorizes \$125 million to help rural communities pay for technical assistance and \$30 million to assist the District of Columbia to replace lead service lines. It establishes a new grant program, authorized at \$300 million annually, to provide grant financing for infrastructure projects which restore impaired watersheds. The bill was amended in committee to require projects funded under the legislation to comply with the Davis-Bacon Act's prevailing wage requirements.

The House is expected to consider similar legislation later in the year. The annual funding gap for the nation's drinking water and cleanwater infrastructure totals \$23 billion.

Solid Waste

RECYCLING TAX CREDIT PROVISION DROPPED FROM ENERGY BILL

Before final approval of the energy bill, conferees dropped a provision contained in the Senate-passed energy bill which would have provided a tax credit to encourage the recycling of a variety of items, including paper, glass, plastics and electronic products. Instead, conferees included a provision requiring the Treasury and Energy departments to conduct a study on recycling.

The recycling provision would have allowed a tax credit of up to 15 percent of the cost of equipment used in processing and sorting recyclable materials, including electronic waste.

The recycling study included in the final bill requires the Treasury and Energy departments to determine and quantify energy savings achieved through recycling of glass, paper, plastic, steel, aluminum and electronic products. It also requires the identification of tax incentives to encourage the recycling of these materials.

EMERGENCY MANAGEMENT/DISASTER MITIGATION

Homeland Security

SENATE DHS APPROPRIATIONS BILL WOULD CUT TRANSIT SECURITY FUNDING

The Senate version of the fiscal year 2006 appropriations bill for the Department of Homeland Security (DHS) would cut funding for transit security to \$100 million, \$50 million less than current enacted levels. The House version of the DHS appropriations bill provides \$150 million.

When Congress returns from its August recess in early September, a conference committee is expected to reconcile House and Senate versions of the bill. During consideration of the bill on the Senate floor, a bipartisan amendment to increase transit security funding to \$1.2 billion was defeated under a procedural motion.

The Senate approved \$31.8 billion for the Department of Homeland Security programs on July 14, \$1.4 billion more than current enacted level. The House bill, approved in May, also includes \$31.8 billion.

Emergency Preparedness

WEBSITE HAS INFORMATION TO ASSIST PERSONS WITH DISABILITIES IN EMERGENCY

The U.S. Department of Transportation has launched a new web site containing information to help ensure safe and secure transportation for persons with disabilities in the event of a disaster or emergency.

The new site includes advice on emergency preparedness, transportation accessibility and evacuation methods for certain modes of transportation, such as rail and transit systems. Disabled individuals can learn how to react in situations ranging from evacuations of mass transit systems to being trapped in a car during a blizzard or hurricane.

The site also includes links to Department of Homeland Security web pages that provide information on preparing for specific emergencies, including natural disasters such as severe weather, fire and earthquakes, as well as man-made disasters such as spills of hazardous materials. In addition, the site also provides information for transportation providers on how to respond to the unique needs of people with disabilities during an emergency.

The new site was developed in response to an executive order issued by President Bush on July 22, which directed federal agencies to support safety and security for individuals with disabilities during natural and man-made disasters.

The web address for the new site is <http://www.dotcr.ost.dot.gov/asp/emergencyprep.asp>.

Tribute to Beth Denniston

APWA WASHINGTON REPORT EDITOR BETH DENNISTON RETIRES

Beth Denniston, APWA's Director of the Rural Transit Technical Assistance Program (RTAP) and Editor of the *APWA Washington Report*, retired August 15 after more than 12 and a half years of service to APWA. Beth also staffed the association's Small Cities/Rural Communities Forum.

We wish to thank Beth for her professionalism, service and dedication to APWA, and we wish her the very best in her retirement.