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IMPLEMENTATION OF SAFETEA:LU

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HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS, TRANSIT AND PIPELINES

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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IMPLEMENTATION OF SAFETEA:LU

Wednesday, June 7, 2006

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES, WASHINGTON, D.C.

The subcommittee met, pursuant to call, at 2:00 p.m., in room 2167, Rayburn House Office Building, Hon. Thomas E. Petri [Chairman of the subcommittee] presiding.

Mr. PETRI. The Subcommittee hearing will come to order. I would like to welcome you to today's oversight hearing on the Implementation of SAFETEA:LU. The hearing will provide members with information on the progress of the Administration's effort to implement recently enacted surface transportation reauthorization. Members will be able to ask Department of Transportation officials questions about the implementation progress of new programs and regulatory action.

SAFETEA:LU strengthens the national commitment to increased safety and reduced highway fatalities by increasing a new core highway safety improvement program funded at over $5 billion, almost doubling Federal funding for infrastructure safety. The new High-Risk Rural Safety Improvement Program targets funding for safety improvements on rural two-lane roads where over 60 percent of all highway related fatalities occur. And the new Safe Routes to School Program funds sidewalk, trail and other infrastructure improvements that will encourage children to safely walk or bike to school.

Funding for the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration totaled $6.3 billion, more than twice the amount authorized for these safety agencies under TEA–21. SAFETEA:LU funds several programs that are specifically designed to improvement the movement of freight, including the new Coordinated Border Infrastructure Program, the National Corridor Infrastructure Improvement Program, and projects of national and regional significance.

Several new Federal Transit Administration programs were created in SAFETEA:LU, including Small Starts, a program specifically geared to funding lower cost, fixed guideway projects and the new Freedom Program, which provides formula funds to support transportation services for the disabled that go beyond the requirements of the Americans with Disabilities Act, to reach some of the 70 percent of people with disabilities who do not work simply because they don't have a dependable way to get to work.

The modal agencies of the Department of Transportation have been very busy implementing these new programs and putting into place the changes in transportation policy made in SAFETEA:LU. Altogether, the are over 100 rulemakings, either legislatively mandated or required because of the creation of new programs or changes to existing programs.

We have invited five modal administrators from the Department of Transportation agencies affected by the reauthorization bill to testify before the Subcommittee today. We welcome Mr. Richard Capka, from the Federal Highway Administration; Ms. Sandy Bushue, from the Federal Transit Administration; John Hill, Federal Motor Carrier Safety Administration; Jacqueline Glassman, from the National Highway Traffic Safety Administration; and Dr. Ashok Kaveeshwar, from the Research and Innovative Technology Administration.

The record of the hearing will be held open for 30 days. I now yield to Mr. DeFazio for any opening statement that he would care to make.

Mr. DEFAZIO. Thank you, Mr. Chairman. Thank you for engaging in a little-known function of the United States Congress which I think is very important, which is oversight. We do write laws, create programs, and it is also, I believe, our duty to see that the laws are being properly implemented, the programs work well, and if they're not being properly implemented or the programs do not work well, it's also our duty to revisit those issues.

There are a couple of concerns that I have regarding, particularly, SAFETEA:LU. I think there is some, again, sort of in the area of oversight or the difference between law and language and hortatory language and mandatory language, there was a provision in SAFETEA:LU which was a sense of Congress regarding Buy America. Now, Buy America is a pretty deeply embedded principle when it comes to transportation infrastructure and equipment. We are running huge, massive and growing trade deficits. And yes, sometimes we can get things that are subsidized in production overseas or unfairly produced, and they are a little cheaper.

But the ripple effects through our economy through acquiring American-made products, employing Americans, far exceeds any of those minimalistic benefits. And so I do have some particular concerns about how the Federal Highway Administration is working off of a sense of Congress on Buy America as opposed to a statutory change.

And I would defy anybody to tell me that they believe you can come to the floor of the United States House of Representatives and say, we should source major components of major projects funded fully with taxpayer dollars overseas. The few people who would vote for it wouldn't be back. And I think an Administration that overestimates the importance of hortatory language, as opposed to statutory changes, is walking a very dangerous path.

With that particular caution, there are other concerns that are not yet fully developed or implemented in terms of this legislation, where I look forward to hearing from the Administration and making certain that we are on the right path, New Starts, there are some concerns about implementation of safety issues and concerns

about recent disturbing trends in deaths and incidents on our highways and many other things.

So I look forward to the testimony today and look at this as the opening of a long and productive dialogue over the full implementation of SAFETEA:LU. I congratulate the Chairman for holding this hearing. The room should be packed, but it's not.

Mr. PETRI. Well, it's fairly full.

Any other opening statements? Mr. Blumenauer?

Mr. BLUMENAUER. Thank you, Mr. Chairman. I do appreciate our moving back to take a look at what has happened with the reauthorization. Part of the concern with the 12 abstentions is that we have lots of complexity, lots of interest. There was time taken, and I know in things that I was involved with, to try and be clear about legislative intent and being able to extend the partnership with the Department of Transportation to make sure that we are doing so even as sadly we are starting to get reoriented to go back for another reauthorization, which is less than four years away.

One of my primary projects in the reauthorization was the Small Starts program, the idea to give flexibility to communities and the Department of Transportation, with something that could be more effective in terms of being able to give a choice to communities that would be less than heavy rail or light rail. The program was in the main modeled after a community street car bill that I had introduced with the aim of giving communities a means of supporting fixed guideway transit systems in their communities, to give them options and allow them to develop an expedited process. You know, less bureaucratic function.

And most important, most important to be able for communities to be able to consider land use and economic development benefits while planning transit projects. That is the idea, to be able to reduce the concern for large scale suburban to urban movements on roads and light rail, to be able to have development around these extraordinarily successful projects.

Unfortunately, as I am looking from a distance and as I am talking to people who are representing the 84 communities around the Country that are interested in street cars, some of which are already building it, the material we are seeing to date seems to fall far short of the mark in terms of being able to look comprehensively at the economic and land use benefits. It looks like the only fixed guideway that is going to be favored under this approach would be bus rapid transit. I have got nothing against bus rapid transit. We have got a project that is going forward in my colleague, Mr. DeFazio's, district in Eugene that I think has great benefit.

But the notion of the Small Starts was to have the forces of economic development and land use to enable people to move forward with street car. And I am deeply troubled that what is coming forward in the Department at this point did not comply with our intent to provide the guidelines that will ensure that street car projects can move forward. And I look forward to hearing more from the Department, talking about it and being able to explore that in greater detail.

I am also concerned about the impacts for local planning and the way that the local planning provisions are being implemented.

There is a specific directive under the reauthorization that the DOT not require metropolitan areas to disrupt established planning time tables and extended the updated schedule by three to four years. But under FHA's interpretation, according to the people that I represent back home, from a fairly sophisticated NPO, that is usually held out as a model for trying to do this right, they would be unable to amend their metropolitan transportation improvement program on its established time line, unless it first amends its regional transportation plan a year earlier than it is required to do.

So I have folks back home, despite explicit language in the reauthorization, that I thought we were in accord, who had been given the choice to rush the regional transportation plan and produce it a year ahead of schedule, push back the transportation improvement program an additional year, an option that appears to me to be a bad one.

But more to the point, Mr. Chairman, it doesn't seem to me that that is what we intended with reauthorization. And I am curious to begin exploring how the Department of Transportation is addressing the conundrum that my community is facing, and perhaps, I am sure we are not unique. But we take the planning process very seriously. I think any objective observer would suggest that Portland has actually been a model over the last 20 years, coaxing more out of the transportation planning process and the investment that we have made with Federal funds. And we have been able to do this with Republican and Democratic administrations under the last three reauthorizations. And this does trouble me, in terms of what I am hearing back home, and hope that we can clarify it. Thank you, Mr. Chairman.

Mr. PETRI. Thank you.

Are there other opening statements? Ms. Berkley.

Ms. BERKLEY. Thank you, Mr. Chairman. Thank you very much for holding this important hearing on the implementation of SAFETEA:LU, and thank all of you for being here.

This historic legislation, which Congress passed last year after several years of work by this Committee, is vitally important for my district. Southern Nevada is one of the fastest growing parts of this Country, and Federal resources provided in SAFETEA:LU are essential to ensure that our transportation infrastructure keeps pace with our explosive growth.

Transportation officials in Las Vegas have several major projects underway to increase highway capacity and efficiency and to expand our public transit system. Providing additional resources for these initiatives is not enough, however. We must also ensure that the new law is implemented in such a way that it complements the efforts of our State and local governments rather than ties them up with new and confusing regulatory burdens. I think that is the biggest concern that my regional transportation people have, is how do we, as they move forward, planning the projects that are underway, that the rug isn't pulled out from under them in new and different regulations that they have to go back to the drawing board.

So I am anxious to hear whether your testimony addresses that, and if not, I will be asking the witnesses that very question when

I have an opportunity to question you. So thank you very much for being here, and I look forward to your testimony.

Mr. PETRI. Now we will begin with the panel, led off by someone who has been here before with the Committee, Mr. Richard Capka, Administrator, Federal Highway Administration.

TESTIMONY OF MR. J. RICHARD CAPKA, ACTING ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION; MS. SANDRA BUSHUE, ACTING ADMINISTRATOR, FEDERAL TRANSIT ASSOCIATION, U.S. DEPARTMENT OF TRANSPORTATION, MS. JACQUELINE GLASSMAN, ACTING ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, MR. JOHN H. HILL, ACTING ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION, DR. ASHOK G. KAVEESHWAR, ADMINISTRATOR, RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION

Mr. CAPKA. Thank you, Mr. Chairman and members of the Committee.

It is a real pleasure for me and my fellow colleagues to appear once again before your Committee. On behalf of Secretary Mineta and the Department of Transportation, I want to express our genuine appreciation for this Committee's hard work on reauthorization.

SAFETEA:LU authorizes a record level of investment for highway infrastructure, public transportation, highway and motor carrier safety programs and transportation research. It also provides valuable tools for increasing transportation safety, managing congestion and streamlining infrastructure construction. Secretary Mineta has made timely implementation of this legislation a top priority, and our agencies have worked aggressively and together to make the authorized funds available, to issue the guidance and regulations necessary to carry out SAFETEA:LU, and to make progress in our reports to Congress.

For instance, this past week, the Department delivered the Catastrophic Hurricane Evacuation Plans Study to Congress on time on the 1st of June. Overall, implementation is going smoothly, As you know from our frequent visits to Congressional members and staff. There is a lot of good news in today's status report.

Turning first to highway safety, the new core Highway Safety Improvement Program, administered by Federal Highways, significantly increases the national policy emphasis on safety and almost doubles the resources available to reduce traffic fatalities and injuries on all public roads. We also thank the Committee for including Secretary Mineta's proposed incentive grant program for State primary safety belt use laws, and are pleased to report that this NHTSA-administered program is working exceedingly well. Safety belt use cuts the risk of death in a severe crash by about half, and research has proven that the quickest and least expensive way to boost belt usage is for a State to enact a primary belt law.

To achieve reductions in crashes involving commercial motor vehicles, the Federal Motor Carrier Safety Administration's medical program is designed to ensure that medically qualified drivers op-

erate trucks and buses. As directed by SAFETEA:LU, the medical program addresses revision of the diabetic exemption standard, establishment of a Medical Review Board, and development of a National Registry of Medical Examiners.

SAFETEA:LU also enhanced Federal Motor Carrier's consumer protection and enforcement authorities for shipment of household goods. The Federal Motor Carrier Safety Administration is pursing enforcement of Federal household goods regulations through civil actions, is broadening distribution of household goods consumer education materials and has implemented a number of provisions through enforcement policy memoranda to field staff and State partners.

Along with improving transportation safety, reducing congestion is a major concern for the Department. Last month, Secretary Mineta launched the National Strategy to Reduce Congestion on America's Transportation Network. This initiative will maximize resources and authorities you provided in SAFETEA:LU to improve operation of our surface transportation system. It will increase the use of public transportation, encourage the development and deployment of new technologies and construction methods, and expand opportunities for private investment in transportation infrastructure.

SAFETEA:LU provides an historic level of investment in public transportation, while establishing several new transit programs, such as the New Freedom and Small Starts, and modifying other transit programs, including New Starts. Well-designed New Starts projects are critical pieces of the congestion solution, offering alternatives to gridlock in relieving pressures on our highways. The Federal Transit Administration is making solid progress in advancing the substantial number of rulemakings necessary for implementation.

It is also engaged in broad-based outreach efforts, especially with respect to the Small Starts program. Later this year, the Federal Transit Administration will publish an NPRM covering both the New Starts and Small Starts programs, and is issuing guidance to ensure that the program can be effectively executed during the rulemaking process. This will allow grantees to assess their projects and submit them for possible Small Starts funding during fiscal year 2007.

Effective transportation research programs also have a critical role in the future of surface transportation infrastructure construction and operation. The Research and Innovative Technology Administration, or RITA, is leading the Department's efforts to prepare the five-year Research and Development Strategic Plan required by SAFETEA:LU. RITA will continue to work to establish RD&T, performance measures in advanced cross-modal research coordination efforts.

Mr. Chairman, although SAFETEA:LU increases funding for Surface Transportation Research, Development and Deployment, certain structural problems within research funding challenge the Department's ability to carry out the program Congress envisioned in Title V of SAFETEA:LU. I would welcome an opportunity to answer your questions about the structural issues and program impacts.

To conclude, even as we implement SAFETEA:LU, we need to be thinking about the next reauthorization. Demands on the surface transportation system will continue to grow, and are expected to exceed the resources provided by current funding mechanisms. We want to work closely with Congress to find solutions to the imbalance.

On May 24th, the Secretary convened the first meeting of the National Surface Transportation Policy and Revenue Study Commission, which, as Congress directed, will explore options for the future direction of our surface transportation system and how we invest in and manage that system. The Department will continue to support the work of the Commission and looks forward to its recommendations.

Mr. Chairman and members, thank you for this opportunity to report on the Department's implementation of SAFETEA:LU. We are looking forward to continuing to work with you and will be pleased to answer any questions that you might have.

And so I would ask permission to enter for the record a complete statement.

Mr. PETRI. Thank you.

Your statement will be made a part of the record, and we will continue with Ms. Sandra Bushue, who is the Acting Administrator, Federal Transit Administration, U.S. Department of Transportation.

Mr. CAPKA. Mr. Chairman, we have chosen for me to speak for the entire team.

Mr. PETRI. OK, then we will go immediately to questions. Let me begin with questions. There were two areas I wanted to explore briefly. First of all, you mentioned just a little bit the special panel that had its initial meeting about a week ago. I was hoping to be at some of that. There was a lunch that the Secretary scheduled and we couldn't be there. It wasn't his fault, or anyone's fault, it is the nature of these overlapping organizations.

But they are wrestling with a number of issues, and particularly the sort of focus and funding of the Federal Surface Transportation programs going forward. And there are a lot of challenges in that regard. I wonder if you could expand a little bit on the meeting, with a number of distinguished people with considerable background and different perspectives who have agreed to serve on, well, there are two commissions, but they are working somewhat, I hope, dividing up their labors somewhat. If you could expand on that and talk about it a bit, we would appreciate hearing it.

Mr. CAPKA. Mr. Chairman, thank you very much for your question. This is one of the top priorities that we have within the Department, and Secretary Mineta has made this a personal priority. He very much appreciated the fact that you were unable to join us for lunch. But we did have an outstanding first meeting for the Commission.

You are absolutely correct, sir, it is the Section 1909 commission that met on the 24th. And this is going to be a challenge for the members. There is a lot of ground to cover, and we have a requirement to report out to Congress next July, July of 2007.

But we have, as you pointed out, assembled a very impressive group of commissioners, an excellent blend of backgrounds and tal-

ents from the private sector, public sector, academia, just a whole host of the right kinds of individuals who are going to address the issues that we have left before us.

While there are many details that the commissioners are going to be working out regarding the pace and the mechanics of moving forward, it is clear that they have identified the issue of needs, of requirements, and then the resourcing of those requirements as very explicit deliverables, as they took an initial look at the task in front of them. The commission will be meeting regularly. Between physical meetings of the commission they will have conference calls to ensure that there is an efficient exchange of information and that the commissioners are kept up to speed on any of the developments that may be occurring.

So Mr. Petri, we would certainly be interested in coming by and giving you a personal brief on the progress of the commission, and to any member who would be interested in following up as the commission meetings move forward.

Mr. PETRI. Thank you. We ought to probably, once they are at an appropriate state, have that meeting or series of meetings.

In your opening statement, you alluded to I think Section V of the Act, and a number of structural and programmatic issues that might be, maybe we need to do something about or maybe we should know about. Would you care to expand on that part of your testimony?

Mr. CAPKA. Yes, Mr. Chairman, I definitely would. As anybody would find in a very complex and successful accomplishment, there are always the unexpected glitches that seem to catch us after the fact. There were some of those glitches with respect to our research and technology program. There are some challenges that really put the effectiveness of our Federal research program at risk. And despite an aggregate increase of about $43 million, more than what we had under TEA–21, the added initiatives, such as the $51 million SHRP II, the statutory over-designations of some of the projects, have eliminated basically the flexibility to conduct programs that have been important to the priorities of this Committee.

The bottom line, when we compare 2005 to what we have today, is that we have about $30 million less in annual funding for the critical research activities. This will significantly impact the Department's Federal leadership position in the surface transportation research community. This leadership is vital for the development of the breakthrough technologies that will lead to construction efficiencies and engineering techniques that will improve safety and the long-term reliability and quality infrastructure in programs that we will be following to deliver the Nation's transportation needs.

The Department's leadership will be key to the integration of technology into the efficient operation of our system to reverse the existing trends toward a more congested and less reliable surface transportation system. Just a couple of examples of some of the impacts are drastically reduced funding for important programs, such as the Transportation Research Board core program and the Transportation Research Board's research and technology coordinating committee that provides us advice on how we move our program forward. There is the inability to provide supporting data for the

Conditions and Performance Report and the inability to update the Manual on Uniform Traffic Control Devices. And, there would be a requirement to discontinue the longstanding publications and other media through which we work our technology transfer.

We really are struggling to assemble a program and fear that if we are forced to spread ourselves as thinly as it appears will be required, we will not be able to do the necessary things well. The effectiveness of the only national surface transportation research center in America, and a number of world class laboratories are, in fact, at risk. Mr. Chairman, I would very much look forward to working with you and the members of this Committee to help us address the challenges that we have identified.

Mr. PETRI. That is very important. I must say, I haven't read it cover to cover, but I certainly have read the executive summary of at least the most recent Conditions and Performance Report, or maybe the one before that, and had the opportunity to travel to about 18 cities and wave it as part of our effort. Because we used that report as the basis for the original legislation that was introduced in this Committee, to try to fund surface transportation projects that it indicated was needed to maintain our current level of effort, or at least come close to doing that by that conditions and performance report. It is an important tool as an overview of where we are. You don't know where you are going unless you know where you are, so you can improve that.

Let's turn to Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman. I have a few questions. To the FTA, and I think my colleague, Mr. Blumenauer, has specific questions about this, too. But I wanted to wave the issues about the New Starts rules, particularly what is expected, time line. I understand they were going to be out in June and they may be delayed. Second, what is the status of the actual, where we are, I am not exactly sure where we are in the rulemaking, and what does the current thinking reflect in terms of streamlining. The idea was that this is a new category of projects, and if we are going to make it the same as New Starts, then Small Starts is New Starts and we don't need to go through all of this. But the Congress obviously, in my opinion and I believe the opinion of others up here, was expressing the need to create a different sort of short form, smaller dollar amount, different projects. Could you address that?

Ms. BUSHUE. Absolutely, Congressman DeFazio. The Small Starts programs are the programs that are less than $250 million, and they can get up to $75 million in Federal help. We are very happy to say that we sent out an advance notice of proposed rulemaking back in January, and then we held a number of listening sessions. And it was just amazing, the amount of comments we received, not only on the New Starts program, but most importantly, on the Small Starts program. There was all kinds of excitement and enthusiasm out there in the community for this new program. I would like to thank this Committee for supporting it. It is a great concept and a great idea.

Having said that, we just put our interim guidance for the New Starts program on May 22nd. And on Friday, the Federal Register will post interim guidance for the Small Starts program. Sticking with the Small Starts program, we hope to have a noticed for pro-

posed rulemaking out by the end of this year and then the final rule out by hopefully August of 2007. But there is again, I would just like to say, a lot of enthusiasm.

And getting back to Congressman Blumenauer, your issue regarding the land use, we did hear a lot of comments when we had our listening sessions and stakeholder hearings out in the Country, a lot of comments about the land use. The FTA has listened to those comments. I think you will be pretty pleased with the rating process when you see the interim guidance when they are posted on Friday.

Mr. DEFAZIO. So under interim guidance, are we going to be making grants?

Ms. BUSHUE. Absolutely. We hope with interim guidance, again, they are posted on Friday, by the time the grantees put together their proposals, submit it to the FTA for evaluation, we hope that we are going to be able to be issuing or making selections by July of next year.

Mr. DEFAZIO. OK. To the National Highway Transportation Safety Administration, there is a provision in SAFETEA:LU, I am not certain whether or not you are familiar with it, but there was $1 million to conduct a study on the risks associated with glare to oncoming drivers. In particular, this concern is raised by my own personal experience and also by some research done by the Consumers Union, and that is these new high-intensity, bluish lights in the spectrum, and the intensity at which they are transmitting and the potential for causing glare disturbance to oncoming drivers, particularly on two-lane highways, which are more common in my part of the Country than around here.

And my understanding is that there are ways to mitigate that, but that we are using a very kind of anachronistic—the measure that is being used is very crude in terms of lumens versus spectrum and disturbance. That is why we put the money in the bill to do some research. Can you give me a status on where we are on that?

Ms. GLASSMAN. Yes, sir. In 2001, we actually put out a notice for comment on glare, as we did start to see more of these lights on the road. We received a huge number, about 10,000 comments altogether.

The issue, though, we have from a safety perspective, is actually finding a safety problem associated with this from a regulatory point of view. We have conducted a number of studies, or surveys of people, who tell us that while they find glare to be annoying, they do not experience it as distracting. So we are watching the safety problem very closely, and watching also our data very closely, to make sure we get ahead of this problem if it becomes in fact a safety problem on the roads.

We are conducting a study with Rensselaer Institute currently. We have a report to Congress due in 2007, and we are on track to supply that report. It will be a comprehensive review of the risks associated with glare, as well as potential countermeasures and any unintended consequences that could arise if we go down, countermeasures that in fact then cause another problem that we didn't anticipate.

Mr. DEFAZIO. OK. I think given the complaints, I think one can intuit that although perhaps there are no survivors of head-on crashes who attribute it to the glare, one can intuit that if that many people saw fit to comment on a fairly obscure Federal investigation that there is a real and growing concern out there among the public. I think, particularly with an aging population, the glare problems are very, very important, and we need to get on them.

Then finally, to Mr. Capka, you heard my concerns and comments earlier regarding Buy America, the difference between an often reinforced statutory guidance and hortatory language that was in the bill. I would like to know what your current interpretation is and where we are on Buy America, particularly when most major recent concern relates to a bridge project and the idea that specifications call for very long beams that people know can't be made in the United States.

But the bridge doesn't have to be built with very long beams that can't be made in the United States. It is a way to drive the procurement offshore, whereas you could have a design which would incorporate beams that could be made in the United States, which would fully comply with Buy America, and there's a real interesting interplay here between some amount of State funding and Federal funding and the Federal law which of course preempts State law.

So could you give me your short version response to that?

Mr. CAPKA. Thank you, Congressman DeFazio. You are absolutely correct. This particular issue has been addressed within the Department and we have had discussions with members of this Committee over the issue.

Let me first of all say that the Federal Highway Administration takes very seriously the requirement to enforce the law of Buy America. And of course, the basis for applying that law to any project is a determination of whether or not that project is a Federalized project, whether there have been Federal monies expended on the project. And we have been very, very consistent since 1982 or 1983, when the Buy America Act came into effect, in consistently applying the rules.

The Buy America determination on a project and the determination on Federalization of a project is basically done at the contract level. California has the discretion as to whether or not they want to build a project using Federal resources. If they don't use Federal resources, we have no Federal interest and have no ability to enforce the Buy America program. In this particular case, California chose not to use Federal resources and, therefore, the Buy America Act did not apply on this particular project.

Mr. DEFAZIO. Can we demonstrate, and have you had auditors go in and look? I mean, money becomes pretty fungible. The State of California gets a pretty generous dose under the formula of Federal money. They have a high gas tax. They raise money there. How can we determine that there is no miscibility between the State funds and Federal funds, no displacement? Or can they show a dedicated revenue stream for the bridge? Is the bridge being totally built with bonding which has a dedicated revenue stream that comes from tolls, or are they using some formula money or gas tax money or mixed monies as part of the support for this project?

Mr. CAPKA. Sir, I can't speak to the specifics of the type and sources of money. But there is a mix. But we are very careful to ensure that that mix of funds does not include Federal funds. And as I had mentioned, we are very careful to ensure that we are enforcing the law consistently and appropriately.

Mr. DEFAZIO. I guess my time has expired, but just again, in reflecting on that, let's say for simple purposes the State raises $50 with their gas tax and they get $100 from the Federal Government, and they have a project that costs $60, OK, it is pretty clear some of the money came from the Feds. If they have a project that costs $40, they might argue that they only used State money. But what other State interest projects did the Federal money flow to that would have been funded out of, I mean, there is an interesting kind of mix and/or problem here. I just want to be sure that we are being as rigorous as possible. It is a grand mistake to offshore more things, contribute more to our trade deficit, displace more American workers and manufacturing, particularly when it comes to Federal tax dollars. We are going to be very, very vigorous in watching that. So thank you.

Mr. CAPKA. Yes, sir.

Mr. PETRI. Mr. LoBiondo?

Mr. LOBIONDO. No questions at this time, Mr. Chairman.

Mr. PETRI. Mr. Brown?

Mr. BROWN. Thank you, Mr. Chairman. We are glad to have the whole team here today. I will just ask my question to you, Mr. Capka, and anybody can respond that you feel led to.

I want to first congratulate you on your 50th anniversary last week of the Interstate system. I did not bring my pen, Ms. Mayberry gave me one in Columbia last Tuesday. But we were there to celebrate at the final line for I–73, as it comes, at least from I–95 into Myrtle Beach. So we were there to do both of those celebrations.

And I was just, with that in mind, do you foresee that we are going to be expanding the Interstate system? Is there a new plan to sort of look at where we are in the Interstate system and try to develop an extension of the interstate system to include those areas of growth that were not included in the 50 year plan that was established by President Eisenhower?

Mr. CAPKA. Sir, that is a very good question. And we in the Department are very concerned about a review of the existing Interstate system. It is 50 years old, as you pointed out. And 50 years for a lot of infrastructure is the design life. So we do have concerns, particularly in the area of capacity congestion, if you will. And as I had mentioned in my opening remarks, Secretary Mineta has launched a congestion initiative that will look across all modes, across all sectors, to determine the best way to address congestion systematically. Quite honestly, it will require us to take a look at the Interstate, take a look at corridors. And take a look at technology on how we use the existing capacity that we have today and then make decisions on what capacity needs to be adjusted in the future, whether that capacity is on the highway Interstate system, whether that capacity is on rail or other modes of transportation.

The commission that we discussed earlier is also reviewing that particular issue as they look forward to the future of surface transportation.

Mr. BROWN. Well, I know you know the demographics as well as I do, and I know there has been a shift to the south and the southeast. I just felt like, I hope the study will encompass that new growth in the population, and the needs for additional highways, so that we can start another initiative to address the new areas of congestion. I hope that study will reveal that.

My next question, Mr. Chairman, if I may, the trust fund that was established, I guess, to fund TEA-LU, is the revenues coming in at a pace to keep us solvent?

Mr. CAPKA. Sir, another excellent question. The issue of solvency of the Highway Trust Fund has been raised before. We are confident today as we look at where we are that the Trust Fund will take us through the duration of SAFETEA:LU.

As you recall, when we were structuring the Trust Fund, we knew that we were going to take it down to zero. That was the intent. And if you take a look at the Treasury forecast, we are a little below zero. If you take a look at the Congressional Budget Office forecast, we are a little above zero. So I think at this particular point in time, there are no signals that are telling us that we are in jeopardy at this point.

However, we very much look forward to working with the Committee as we get a little closer and the future becomes a little clearer and the forecasts become a little clearer, if we do have a challenge facing us. But today, as we are sitting here today, we feel confident that it will get us through the SAFETEA:LU period.

Mr. BROWN. Thank you. Thank you, Mr. Chairman.

Mr. PETRI. Thank you.

Mr. Blumenauer?

Mr. BLUMENAUER. Thank you. I would like to follow up on a comment I made in the opening here. I have been concerned that the emphasis on the transportation system user benefit, TSUB, process, that is just savings in time travel, is going to be used as a measure of cost effectiveness. The whole thrust of much of the Small Starts and the enthusiasm for dozens of communities around the Country for the street car is the economic development potential and preventing the trips in the first place. Rather than forcing people to travel long distances from the suburbs, we have examples where street cars inspire redevelopment along the right-of-way, so that you are moving people, but they don't have to have large time travel savings, because they are not out scattered around the countryside in the first place.

Now, help me understand what efforts with the criteria that you are working on that will get us away from narrow-minded application of TSUB, which completely misses the point of the program, and why these people are enthusiastic?

Ms. BUSHUE. Certainly, Congressman. As I mentioned earlier, the Small Starts interim guidance will be posted on Friday. I think the industry will be really happy about how we are looking at the land use and economic development. We certainly heard a lot from the industry and from our grantees about the TSUB issue. So I think we have addressed them in the guidance that you will note

on Friday. But most importantly, the guidance is not the end. We realize how important the Small Starts program is. We are holding a workshop next week with ACTA at the commuter rail conference. We will also be holding another listening session in Chicago at the end of the month. There is still a lot of time for comment, we still have a lot of room for improvement, if in fact the guidance that we put out Friday is still problematic to some of the grantees and industry.

I think they will be surprised. We have listened to that and we certainly do understand the issue of the TSUB concept and the need to have you get those modern benefits in a cost effective way. Sometimes it is a little difficult. But we are working very hard with the grantees and industry to remedy that.

Mr. BLUMENAUER. Super. We will look forward Friday to the unveiling.

Ms. BUSHUE. Remember, that is not the end-all. We are still open for comments and ways to improve if they are not happy with it.

Mr. BLUMENAUER. I appreciate it is not the end-all and be-all. But time is of the essence.

Ms. BUSHUE. Absolutely.

Mr. BLUMENAUER. We had the delay in the program, unfortunately, with the 12 extensions. And the whole thrust behind this was to make it simple and common sense, because they are smaller scale, not as expensive, we don't need as much Federal intrusion.

Ms. BUSHUE. Absolutely.

Mr. BLUMENAUER. And the Committee language was very clear about these multiple benefits. So I am hopeful that we are able to quickly come to a resolution, so people in these 80 communities can get on with business.

I mentioned earlier the concern about the planning, the inconsistency in terms of the planning time frame, that we are, the conflict between the metropolitan transportation's ongoing planning process, being able to go through the existing cycle, or having to rush ahead and accelerate it and getting caught in the middle. Can you help me understand, are they imagining this? Did we miss something here?

Mr. CAPKA. Well, sir, I don't know the specifics, but let me describe the intent as we move through implementation. We understand that sometimes when we implement new laws and new rulemakings and those sorts of things, we will change the rules. But it is our intent to provide a smooth transition. We don't want to turn a program up on its head or force an MPO to have to go back to the beginning when the sole reason for the confusion or the sole reason for the restart is the new law or the new rule that is going into effect.

So I would very much like to learn about the specific problems for the MPO that you have described, the conundrum that you had mentioned earlier, and see what we can do to ensure that implementation does not have that kind of adverse effect.

Mr. BLUMENAUER. I will submit to you their concern, because I think it was clear that we didn't want the metropolitan areas to have to disrupt the established planning process. But an inability to amend the metropolitan transportation improvement program,

unless it first amends the regional transportation plan a year earlier, seems to me to be violating that concept. But we will get the details to you, and would appreciate guidance about how we unravel this.

Mr. CAPKA. Sir, I would be happy to take that from you.

Mr. BLUMENAUER. Thank you. Thank you, Mr. Chairman.

Mr. PETRI. Mr. Shuster.

Mr. SHUSTER. Thank you, Mr. Chairman, and thank all of you for being here today.

My first question deals with the Federal Motor Carrier Safety Administration, the results of the multi-year truck crash causation study that was just transmitted to Congress. Of course, the reason is finding out why trucks crash and can we put new policies in place or improve the policies for truck safety. I wondered what you have found for primary causes of truck crashes. Have you started to study the existing policies and programs and how best to utilize the findings of the study to improve truck safety?

Mr. HILL. Thank you, Congressman Shuster, for that question. That was a long study. It started back in 2000, and we have been working on it for several years with a variety of people, including the National Highway Traffic Safety Administration. This study was the largest of its kind. It went out and physically sent investigators to the scene of a crash. They spent considerable hours investigating all parties involved with it, analyzed the data. The purpose of the study was to give us large amounts of data, so that we could use it, not only in the macro sense, but that we could provide it in a public setting, so that other people who are skilled at analyzing data could have this made available to them.

The overwhelming initial response that we heard from that study is that the driver is the predominant focus of our future efforts. Therefore, we are taking our regulatory agenda and our enforcement program, we are filtering it through that lens of driver focus, and we are going to be making changes in our program activities in the next few years, through a variety of initiatives. We believe that this data will help us in that process.

Mr. SHUSTER. My understanding is that about 90 percent of the accidents are caused by driver action or inaction or error?

Mr. HILL. If I may follow up there, it was not that high. I would be glad to submit to you for the record some of the specific percentages. I didn't bring those with me today. But it was not that high. It was lower. But it was predominantly with a passenger vehicle.

And I would just say to you that one of the provisions in SAFETEA:LU that you folks provided us had to do with granting us authority to spend grant dollars in our motor carrier safety programs for passenger vehicles in and around a commercial vehicle. That was groundbreaking. We are just now starting that with the States. We believe it is going to yield results. We think it will get more people involved in enforcing motor carrier laws in our Country, and so we are excited about that potential.

Mr. SHUSTER. That brings me to my next question on the CDL program, which has been around for about 20 years. It is my understanding that there were only a handful of States that were in compliance, or substantial compliance, with the CDL program. Is

that accurate, and can you give me a number on how many States were or were not in substantial compliance?

Mr. HILL. Thank you, Congressman Shuster, again, that is a very interesting point. As you know, in the Motor Carrier Safety Improvement Act in 1999, you gave us several things that you wanted us to do to improve the commercial driver's license process. About 15 provisions were given to the States in order for them to adopt them. Our normal process is to give the States three years to go through that process of adoption, changing their laws to conform and so forth, including their IT systems.

As of right now, the States are making great progress. We have only had to declare one State in substantial non-compliance up until this year, and then just recently, after we went through a series of reviews, we had to do that with three or four other States, who found in their implementation that they didn't have the laws to implement it the way that they were supposed to.

So to answer your question, we have two phases. There are people who are making legislative changes, and then there are those who are doing their information system changes. And generally, the States are in compliance with the statutory provisions.

Mr. SHUSTER. Well, if we passed it in 1999, when did the clock start ticking on the three years?

Mr. HILL. When we started with the regulations, which were promulgated in 2002, September, I believe, 2002. So it was September of 2005 when they were supposed to be in compliance.

Mr. SHUSTER. OK, thank you for that answer.

Mr. HILL. You are welcome.

Mr. SHUSTER. Another question I have, I guess it would be directed to Transit or Highway Administration, or both. The Governor of Pennsylvania has decided that he is going to flex about $400 million of Pennsylvania's annual allocation out of the Highway Trust Fund. The first question is, it is my understanding that you can only flex that money for capital investment, you can't do it for operations. Is that accurate? That is correct?

Ms. BUSHUE. That is correct.

Mr. SHUSTER. Second question is, has any State flexed that sizeable amount of one year's allocation from highways to transit systems? On a percentage basis.

Ms. BUSHUE. According to our advisors back here, they are saying that New York and California have. I am not sure, do we know that percentage? We can get back to you with that, Congressman Shuster.

Mr. SHUSTER. Is that dollar amount or is that percentage? I guess the only way we can do a fair comparison is by percentage of what they get. If you could get me that, I would appreciate it.

Ms. BUSHUE. We certainly will.

Mr. SHUSTER. And the third question is, from what I understand and what I see, Pennsylvania is going to flex that money. And it is not going to solve the problem for the transit system in Philadelphia or Pittsburgh. It is basically a band-aid. Do you have any oversight at the Federal Highway Administration or Transit that can say, if you are going to flex that kind of money, you really ought to be coming to a fix, a long term fix for it, not just an infu-

sion of cash that is probably going to happen this year and then next year and then down the road?

Mr. CAPKA. Congressman Shuster, I can say that our Division Administrator and his office are working very carefully with the Pennsylvania DOT to ensure that this particular situation is being managed appropriately. And there is a planning process that they are going through right now that requires our review.

Mr. SHUSTER. "Managed appropriately" is pretty vague. According to whose managing and appropriate. If you saw that this was just a band-aid and a limited term fix to a situation instead of a long term situation, because it comes down to what is fungible, and they are going to put it into capital, but they are going to just shift their money around, and it is the operation that is really significant, has significant problems. So would you have that ability to say stop, we don't believe what you are doing is in the long-term best interests of using Federal dollars?

Mr. CAPKA. Not knowing the complete specifics of the situation there, what we would look at is the sustainability of the program, the initiative, from a fiscal perspective, and ensure that the program is fiscally constrained. I think that the context around that would help us decide what action we would or would not want to take.

Mr. SHUSTER. Could you or whoever is dealing with that situation contact our office and keep us posted? Because it is a huge concern to me, coming from rural Pennsylvania, and I think many, many Pennsylvanians. Because of that $400 million, about $380 million is going to go to Philadelphia, which I guess happens when the Governor of Pennsylvania is the former mayor of Philadelphia. But anyway, that is our problem in Pennsylvania.

Thank you very much, and again, if you could keep us posted on that, we certainly are very concerned.

Mr. CAPKA. Sir, we will follow up with you on that.

Mr. SHUSTER. Thank you very much.

Mr. PETRI. Thank you. Ms. Berkley?

Ms. BERKLEY. Thank you very much, Mr. Chairman.

I have three questions that are all Las Vegas valley specific, as you can well imagine. The first is, I had a conversation with my local transportation officials, and they have expressed concern that existing planning cycles may be disrupted by regulations that the FHWA and FTA have issued or will issue to implement SAFETEA:LU. Can you give me assurances that you won't be changing the rules for our local government officials in the middle of the game, in the middle of their planning process? That is my first question.

Mr. CAPKA. Yes, ma'am. I think I would respond the same way I did to Mr. Blumenauer, with his question.

Ms. BERKLEY. If we are having a specific problem with the project that you know?

Mr. CAPKA. Absolutely. Again, I think the philosophical approach is not to interrupt something abruptly with a change, but to provide a good transition that allows everybody to catch up, and not to create the conundrum that was described earlier. But I will offer the same to you and your community to take a look at what the issue is and to work with you on that.

Ms. BERKLEY. I appreciate that. My second question is, a provision in SAFETEA:LU gives priority to diesel retrofit projects in CMAQ. My local transportation officials have planned to use these funds for eligible projects, including our intelligent transportation system, in purchase of hybrid buses. How is this provision being implemented to ensure that worthy projects other than diesel retrofits will continue to be funded?

Mr. CAPKA. We are working the final guidance with EPA on this one. This is one that we are working jointly with the Environmental Protection Agency. And again, if there are specific issues that are coming up, I would be more than happy to work with you on that.

Ms. BERKLEY. I think the two that we are most concerned about is our intelligent transportation system and the hybrid buses, because we are getting, the money is coming out of the diesel retrofit projects. Right now, those are eligible projects, but we wouldn't want them to be come ineligible all of a sudden.

Mr. CAPKA. I will follow up with you on that and just make sure that we are both looking at the same facts and provide some help and guidance there.

Ms. BERKLEY. OK, and then of course the third is, and I know a number of my colleagues have mentioned the Small Starts program that was created in SAFETEA:LU for fixed guideway projects costing under $250 million. It is my understanding that this will be eliminated in the 2007 transportation appropriations bill approved in committee yesterday. If that is the case, and I would appreciate some clarification on that, but if that is the case, what would the effect of that elimination have on these projects? And the one that comes to mind is the MAX bus project in southern Nevada. Right now it is eligible for Small Starts funding. If it is eliminated in 2007, what do we do?

Ms. BUSHUE. Well, I certainly hope it wasn't eliminated. I think what they did, we have not seen that language, I think you are talking about the full Committee House Appropriations markup. We have yet to see the language. We understand they put a freeze, we are not really sure what that means. Again, the language has not been released, and FTA has not had the opportunity to evaluate it.

But I do know that the Appropriations Committee has been very supportive of the Small Starts program. So I guess we will have to wait and see. But I don't think it was an elimination, it was a freeze. And again, we don't know exactly what they meant by that.

Ms. BERKLEY. Can you let me know?

Ms. BUSHUE. Absolutely.

Ms. BERKLEY. Because again, this MAX bus project is very important to us. And if the money is no longer there, what happens to the project?

Ms. BUSHUE. Absolutely, Congresswoman Berkley. We will certainly get back to you.

Ms. BERKLEY. Thanks a lot.

Mr. PETRI. Mr. Coble.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Chairman, I apologize for my belated arrival. We had a Judiciary markup, and that is why I could not be here earlier.

Mr. Hill, let me put a question to you on an issue on which I have done some considerable work and am very interested. I am concerned that the advance notice of proposed rulemaking on insulin-treated diabetes possibly creates broad restrictions on the kind of driving that properly screened individuals with insulin-treated diabetes can do, such as being restricted to only certain types of driving, like local or short haul routes. What sort of restriction does the Federal Motor Carrier Safety Administration have in mind and what is the basis for restricting the type of driving an insulin-treated commercial driver can do?

Mr. HILL. Thank you, Congressman Coble, for that question. I do know that you and Representative DeFazio have been heavily involved in this issue, and I am aware of the recent correspondence that you have sent to our office concerning this matter, and I would like to address your concerns. First of all, let me just say in a general sense, our standards for commercial vehicle drivers, we are trying to weigh the balance of making sure that we implement the provisions in SAFETEA:LU, which we have done, by the way, and I will explain that more fully, and then making sure that we have been deliberative in our consideration of the safety concerns for the general public in allowing people with some kind of impairment, potentially, to be drivers.

To answer your specific question, as you know, in SAFETEA:LU, you passed legislation that said we are no longer permitted to require three years driving experience in terms of having that experience before we create an exemption to the rule that is now in place, that says insulin-dependent drivers cannot operate a commercial vehicle. We have implemented that, in November of 2005 we published a notice that said we would discontinue that practice. We are in the process now of reviewing applications. Thirteen drivers are presently on the road. When they get an exemption to operate in interstate commerce, there are no restrictions placed on them. They are permitted to drive just like another driver would drive.

We have 40 other drivers that were posted in the Federal Register just today for public notice and comment. Another 30 are in process, and we have 400 applications that we are currently reviewing that would allow for them to eventually be granted an exemption under our current rule.

Mr. COBLE. Thank you for that response. I am, Mr. Hill, in no way attempting to compromise safety. But by the same token, I want to be sure that insulin-treated commercial drivers are not beneficiaries or victims of inordinate restrictions, if I am coming through to you.

Mr. HILL. Congressman Coble, I appreciate your concern for safety, because we share that, as our agency has to deal with that on several levels. One of the further considerations that I would just say to you is that we are going to be starting a medical review board, and they are going to be convening in August of this year. That medical review board will be looking, as one of its first projects, at the whole issue of diabetic drivers. This rule that we have had in place for banning insulin-dependent drivers for driving in interstate commerce has been with us for several years. One of the goals of the medical review board is to make sure that our current medical regulations are consistent with current science and

data, so that we can make accurate assessments. Because things have changed in those years, and we want to be sure that we are treating drivers and the public with due measure of safety and also accommodation that needs to be made.

Mr. COBLE. And if you can keep us current on that matter, I would be appreciative to you.

Mr. HILL. You are welcome, sir, and we will.

Mr. COBLE. It is good to have all of you with us. Mr. Chairman, I yield back.

Mr. PETRI. Thank you, Mr. Coble.

Mr. Matheson.

Mr. MATHESON. Thank you, Mr. Chairman.

First question I wanted to ask was, if I have local communities and they are looking at projects that have been authorized in SAFETEA:LU, how can they receive assistance in planning for if there is going to be a difference between authorized and obligation amount? What would you suggest I can do to help in their planning process as they look forward?

Mr. CAPKA. Sir, that is a very good question, and it is one that is asked regularly. Our division offices are well equipped to handle those questions locally. But even here in Washington, we would be more than happy to help. It is a matter of the difference between contract authority and obligation limitation. And it is about an 85, 86, 87 percent of the contract authority will actually appear as something the communities can program and work.

In addition, we have had the 1 percent rescission. There are a few others that kind of eat away at the amount of money that appears in the bill itself. But I think explaining that and laying it out is something we can do and should be able to do, and sir, if you have some specifics, I would be more than happy to handle that for you.

Mr. MATHESON. And is it your sense that there is going to be reasonable stability or certainty of how that is going to play out after the next two, three, four years?

Mr. CAPKA. It varies a little bit from year to year. But I think we can provide enough stability that would allow for the planning to occur that needs to occur.

Mr. MATHESON. Next question I want to ask about was, in SAFETEA:LU there were a number of provisions included to try to streamline process, to allow projects to move forward in a more timely manner. I want to ask a general question about your thoughts about how that has played out so far, and if there are unanticipated impacts, either good or bad, that have come from that effort.

Mr. CAPKA. I think the SAFETEA:LU provisions are working pretty well. In fact, there are a number who have already taken advantage of the 180 day statute of limitations within the NEPA process on when suits can be filed and those sorts of things. We have already had a number of folks take advantage of that. We have also had a number of folks taking advantage of being able to assume the categorical exclusion responsibilities.

We have another pilot program that you are very well aware of. We have five States who will look at assuming the entire environmental review program from us. Of course, they need to have the

right laws in place, which they are working on right now. And we will work with those States. So I think SAFETEA:LU, even at this very early stage, is showing some very positive signs with respect to the efficiencies there.

Mr. MATHESON. That is good to hear. One more issue I want to raise is, when a project is listed or designated as a high priority project, can you give me a description of what the real impacts are of that and how that positions that project for safety improvements?

Mr. CAPKA. Sir, there is a category of high priority projects, of course——

Mr. MATHESON. I meant high priority corridor.

Mr. CAPKA. High priority corridors. Yes, sir, there is provision for the high priority corridors. A number of the projects have been designated already. So there is a requirement that we would need to walk ourselves through to get those projects up and running. But the discretion, to a large extent, isn't there for us to move from one location to another, because they have been designated.

Mr. MATHESON. Once it has been designated, is there some action or set of actions that the State Department of Transportation has to take with you in this regard, or is this more at your end?

Mr. CAPKA. There are requirements for our division office to be involved. I would very much encourage the discussions to occur just as soon, as early as possible, so that we can lay out the course in front of us.

Mr. MATHESON. I appreciate that. Thank you, Mr. Chairman. I yield back the balance of my time.

Mr. PETRI. Thank you.

Mr. Moran?

Mr. MORAN. Mr. Chairman, thank you. I think this is a question for Mr. Hill. I was just wanting to know the status of hours of service in regard to some exemptions that were created as well as just the general status of the litigation and how we are proceeding and what kind of results are, what survey or test results we would have on truck safety.

Mr. HILL. Thank you, Congressman Moran, for that question. Hours of service has been living a lot of our lives here in the last few years. We acknowledge that the Congress did pass several provisions in this last SAFETEA:LU that we wanted to get right on in making sure that people understood those exemptions. So we put out policy memoranda that gave guidance to enforcement officers, so that they would know how to go ahead and enforce those provisions, even though we don't have the regulation fully implemented yet, because it takes some time for us to implement a regulation once you pass the law. We believe those were self-executing, so we believe the policy memoranda are effective for enforcing those. But we do plan to have an omnibus bill next year that will allow for that to be included as a regulatory follow-up to those policy memoranda.

As far as the hours of service lawsuit, I can't really get into details, but it is progressing. They are expecting to exchange briefs this summer, and we anticipate some kind of a hearing before the court later this summer or early fall.

Mr. MORAN. What were the exemptions created in SAFETEA:LU in regard to hours of service? Was it two or three or more?

Mr. HILL. There were more than that.

Mr. MORAN. And my question is, you have issued policy statements. Are they being treated the same as if the regulation was in place, is that what you are telling me?

Mr. HILL. Yes, Congressman. We had our attorneys look at this, and we were, because of our regulatory workload, we are trying to expedite things and make sure that the will of the Congress is being enforced now. Our attorneys believe that those laws, as written by Congress, are enforceable. But we wanted to give the appropriate guidance, and yes, to answer your question, we believe that the roadside officers are treating them as they would in terms of the law.

There are some nuances to some States having differing laws that they may need to adopt. But we believe that the policy guidance has the effect of enforcement.

Mr. MORAN. And I am sorry, I was confused in part of your response about a piece of legislation next year? Is that what you were suggesting? Or something omnibus within the Department?

Mr. HILL. That would be an omnibus without our own department. It is an omnibus rule that would allow us to take several of these provisions that we believe are self-executing and put them into a single bill to move them on quickly, and it will cover all of these.

Mr. MORAN. I still am curious if it is a reasonably short list, or if you have it in front of you, I am curious as to what additional exemptions are created in SAFETEA:LU.

Mr. HILL. I am not prepared to go into a lot of detail, but I will tell you that we have them in agricultural commodities, groundwater well drilling, utility service workers, grapes, for grape haulers west of Interstate 81 in New York, propane deliveries and 100 air-mile radius for movie producers.

Mr. MORAN. I am familiar with all of them except the grape producers. Thank you very much, Mr. Hill, and I yield back the balance of my time, Mr. Chairman.

Mr. PETRI. Thank you.

Mr. Baird?

Mr. BAIRD. Thank you, Mr. Chairman, and I thank our panel. My understanding is, my good friend from Oregon, Mr. DeFazio, asked a question about Buy America. I have great concerns about this issue. And I would ask, first of all, if members of the panel believe it is important for the United States to maintain fundamental domestic industries like steel fabrication and steel manufacturing. I will just go down, beginning with Ms. Glassman, do you think that is important?

Ms. GLASSMAN. I will hand that to Mr. Capka.

Mr. CAPKA. Sir, the answer to your specific question, ″Is it important to maintain the industries?″ is, ″absolutely″.

Mr. BAIRD. My question arises because it has been the recent policy of your department to find ways to allow communities to circumvent the Buy America Act. I refer to the Bay Bridge project, but there are others.

I have a second, related question. We had a hearing in this very panel a week or so ago about increasing public-private partnerships, where private entities are being contracted to manage highways. This seems to be a trend of the future, and I understand that with limited capital, there may be some reason to argue for that.

Have you given any thought to what implications that has, vis-a-vis Buy America? In other words, let's suppose somebody has contracted to manage a section of highway. Do they have to comply with the Buy America Act as part of that agreement?

Mr. CAPKA. Sir, our implementation, our oversight of the Buy America Act has been very consistent over the last 25 years, since the Buy America Act has been in effect. We take very seriously our requirement to ensure the law is appropriately applied and enforced.

The Buy America Act applies when there is a Federal interest in a particular project and when there are Federal dollars being spent, when there is a Federal loan, such as TIFIA, that is being applied against a specific project, then Buy America and the other appropriate laws that are attached to the Federal interest also apply. And we ensure that they are enforced.

Mr. BAIRD. I guess the devil is in the details in terms of how you define a project. if you define a project in a narrow enough way, you can say that particular portion of the project doesn't have Federal funds associated with it, therefore it is exempt.

Mr. CAPKA. That is correct, sir. And our application of the definition of project has remained consistent over the last 25 years. So we haven't varied from that.

Mr. BAIRD. I would actually dispute that. But what about these public-private partnerships?

Mr. CAPKA. Well, the public-private partnerships, I would have to know a little bit more of the details. Of course, it is an evolving area that we are all learning from as we go forward. And I am sure that we will continue to learn. But if there is no Federal interest in what this public-private partnership is doing, then there would be no attachment to the——

Mr. BAIRD. Well, let's suppose, for example, that an entity wants to build a bridge somewhere, and they contract with a private capital firm to construct the bridge and to manage the bridge. The bridge is integral to the Federal highway system. It would be meaningless without the roads on the one side and the roads on the other side, which are federally funded. But the bridge, per se, is to be funded with private dollars and managed by a private entity. Is that subject to Buy America?

Mr. CAPKA. Sir, I haven't had that personal experience to review that kind of a situation. But I would tell you that I would sit down with my legal staff and my——

Mr. BAIRD. I can tell you what they would tell you.

Mr. CAPKA.—to help me negotiate my way through those issues. Because it is important to make the call correct.

Mr. BAIRD. They will find a way around it. And here is the problem. We are rapidly losing steel fabrication capacity in this Country. It is a fundamental infrastructure for safety, for travel, transportation, et cetera. If we lose this and one day on the west coast, where I reside, an even larger earthquake happens, and our steel

bridges, strong though they are, fail, we will be dependent on foreign countries to rebuild our own domestic infrastructure. That, I believe, is being contributed to by this Administration and by your policies. I think it is a huge mistake. And for the record, I want today to put that on the record, so that when that happens and we need to go to the steel fabricators, somebody says, you know, they closed about 10 years ago, because we had some major projects that went to China or went to Korea or went to Japan, because in the short term, somebody wanted to save a little bit of money. And in the long term, they put Americans out of work, damaged American infrastructure, and we lost a critical fabrication industry, which we can't rebuild. Once those companies go down and the work force leaves, and the land turns into condominiums, we will never rebuild it. And we will be totally dependent to rebuild our infrastructure on a foreign country. And that is a heck of a bad mistake. And I think this Administration and your department are contributing to it.

I yield back.

Mr. PETRI. Thank you.

Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman.

Ms. Bushue, I can ask you this question, I think we have made some progress, and perhaps you can bring us up to date. The proposed Trans-Hudson Tunnel, a lot has been written about it, a lot has many times been discussed. That is an extremely critical project, tunnel project for the New Jersey-New York region, as we are currently at capacity, beyond, with a 100 year old tunnel which is providing 150,000 trips into and out of Penn Station, which you know those tunnels are all falling down. Serious problem.

We await approval, and I know there was a meeting with Mr. Wyington of NJK. Could you bring me up to date, and the rest of the committee up to date as to the progress we are making on that tunnel, just for a few minutes, give us a capsule picture?

Ms. BUSHUE. Sure, absolutely. Well, first, I am going to be meeting with him next week, as I am up in New York for the APTA PRO conference. I am going to be touring the Hudson-Bergen Transit line. I understand that we will be meeting with—I think we refer to it as the ARK project.

Mr. PASCRELL. That is correct.

Ms. BUSHUE. But as it is today, they are looking to go into preliminary engineering. I think we are waiting, as I understand it right now, for their financial proposal. I think we have part of it. I think they have some pieces that are missing. And we have asked for some additional information. But we are looking at it, and it is certainly on our radar.

And you made a really good point about the tunnels. I had the pleasure of spending some time up in New York, for two days, the MTA gave me an extensive tour of what's going on up there. And those projects are extremely complex. The tunneling is just totally amazing. I didn't know New York City has really a city underneath it, almost, with all the tunneling they have involved. But it is a very interesting transit project.

But we are very much familiar with the ARK project, and we are certainly giving it attention, sir.

Mr. PASCRELL. This would be a large step forward for the entire area, as you well know.

Ms. BUSHUE. Certainly.

Mr. PASCRELL. Mr. Capka, first of all, I want to congratulate you on your recent confirmation. During your Senate confirmation hearing, you committed to allowing New Jersey to continue to follow multi-year funding formulas for capital construction projects. I just want you to reiterate that for us, if you would, take a minute to do that.

Mr. CAPKA. Well, sir, thank you very much first of all for your congratulations. I really appreciate that. Secondly, with respect to the fiscal constraint process that we and the New Jersey DOT are working, we are not so concerned about the process that the Department uses to get to its end state. But we just want to make sure that the process itself is fiscally constrained. In other words, that they have the resources to finish what they start.

I think we are in pretty good shape right now, that we won't see any further problems with the way New Jersey is handling this. That is our test. It is more the outcome than the process of getting there.

Mr. PASCRELL. Thank you.

Ms. Glassman, you are Acting Administrator?

Ms. GLASSMAN. Deputy Administrator.

Mr. PASCRELL. Deputy Administrator. Administrator Glassman, in all, SAFETEA:LU provided approximately $1.5 billion in incentive grant funding to increase vehicle occupant protection. As you know, whiplash is the most common and annoying type of injury in motor vehicle crashes. It is by far the predominant injury in rear impact crashes and generates billions of dollars in medical costs. There is innovative research being done in North Jersey right now with the goal of significantly decreasing these kinds of injuries.

This approach involves a contoured seat design concept, I don't know if you have seen it, that will help control the interaction between the torso and the seat back in order to preserve the spinal curvatures during a rear impact collision.

The last upgrade, and correct me if I am wrong, to the Federal Motor Vehicle Safety Standard Number 202 on head restraints was made in late 2004. This is what my question is, my point. What sort of research has NHTSA been involved with since then, and are there plans to update whiplash prevention regulations in the near future? This is a very critical issue with regard to many injuries that are happening throughout the United States.

Ms. GLASSMAN. Yes, sir, it is, thank you for the question. We issued a final rule upgrading standard 202 in about 2004. We have received many petitions for reconsideration on various aspects of the rule, so we continue to do research and to look at those petitions. A lot has to do with the level of what we call backset, which is how close your head is to the actual head restraint. That is a core feature of reducing whiplash and rear impact injuries, is making sure there is less movement of the torso and the head.

There's also a considerable amount of research into new technologies that will help reduce the incidence of crashes occurring in the first place. We are seeing a big shift from crash worthiness, or protecting people when the crash occurs, into actual crash avoid-

ance, making sure that crashes do not occur. We see a lot of technology starting to come into vehicles today and new technologies on the horizon which will help reduce the incidence of those crashes actually occurring. We believe that that will help reduce those injuries quite a bit.

Mr. PASCRELL. Mr. Chairman, when you see the number of significant injuries that we are talking about, this could have an appreciable effect on insurance rates all throughout this Country. If we can do this, and if this provides for a large hulk of those injuries, I think that is one way, in a huge puzzle. But it is one way to begin to bring those huge insurance rates down to some degree.

Thank you. Thank you, Mr. Chairman.

Mr. PETRI. Mr. Cummings, do you have questions?

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Ms. Bushue, SAFETEA:LU modified the definition of a transit capital project to include inner-city bus terminals that are a part of intermodal projects. These terminals are now eligible for FTA funding to the same extent as any other transit capital project. This new eligibility is particularly important in cities like mine, Baltimore, which are planning new inner-city bus-intermodal projects.

When do you expect that FTA will issue final guidance implementing the provisions, and can you describe the process that the FTA has developed to help transit agencies implement the bus and bus facilities projects identified in the SAFETEA:LU bill?

Ms. BUSHUE. Yes, Congressman Cummings, I just had to think about that for a second. It is a public-private partnership that we are very excited about, that inner-city buses can use these terminals along with city buses, they can join in together. And we have sought comments which ended April 27th, and we are collecting those comments, and we hope to have guidance published, joint guidance published in the Federal Register some time this summer.

Mr. CUMMINGS. OK. I know that PHMSA is not here, but I would like to mention to you all my concern about implementation of Section 7131 of SAFETEA:LU, which requires the Administrator of the Pipeline and Hazardous Materials Safety Administration to enter into a contract with the National Academy of Sciences to conduct nine specific research studies on the transportation of hazardous materials. I understand that the slow release of funds from the Federal Highway Trust Fund has delayed initiation of these studies.

Section 7131 also required that the Secretary of the Department of Transportation submit a report not later than six months after the enactment of SAFETEA:LU, on the need to establish a cooperative research program on hazardous materials transportation. I understand that the Department of Transportation is waiting to clear the report before its final release.

I am just concerned that this takes place timely and soon. I hope that you will take that back to the PHMSA people.

Mr. CAPKA. Mr. Cummings, I sure will. I appreciate your comment.

Mr. CUMMINGS. And it was my amendment, that is why I am so concerned about it. I already told my constituents I did this great thing, and I want to be able to say it's happening.

Mr. CAPKA. Sir, we will follow up with you and give you the status of where that particular action sits today.

Mr. CUMMINGS. Just going back, I see I still have a moment, Ms. Bushue, thank you very much. Ms. Bushue, let me go back into the second part of my question about this whole situation with the projects, intermodal projects. Can you describe the process that the FTA is going through?

Ms. BUSHUE. For this particular one?

Mr. CUMMINGS. Yes.

Ms. BUSHUE. Yes, absolutely. We published guidance January 31st. After those guidance were published, we received some comments, a lot of comments. So we published an addendum to those guidance, I believe they were published in March. And they closed for comments on April 27th, 2006. But we do definitely, we will have final guidance for the joint development partnership by this summer, sir.

Mr. CUMMINGS. It is another concern of ours. We were able to get an earmark for a major project, smack dab in the middle of my district. And we would just like to know that they are going to be able to have the kind of guidance they need to be able to do it.

Ms. BUSHUE. Absolutely. My trusty staff just gave me a note and they said we are working very closely with your office to develop some specific projects.

Mr. CUMMINGS. I thought he was going to say we just approved it.

[Laughter.]

Mr. CUMMINGS. Thank you, Mr. Chairman.

Mr. PETRI. Thank you.

I have one or two more questions, but before asking them, let me see if anyone else—Mr. DeFazio.

Mr. DEFAZIO. Briefly, Mr. Chairman. We have kept the panel a long time. Just back to Small Starts, I guess I have two concerns, further concerns. One is, I want to be certain that we are building, and I have not seen the proposed rules, into these rules, prohibitions on fragmentation, that is, people have existing large projects, break them up and say, oh, well, we have a new project here. So that is one, I would like you to address that.

And the second one is, although you seem quite enthusiastic about the construct you are coming up with to implement our legal, our legislative mandate, I note that the Administration only recommended $100 versus $200 million this year. And the appropriators, my understanding, have eliminated the $100 million and put it over into other projects where it will hardly be noticed. So I guess I would like a comment on both those things.

Ms. BUSHUE. Sure. I share your concern with your first point. We will be looking at the proposals very closely to ensure, Congressman DeFazio, that that does not happen. I always share with the FTA staff, I always get a kick, with all due respect to Congressman Pascrell, with the MTA says something like, I can't wait for that Small Starts project to get up and running. Because one of its benefits was to kind of level the playing field for all cities and towns to have a fair shake, if you will, on getting transit funding as such.

As to your second point, the reason that the Administration did propose that, or we proposed that $100 million for the Small Starts

program in fiscal year 2007 was due to the fact that the final rules would not be completed until probably August 2007. And we thought that $100 million was the appropriate investment and down payment for the program.

Mr. DEFAZIO. But you did say earlier that you will be taking applications in the interim. I mean, how is it you recommend less than we sort of assessed. I think there is tremendous pent-up demand for these things, and I think your legitimate applications will far exceed the $100 million, let alone the $200 million, if implemented in the way we envision for other innovative street car, bus rapid transit, other sorts of things, that could make a major difference in small and mid-size cities.

I am concerned that you sort of pre-calculated or guessed that, not having yet seen any applications and I am not sure what you are going to do, or how we are going to deal with the Appropriations Committee, since I guess they interpreted a lack of enthusiasm there because of the cut as opposed to your idea that perhaps it was just sort of a phasing and implementation issue. So hopefully the Administration will express some concerns about this move, since you are enthusiastic about it, to the Appropriations Committee.

And then Mr. Chairman, the staff asked me for whatever reason to ask unanimous consent that all members have X amount of time to submit questions for the record which won't be answered. So I ask that, Mr. Chairman.

[Laughter.]

Mr. PETRI. We will make a good faith effort to answer, anyway. Other questions? Mr. Blumenauer?

Mr. BLUMENAUER. If I could, Mr. Chairman. Just following up on Mr. DeFazio's point vis-a-vis the Subcommittee. I would hope that our Committee would be pretty aggressive when the bill comes to the floor, as we have done in the past, in terms of protecting the integrity of the legislation we have worked on.

And the notion that they have substituted their judgment in terms of—the material I have received is very hostile to both the intent and the program. And I would hope that the Committee, as we have done in the past, would be there pushing back. Because we spent a lot of time putting this together. We are responding to significant community support around the Country. And I just, I am troubled that we would have them intervene again, undercutting what we are doing.

But with Mr. Oberstar not being here, I know he is excited that we have half the States already designating the Safe Routes to School permanent coordinator, we have 15 that are interim, 10 that I am sure are right on the verge. But my recollection here is that as part of the Safe Routes to School program, we were going to get a report of the School Task Force Committee, Safe Routes to School Committee, March 31st. And my understanding is, there has been no record that the Committee has yet been appointed, let alone delivering the report. Am I missing something here, or did you work out something with Mr. Oberstar on the side?

[Laughter.]

Mr. CAPKA. Sir, as you well know, Mr. Oberstar has been very involved in the Safe Routes to School program. And yes, there was

a report that was due at the end of March. It was submitted toward the end of April. So there was a report. We have also brought on——

Mr. BLUMENAUER. You actually formally put together the task force?

Mr. CAPKA. We have formulated a task force. I will have to be sure we have brought on the University of North Carolina to act as the clearinghouse for that operation.

Mr. BLUMENAUER. But there was a task force that was going to put together this report. And I don't think they have ever been formally—if we could find out what is going on.

Mr. CAPKA. Yes, sir, there is a slight problem with the task force, because it falls under the Federal Advisory Committee Act. So we have a little bit of homework to do before we can launch the task force. You are right, that hasn't been done yet, but we are in the process of working that issue. We have submitted a report but the task force——

Mr. BLUMENAUER. That the task force was going to do that hasn't yet been appointed? OK. Thank you, Mr. Chairman.

Mr. PETRI. Thank you, Mr. Blumenauer.

Ms. Johnson.

Ms. JOHNSON. Thank you very much, Mr. Chairman. I appreciate this hearing. I am sorry I was late arriving, I had a markup in another committee.

But I do want to ask a question of Ms. Bushue, the Acting Administrator of the FTA. First, we appreciate the fact that you are working with us on transportation issues already, especially the Dallas Area Rapid Transit.

Secondly, I want to say that the FTA bus program for intermodal terminals, including the inner-city bus portion of these terminals, is very, very important in my district. We have lots of poor people and lots of miles to travel in Texas. If you haven't ever been to Texas, I will try to get you around to see it.

The setaside is similar to the inner-city bus intermodal program proposed in the Administration's SAFETEA proposal and in legislation that I sponsored. So I believe that development of intermodal terminals and inclusion of inner-city buses in these terminals should be a high priority at the FTA, as they would provide increased convenience, efficiency and seamlessness for passengers dependent on public transit. I just want to know when or how does the FTA intend to implement this setaside program.

Ms. BUSHUE. Thank you, Congresswoman Johnson. I will be coming to Dallas on July 3rd for the opening ceremony of the extension of your light rail line. So I will look forward to seeing you there.

Actually, your colleague, Congressman Cummings, had the same question, and just to let you know that April 27th we closed the Federal Register notice for comments from the guidelines that we had outlined for joint use of the public and private, or the intermodal terminals for public and private use. We hope to have those guidelines ready this summer, hopefully no later than August.

Ms. JOHNSON. Thank you. Now, be assured that not all the poor people are in Dallas, so don't go there looking for them. They are all over Texas, though. So if you come to Dallas and see how beautiful it is and what a wonderful place, that is all through. But we

have that other, too, that might not be as obvious, where you will be.

Ms. BUSHUE. Absolutely. You do have a wonderful light rail system, and the Secretary, I think, will definitely be joining us. We look forward to traveling there July 3rd. Thank you.

Ms. JOHNSON. Thank you very much, Mr. Chairman.

Mr. PETRI. Well, let's see. I have two—did you have another question?

Just two quick questions, one for Ms. Bushue. And that has to do with the New Freedom program to help disabled people with access. Do you know when the final guidance for the New Freedom program will be published and what kinds of specific activities will be eligible under the New Freedom program? We are getting inquiries from various constituencies and so on. I think we had some legislative language we were watching like hawks to see how you actually implemented.

[Laughter.]

Ms. BUSHUE. Yes, you are, Mr. Chairman. You have a very, very agressive staff that has been watching us very closely. But they do a great job. We enjoy our partnership with them.

First, I would like to say that we did issue the guidance, the draft guidance, in March. It was amazing, the number of comments. And I have to tell you, I know—do I sound enthusiastic about transit? I am. It is just, I just can't tell you how exciting really the industry is and the communities are across the Country. I like to say transit is hot. And it really is. There is just so much enthusiasm out there about it, so much going on. And as for the New Freedom program, we received over 190 comments, which is unbelievable. So there is a lot of interest.

And we are going through those comments, and we hope to post a final circular, final guidance in July. But it is our intent, and of course, it is not final as we continue to go through the comments that we receive, but as for the New Freedom, it is our intent that it would support services, new services, and beyond the ADA. I think the issue was or, but FTA's intent is to focus on new services, and services beyond the Americans With Disabilities Act.

Mr. PETRI. Thank you. There is one member of this panel who has been not acting, but confirmed for some time, Mr. Kaveeshwar. But we can't let you off without a question, sir, because we are interested in how you are doing in administering the competitive selection process for the UTC, or university transportation center program.

Mr. KAVEESHWAR. Thank you for asking that question, Mr. Chairman. Let me just give you a very quick run-down on what we are doing with respect to the competitive process. The regional UTCs, there were 10 of them, and that competition is just closed. They opened it on March 15th and the application was received on June 1st. We intend to finish our final selections by July 14th.

The next competition, that is the Tier 1 UTCs, and that competition just opened on June 1st. The applications are due on August 15th, and we intend to finish the selections by September 29th. So we intend to award all of the Tier 1 as well as the regional UTCs by the end of this fiscal year.

We also want to thank this Committee for strengthening this program over the TEA–21. We are very excited about it, and we are hoping to use the expanded program and connect its research to the Department's priorities.

Mr. PETRI. Thank you. And this hearing is adjourned.

[Whereupon, at 3:52 p.m., the subcommittee was adjourned.]

Statement of
J. Richard Capka, Administrator, Federal Highway Administration
John H. Hill, Assistant Administrator and Chief Safety Officer,
Federal Motor Carrier Safety Administration
Sandra Bushue, Deputy Administrator, Federal Transit Administration
Jacqueline Glassman, Deputy Administrator, National Highway Traffic Safety Administration
Ashok G. Kaveeshwar, Administrator, Research and Innovative Technology Administration
U.S. Department of Transportation

Before The
Subcommittee on Highways, Transit & Pipelines
Committee on Transportation and Infrastructure
U.S. House of Representatives

Implementation of SAFETEA-LU
June 7, 2006

Mr. Chairman and Members, we are pleased to appear before you today to report on the U.S. Department of Transportation's (DOT) implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). Signed into law by President Bush on August 10, 2005, SAFETEA-LU authorizes $244 billion for fiscal years (FY) 2005 through 2009 for highway infrastructure, public transportation, and highway and motor carrier safety programs--a record level of investment. Secretary Mineta has made implementation of this important legislation a top priority for DOT, and our agencies have worked aggressively to make the authorized funds available and issue guidance and regulations necessary to carry out programmatic modifications in SAFETEA-LU. Implementation is, in most cases, going smoothly, as you know from our frequent briefings for Congressional Members and staff. There is a lot of good news in today's status report.

Recently, we have had a number of opportunities to highlight the vital role of transportation for the Nation's economy and the quality of life of its citizens, and to celebrate some of DOT's achievements. On May 18, during National Transportation Week, the new span of the Woodrow Wilson Bridge was dedicated, and will open to the public later this month. The bridge project is now 53 percent completed, and it is on schedule and under budget. On the 29th of this month, we mark the 50th anniversary of the Dwight D. Eisenhower National System of Interstate and Defense Highways. Often called the greatest public works project in history, the Interstate System changed the face of America, giving our country a freedom of mobility unrivaled anywhere in the world.

In many respects, however, our transportation system has become the victim of its own success. Our growing economy and standard of living have created a demand for travel and movement of goods that is increasingly difficult to meet. Congestion and delays have become a fact of life on our highways and in our airports and seaports. During National Transportation Week, Secretary Mineta launched the *National Strategy*

to Reduce Congestion on America's Transportation Network--a national congestion relief initiative designed to address the challenges ahead for our surface transportation system. This dynamic plan will maximize valuable tools Congress provided in SAFETEA-LU to improve operation of our surface transportation system, encourage the development and deployment of new technologies and construction methods, and expand opportunities for private investment in transportation infrastructure.

As you know, we anticipate that traditional funding sources for highway programs, at all levels of government, may in the future no longer produce sufficient revenues to keep up with infrastructure needs. SAFETEA-LU established two commissions to address this issue. Secretary Mineta was designated Chairman of the National Surface Transportation Policy and Revenue Study Commission to explore options for the future direction of our surface transportation system and to review current methods of, and explore alternatives for, investing in and managing that system. On May 24, the Secretary convened the first meeting of this Commission. The Secretary has tasked the Commission with finding solutions not only to raising revenue for highway and transit projects, but also to reducing the costs of congestion. Additionally, the President's FY 2007 Budget proposes funding the Open Roads Financing Pilot Program to identify new ways of financing highway investment, as well as improving highway performance and reducing congestion. The $100 million of proposed Open Roads funding would assist up to five States to make practical tests of new ideas or ideas that have been successful in other countries for managing and charging for the use of major portions of their highway system.

While there are no easy solutions to the Nation's transportation challenges, the *National Strategy to Reduce Congestion*, the SAFETEA-LU commissions, and the Open Roads Financing Pilot, hold significant promise for new approaches, building on the authorities provided in SAFETEA-LU.

DOT appreciates all of the work of this Committee on the reauthorizing legislation and is pleased to update you on our progress in carrying out the law.

FEDERAL HIGHWAY ADMINISTRATION

The Federal Highway Administration (FHWA) is charged with the broad responsibility of ensuring the safety, reliability, and efficiency of America's highways, roads, and bridges. Although State, local, and Tribal governments own most of the Nation's highways, FHWA provides financial and technical support to them for constructing, improving, and preserving the system and increasing the efficiency of its operation. SAFETEA-LU authorizes $193.2 billion in guaranteed funding for the Federal-aid Highway program in FY 2005 through 2009. Moreover, the Act provides valuable tools for increasing highway safety, reducing traffic congestion, improving freight movement, and streamlining infrastructure construction. From the date of enactment, FHWA has worked to put SAFETEA-LU's funding into the hands of State, local, and Tribal governments as quickly as possible, and to assist recipients in advancing their projects. FHWA has facilitated this primarily through issuance of guidance to take advantage of new programs and program modifications.

In FY 2005, $39 billion in contract authority was made available to States and allocated programs according to the provisions of SAFETEA-LU (including $100 million for the Emergency Relief permanent authorization). Under the obligation limitation enacted in SAFETEA-LU, total new resources available for obligation were $35.1 billion ($34.4 billion obligation limitation plus $739 million in exempt contract authority). In FY 2006, $38 billion in contract authority was available for States and allocated programs according to the provisions of SAFETEA-LU (after the FY 2006 Department of Defense one percent across-the-board rescission). The FY 2006 obligation limitation made a total of $36.4 billion in new resources available for obligation ($35.7 billion obligation limitation plus $739 million in exempt contract authority).

SAFETEA-LU contains nine express provisions requiring the Secretary of Transportation to conduct a rulemaking affecting FHWA. All nine statutorily mandated rulemakings are well underway, as are actions on rulemakings and guidance for 16 additional sections that, based on FHWA's initial review of SAFETEA-LU, required formal implementation activities. FHWA program offices are posting guidance on their websites, with the FHWA SAFETEA-LU website providing a central linking site. A Federal Register notice on February 2, 2006, announced that guidance was being issued and would be available by accessing the consolidated SAFETEA-LU website--http://www.fhwa.dot.gov/safetealu/reference.htm.

Safety

SAFETEA-LU significantly increases the national policy emphasis on safety and the resources available to reduce traffic fatalities and injuries on all public roads. SAFETEA-LU authorizes a new core Highway Safety Improvement Program (HSIP) and provides States more than $5 billion over four years to implement the HSIP--almost double the amount of funds available for infrastructure safety under the Transportation Equity Act for the 21st Century (TEA-21). SAFETEA-LU also creates new safety programs such as the Safe Routes to School (SRTS) program to enable and encourage children, including those with disabilities, to walk and bicycle to school. SRTS is separately funded at $612 million over five years.

Major new provisions of the HSIP call for development and implementation of Strategic Highway Safety Plans (SHSPs), dedicated use of set-aside funds for the High Risk Rural Roads program, new reporting requirements for the HSIP and Railway-Highway Crossings program, and reporting of the top five percent of locations with the most severe safety needs in each State.

To assist State and local partners in implementing these new programs and requirements, FHWA has issued six new guidance documents, meeting with key Federal, State and local safety stakeholders as the guidance was developed. FHWA has also issued a Request for Applications for another new program, the Work Zone Safety Grants program, with grants to be awarded this summer.

FHWA is providing direct assistance to States in developing their SHSPs by helping them convene the required safety stakeholders, analyzing data, determining critical emphasis areas, and providing assistance with initial SHSP drafts. At this time, virtually all of the States are in the process of developing SHSPs.

The safety-related reports to Congress required by SAFETEA-LU are underway. Selection of the SRTS Taskforce is also underway and a letter report has been delivered to Congress.

FHWA is providing direct assistance to States and others for cost-effective implementation of the SAFETEA-LU safety provisions. These efforts will result in lives saved and injuries prevented on America's highways.

Congestion Management

Addressing congestion is a top priority of DOT, as evidenced by the launching of the previously mentioned *National Strategy to Reduce Congestion*. SAFETEA-LU provides for a number of key programs and provisions that directly support this initiative by improving the day-to-day management and operation of the transportation system. FHWA is moving aggressively to advance these programs and provisions. The Value Pricing Pilot Program, Express Lanes Demonstration Program, and the high occupancy vehicle (HOV)/high occupancy toll (HOT) lane provisions all provide opportunities for States to relieve congestion by fully utilizing available capacity and using pricing to balance demand and capacity. Federal Register notices have been issued for these programs, solicitations of interest have been received, and FHWA is working with interested jurisdictions to implement these programs. FHWA is also working with the Environmental Protection Agency (EPA) on an EPA-required rulemaking to establish certification and labeling requirements for allowing low emission and energy-efficient vehicles to use HOV lanes.

FHWA is addressing congestion management through the planning process in two significant ways as mandated by SAFETEA-LU: implementing a congestion management process in major metropolitan regions and incorporating operational and management strategies into metropolitan and statewide long-range plans. FHWA continues to hold workshops with metropolitan planning organizations (MPOs) and State departments of transportation on best practices for implementing this legislation and meeting Federal requirements while providing meaningful congestion relief. In the coming months, FHWA will publish proposed regulations and provide guidance on these provisions.

Through implementation of various SAFETEA-LU provisions, FHWA is ensuring that travelers will have the information they need to make informed decisions about the mode of transportation they use, and the route and time they travel. In May, FHWA published an announcement and request for information for the new Real Time System Management Information Program to provide, in all States, the capability to monitor the traffic and travel conditions on the major highways of the United States. Later this year, using the input received, the FHWA will develop and publish detailed guidance implementing the program. FHWA has also received nearly 30 expressions of interest in the new Transportation Technology Innovation and Demonstration Program for eligible metropolitan areas, in response to a notice published in October 2005, and is working with the 13 selected jurisdictions to establish public private partnerships and deploy $2 million in real-time traveler information infrastructure in each city.

Freight Mobility

With respect to freight transportation, our system faces significant capacity constraints at key international gateways, at major domestic freight hubs, and in major urban areas where transcontinental freight lanes intersect congested urban routes. Five SAFETEA-LU programs have a specific freight emphasis or will provide substantial benefits to freight transportation. FHWA has issued implementation guidance for the projects in Projects of National and Regional Significance (PNRS), the National Corridor Infrastructure Improvement Program, and the Freight Intermodal Distribution Pilot Grant Program. FHWA is preparing a Notice of Proposed Rulemaking (NPRM) for the PNRS program, as required by SAFETEA-LU. FHWA has apportioned FY 2005 and 2006 formula funds for the Coordinated Border Infrastructure (CBI) Program to the 15 land border States eligible to receive funding, and guidance for the Truck Parking Facilities Program will be issued shortly. SAFETEA-LU also invests in research, training, and education in freight professional capacity building to strengthen decisionmaking at State and local agencies, and FHWA's Freight Professional Development Program delivers this service. FHWA has been moving forward expeditiously on all of these provisions and now Secretary Mineta's *National Strategy to Reduce Congestion* will require even more ambitious schedules for implementation.

Highways for LIFE

Many provisions of SAFFETEA-LU are directed at increasing the efficiency of our transportation system by improving its operations and by improving materials, contracting, and construction techniques. In particular, SAFETEA-LU includes $75 million for the Highways for LIFE pilot program. The purpose of the program is to promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process. Last month, FHWA published guidance for the program and solicitation of grant applications, based on comments received from the earlier publication of an implementation plan.

Stewardship and Oversight

New requirements in SAFETEA-LU promote more effective stewardship of Federal funds and efficient project delivery. Section 1904 enhances title 23 requirements for value engineering or other cost-reduction analysis for certain projects. A Value Engineering NPRM will be published this summer. Section 1904 also requires that the Secretary establish an oversight program to monitor the effective and efficient use of Federal-aid funds, and a guidance memorandum is scheduled to be issued next month. In addition, FHWA is developing management tools that will provide information necessary for effective monitoring of funds in accordance with this provision, including Guidance for Stewardship/Oversight Agreements, a Risk Management Framework, and a Program Delivery Assessment Tool. Section 1904 requires the Secretary to perform annual reviews of the State transportation departments' financial management systems, and FHWA has implemented a financial oversight program -- the Financial Integrity Review and Evaluation Program -- that requires annual review of the States' financial systems affecting Federal-aid projects.

SAFETEA-LU lowered the threshold for defining a Major Project from $1 billion to $500 million, or one designated by the Secretary, almost doubling the number of Major

Projects across the country to a total of 37. More than 80 potential major projects are currently within the environmental phase of development. In addition to continuing requirements for annual finance plans, SAFETEA-LU established a requirement for Project Management Plans on all major projects. For projects between $100 and $500 million in cost that are not designated as major projects, SAFETEA-LU established a requirement for State transportation agencies to develop finance plans and make them available to FHWA upon request. On December 8, 2005, FHWA issued a memorandum providing preliminary guidance on SAFETEA-LU Finance Plan requirements, and is in the process of updating the existing Finance Plan Guidance document. FHWA issued Interim Major Project Guidance on January 27, 2006, for satisfying revised Major Project requirements under SAFETEA-LU, and Project Management Plan guidance is in the process of being revised to reflect SAFETEA-LU changes. In support of the amended Major Project requirements, FHWA will be conducting nine validations of project cost estimates, four cost-estimation training sessions, and two project management plan workshops within the next year.

Financing Innovations

SAFETEA-LU creates new opportunities for funding transportation infrastructure by increasing flexibility for tolling, expanding eligibility for Transportation Infrastructure Finance and Innovation Act (TIFIA) loans and private activity bonds, and extending the State Infrastructure Bank (SIB) program to all States. Moreover, there are other, non-finance related provisions that will assist in attracting private sector investment. For example, changes in the design-build provisions, under section 112 of title 23, United States Code, to allow certain actions related to entering into a design-build contract prior to the completion of the National Environmental Policy Act process should generate more interest from the private sector in design-build projects, since the private sector can be involved much earlier in the project definition stage of project development. An NPRM on the design-build contracting changes required under section 1503 of SAFETEA-LU was published on May 25.

The tolling provisions discussed under Congestion Management may also increase State or local government funding for transportation in addition to satisfying their primary goal of enhancing mobility. Other tolling programs and provisions within SAFETEA-LU are intended to generate funding support for specific projects and include the Interstate System Construction Toll Pilot Program, the Interstate System Reconstruction and Rehabilitation Pilot Program, and tolling permitted by agreements under section 129 of title 23, United States Code. FHWA has published two Federal Register notices to solicit participation in the six SAFETEA-LU programs that grant authority to toll Federal-aid facilities. Together, the two Federal Register notices are intended to explain all of the opportunities for States and other qualifying transportation agencies requesting permission to toll their respective facilities. The notices also describe the process used by FHWA to identify the most appropriate program under which the State could implement its project.

A Federal Register notice soliciting interest in Private Activity Bonds has been published and, together with the Office of the Assistant Secretary for Transportation Policy, FHWA has already met with several prospective applicants for private activity

bond allocations. In addition, FHWA is in the process of developing procedures for the new SIB program.

Innovative financing provisions of SAFETEA-LU will not increase revenues to the Highway Trust Fund. Rather, these provisions are intended to increase overall funding for transportation, including leveraging Trust Fund dollars to attract more private capital.

Planning and Environment

SAFETEA-LU includes a number of provisions aimed at improving efficiency in highway program and project delivery through better planning coordination and by streamlining the environmental review process. Cutting through red tape, reducing delays, and reaching timely decisions that are good for both the environment and for transportation will enhance mobility and advance DOT's congestion reduction efforts.

Some of the changes to planning and environmental provisions will require completed rulemaking for full implementation, and work on this is underway. For example, an NPRM with proposals for implementing section 6001 changes to the Metropolitan and Statewide planning processes is expected to be published in the Federal Register this week. Where appropriate, guidance has been issued to expedite use of new provisions. Within a month following enactment of the law, FHWA and the Federal Transit Administration (FTA) jointly issued initial guidance clarifying where changes for the Metropolitan and Statewide planning processes, and a number of issues related to planning, environment, and air quality, changes could take effect quickly. We have followed up with additional guidance and clarifying information on several planning process changes. In addition, FHWA and FTA have conducted informal outreach sessions on the new planning provisions with key stakeholder groups, including the American Association of State Highway and Transportation Officials (AASHTO), the Association of Metropolitan Planning Organizations (AMPO), the Surface Transportation Policy Project (STPP), the National Association of Regional Councils (NARC), the Institute of Transportation Engineers (ITE), the American Road and Transportation Builders Association (ARTBA), and others.

We also acted quickly on guidance for the new process requirements for projects advanced with environmental impact statements, pursuant to section 6002. Initial joint FHWA and FTA implementation guidance was issued on September 2, 2005. Interim guidance for use of the 180-day statute of limitations for lawsuits challenging Federal agency approvals, as provided in section 6002, issued on December 1, 2005, will encourage public-private partnerships by providing a level of comfort to the private sector.

On April 4, 2006, FHWA issued implementing guidance for section 6004, which allows States to assume DOT authority for projects categorically excluded under National Environmental Policy Act (NEPA) regulations, with FHWA in a programmatic monitoring role.

To further streamline environmental review and expedite project delivery, section 6005 of SAFETEA-LU established the Surface Transportation Project Delivery Pilot Program. This program allows five States to assume all DOT environmental responsibilities under NEPA and other environmental laws (excluding the Clean Air Act and transportation planning requirements) for one or more highway projects. On April 5,

2006, FHWA published an NPRM, which proposes the application requirements for the program, and we plan to supplement the final rule with guidance concerning audits, performance measures, legal responsibilities, and termination of the pilot program.

SAFETEA-LU, in section 6009, made a number of tightly circumscribed changes in the requirements for protections of parks and historical resources, commonly known as "Section 4(f)." These were the first substantive revisions to Section 4(f) in almost 40 years. FHWA and FTA jointly issued guidance on December 13, 2005, calling for collaboration among FHWA, States, and officials with jurisdiction over Section 4(f) resources to jointly determine when impacts are minimal (*de minimis*). This will simplify the processing and approval of projects that have only *de minimis* impacts on lands protected by Section 4(f). DOT has developed an NPRM on Section 4(f) that will be published in the Federal Register shortly. On January 13, 2006, FHWA also issued guidance for applying the Section 4(f) exemption for the Interstate Highway System.

SAFETEA-LU made a number of revisions to the Clean Air Act's transportation conformity provisions, designed to provide greater flexibility without reducing protection for air quality. On February 14, 2006, EPA and DOT issued joint guidance to address these revisions and explain how to implement these changes during the period before the EPA Federal transportation conformity rule is revised.

Federal Lands

As authorized under SAFETEA-LU, the Federal Lands Highways Program (FLHP) receives a 28 percent increase for the 5-year period of the Act compared to the last five years of TEA-21 -- a total of approximately $4.5 billion over the life of the Act. Direct transfer of apportioned funds to a Federal agency upon State request is now allowed, and FLHP funds can also be used as the State/local match for most types of Federal-aid highway funded projects.

The Indian Reservation Roads (IRR) Program, in particular, received a substantial increase in funding. IRR Program levels range from $300 million in FY 2005 to $450 million in FY 2009, for a total of $1.86 billion over the life of the reauthorization. There are significant IRR program changes as well. In the past, Tribes worked directly with the Bureau of Indian Affairs (BIA) Regional Offices on IRR programs and projects, either through Direct Service Agreements, Self-Determination Act Contracts, or Self-Governance Agreements, and BIA and FHWA administered the IRR Program with FHWA oversight. Now, eligible Tribes are able to enter into contracts or agreements directly with FHWA in accordance with the Indian Self-Determination and Education Assistance Act. While the BIA has retained its program management and oversight role on a national and regional level, the FHWA/Tribal government relationship is expected to increase on both a program and project level. To date, seven Tribes and a tribal consortium have indicated an interest in entering into direct funding agreements with FHWA. We are in the process of finalizing the first agreement with the Standing Rock Sioux Tribe -- a multiyear program agreement through the life of the reauthorization.

SAFETEA-LU also made changes to the IRR Bridge Program, and FHWA expects to have an NPRM reflecting the changes ready for publication next fall, with more tribal outreach in the interim period. In addition, SAFETEA-LU requires FHWA to complete a comprehensive national IRR inventory of eligible transportation facilities, with a report due to Congress in November 2007. FHWA has begun this extensive

activity and intends to utilize existing data, conduct samplings of current data, and address and correct regional and national deficiencies in the current inventory process. We are also working with BIA to eliminate roadblocks that have occurred on the current inventory system, to allow easier access to the system and clearer instructions on actual submission requirements.

Intelligent Transportation Systems

SAFETEA-LU authorizes $110 million per year for Intelligent Transportation Systems (ITS) research and development. DOT's ITS Program continues to focus on the development and deployment of technology-based solutions to improve the safety, mobility, and global connectivity of our surface transportation system. SAFETEA-LU contains several specific requirements, including the establishment of an ITS Advisory Committee and the development of a five-year ITS Program Plan. Both of these activities are well underway. An advisory committee charter has been developed and approved by the Secretary, and DOT has issued a Federal Register notice indicating the intent of the Department to establish such a committee and to seek interest in participation. Once the docket closes, the Secretary will select and invite candidate members. A five-year Program Plan has been drafted and is being reviewed internally. SAFETEA-LU also contains some specific programmatic direction, including the establishment of a Road Weather Program; the conduct of a rural communication corridor study; and continued funding for the I-95 Corridor Coalition. The Department is actively pursuing all these directed activities.

Research

Although SAFETEA-LU provides $196.4 million annually for Surface Transportation Research, Development, and Deployment (compared with $153 million provided in the last year of TEA-21), certain structural problems within the funding for Research and Technology (R&T) challenge DOT's ability to carry out the program Congress envisioned under Title V of SAFETEA-LU. Because all of the Title V funding for FY 2006 through 2009 is designated in statute for specific programs and projects, there is no flexible Title V research funding remaining for certain activities that are authorized by Congress, and that are important for a national program. For example, no specific funding is provided for the Conditions and Performance (C&P) Report. Designations in statute for Title V funding actually exceed the authorized contract authority for each of FY 2006 through 2009. The result is that across-the-board reductions are required each fiscal year in order to stay within authorized contract authority, and many R&T activities underway in FY 2005 will be slowed or stopped. In response, the FY 2007 Budget requests an additional $37.5 million for the research limitation, which is within the Federal-aid obligation limitation. This additional limitation would apply to $37.8 million in FY 2005 unobligated balances of contract authority authorized for Title V research programs. This is a one-year solution to a multi-year problem, and DOT would like to work with this Committee on a longer-term solution for R&T funding.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

The Federal Motor Carrier Safety Administration (FMCSA) is pleased to report on its accomplishments in implementing the motor carrier provisions in SAFETEA-LU in the areas of the medical oversight of truck and bus drivers, improving the commercial driver's license (CDL) program, granting statutory relief from the hours-of-service rules, consumer protection in household goods shipments, the establishment of the Unified Carrier System Plan and Agreement, and research.

Medical Program

FMCSA's recently completed Large Truck Crash Causation Study, and previous research and data analyses, clearly emphasize the need to focus resources on the driver. In particular, FMCSA needs to ensure that truck and bus drivers meet appropriate medical qualification standards. SAFETEA-LU provides strong support for FMCSA's focus on driver qualification standards through the Agency's medical program.

Diabetes. In response to SAFETEA-LU's direction to revise the Diabetes Exemption Program to eliminate the requirement that drivers applying for an exemption must have three years of driving experience, on November 8, 2005, FMCSA published a notice announcing the revision to the program. We completed the revision to the program within 90 days, as required by SAFETEA-LU.

In addition, FMCSA notified each driver who previously had been denied a diabetes exemption because of the 3-year requirement that the program has been revised, and invited each of those drivers to reapply for an exemption. Since SAFETEA-LU's enactment, the number of diabetes exemptions has increased significantly, with 12 exemptions granted and 47 pending approval after the required public comment period. Currently, there are approximately 200 in review and we have mailed more than 3,000 application packets since August 2005. FMCSA will continue to ensure that each diabetes exemption granted results in the same level of safety that our current medical standards require.

In recognition of Congressional interest in the diabetes standard, FMCSA published an Advance Notice of Proposed Rulemaking (ANPRM) on March 17, 2006, announcing that the Agency is considering whether to amend its medical standard to allow individuals with insulin-treated diabetes mellitus (ITDM) to operate commercial motor vehicles (CMVs) in interstate commerce without having to obtain an exemption. Any revision to the current standard would conform to other changes in FMCSA's existing authority to establish, review, and revise physical qualification standards for drivers made by SAFETEA-LU. The reauthorization added a requirement that these standards be developed with the assistance of expert medical advice.

Medical Review Board. FMCSA has implemented the SAFETEA-LU requirement to establish a Medical Review Board (MRB) to provide FMCSA with expert medical advice in assessing the adequacy of the current medical standards for truck and bus drivers. In March, the Secretary announced his selection of five distinguished physicians to serve 2-year terms on the MRB. The MRB will greatly enhance FMCSA's ability to establish evidence-based medical standards that reflect the most up-to-date scientific data and research on the medical issues facing the truck and bus industry. The MRB will begin deliberations in August 2006.

National Registry of Medical Examiners. Another important step in improving FMCSA's medical oversight of truck and bus drivers is the implementation of the SAFETEA-LU provision requiring the establishment of a National Registry of Medical Examiners (the National Registry). In anticipation of the SAFETEA-LU mandate, FMCSA held a public meeting in June 2005 to announce its plans to establish the National Registry of healthcare professionals who perform physical examinations of truck and bus drivers. FMCSA described the concept of requiring that medical examiners complete training concerning FMCSA's medical regulations and the proper application of those standards in assessing driver medical fitness for duty. Upon completion of the rulemaking to prescribe the standards for including medical examiners in the registry and the offenses that would result in their being removed from the registry, FMCSA will have a means of ensuring that all healthcare professionals who certify driver medical fitness for duty do so in accordance with FMCSA's standards. We will hold additional public meetings in June and July of this year.

Commercial Driver's License (CDL) Program

In March, FMCSA published a Final Rule to implement the SAFETEA-LU provision concerning school bus driver qualifications. As a result, States that had not previously adopted rules to satisfy FMCSA's requirement for certain testing of applicants for a school bus endorsement were provided with additional time to achieve compliance with the Federal CDL standards.

On May 2, FMCSA announced its plans in the Federal Register to modernize the Commercial Driver's License Information System (CDLIS) in response to SAFETEA-LU. The notice explains how FMCSA's plan satisfies the statutory requirement to: comply with applicable Federal information technology security standards; provide for the electronic exchange of information, including the posting of convictions; contain self-auditing features to ensure data is being posted correctly; and integrate the CDL and medical certificate.

These are just two examples of our ongoing efforts to enhance our CDL program. Additionally, we continue to work with the States to finalize implementation of the provisions of the Motor Carrier Safety Improvement Act of 1999.

Regulatory Relief – Hours of Service

SAFETEA-LU includes several self-executing provisions concerning hours-of-service rules for truck drivers. To ensure that Federal and State enforcement officials are aware of the statutory exemptions to the hours-of-service rules, FMCSA has issued enforcement policy memoranda to provide guidance on how to apply the exemptions. The memoranda cover the following exemptions: operators of vehicles used to transport agricultural commodities and farm supplies, operators of ground water well drilling rigs, drivers of utility service vehicles, drivers providing transportation to movie production sites, and certain drivers transporting grapes in the State of New York.

Additionally, we have issued guidance concerning relief from the safety regulations for drivers used primarily in the transportation of propane winter heating fuel and drivers responding to a pipeline emergency if compliance with the rules would prevent them from responding to an emergency condition. While these provisions are

already in effect, FMCSA will issue a Final Rule at a later date to ensure our regulations reflect the statutory exemptions enacted in SAFETEA-LU.

Roadability of Intermodal Container Chassis

FMCSA has developed an NPRM to implement the roadability provision in SAFETEA-LU. This rulemaking proposes to establish a program to ensure that intermodal equipment used to transport containerized freight is systematically maintained to meet vehicle safety requirements. Equipment providers who offer intermodal equipment to interstate motor carriers will be required to establish maintenance programs and to keep records documenting inspection, repair, and maintenance activities. The NPRM is now under Departmental review and we expect the proposal to be published this summer.

Consumer Protection for Household Goods Shipments

As part of our program to enhance our outreach efforts to educate consumers about moving their household goods, we recently updated our pamphlet, "Your Rights and Responsibilities When You Move," to comply with SAFETEA-LU's requirement to display the publication more prominently on our web site. Household goods movers are required to provide this publication to their customers to ensure that consumers understand what they have a right to expect from movers and what they should do to help ensure the move goes smoothly. The publication may be downloaded from the FMCSA web site and through our new, separate web site dedicated to consumers, at http://www.protectyourmove.gov.

Another way we have broadened our distribution of household goods outreach brochures to the general public is through a cooperative agreement with the U.S. General Services Administration's (GSA) Federal Citizen Information Center. To date, GSA has distributed more than 43,000 copies of "Ready to Move – Tips for a Successful Interstate Move." This publication helps to increase consumers' awareness of the information about household goods moves, and the availability of FMCSA's Rights and Responsibilities publication.

Section 4206 of SAFETEA-LU enabled State attorneys general and other State enforcement officials to enforce Federal household goods regulations through civil action against a carrier or broker in U.S. District Court. The FY 2006 Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act placed limitations on State enforcement authority by permitting States to pursue civil actions only against carriers and brokers who meet specific statutory criteria. This limitation sunsets on September 30, 2006. To our knowledge, no State has pursued civil action on behalf of consumers based on the authority granted by SAFETEA-LU.

As required by SAFETEA-LU, FMCSA has been working with Federal, State, and local household goods enforcement agencies to better coordinate investigations, to optimize our resources, and to achieve the most effective enforcement results. As a result of these efforts, FMCSA has established a working group to assist the States with bringing their own civil actions on behalf of consumers against household goods carriers or brokers. Comprised of representatives from the DOT Office of Inspector General, the National Association of Attorneys General, and various State attorneys general and

United States Attorneys, the Florida Department of Agriculture, and the Maryland Office of Consumer Affairs, the group has opened a dialogue to develop practices and procedures to enhance the Federal/State partnership and make legislative and regulatory recommendations concerning these efforts. This group is designed to assist the States with bringing their own civil actions on behalf of consumers against household goods carriers or brokers.

Additionally, FMCSA has implemented six of the household goods sections of SAFETEA-LU through enforcement policy memoranda. These policy documents were distributed to FMCSA field offices and provide guidance on how to apply the self-executing provisions concerning household goods. The guidance documents include definitions, household goods carrier operations, liability of carriers under receipts and bills of lading, arbitration requirements, civil penalties relating to brokers and unauthorized transportation, and penalties for holding goods hostage. Like the hours-of-service exemptions described earlier, FMCSA will issue a Final Rule codifying these six household goods provisions.

Unified Carrier Registration System Plan and Agreement

On May 12, 2006, FMCSA announced the establishment of a Board of Directors for the Unified Carrier Registration Plan mandated by SAFETEA-LU. The Board will be responsible for issuing rules to govern the Unified Carrier Registration (UCR) Agreement. The UCR Agreement will replace the Single State Registration System (SSRS), which expires on January 1, 2007.

The UCR Agreement will govern the collection of fees paid by private and for-hire motor carriers, brokers, freight forwarders, and leasing companies. Including private motor carriers, brokers, freight forwarders, leasing companies, and exempt for-hire motor carriers in the UCR Agreement will lower the registration costs of for-hire motor carriers and ensure that SSRS States do not lose essential funding for safety services. Currently, 39 States participate in SSRS and use this registration system to generate revenues to supplement State general fund accounts and conduct safety-related activities.

Motor Carrier Research

In accordance with section 4111 of SAFETEA-LU, FMCSA has developed a multi-year research and technology plan. Our plan focuses on the following six strategic objectives:

- *Produce Safer Drivers*: Research techniques that help ensure drivers are physically qualified, trained to perform safely, and mentally alert.
- *Improve Safety of Commercial Motor Vehicles*: Improve truck and motorcoach performance through vehicle-based safety technologies.
- *Produce Safer Carriers*: Support efforts to improve carrier safety by applying safety management principles, compiling and communicating best practices, and supporting enforcement of carrier-related regulations.
- *Advance Safety Through Information-Based Initiatives*: Improve the safety and productivity of CMV operations through the application of information systems and technologies.
- *Improve Security through Safety Initiatives*: Develop and implement safety initiatives that also have security benefits for motor carrier operations.

- *Enable and Motivate Internal Excellence*: Improve performance to serve the customers and stakeholders of FMCSA's Motor Carrier Research and Technology Program more effectively and economically.

FMCSA is committed to applying the results from our research and technology program to support its regulatory and enforcement initiatives.

FEDERAL TRANSIT ADMINISTRATION

The Federal Transit Administration (FTA) has made timely implementation of SAFETEA-LU its top priority and is pleased to report substantial progress in implementing this important legislation.

In addition to historic funding levels, SAFETEA-LU added new programs, including New Freedom, Transit for Native Americans, and Alternative Transportation in the Parks and Public Lands, which began in FY 2006, and modified other programs, such as Job Access and Reverse Commute, and Clean Fuels. SAFETEA-LU also required that FTA promulgate 17 new regulations, more than any other DOT modal administration, as well as an unprecedented level of rulemaking. These include regulations to implement changes to planning requirements, New Starts (including the Small Starts program), Buy America, Charter Bus, and a joint rulemaking with the Department of Homeland Security (DHS) on transit security grants. In addition, SAFETEA-LU requires FTA to issue 29 other program guidance documents and 19 reports to Congress.

Implementation Process and Outreach

Immediately after enactment of SAFETEA-LU, FTA laid out a detailed, aggressive schedule for the over 60 deliverables needed to implement the new legislation, in an order consistent with the priorities set out by SAFETEA-LU. FTA has completed action on two-thirds of its top priority items and of the remainder, only two will not meet the original schedule. Delays have been the result of deliberate decisions to take more time to better accommodate the high degree of interest from stakeholders.

Outreach has been a key feature of FTA's SAFETEA-LU implementation process, with a total of nearly 100 outreach events held. These include a Webinar, conducted jointly with the American Public Transportation Association, with nearly 1,000 participants, a series of five general outreach sessions conducted last December, with a total of about 700 participants, a series of three outreach sessions on New Starts and Small Starts with a total of nearly 500 participants, two national outreach sessions on Tribal Transit with a total of over 100 participants, and more targeted sessions at which small groups of 20 to 30 met to discuss specific program issues.

FTA has also worked to undertake its implementation process consistent with the requirement in SAFETEA-LU that calls for FTA to provide notice and an opportunity for comment on any FTA policy or guidance document that might produce a "binding obligation" on its grantees. While there may be additional time involved, comments received on draft guidance and policy statements are allowing FTA to assure that the documents are more complete, more responsive to stakeholder needs, and more likely to take account of on-the-ground realities. For example, of the nine changes in New Starts procedures proposed to take effect this year, only three were adopted as originally

proposed. Three were modified to take account of comments, and three were either not adopted or were deferred pending further analysis. This demonstrates FTA's willingness to listen to stakeholders, make changes when necessary, or even go back to the drawing board if the comments received make clear the need to do so.

Status of Regulatory Actions

FTA has been making good progress on rulemakings, including joint rulemakings with other agencies.

Buy America. FTA issued its NPRM on Buy America on November 28, 2005. In response, FTA received comments indicating that the issues were more complex than originally thought. As a result, FTA issued a Final Rule covering the non-controversial aspects of the rule, such as pre-award and post-delivery audits, on March 21, 2006. FTA now plans to issue a Supplemental NPRM covering the remaining issues, such as the definition of end product, by early fall. In addition, FTA plans to hold a public hearing to discuss the new proposal.

Charter Bus. To implement the SAFETEA-LU requirement for a Negotiated Rulemaking to amend FTA's Charter Bus Regulation, on January 31, 2006, FTA published an initial Notice in the Federal Register inviting comments on the proposed issues to be addressed, and asking for nominations for membership on the Advisory Committee. FTA published a Notice responding to these comments, and announcing the membership of the Committee, on April 10, 2006. The first meeting of the Committee was held on May 8-9, 2006, in Washington, DC. The next meeting is scheduled for June 19-20, 2006. FTA expects to hold a series of meetings over the next several months. The exact timing of the NPRM will depend on the deliberations of the Committee.

Security Grants. FTA and DHS are jointly finalizing an NPRM mandated by SAFETEA-LU that outlines requirements and characteristics of public transportation security grants, including funding priorities and eligible activities, methods for awarding grants, and limits on administrative expenses. It is anticipated that DHS will administer its security grants and DOT will provide technical assistance on development of the application and eligibility process. Also, as required by SAFETEA-LU, on September 8, 2005, FTA and DHS's Transportation Security Administration completed a transportation security Annex to the Memorandum of Understanding between DOT and DHS.

Metropolitan and Statewide Planning. As noted above, SAFETEA-LU made a number of changes to the Metropolitan and Statewide transportation planning and programming process, and FTA and FHWA have been working jointly to implement these changes. We expect to publish an NPRM by the end of this week, and issue a Final Rule by Spring 2007.

New Programs and Program Guidance

FTA has been working to implement several new programs and to change program guidance to reflect the changes made in program requirements.

General Program Guidance. On November 30, 2005, FTA issued a Federal Register Notice outlining the changes in all of its programs, and providing initial guidance on implementing these changes. This allowed FTA to make grants in FY 2006 in its continuing programs, most of which saw only minor changes in SAFETEA-LU, as soon as FY 2006 funds were appropriated. FTA is now proceeding with revising the

program guidance circulars on all of these programs to accommodate the changes that were made by SAFETEA-LU.

New Starts and Small Starts. SAFETEA-LU specifically required FTA to provide notice on any changes in policy or procedures in the New Starts program early in calendar year 2006 and at least every two years thereafter. Accordingly, on January 19, 2006, FTA issued a Federal Register Notice of Proposed New Starts Policy Guidance. Because of the wide range of issues that needed to be addressed in some detail on the new Small Starts program, on January 30, 2006, FTA issued an ANPRM on Small Starts.

FTA received over 70 written comments on the draft New Starts Policy Guidance and over 90 comments on the Small Starts ANPRM. In response, on May 22, 2006, FTA published final New Starts Policy Guidance and FY 2008 Reporting Instructions for the New Starts. As described earlier, FTA made several modifications to the proposals in the January 19, 2006 Notice. These changes will help make the process more effective in the short term and allow FTA to address other major changes during the rulemaking process.

FTA is concerned that it takes too long and costs too much to develop a New Starts project. While FTA has been able to address some of these concerns in the New Starts Policy Guidance, FTA is now beginning a process, using a contract with a major management consulting firm, to systematically reassess all that FTA, and its grantees, must do to move a project to the finish line. This quick, but intensive, effort will be undertaken in parallel with development of the New Starts NPRM.

With respect to Small Starts, FTA is now preparing Interim Guidance to develop and evaluate projects beginning this year until the Final Rule is in place. The demand for this program is great, as evidenced by a recent survey by the American Public Transportation Association that identified over 75 projects in various stages of project development. FTA's goal is to publish this Interim Guidance in draft form in the Federal Register for comment in the very near future. Once comments are received, FTA will modify the Interim Guidance and publish it later this summer in final form. This will allow grantees to assess projects and submit them to us for possible funding during FY 2007 and inclusion in the fiscal year 2008 New Starts report.

FTA plans to develop a single NPRM later this year covering both New Starts and Small Starts. FTA expects to issue the Final Rule on both programs during calendar year 2007. The Interim Guidance on Small Starts, planned for this summer, and the Policy Guidance on New Starts, recently issued, should provide FTA with the tools needed to assure that the New Starts and Small Starts programs can be effectively executed even while the rulemaking process is underway.

New Freedom, Job Access and Reverse Commute (JARC) and Elderly Individuals and Individuals with Disabilities (Section 5310) Programs. FTA has undertaken an extensive process of outreach and public involvement to implement the changes made in the JARC and section 5310 program and initiate the newly established New Freedom Program. The process began with the November 30, 2005 Federal Register Notice, which outlined the broad parameters of these programs and asked for input on several key issues. These issues were a major topic at outreach sessions held around the country in December 2005 and early in 2006. The process culminated with a Federal Register Notice on March 15, 2006, that responded to the comments received on the broad issues outlined in the November 30, 2005 Notice, laid out interim guidance to allow the programs to proceed in FY 2006, and provided further proposals responding to

major issues identified in the comments already received. FTA held an outreach meeting with over 150 participants on March 23, 2006, to discuss the issues in the Notice. FTA also held public conference calls and began to receive and review comments. While the comment period was originally set to end by April 21, 2006, FTA received a request for, and granted, an extension of the comment period through May 22, 2006. FTA is reviewing the comments received and is planning to issue final program guidance later this year. Meanwhile, the interim guidance included in the March 15, 2006 Notice allows each of these programs to be implemented during this fiscal year. The March 15 Federal Register Notice also included proposed strategies for implementation of the programs beginning in FY 2007.

Alternative Transportation in Parks and Public Lands. SAFETEA-LU established a new discretionary program, to be administered in concert with the Department of the Interior, for alternative transportation in federally managed parks and public lands. FTA has been working closely with land management agencies on implementation of this program. An interagency working group developed a Notice of Funding Availability, which was published in the Federal Register on March 23, 2006. This Notice laid out the parameters of the program, and invited proposals (due May 5, 2006) for projects for FY 2006 funding. Representatives of the participating agencies have been reviewing the proposals and are preparing a final program of projects for funding. FTA expects to award these funds later this fiscal year.

Grants to Indian Tribes. In a November 30, 2005 Federal Register Notice, FTA stated its basic intentions and solicited comment on its new program allowing direct grants to Indian Tribes as part of its Rural Transit Program. After extensive outreach, a Notice proposing specific program details and asking for comment on several key issues was issued on March 22, 2006. The comment period on that Notice has closed and FTA is reviewing the comments. FTA hopes to issue a final Notice of Funding Availability in June outlining program administration details and requesting applications for funding. FTA expects to be able to announce project selections by the end of this fiscal year in September.

Public Private Partnership Pilot Program. On March 22, 2006, FTA issued a Notice asking for suggestions and proposals on how FTA might design the Public Private Partnership Pilot Program established by SAFETEA-LU. The comment period, and period for initial statements of interest, closed on June 1, 2006. FTA is excited by the concept of public private partnerships, and is looking forward to receiving input on the issues raised, and for candidate projects to participate.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

The National Highway Traffic Safety Administration's (NHTSA) mission is to save lives and prevent injuries. Motor vehicle crashes are responsible for 95 percent of all transportation-related deaths and 99 percent of all transportation-related injuries. They are the leading cause of death for Americans 3 years of age and every age from 5-33.

NHTSA's highway safety mission is to provide leadership and technical assistance to States and communities to solve their traffic safety problems. To

accomplish this, NHTSA provides grants to States and local communities, together with supporting research, demonstration and countermeasure programs designed to prevent motor vehicle crashes and reduce their associated economic costs. NHTSA's programs have saved tens of thousands of lives since the agency's inception in 1970. However, our recently released projections for highway fatalities and injuries in 2005 show much more needs to be done to improve safety on our roads.

After two consecutive years of decline in overall highway fatalities and impaired driving fatalities, and having achieved the lowest recorded fatality rate in history, we are projecting a setback in 2005, based upon our preliminary assessment of 2005 data announced on April 20. We are projecting total fatalities to be up by 1.3 percent over 2004, to a projected total of 43,200 in 2005. We also are projecting that 55 percent of passenger vehicle occupants who died in these crashes in 2005 were unbelted, despite the fact that safety belt use is at an historic high of 82 percent nationwide. Our preliminary assessment of 2005 data also projects that fatalities resulting from alcohol-involved crashes increased by 1.7 percent to a total of 16,972 in 2005. Of particular concern is the continuing increase in motorcycle fatalities, which our preliminary assessment projects increased by about 8 percent in 2005 to a total of 4,315, an increase of more than 100 percent since 1997. We expect the final 2005 data will be available late this summer.

DOT and NHTSA are disturbed by these numbers and have renewed our efforts to focus attention on those areas that can be most effective in reversing this result and getting the Nation back on the downward trend we experienced in 2003 and 2004. We cannot do it alone, however. Citizens also must help to reduce the tragic toll of loss on our highways by buckling up, not driving when impaired, wearing a motorcycle helmet that complies with NHTSA's motorcycle helmet standard and other protective gear when operating a motorcycle, observing posted speed limits, and not engaging in risky driver behavior. Traffic crashes come at an enormous cost to society. Our data show that highway crashes cost society $230.6 billion a year, about $820 per person.

SAFETEA-LU has provided the framework for addressing our highway safety problems and for driving down the numbers of crashes, injuries, and fatalities. The Act extended several highway grant programs and created several more that will serve to improve safety. Of critical importance to improving highway safety, title II of SAFETEA-LU authorizes seven grant programs, four of which are new—motorcycles, child safety and booster seats, safety belt performance, and data/information systems. The Act retains the core behavioral safety grant programs—section 402, occupant protection, and impaired driving. In addition, the Act reauthorizes the NHTSA research and development program, section 403, with 13 special mandates, and creates a new high-visibility enforcement program to fund national high-visibility enforcement campaigns.

Congress provided $3.5 billion over a four-year authorization period for NHTSA's highway safety programs. Among other things, SAFETEA-LU increased funding for the core behavioral safety grant program, section 402, to almost $900 million cumulatively from FY 2006 through 2009 and provided almost $500 million cumulatively from FY 2006 through 2009 for safety belt incentive grants.

Because of the key roles they play in improving safety, we now would like to highlight and briefly discuss three programs SAFETEA-LU added to NHTSA's mission, and one program it revised and reauthorized.

Safety Belt Performance Grants

The Act creates a new, powerful incentive program to increase safety belt use under section 406 of title 23, United States Code (section 2005 of SAFETEA-LU). Congress provided $498 million over FY 2006 through 2009 to support this program. The provision will reward States with a one-time grant if they have enacted for the first time after December 31, 2002, a conforming primary safety belt use law for all passenger motor vehicles. The amount of the grant is 475 percent of the State's FY 2003 section 402 apportionment. With any excess grant amounts, a State that has enacted a safety belt law for passenger vehicles in effect before January 1, 2003, will receive a one-time grant that is 200 percent of the State's FY 2003 section 402 apportionment. Beginning in FY 2008, a State that has not enacted a primary safety belt use law may receive a 475 percent grant if it achieves a safety belt use rate of 85 percent for the preceding two calendar years.

A State may use section 406 grant funds for any safety purpose under title 23, United States Code, or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, provided that at least $1 million of such amounts received by a State are obligated for behavioral highway safety activities.

This incentive is working and will save many lives. So far in FY 2006, the States of South Carolina, Delaware, Illinois, Tennessee, and Mississippi have received awards as new primary law States. One other State, Alaska, has also passed a primary safety belt use law this year and we expect to provide that award soon. After July 1, we anticipate that 22 jurisdictions will receive FY 2006 installment grants as pre-2003 primary law States. In FY 2007, Kentucky is expected to qualify as a new primary law State when it begins to enforce its primary belt use law.

No vehicle safety mandate, no elaborate rulemaking, no education campaign NHTSA could undertake would have the life-saving impact of States passing primary safety belt laws. Buckling up is not complex. It's simple, it works, and it saves lives. The fact that seven States passed conforming primary safety belt laws since the Administration first announced this program shows the tremendous impact this incentive has had in encouraging States to pass these laws.

NHTSA and DOT want to thank Congress for enacting an incentive grant program to encourage States to pass primary safety belt laws. Safety belt use cuts the risk of death in a severe crash in half. Most passenger vehicle occupants killed in motor vehicle crashes continue to be unrestrained. If safety belt use were to increase from the current national average of 82 percent to 90 percent—an achievable goal—over 2,000 lives would be saved each year. NHTSA estimates that for every 1 percentage point increase in safety belt use—that is 2.8 million more people buckling up—we would save 270 lives, suffer significantly fewer injuries, and reduce economic costs by hundreds of millions of dollars a year.

State Traffic Safety Information System Improvements

SAFETEA-LU also established a new $138 million incentive grant program over FY 2006 through 2009 under section 408 of title 23 (section 2006 of SAFETEA-LU), to support improvements to State traffic records systems and data. NHTSA strives to ensure

that our countermeasure programs are data-driven and science-based. State data collection and analysis systems form the basis of the national highway safety program. States may use the funds to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of data. We believe improvements are needed in record systems related to police traffic crash reports, emergency medical services, driver licensing, vehicle registration, and citation/court data. Accurate State traffic safety data are critical to identifying and prioritizing local safety issues, applying focused countermeasures, and evaluating the effectiveness of countermeasures. A State may use these grant funds to implement data improvement programs.

To be eligible for a first-year grant under section 408 in a fiscal year, a State must demonstrate, among other requirements, that it has established a highway safety data and traffic records coordinating committee and developed a multiyear highway safety data and traffic records system strategic plan. To be eligible for a subsequent year section 408 grant, a State must, among other things, certify that an assessment or audit of the State's highway safety data and traffic records system has been conducted or updated within the preceding 5 years, and demonstrate measurable progress on projects identified in its previous grants.

Section 408 sets a $300,000 grant minimum for each eligible State for the first year and a $500,000 grant minimum for succeeding years. NHTSA published guidance for this program on February 2, 2006. The due date for State grant applications for the program is June 15, 2006.

Alcohol-impaired Driving Countermeasures

To help the States deter impaired driving, SAFETEA-LU authorized $515 million for incentive grants from FY 2006 through 2009 under section 410 of title 23 (section 2007 of SAFETEA-LU). This represents a major increase over the amounts provided through FY 2005 to combat impaired driving. Reducing the number of impaired drivers on our roads is a complex task requiring interconnected strategies and programs. To be eligible for a grant, States must have an alcohol-related fatality rate of 0.5 or less per 100 million vehicle miles traveled or, in the alternative, meet -- out of eight specified criteria -- three criteria for FY 2006, four criteria for FY 2007, and five criteria for FY 2008 or 2009.

The programs States may select to become eligible for a grant include those concerning high visibility enforcement, prosecution and adjudication outreach, blood alcohol content testing, effective alcohol rehabilitation and driving while impaired courts, underage drinking, administrative license revocation, self-sustaining impaired driving prevention, and a law covering high risk drivers. Grants may be used for all programs and activities described in the section and also to defray certain costs, defined in the section.

Under this program, SAFETEA-LU mandates a separate grant to each of the 10 States with the highest impaired-driving related fatalities, and requires a State plan for the effective use of these funds. Not more than 15 percent of these impaired driving funds may be used in a fiscal year for high fatality rate grants, and at least 50 percent of the amounts so allocated may be used only for checkpoint, saturation patrol programs.

NHTSA published a final rule for this program on April 21, 2006. The due date for State applications is August 1, 2006. We believe SAFETEA-LU's revised impaired

driving incentive grant program and supporting activities, together with continued nationwide use of high-visibility enforcement, including paid media, have the potential to lead to a renewed downward trend in alcohol-related fatalities.

Motorcyclist Safety

SAFETEA-LU also established a new $25 million incentive grant program over FY 2006 through 2009 under section 2010 to reduce the number of crashes involving motorcycles. We believe this program will be instrumental in efforts to stem the increase in motorcycle fatalities that has occurred over the last ten years. States are required to meet one of six grant eligibility criteria for the first fiscal year in which they receive a grant, and two of six criteria for the second and subsequent fiscal years in which they receive a grant. These grant funds will support motorcycle safety training and motorcyclist awareness programs. NHTSA's NPRM for this program, published on May 24, 2006, has a 30-day comment period. The notice's proposed due date for State applications is August 15, 2006.

Also, the Act requires us to develop and provide States with model language they can use in educational programs instructing other motorists how to Share the Road with motorcyclists. This language must be provided to the States by August 10, 2006. We are now nearing completion of this work. Other provisions of SAFETEA-LU also address motorcycle safety, including studying activities targeted at reducing impaired motorcycle driving (section 403(a)(9) of title 23, United States Code); conducting a motorcycle crash causation study (section 5511 of SAFETEA-LU); and establishing a Motorcyclist Advisory Council (section 1914 of SAFETEA-LU).

Additional Information

We also note that in addition to our efforts on these four key SAFETEA-LU programs, NHTSA has updated the regulation for the Occupant Protection Incentive Grant program (section 405), and has made awards to 37 qualifying jurisdictions. We also have issued guidelines for the Child Booster Seat Incentive Grant program (section 2011 of SAFETEA-LU). And NHTSA has initiated work on all 13 mandates under the section 403 Highway Safety Research and Development program.

Finally, the President's Budget request for DOT for FY 2007 is aligned with the SAFETEA-LU authorized funding levels. NHTSA requested $583,750,000 for the Highway Safety Grant Programs, $105,250,000 for the section 403 programs and activities, and $4,000,000 for the National Driver Register program. This request funds NHTSA's entire State grant program at SAFETEA-LU's authorized levels.

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

The Research and Innovative Technology Administration (RITA) was created to coordinate DOT's research, development, and technology (RD&T) portfolio, and to advance the development and deployment of cross-modal technology solutions to America's transportation challenges. Through the implementation of SAFETEA-LU, RITA is working to provide effective strategic planning for DOT's research agenda, coordinate cross-modal RD&T programs, produce relevant data and analysis to inform

decisionmaking, and work with public and private sector partners throughout the transportation community to facilitate the timely and efficient deployment of innovative technologies into our Nation's transportation system.

5-Year Research and Development Strategic Plan (Section 5208)

RITA is leading the Department's effort to prepare the 5-year Research and Development Strategic Plan, which will be reviewed by the National Research Council (Transportation Research Board) and submitted to Congress. The plan will describe the primary purposes of the Department's research and development program, including strategies for reducing congestion, improving mobility, promoting safety and security, protecting and enhancing the environment, preserving the existing transportation system, and improving the durability and extending the life of transportation infrastructure.

The 5-year Research and Development Strategic Plan builds on RITA's existing RD&T Planning process, which has been established through an RD&T Planning Council comprised of the Administrators from each mode and senior Departmental leadership, and an RD&T Planning Team of the research directors from each modal administration. During its first year in operation, RITA staff worked to build the institutional framework for effective coordination and planning, conducting Departmentwide RD&T program reviews, reviewing modal research budget requests, and making recommendations to the Office of the Secretary. This process will continue to evolve over the next year as RITA works to build its technical and analytical capabilities, establish RD&T performance measures, and advance cross-modal research efforts.

University Transportation Research (Sections 3036 and 5401/5402)

RITA is working diligently to implement the expanded University Transportation Centers (UTC) program. SAFETEA-LU authorized up to $76.7 million annually in Titles III and V for grants to establish and operate UTCs throughout the United States, and increased the number of Centers from 26 under TEA-21 to the current 60 Centers.

While all of the UTCs were designated for FY 2005 and 2006, 20 of these Centers are scheduled for competitive selection during 2006, to receive funding beginning in FY 2007. One of these competitions – for the Regional Centers – has just closed and the applications are being evaluated by a cross-modal review team. The second competition – for the Tier I centers – has just begun. Both competitions are scheduled to be completed by the end of the fiscal year.

RITA is moving swiftly to implement the expanded UTC program, processing grant awards as quickly as possible and establishing new grant requirements to encourage closer collaboration between university research programs and the strategic research goals of DOT. In April, RITA hosted a 2-day workshop in which representatives from more than 50 UTCs met with Departmental and modal officials to discuss Departmental research priorities and explore areas for joint research and collaboration.

RITA will continue to work with the UTCs to find areas for improved collaboration and partnership in order to leverage limited research dollars toward solving the Nation's toughest transportation challenges.

Other Research Priorities

RITA is also working to provide effective implementation of other SAFETEA-LU initiatives including the National Intermodal Transportation System Improvement Plan (section 4149); the Commercial Remote Sensing and Spatial Information Technologies program (section 5506); the National Cooperative Freight Research Program (section 5209), the statistical mandates assigned to the Bureau of Transportation Statistics (section 5601) including the National Transportation Information Needs Assessment, and numerous research grants in areas such as hydrogen and alternative fuels, advanced communications, space-based technologies and advanced vehicle research.

RITA will continue to work aggressively to carry out the research, statistical and technology programs as authorized in SAFETEA-LU and delegated by the Secretary.

CONCLUSION

Even as we implement SAFETEA-LU, we need to be thinking about the next reauthorization. Of necessity, the next authorization act will need both revolutionary and transitional components. Demands on the surface transportation system will continue to grow and, despite the record investment provided in SAFETEA-LU, these demands are expected to exceed the resources provided by current funding mechanisms. We want to work closely with Congress to find solutions to the imbalance. As Secretary Mineta has said, we must end the era of complacency about congestion. We will support the work of the Commissions created to study transportation policy and financing, and look forward to their recommendations. In the meantime, DOT will undertake endeavors such as the *National Strategy to Reduce Congestion on the Nation's Transportation Network* to improve the productivity of existing transportation assets and encourage investment of private-sector resources in transportation projects.

Thank you again for the opportunity to provide a status report on implementation of SAFETEA-LU. We look forward to continuing to work with you as we carry out this important legislation.

QUESTIONS FOR THE RECORD
FOR THE U.S. DEPARTMENT OF TRANSPORTATION

FROM THE HONORABLE THOMAS PETRI, CHAIRMAN
SUBCOMMITTEE ON HIGHWAYS, TRANSIT & PIPELINES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

HEARING ON SAFETEA-LU IMPLEMENTATION
JUNE 7, 2006

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Question 1: Section 4139 of SAFETEA-LU calls upon the Administrator of Federal Motor Carrier Safety Administration (FMCSA), no later than 180 days after enactment, to conduct outreach and provide training to State motor carrier enforcement personnel to ensure that they know how to determine whether a foreign-based trucker is operating legally in the U.S. and what to do if a foreign-based trucker is found to be operating illegally. What has the agency done thus far to comply with this directive?

Answer: FMCSA published its rulemaking on Operating Authority on August 28, 2002. On November 14, 2002, FMCSA published a policy memorandum to its field staff and the States regarding enforcement of Operating Authority. Enforcement of Operating Authority requirements have been taught in all FMCSA academy and North American Inspection Standard Level I-Part A training courses offered by the National Training Center since 2003. In addition, FMCSA made a presentation on Operating Authority to motor carrier safety enforcement officials at the Commercial Vehicle Safety Alliance (CVSA) annual meeting. CVSA incorporated violations of Operating Authority into its out-of-service criteria in 2005. On May 24, 2006, FMCSA issued updated guidance strengthening its policy on Enforcement of Operating Authority and providing its field staff and the States additional tools for identifying carriers operating in violation of Operating Authority requirements.

In addition, FMCSA's Drug Interdiction Assistance Program (DIAP) instructors have increased the focus on illegal commercial motor vehicle (CMV) drivers and motor carrier operations in all of their classes. More than 5,000 students have been trained through DIAP so far this year. FMCSA is working with International Association of Chiefs of Police (IACP), to develop a short course to train State and local law enforcement trainers regarding compliance requirements for foreign drivers and motor carriers operating in the United States.

Question 2: Section 4135 of SAFETEA-LU calls upon the Secretary of Transportation to convene a task force to address CDL fraud and other problems associated with CDL programs. What has the department done thus far to comply with this directive?

Answer: FMCSA has published a request for grant proposals for a State or other entity to support the functioning of the CDL Task Force and draft the required Report to Congress. FMCSA will award this grant shortly. The CDL Task Force is subject to the provisions of the Federal Advisory Committee Act (FACA). To comply with FACA, FMCSA has drafted a CDL Task Force charter and a Federal Register notice announcing the Task Force and requesting nominations for membership. These documents are under internal review and will be published soon. FMCSA anticipates the first CDL Task Force meeting will be in August 2006. The CDL Task Force is one of several initiatives in SAFETEA-LU that FMCSA is implementing. FMCSA has already published a Final Rule extending the compliance deadline for School Bus Endorsements and published a plan for modernizing the Commercial Driver's License Information System (CDLIS).

Question 3: A large portion of SAFETEA-LU's motor carrier provisions was devoted to improving and funding FMCSA's motor carrier safety programs. What are your views, in general, about the usefulness of assessing the performance of motor carrier safety programs? What do you plan to do, if anything, about building rigorous assessments into FMCSA's major safety activities?

Answer: FMCSA firmly believes in the benefits of having an institutionalized system of periodic formal reviews to assess the performance of motor carrier safety programs and the full range of FMCSA activities. In the last several years, we have instituted a robust evaluation component in the Agency that assesses the effectiveness and efficiency of all major programs. As part of this continuous evaluation program, the Agency is initiating four new evaluation activities in FY 2006 including the following: a program evaluation of the Motor Carrier Safety Assistance Program; a Quality Assurance Review of grant management processes; a Quality Assurance Review of enforcement procedures; and a Regulatory Effectiveness Review of Part 382, Controlled Substances.

In addition, FMCSA has initiated a major review and analysis of its compliance and enforcement program with the goal of increasing the Agency's effectiveness at reducing large truck and bus injuries and fatalities. This initiative is known as Comprehensive Safety Analysis (CSA) 2010. While our current approach of conducting an on-site motor carrier compliance review is effective, it is also labor intensive. CSA 2010 is designed to lead FMCSA into a new approach, one that will help us assess the safety performance of a greater number of motor carriers and drivers, while optimizing Agency resources. FMCSA is targeting full deployment by 2010.

HOUSEHOLD GOODS

Question 1: SAFETEA-LU gave new powers to FMCSA to go after rogue movers. It also granted new enforcement powers to states to assist in this effort. Considering the 2006 Appropriations bill, does the current law give the States clear and unimpeded authority to pursue and prosecute interstate rogue movers who violate federal consumer protection regulations? Does anything else need to happen before the states can use their new powers? Do you have examples of any of the States using these powers to enforce

the federal law - not necessarily in court - but to assist a consumer when goods are being held hostage?

Answer: SAFETEA-LU Section 4206 enacted new sections 49 U.S.C. 14710 and 14711 to permit States to enforce FMCSA regulations against interstate carriers. The law gives the States clear and unimpeded authority to pursue and prosecute interstate rogue movers who violate Federal consumer protection regulations in an appropriate district court of the United States. In accordance with Section 14710, the State must give notice to DOT prior to initiating action unless it is unfeasible to do so, in which case the State must immediately serve DOT with the complaint. Section 14711 requires State Attorneys General to submit pre-filing notices to DOT in all instances, and requires DOT review of State Attorneys General complaints if certain conditions are met. Additionally, Section 14711 permits DOT to intervene in actions brought by State Attorneys General, to be heard on all matters arising in civil actions, and to appeal such civil actions.

Based on this provision, the current law provides the States the authority to pursue and prosecute interstate rogue movers who violate Federal consumer protection regulations. However, at this time, FMCSA does not have examples of State law enforcement using Federal law in order to assist consumers when goods are being held hostage.

Question 2: How far along is the Enforcement Assistance Outreach Plan mandated by Section 4213 of SAFETEA-LU? Is there any plan to add a representative from the industry? If not, why not, given that the industry already has the most comprehensive rescue operation already set up? What further guidance will the Department/FMCSA provide to states in order to insure uniform enforcement of the federal law across the nation?

Answer: The enforcement work group (EWG) mandated by SAFETEA-LU Section 4213 is comprised of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials. The working group will develop practices and procedures to enhance the Federal-State enforcement efforts as well as exchange information related to the transportation of household goods. The working group will also make legislative and regulatory recommendations to the Secretary regarding HHG enforcement initiatives. The working group will develop an Enforcement Assistance Outreach Plan, which will include proposed uniform strategies to educate Federal and State law enforcement agencies regarding the impact of new and existing commercial regulations governing the interstate movement of household goods transportation across the nation, by December 31, 2006.

In accordance with SAFETEA-LU Section 4213, FMCSA will provide further guidance to the States whenever necessary, via teleconference and by written letters/notices, on a case-by-case basis in order to ensure uniform enforcement of the Federal laws across the nation. This working group shall remain in effect until September 30, 2009.

The working group has met three times, setting the direction and scheduling monthly teleconferences to address SAFETEA-LU requirements. The group will be soliciting

involvement from a broader range of Attorneys General in States where HHG issues are prevalent as well as consulting with industries involved in the transportation of HHG, the public, and other interested parties, as mandated by Section 4213(b).

Question 3: Congress has provided additional funds to increase FMCSA's household goods transportation enforcement and make it more effective. Has the increased enforcement of the past few years reduced the number of rogue mover complaints, as well as the number of rogue movers operating in the industry?

Answer: While these numbers have not yet begun to decrease, an initial increase in complaints was to be expected. FMCSA believes that in the past consumers were not generally aware that FMCSA had responsibility for oversight of the HHG industry and did not know how or where to file a complaint. FMCSA improved the quality and quantity of outreach materials, reformatting its website home page for HHG as well as upgrading the site to allow the general public to file complaints on line. The number of household goods consumer complaints has increased as anticipated from 2,835 in FY 2004 to 2,937 in 2005 (total number of household goods complaints received from Office of Communications). FMCSA expects this increase to continue over the next year or so, after which we expect to see a decline as enforcement efforts bear fruit.

As part of our enhanced enforcement efforts this fiscal year, FMCSA has conducted two of its four planned strike force activities. The first strike force was conducted in Colorado. Our enforcement staff worked closely with the Colorado Public Utilities Commission to conduct this strike force. We identified and conducted household good reviews on 16 household goods carriers. This strike force produced 3 enforcement cases and it substantially reduced the volume of household goods complaints received by FMCSA's Colorado Division.

During FMCSA's second strike force activity in FY 2006, FMCSA focused its enforcement efforts in Florida. A total of 47 household good compliance reviews were conducted, which resulted in 11 enforcement cases. Additionally, we discovered approximately 30 household goods carriers and brokers were no longer in business. Improved consumer awareness of the issue of rogue movers and what pitfalls to avoid in a household move and strengthened enforcement efforts will result in a long-term reduction of these complaints and the elimination of rogue movers from the marketplace.

Question 4: Much has been written about Internet brokers of household goods services being a major source of serious problems for consumers. FMCSA has proposed rules to deal with this problem. Please tell us more about this rule and its timeframe.

Answer: FMCSA proposes to amend its regulations to require brokers who arrange the transportation of household goods for consumers to comply with additional consumer protection requirements, including the SAFETEA-LU provisions governing household goods brokers. FMCSA has prepared a Notice of Proposed Rulemaking, which is expected to be published in the near future.

This rulemaking is intended to protect consumers from unfair business practices of certain household goods brokers, particularly on the Internet. Deceitful broker operations use various tactics to mislead consumers. For example, a consumer may visit a website and be presented with misleading information for moving services. A website may list a number of motor carriers that are performing transportation services; however, some of the motor carriers do not have operating authority from FMCSA to conduct household goods moves in interstate commerce.

FMCSA is proposing to amend its regulations in order to protect consumers from these unfair business practices of certain household goods brokers, particularly brokers conducting business via the Internet.

SAFESTAT

Question 1: In April, the Chairman of this subcommittee, Mr. Petri, asked the Department of Transportation's Inspector General (DOT IG) to do a follow-up investigation on SafeStat, the Safety Status Measurement System that your agency uses to monitor the safety status of individual motor carriers. Has the IG's office contacted you about Mr. Petri's request and can you tell me what has been accomplished so far?

Answer: FMCSA met with the DOT IG Office twice during the week of June 4, 2006, to discuss the issues raised in Mr. Petri's letter. In the second of these meetings, FMCSA staff supplied material to the DOT IG staff related to ongoing FMCSA activities to further improve data quality, including current agency plans to develop new data quality performance measures for the existing State Data Quality Map. Also, FMCSA supplied DOT IG staff with additional background information on data used by SafeStat.

Question 2: One of the questions Mr. Petri raised for the follow-up investigation was whether there should be a review period before new data is publicly posted to give carriers and the States the opportunity to review and correct incorrect data. What is your opinion about a review period before data is posted on the Internet?

Answer: FMCSA would be cautious about implementing a review period for several reasons. First, a review period would affect significantly the timeliness of the data used by SafeStat, thus compromising the currency of the results and the effectiveness of SafeStat. Valuable time would be lost as a result of delays in using the data that identify problem carriers for FMCSA safety programs. Carriers that potentially pose a safety and security risk to the public may not be identified in a timely manner while the data are being reviewed. Since the most current safety data are given additional weight in the SafeStat algorithm, the review period would compromise the effectiveness of the time weighting and the algorithm.

Second, FMCSA has a system called DataQs for motor carriers to challenge and correct State-reported and FMCSA data. While the timely closure of challenges is a primary goal of DataQs and standards exist for closing such challenges, the unique nature of each data challenge means that the closure may vary both in time and outcome. As a result,

creating a review period prior to public disclosure would introduce a difficult logistical problem if the review period were based on filing and settling all challenges prior to public uploading of the data. Since DataQs became operational in February 2004, only 14,000 challenges have been filed against the millions of inspections, hundreds of thousands of crashes, and tens of thousands of compliance reviews that have occurred. In terms of data challenges, it is relatively uncommon for a single data element to impact significantly on a carrier's SafeStat rating.

Finally, a data review period could delay the identification of companies whose safety performance has deteriorated and could harm those companies that have improved their safety performance since the last update.

Question 3: One of the factors in a SafeStat score is a carrier's reportable crashes. The 2004 IG report on SafeStat, also conducted at Mr. Petri's request, found that about 35% of reportable accidents are not in the system. Why is so much of the data missing and what needs to be done to fix this problem?

Answer: While this was a legitimate concern at the time of the IG investigation, crash data reporting to the Federal Motor Carrier Safety Administration (FMCSA) by the States has improved significantly over the past several years. In 2001, the data year for the recent Office of Inspector General (OIG) report, only 92,040 large trucks involved in non-fatal crashes were reported to FMCSA by the States. In 2003, 116,968 such involvements were reported by the States to FMCSA. For 2004, States reported 134,052 large trucks involved in non-fatal crashes to FMCSA's Motor Carrier Management Information System. This estimate represents 99 percent of the 135,000 large truck involvements reported to the National Highway Traffic Safety Administration's General Estimates System database, which serves as the benchmark for evaluating the completeness of non-fatal large truck crash data reported to FMCSA by States. This change represents a 46 percent increase in reporting between 2001 and 2004.

Challenges remain at the individual State level with regard to complete reporting of large truck crashes to FMCSA. However, improving data quality remains one of FMCSA's highest priorities. We are committed to maintaining an aggressive program with the goal to continuously improve State reporting of crash and inspection data. FMCSA maintains an active, continuing program to improve State reporting and has put considerable resources into that program. While the OIG 2004 report and a separate study conducted by the Oak Ridge National Laboratories (ORNL) identified specific elements of SafeStat that could be improved, both reports acknowledge that SafeStat does a good job of identifying and prioritizing high-risk motor carriers for FMCSA safety programs, even with incomplete data. FMCSA continues to believe that crash reporting has improved.

SINGLE STATE REGISTRATION/UNIFIED CARRIER REGISTRATION (SSRS/UCR)

Question: SAFETEA-LU created a new Unified Carrier Registration (UCR) plan for the nation's trucking industry that has been mandated to replace the Single State Registration

System (SSRS), which is repealed on January 1, 2007. The States must have time to implement whatever rules FMCSA establishes for the UCR program. Unless both FMCSA and the States have completed all of the required tasks by September, it will be impossible to implement UCR by January 1, 2007, and States stand to lose as much as $100 million in revenues used for motor carrier safety enforcement and related programs. Do you think SAFETEA-LU's timetable, with only six months remaining for FMCSA and the States to develop and implement the plan, is enough time? If not, could FMCSA administratively extend the SSRS program past the January 1, 2007, to give the States enough time to implement the plan?

Answer: FMCSA established the Board of Directors responsible for developing the UCR plan and agreement on May 12, 2006. The Board of Directors held its first meeting on June 13, 2006. During that meeting, the Board adopted a resolution that there should be an extension of the repeal of the SSRS for an additional year until January 1, 2008, in order to provide sufficient time to develop and implement the UCR plan and agreement. Issues listed by the Board of Directors that require the extension include the following: States must pass enabling legislation for the new program; State UCR agreements must be developed and submitted; and new motor carrier participants (private carriers, brokers, and freight forwarders) must be educated. FMCSA has no mechanism to administratively extend the SSRS program past January 1, 2007.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Question 1: In the President's Fiscal Year 2007 Budget, the Administration proposed funding the Vehicle Safety Programs from the Highway Trust Fund rather than from the General Fund from which it was authorized in SAFETEA- LU. Given the projected tenuous financial viability of the Highway Trust Fund, why is the Administration proposing this unauthorized financial burden? Why not fund vehicle safety activities out of the General Fund as authorized?

Answer: This approach is generally consistent with the manner in which the Congress has appropriated funding for NHTSA's vehicle programs since FY 2004. Moreover, this proposal would provide vehicle funding directly to NHTSA from the trust funds instead of treating it as a transfer from FHWA, as has been the case since FY 2004. This will streamline NHTSA's funding and budget administrative processes, and align them with the funding provided to NHTSA for the behavioral programs.

Question 2: In addition to the reauthorization of previous highway safety programs, SAFETEA- LU created three robust new incentive grant programs that further strengthen NHTSA's mission to save lives out on the roadways. Please describe the progress, successes, and challenges the Agency faces in implementing the newly created Safety Belt Performance Grant program, the State Traffic Safety Information System Improvement Grant program, and the Motorcyclist Safety Grant program.

Answer: Implementing guidance for the Safety Belt Performance Grant program was published in the *Federal Register* on January 25, 2006. Between January 1, 2003, and June 30, 2006, six States enacted primary safety belt laws that are now in effect and being enforced: Alaska, Delaware, Illinois, Mississippi, South Carolina and Tennessee. Those States qualify for grants as New Primary Law States, and have received FY 2006 awards totaling $71,194,200. Kentucky also enacted a primary safety belt law during that time frame. However, Kentucky will not commence enforcing that law until January 1, 2007, and therefore is not eligible for award until FY 2007. Sixteen States, the District of Columbia, Puerto Rico and four territories qualified for awards as Pre-2003 Primary Law States. After July 1, 2006, they will receive FY 2006 awards totaling $52,060,800 -- the first installment toward the total of $145,415,504 for which they qualify. That will exhaust the Section 406 funds available in FY 2006.

Implementing guidance for the State Traffic Safety Information System Improvement Grant program was published in the *Federal Register* on February 2, 2006. Applications were received by June 15, 2006 from 45 States, Puerto Rico, three territories and the Bureau of Indian Affairs. The applications are currently being reviewed by an intermodal team representing the National Highway Traffic Safety Administration (NHTSA), the Federal Highway Administration (FHWA) and the Federal Motor Carrier Safety Administration (FMCSA). NHTSA expects to award all FY 2006 Section 408 grant funds ($34.155 million) to qualified applicants in August.

A Notice of Proposed Rulemaking (NPRM) for the Motorcyclist Safety grant program was published in the *Federal Register* on May 24, 2006. The public comment period ended on June 23. The comments are currently being reviewed, and the final rule will be published in July. For FY 2006, $5.94 million is available. The 50 States, the District of Columbia and Puerto Rico are eligible. The applications are due August 15, 2006, and NHTSA expects to award grants to qualified applicants in September.

Question 3: Under the 406 U.S.C. 23 Safety Belt Performance Grants program, how does the Secretary measure the enforcement of enacted primary seat-belt use laws?

Answer: To qualify for a Section 406 award as either a New Primary Law State or as a Pre-2003 Primary Law State, the State's Governor's Representative for Highway Safety must submit a signed certification to NHTSA that the State's primary safety belt law for all passenger motor vehicles is in effect and is being enforced. To meet the enforcement requirement, the State's primary law must permit law enforcement officers to issue citations. A primary safety belt use law that includes a provision limiting enforcement to written warnings during a "grace period" after the law goes into effect would not be deemed as being enforced until the grace period ends. For example, Kentucky enacted and put into effect a primary safety belt law in FY 2006; however, the law specifies that the State will only issue warnings, not tickets, until January 1, 2007. Therefore, Kentucky is not eligible for a Section 406 grant award until January 1, 2007.

Question 4: What is the progress of the Motorcycle Crash Causation Study (under Section 5511 of SAFETEA-LU)? Based on the data collected, why have motorcycle

crash fatalities increased? Has ridership increased significantly? Are road conditions to blame?

Answer: The Federal Highway Administration (FHWA) has the lead in DOT for conduct of the Motorcycle Crash Causation Study. FHWA is coordinating this effort with NHTSA. FHWA issued a Request for Application (RFA) for the Motorcycle Crash Causation Study (MCCS) on June 2, 2006, to the Oklahoma Transportation Center (OTC) at Oklahoma State University, which is designated in SAFETEA-LU to conduct the study. The Oklahoma State University application was received on July 10, 2006, and is currently being evaluated. The planned award remains on schedule for this fiscal year (2006).

A Study Project Working Group (PWG) was assembled to help refine the focus of the Motorcycle Crash Causation Study and a related NHTSA Pilot Test study, and to recommend specific topics for data collection. The PWG is composed of representatives from the motorcycle industry and advocacy groups, the research community, National Transportation Safety Board, and the U.S. Department of Transportation. A meeting with the Project Working Group will be held in Lakewood, CO, on July 15-16, 2006; this group will serve as a resource throughout the development and implementation of the study.

Data from the Fatality Analysis Reporting System (FARS) along with data from Motorcycle Industry Council (MIC), FHWA, and the United States Census Bureau indicate the following:

- Motorcycle Industry Council (MIC) data show an increase in the number of on-highway motorcycles, and motorcycle registration data from the Federal Highway Administration (FHWA) also show an increase in the number of registered motorcycles;
- MIC data show an increase in motorcycle ownership in the 40 and above age group, and FARS data show an increase in motorcycle rider fatalities in the age group of 40 and above in the last 10 years;
- According to MIC, sales of motorcycles with larger engine sizes have increased over the past years, corresponding to FARS data that demonstrate an increased number of motorcycle rider fatalities involve a motorcycle with a larger engine size;
- An increased number of motorcycle rider fatalities in the 40 and above age group occurred on rural roadways;
- A majority of motorcycle rider fatalities occurred on undivided roadways.
- Speeding is one of the major contributing factors in motorcycle crashes especially among motorcycle riders under the age of 30;
- Motorcycle operators with a blood alcohol concentration (BAC) of .08 g/dL or higher continue to be a major problem;
- Helmet use among fatally injured motorcycle riders has remained constant, at just above 50 percent in the last ten years;

- About two-thirds (66%) of the fatally injured motorcycles riders in States without universal helmet laws in 2004 were not wearing helmets compared to 15 percent in States with universal helmet laws;
- Since 1997, five States have repealed helmet laws requiring all motorcyclists to wear a helmet resulting in only 20 States, the District of Columbia, and Puerto Rico currently having mandatory universal helmet laws.

The answer to "Are road conditions to blame?" is yet unknown. We hope that the completion of the MCCS may provide the answer.

Question 5: To streamline the grant application process, Sec. 2002(d) of SAFETEA-LU mandated that "the Secretary shall establish an approval process by which a State may apply for all grants under this chapter through a single application process with one deadline." This will allow for more efficient and less confusing application processes for the States. When will this be available to the States?

Answer: NHTSA is in the final stage of developing a consolidated application process. The development of a single application process has been difficult because several grant program criteria are linked to data that are not available until late each fiscal year and because many grant awards are calculated based on the total number of States that qualify during the fiscal year. NHTSA expects that States will have the opportunity to use the single application in FY2007.

Question 6: What is the progress of the Motorcyclist Advisory Council (Section 1914 of SAFETEA-LU)?

Answer: The MAC-FHWA will advise the Federal Highway Administrator on infrastructure issues of concern to motorcyclists including barrier design, road design, construction and maintenance practices and the architecture and implementation of intelligent transportation system technologies. An Advisory Council pre-establishment notice was published in the Federal Register in December 2005 to provide an opportunity for comment and nominations.

Additionally, a Draft Charter outlining scope, purpose, membership, and procedures of the MAC-FHWA has been prepared. A package of member nominations to the MAC-FHWA has also been prepared for the Secretary's approval by FHWA, consistent with criteria in Section 1914 for the composition of the Advisory Council. The nomination package is currently under review.

After consultation with Congress and approval of the members by the Secretary, an establishment notice and the notice of the MAC-FHWA's first meeting will be published in the Federal Register.

Question 7: What successes and challenges have NHTSA and FMCSA met with the Share the Road Safely Program for cars, commercial trucks, and motorcycles, reauthorized under Sections 4127 and 2010 of SAFETEA-LU?

Answer: The Federal Motor Carrier Safety Administration's (FMCSA) Share the Road Safely Program consists of several major education, enforcement and outreach programs to support the Agency's mission. The key FMCSA initiatives under the Share the Road Safely Program are: 1) Commercial Motor Vehicle (CMV) Safety Belt Usage Improvement Program; 2) Safety is Good Business: Non-Entrant Program; 3) Passenger Carrier Selection Transportation Program; and 4) Share the Road Safely: Ticketing Aggressive Cars and Trucks (TACT) Program.

NHTSA assisted FMCSA in conducting a pilot demonstration program applying NHTSA's High-Visibility Enforcement model to FMCSA's *Share the Road Safely for Trucks*. Congress directed NHTSA to work with FMCSA to educate commercial motor vehicle drivers and passenger vehicle drivers about how to share the road safely with each other and enhance traffic enforcement aimed at reducing the incidence of unsafe driving behaviors. The TACT demonstration program in Washington State was directed at curbing unsafe driving by any vehicle around large commercial vehicles. Success of the program was demonstrated at every step -- media messages were received and understood, commercial and passenger vehicle driver knowledge was changed in the intended direction, self-reported driver behavior improved, and observed driver behavior confirmed the self-reports.

The Transportation, Treasury, Housing and Urban Development, The Judiciary, and Independent Agencies Appropriations Act, 2006 directed NHTSA to return the Share the Road Safely Program to FMCSA. NHTSA has turned over the template of how to conduct high-visibility enforcement programs to FMCSA for future applications with CMVs. FMCSA is conducting a second pilot demonstration project in the State of Pennsylvania this year. FMCSA plans to select two additional States in FY 2007 to implement the TACT program and will roll it out on a limited basis to States in FY 2008. FMCSA has drafted eligibility criteria for States to conduct a "High Visibility Enforcement" program to reduce crashes involving commercial and passenger vehicles on our Nation's roads. FMCSA plans to roll out the High Visibility Enforcement program to all States beginning in FY 2009, depending on the availability of funds. In addition, a guide is being developed by FMCSA and NHTSA to provide direction to the States on how to conduct "High Visibility Enforcement" programs in their respective States.

Finally, Section 2010 of SAFETEA-LU directed NHTSA to develop Share the Road model language to inform motor vehicle drivers on the importance of sharing the road safely with motorcycles. NHTSA has developed the model language and will provide it to the States in August for use in traffic safety education courses, driver's manuals, and other driver training materials.

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

Question 1: Please describe RITA's research initiatives on alternative fuels. How may they manifest themselves out on the nation's roadways in the next 5-10 years? What kind of partnerships with industry stakeholders and the public have developed in these initiatives? What future partnerships do you see on the horizon?

Answer: RITA's research initiatives on alternative fuels are focused on hydrogen and enabling technologies including electric drive and biofuels. These programs focus primarily on safety and technology demonstration. In addition to managing Congressionally directed grants, RITA coordinates across DOT's modal administrations, represents the Department with our public and private partners, and conducts targeted multi-modal and cross-cutting research focused on technology validation and implementation. Effective coordination is resulting in reduced duplication and better use of Federal research funds.

Through the Interagency Hydrogen Working Group, RITA and other DOT Operating Administrations are cooperating with the Department of Energy, the Department of Commerce, the Environmental Protection Agency and others on an array of ongoing and planned activities that address the safety challenges of a new hydrogen-based economy. These challenges include fuel system integrity and the long-term operational assessment and validation of new safety technologies for the emerging hydrogen technologies and applications.

In addition to supporting the development of safety codes, standards and regulations for hydrogen vehicles and infrastructure, DOT's hydrogen activities focus on advanced vehicle technologies and safety for light, medium- and heavy-duty vehicles; and education and outreach to foster the understanding and acceptance of new and emerging technologies, especially among the first responder community. It is this community, particularly as senior code officials, who will determine the consumer confidence and industries ability to deploy these technologies. To further facilitate safe market penetration and use of hydrogen technologies RITA is jointly funding a Design Guideline document with FMCSA. When completed in 2008, this best practices document will serve as a tool by the trucking industry to effectively integrate these technologies as they become commercially available over the next ten years.

Stakeholder input and collaboration is a fundamental necessity to accomplish program goals and tasks, given RITA's focus on implementing multi-modal and crosscutting research. Almost every project RITA executes is done in conjunction with one or more partners. RITA emphasizes connecting government R&D to industry and the public. A primary example is our work with the National Association of State Fire Marshals on our hydrogen and fuel cell safety program. This collaboration also involves participation from the fuel cell and hydrogen communities, vehicle manufacturers, the fire safety community, the insurance industry, public advocacy groups and non-governmental organizations in working to develop and implement national first responder and code official training as well as community education programs. RITA continues to foster

growing relationships with other stakeholder groups in industry, academia and government including the U.S. Fuel Cell Council and the National Hydrogen Association. Our collaborative effort with NASFM has also led to a partnership with the National Alternative Fuel Training Consortium headquartered in West Virginia University. The initial deliverables from this effort will be available in 2006, and by 2008 RITA and its partners will have established, distributed, and integrated an effective curriculum into the Nation's fire academies and training centers, as well as made a national training program publicly available for all branches of the public safety community. This program is fundamental to maintaining consumer confidence and creating a path forward for industry to begin real demonstration and deployment of these technologies within a five- or ten-year time frame.

RITA also works closely with the Federal Transit Administration (FTA). RITA technical staff have been directly engaged in the development of codes and standards that are used by the alternative fuel bus demonstration programs. Currently, RITA is engaged in implementing the National Fuel Cell Bus Program. By the conclusion of Phase III in 2013 the expectation is that DOT funded research will enable hydrogen powered fuel cell buses to be commercially available and will begin to comprise an appreciable portion of the Nation's public transportation fleet.

In the near term, RITA's biofuels program will produce fuel and emissions standards and engine testing that will allow manufacturers and users to utilize the technology by addressing existing gaps and allow the industry to achieve appreciable market penetration. This and complementing research done in coordination with the U.S. Department of Agriculture (USDA) will help to accelerate the government achieving the goals and vision enumerated in the "Vision for Bioenergy and Biobased products in the United States – Bioeconomy for a Sustainable Future."

RITA is actively engaged with its grant recipients as a research partner. The resulting projects are addressing both stakeholder and DOT priorities of safety, environmental sustainability, and mobility, emphasizing the need for near-term commercialization. The University of Missouri at Rolla program typifies this approach. UM Rolla is working with RITA to develop cost-effective, easy to use non-destructive testing technologies for hydrogen fuel storage systems. They are also conducting an evaluation of potential risk and failure modes, specifically fire, for these systems in support of statistically validated consensus standards and regulations. This work will be done in close coordination with the State Fire Marshals. This program also leverages funding and participation from the Department of Defense, FTA, States and industry in order to transition university-developed technology into the transportation system.

RITA envisions growing partnerships with industry and the public through stakeholder organizations such as the National Biodiesel Board and the California Fuel Cell Partnership. This unique collaboration, of which RITA is a member, has brought together automakers, energy providers, fuel cell companies, and Federal and State agencies to advance hydrogen as part of our Nation's transportation system. The Partnership has already helped place more than 100 hydrogen vehicles on the road in

California by creating shared resources and working closely with government to address pre-commercialization challenges.

Question 2: How is the University Transportation Centers (UTC) competitive selection process for Regional and Tier I UTCs progressing? Will the selection process be completed before the end of this fiscal year?

Answer: The UTC competitions are progressing according to the agreed upon schedule, with both the Regional and Tier 1 selections on target to be completed by the end of the current fiscal year.

Regional Centers: The solicitation for competition for the Regional UTCs was issued on March 16, 2006, and closed on June 1, 2006. An Evaluation Team of professionals from across the Department has reviewed the applications and made recommendations for selection to the RITA Administrator. Final selections were announced during the last week of July.

Tier I Centers: The solicitation for the Tier I competition was issued on June 1, 2006. The application period closes on August 15, 2006. A similar application review process will be used for the Tier I competition. Selections will be made by the end of September 2006.

Question 3: Please describe RITA's goals in efforts to coordinate UTC research with the Department's research goals. Does this close coordination leave room for the pursuit of applied research, or even fundamental research, that may differ from the Department's priorities?

Answer: RITA is working with the UTCs to ensure that their research portfolios include support for the surface transportation research strategy as documented in *Highway Research and Technology: The Need for Greater Investment* (dated April 2002) and the FTA's National Research and Technology Program, as well as other documented modal research agendas. The grant requirements for this program stipulate that the UTCs must demonstrate how their research portfolio supports these agendas as well as the Department's *Strategic Plan* and, when completed, the Department's *Five-Year Research, Development and Technology Strategic Plan*. RITA will also provide the UTCs with DOT's annual statement of RD&T priorities.

To facilitate this improved coordination, RITA held a Plenary Session on April 11-12, 2006, to describe to the UTC directors the DOT agency missions and research agendas, and to explore areas for potential collaboration. Subsequently, RITA has been conducting outreach to groups of universities on RITA's expectations for meeting this goal. RITA has also been supporting efforts by FHWA, FTA, and others to meet with groups of UTCs to match areas of DOT need and UTC expertise. Ultimately, the expectation is that there will be a series of liaisons or technical monitors between DOT program offices and individual UTCs and UTC researchers.

This process does not preclude applied or fundamental research that is not directly linked to DOT priorities. While RITA does not expect that all of a UTC's research portfolio will be directly applicable, it does expect that a significant portion of their research will be supportive of the DOT research priorities.

Question 4: Please describe RITA's progress and goals for the Remote Sensing Program under Sec. 5506(d) of SAFETEA-LU. What applied technologies will come out of the program for State DOTs and other stakeholders?

Answer: The goal of the SAFETEA-LU program is to establish a national policy and develop new applications of commercial remote sensing products and spatial information technologies for use in national transportation infrastructure development and construction. RITA has developed and released a Broad Agency Announcement (BAA) for competitive solicitation of major new initiatives for validating Commercial Remote Sensing and Spatial Information Technologies application to transportation practice. The announcement closes on August 7, 2006. The BAA is the first step in a multi-step process for receiving and evaluating candidate proposals from consortia of university research centers, teaming with industry and state transportation agencies, for performing these initiatives. A panel of experts will review the white papers received, and based on evaluations of the responses received, DOT may select one or more activities for funding, using various mechanisms.

Applied technologies planned to be delivered from this program for State DOTs and other stakeholders will address the following initiatives:

- Transportation infrastructure assessment:

State transportation agencies and service providers need viable technologies to check the quality of constructed infrastructure (i.e., asphalt and concrete pavements) during construction, and to monitor the performance after construction. Under this initiative remote sensing technologies will be used for achieving smarter, automated and non-intrusive measures of quality control during construction, and for assessing the performance and continued serviceability after construction. The results will contribute to reducing the cost for inventorying, inspecting and collecting data on physical infrastructure systems for asset management.

- Smarter space-based technology for mitigating freight congestion:

Port authorities, state transportation agencies and intermodal service industries search for cost-effective methods and solutions for increasing the capacity of freight flow in intermodal freight corridors. Remote sensing technologies have the potential for cost-effectively collecting and analyzing data, making the information available for modeling freight flow congestion from ports into intermodal and highway systems, and planning actions to mitigate freight congestion at ports, intermodal connections, intersections, and critical gateways and border crossing, as well as incident management measures. In addition to modeling freight flows for future infrastructure planning, remote sensing technologies have the potential for enhancing dynamic routings systems. Dynamic

routing allows on-board GPS tools to inform vehicle operators of optimal route choices on a real-time basis.

Congestion pricing has been effectively used in Europe and Asia for reducing congestion. Space-based technologies offer the potential for viable development of data and information systems for implementing congestion pricing options in urban corridors. The findings will also contribute to the development of a robust system using space-based technologies and products for monitoring and managing congestion pricing options in a typical urban environment, with minimal ground-based infrastructure requirements. This research would support the Department's recently announced *National Strategy To Reduce Congestion On America's Transportation Network.*

- Use of remote sensing technologies for cost-effective environmental impact assessment of transportation projects:

The corridor planning decisionmaking and approval process for State transportation agencies is often burdened with the high cost of collecting data, and the lengthy period of time needed for completing environmental impact assessments. The results from the TEA-21 program have demonstrated the potential for applying remote sensing technologies to collect data and information required to satisfy the National Environmental Policy Act (NEPA). Under SAFETEA-LU, the remote sensing program would select a large transportation corridor that is in the planning stages and demonstrate turnkey procedures and guidelines for applying remote sensing and spatial information technologies in preparing environmental impact assessments, and thereby shortening the time and reducing costs for developing multimodal corridor transportation solutions. The work would also provide tools to reduce the environmental costs associated with growing surface transportation system congestion.

Question 5: SAFETEA-LU reduced the Highway Trust Fund contribution to the research activities at the Bureau of Transportation Statistics (BTS) from $31 million to $27 million. How does that affect the highway research activities carried out by BTS? Are research activities in other modes affected? How does the administration propose to fund BTS research activities for other modes?

Answer: The reduction from $31 million to $27 million in authorized funding for BTS has required the agency to prioritize its existing programs and streamline its efforts to collect, compile, analyze, and publish transportation statistics. BTS has eliminated or scaled back several studies and programs, including DOT's major personal travel survey, the National Household Travel Survey (NHTS), which has been discontinued. Other program and project eliminations include the:

- International Travel Report
- Research on economic indexes (e.g., travel time indexes)
- Capital Stock Accounts
- Economic trends and forecasts
- Data quality audits

- The Journal of Transportation Statistics
- Intermodal DataBase (non-air Transtats information)
- Internet Mapping Center
- The National Transportation Library (NTL) Digital Library Development

In addition, the following programs have been scaled back:

- Freight composite estimates
- Travel data mining (NHTS data)
- Transportation Statistics Annual Report (based on National Transportation Statistics)
- Airline data processing
- National Transportation Library cataloguing
- Website deployment and maintenance

BTS's major freight survey, the Commodity Flow Survey (CFS), is planned to continue. The CFS is the only source of freight flow data for many transportation planning and analysis functions. The CFS is a major underpinning for FHWA's Freight Analysis Framework and provides input to FHWA's Conditions and Performance Report. Finally, the CFS is the only source of information on certain aspects of hazardous materials transportation that transportation planners depend on.

Because other modes use BTS statistical products to varying degrees to support their analyses, their research activities will be affected. For example, the NHTS data on long-distance passenger travel is used for transportation research and planning, and is the primary source of information on trips of more than 50 miles. Planners will only have outdated data from the 2001 NHTS for their research since there will be no collection in 2006.

BTS will continue to support the research activities of the other modes on additional projects, but on a reimbursable basis using funding provided by the other modes.

Question 6: In recognition that the U.S. cannot build its way out of our current congestion crisis, Subtitle C in Title V of SAFETEA-LU reauthorized a $110 million annual investment into Intelligent Transportation Systems (ITS) Research and Development. Please describe RITA and FHWA's joint authority and execution of this program, both past accomplishments and future endeavors. What initiatives is DOT pursuing? How is the Vehicle Infrastructure Integration initiative progressing? How will this investment manifest itself on the nation's roadways? When?

Answer:

Intelligent Transportation Systems (ITS) Program Execution

The ITS Program continues to make significant progress in the development and deployment of technologies and systems that address the Department's goals of safety,

mobility, and global connectivity. We are currently in the process of implementing a Departmental reorganization that will better integrate the activities of the ITS Joint Program Office (JPO) and RITA. We intend to increase the program's focus on congestion and incorpoartae concepts described in the Department's *National Strategy To Reduce Congestion On America's Transportation Network.*

Both the ITS JPO and RITA are inherently intermodal operations, transcending traditional DOT organizational structures with responsibilities in safety, mobility and technology development. Integrating the parallel missions will benefit both organizations, and will provide the ITS program with the committed, research-oriented leadership necessary to enhance the ITS program.

DOT leadership, working closely with senior leadership from the ITS JPO, RITA, and the Federal Highway Administration (FHWA), have conducted an in-depth assessment of the various programmatic and administrative challenges associated with physically transferring the ITS JPO from FHWA to RITA.

In the near term, it was concluded that the ITS JPO should continue to receive its administrative support from FHWA, while transferring the programmatic responsibility to RITA. This arrangement places the RITA Administrator in a strategic leadership, oversight, and decisionmaking capacity involving the activities of the ITS JPO. This arrangement also makes the RITA Administrator the chair of DOT's internal ITS Management Council where he will establish the agenda, chair Management Council meetings, and ensure all ITS goals and objectives of DOT and the modes are considered and addressed.

The ITS Program is currently structured around nine major initiatives. Four of these are focused on improving highway safety, four on improving mobility, and one addresses global connectivity. The ITS Management Council, chaired by the RITA Administrator and comprised of modal Administrators and Secretarial officers, provides leadership and policy direction for the program. We will be looking for new ways to utilize the ITS program to more directly address congestion.

Past Accomplishments

Intelligent Transportation Systems have transformed the Nation's transportation network since their introduction in the 1990s. When transportation agencies install and integrate ITS into their local infrastructure, ITS enables them to more efficiently and effectively operate their local networks to relieve congestion, improve safety, and enhance economic productivity. When ITS is integrated into vehicles, it creates opportunities for improving safety and efficiency in logistics, fleet coordination, and vehicle maintenance.

Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA)

Major program and evaluation milestones for the ITS Program were achieved under ISTEA. Notably, in 1991 and 1993, respectively, the Traveltek and ADVANCE projects

substantially illustrated the capabilities of two types of ITS infrastructure systems: advanced traveler information systems and advanced traffic management systems. The 1997 demonstration of an Automated Highway System in San Diego displayed the possibilities of intelligent vehicles.

The development of the National ITS Architecture was launched and the ITS standards program initiated under ISTEA. These serve as the foundation for interoperability and communication among systems. The National Architecture is the foundation for regional ITS architectures around the Nation.

The Commercial Vehicle Information Systems and Networks Deployment Program (CVISN) was launched -- a program that provides a framework to enable government, industry, and other parties to exchange information and conduct business transactions electronically through the use of standards and available communications infrastructure.

Transportation Efficiency Act for the 21st Century (TEA-21)

TEA-21 continued to provide support and structure for the ITS Program, reauthorizing it at $1.3 billion from 1998 through fiscal year 2003, with extensions into 2005.

As TEA-21 neared its end, desirable levels of ITS deployment were being achieved. Innovative applications for weather, freight, public safety, operations, and security were deployed. Results from the AHS launched a more targeted development of intelligent vehicles under the Intelligent Vehicle Initiative (IVI). The need for a strong, reliable telecommunications link between infrastructure and vehicles resulted in the Federal Communications Commission (FCC) granting the Department a band of spectrum dedicated to transportation. This milestone, in turn, has helped to further system integration. Responding to the ITS Program's petition, the FCC assigned "*511*" -- America's Travel Information Telephone Number -- to be used nationwide for up-to-the-minute travel and traffic information.

Other achievements during the TEA-21 era include:

- The ITS Public Safety Program was instituted. A Secretarial initiative was launched to increase wireless, enhanced 9-1-1 deployment.

- Progress in deployment was also achieved in automatic collision notification systems (e.g. GM's OnStar©), electronic toll collection (e.g. E-Z Pass), and ITS for security and evacuations purposes.

- As TEA-21 drew to a close, nearly two-thirds of metropolitan areas had achieved medium to high levels of ITS deployment.

Initiatives DOT Is Pursuing

Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA-LU):

Congress authorized $550 million for the ITS Program over 5 years (2005-2009). Under SAFETEA-LU, the ITS Program is oriented to focus on fewer, larger, higher risk, high-payoff "major initiatives": nine major initiatives and four ongoing efforts that the Program is completing. Several exploratory studies are also progressing. Three SAFETEA-LU-mandated activities are underway: (1) the rural Interstate corridor communications study; (2) the road weather research and development program; and (3) continued financial support of the I-95 Corridor Coalition.

The ITS Program's nine research initiatives build upon the solid foundation of ITS in place across the country. With the experiences of deployment over the past decade, the program has developed the knowledge, capabilities, and skills to focus on increasingly innovative combinations of existing technologies to solve critical transportation problems. Additionally, the products resulting from the research initiatives -- the next generation of ITS -- will continue the progress toward providing the integration initially envisioned by Congress when it established the ITS Program, as well as the connectivity and transportation services demanded by today's marketplace. Characteristic of these initiatives are participation of public and private partners and the potential of high pay-off in terms of safety, mobility, and productivity.

Cooperative Intersection Collision Avoidance Systems (CICAS)

Objective: To develop cooperative intersection collision avoidance systems that can save lives and prevent injuries at the most hazardous intersections nationally.

Clarus – Nationwide Surface Transportation Weather Observing and Forecasting System

Objective: To reduce the impact of adverse weather for all road users and operators by creating a nationwide road weather observation network and forecasting system.

Electronic Freight Management (EFM)

Objective: To improve operational efficiency, productivity, and security of the transportation system through the use of a common electronic freight manifest and message portal that enables access to shipment information to all supply chain partners in real time.

Emergency Transportation Operations (ETO)

Objective: To improve responses to major incidents, reduce incident duration, reduce incident impact, and improve restoration of normal travel conditions.

Integrated Corridor Management Systems (ICM)

Objective: To improve mobility through integrated management of transportation assets--freeways, arterials, transit, managed lanes--in major transportation corridors in metropolitan areas.

Integrated Vehicle-Based Safety Systems (IVBSS)

Objective: To equip all new vehicles with integrated driver assistance systems that help drivers avoid the most common types of crashes (rear-end, run-off-road, and lane change crashes).

Mobility Services for All Americans (MSAA)

Objective: To increase mobility and accessibility for the transportation disadvantaged and the general public through transportation service coordination.

Next Generation 9-1-1 (NG9-1-1)

Objective: To develop a national architecture and migration plan for the next generation 9-1-1 system.

Vehicle Infrastructure Integration (VII)

Objective: To achieve nationwide deployment of an integrated communications infrastructure on the roadways and in all production vehicles to enable a broad range of safety and mobility services that today are unattainable.

Future Endeavors

The ITS Program recognizes that the social, political, and physical environment is ever changing. Unforeseen priorities have a great ability to influence the future direction of the Program, as evidenced by the programmatic changes in response to the 9/11 tragedies or the Katrina devastation.

With the passage of SAFETEA-LU, the ITS Program is in the process of establishing an approach to understanding and incorporating future driving factors into its research agenda. Section 5306(b)(3)(a) provides one such area of focus for the ITS Program: a mandate to invest in technologies and systems that can aid in reducing congestion by 5 percent by 2010. A number of the ITS Program's major research initiatives directly affect reducing congestion, and nearly all of them will have a positive effect on mobility. The ITS program is organized inherently to address future national transportation concerns and adapt to changing national needs and priorities. In centering the ITS Program around multi-year, high pay-off, major research initiatives, which includes a process for exploratory studies and potential elevation to "major initiative," the ITS Program is continuously looking forward to the future.

The VII Investment

The Department is making significant progress on the VII initiative. We have established a VII Working Group that includes DOT, the automotive manufacturing companies, the American Association of State Highway and Transportation Officials, a number of State DOTs, and several other affected organizations. This Working Group is the primary mechanism used to identify and resolve the broad range of both technical and institutional issues that must be addressed to deploy VII.

DOT has initiated a series of projects to develop prototypes of the various VII components and the overall VII architecture. We are also in the process of designing a test environment that will prove the technical viability of VII. Much of this work is being carried out in cooperation with the automotive industry, which has formed a consortium of automobile companies to carry out this work. In addition, the VII Working group is actively engaged in the process of developing approaches to the non-technical issues such as protecting privacy; how the system might be deployed; and how to operate and maintain the system over the long term.

The expectation is that VII will require a coordinated and simultaneous installation of a wireless communications system in all vehicles sold in the U.S. and a communications system being deployed on the roadway infrastructure nationwide over a relatively short time frame. This will enable a wide range of safety applications such as: intersection collision avoidance; the ability for traffic managers to monitor and improve the flow of traffic; and the ability for car manufacturers to offer a broad range of services to their customers. This coordinated deployment, by definition, will require agreement and cooperation between a number of public sector agencies and the automobile industry on roles, responsibilities, funding, etc. The VII initiative plan calls for answering these various issues by the end of 2008.

Should a decision be reached to deploy VII, the transportation public sector would begin to deploy several hundred thousand communications "hot-spots" on the Nation's major roads. Simultaneously, the auto industry would design into new vehicles a compatible communications system, rolling off the production line in 2011 or 2012. The intent is to carry out a coordinated national deployment that would result in a nationwide network within 2-3 years.

QUESTIONS FOR THE RECORD
FOR THE U.S. DEPARTMENT OF TRANSPORTATION

FROM THE HONORABLE PETER DeFAZIO
RANKING DEMOCRATIC MEMBER
SUBCOMMITTEE ON HIGHWAYS, TRANSIT & PIPELINES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
U.S. HOUSE OF REPRESENTATIVES

HEARING ON SAFETEA-LU IMPLEMENTATION
JUNE 7, 2006

FEDERAL HIGHWAY ADMINISTRATION

Question 1: Section 1301 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) establishes the Projects of National and Regional Significance program to support high-cost transportation projects with national or regional benefits. The structure of the program is modeled after the New Starts program under the Federal Transit Administration (FTA), in which full funding grant agreements are provided to project sponsors to assure steady funding in future years, and a detailed report is prepared on each of the projects that receives federal assistance.

The Federal Highway Administration (FHWA) is preparing to issue a Notice of Proposed Rulemaking for the Projects of National and Regional Significance program. Is FHWA proposing to implement the program in a way similar to the New Starts program, with full funding grant agreements to project sponsors and detailed reports on the projects? Will the reports be submitted to Congress with the President's Budget submission in February 2007?

Answer: FHWA is required by section 1301 of SAFETEA-LU to conduct a rulemaking to implement a Projects of National and Regional Significance (PNRS) program. The legislative language Congress used to define this program and selection criteria closely parallels the language of the Federal Transit Administration's New Starts program, including the requirement that a project financed by this program be carried out through a full funding grant agreement. FHWA intends that a full funding grant agreement would establish the terms of Federal participation in future PNRS projects, the maximum amount of Federal financial assistance, cover the period of time for completing the project, and cover the timely and efficient management of the project in accordance with applicable Federal statutes, regulations, and policy, including oversight roles and responsibilities, and other terms and conditions. The rulemaking process for the PNRS program will be used to help inform the nature and form of full funding grant agreements.

The process established by the rulemaking, however, will not be used for the projects already designated in SAFETEA-LU. All the funds authorized by section 1101(a)(15) of

SAFETEA-LU are fully designated to the 25 projects in section 1301(m) and there are no funds available for distribution beyond those already designated. Section 1301(m) also states that the SAFETEA-LU authorized funding for the 25 projects designated in the subsection is not subject to any other provision in the section. Thus, the criteria that will be established by regulation as well as the project evaluation and rating will not be applied to the SAFETEA-LU funding obligations for these projects.

The Secretary will submit the required annual report on the Projects of National and Regional Significance Program to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate by the first Monday in February 2007. However, since the requirements of sec. 1301 and any rulemaking do not apply to projects currently being funded through this program, FHWA will not have detailed full funding grant agreement reports for these projects in any of the annual reports submitted during the SAFETEA-LU authorization period.

Question 2: (a) Please compile a list showing all waivers to the Buy America requirements granted in the last five years. (b) Please provide a full description of how the Buy America waiver process works, including how waivers are requested and evaluated. (c) What steps would FHWA recommend to make the waiver process more transparent? (d) FTA guidance provides for public notice of waiver requests, and SAFETEA-LU requires the Secretary of Transportation to publish in the Federal Register the justification of why a waiver is in the public interest and to provide a reasonable opportunity for public review and comment prior to the waiver being granted. Can FHWA provide similar written justification and prior public review of and comment on a waiver to be granted to promote public interest or to avoid excessive project cost?

Answer 2(a): A list of Buy America waivers approved since January 2001 is attached as Appendix A.

Answer 2(b): FHWA's Buy America waiver policy is found at Title 23, Code of Federal Regulations 635.410(c). Consistent with these provisions, the FHWA may approve waivers when: "(i) The application of those provisions would be inconsistent with the public interest; or (ii) Steel and iron materials/products are not produced in the United States in sufficient and reasonably available quantities which are of a satisfactory quality."

All of the FHWA's Buy America policy documents are available through the FHWA Construction Program Guide - Buy America web page (http://www.fhwa.dot.gov/construction/cqit/buyam.htm) and further guidance is provided through the FHWA Contract Administration Core Curriculum Manual Section II.B.1 (http://www.fhwa.dot.gov/programadmin/contracts/cor_IIB.htm - IIB1).

The Buy America waiver process is initiated by the contracting agency – usually a State DOT. A State may apply for a waiver of the Buy America provisions if it believes that a waiver is warranted under the provisions of 23 CFR 635.410(c). FHWA encourages

State DOTs to submit waiver requests to the FHWA Division Administrator sufficiently in advance of need (preferably during the preliminary engineering stage, in order to allow time for proper coordination and review).

The waiver request must include the following information: Federal-aid project number, project description, project cost, waiver item description, item cost, country of origin for the product, and reason for the waiver.

Upon receipt of a waiver request, FHWA will contact the appropriate industry associations (American Institute of Steel Construction, American Iron and Steel Institute, National Steel Bridge Alliance, etc.) through phone calls or email, to determine if there are any domestic suppliers of the material. If the coordination with the appropriate steel industry association confirms the State DOT's basis for the waiver request, FHWA approves the waiver in accordance with 23 CFR 635.410(c).

FHWA's current delegation of authority for approving Buy America waivers is summarized in Mr. Horne's July 3, 2003 memorandum (http://www.fhwa.dot.gov/programadmin/contracts/070303.htm). This policy memo delegates the approval authority for Buy America waivers to our 52 Division Administrators. For contract items greater than $50,000, FHWA Headquarters' concurrence is necessary prior to the Division Administrator's approval. For contract items less than $50,000, Headquarters concurrence is not necessary, but the Division Administrator must provide waiver approval information.

Answer 2(c): We believe that many Buy America compliance issues could be minimized if contracting agencies performed a review of domestically available material during the design phase of a project. FHWA believes that informal contacts (phone calls, faxes, emails) with the appropriate industry association representative are the most effective method to verify the statements made by the State DOTs in their waiver requests. We always welcome suggestions to improve processes.

Answer 2(d): FHWA guidance provides for waiver approval when the application of the provisions would be inconsistent with the public interest or when steel and iron products are not produced domestically in sufficient and reasonably available quantities, which are of a satisfactory quantity. Generally speaking, the FHWA guidance has been applied consistently nationwide. FHWA does not believe the delays and costs associated with the Federal Register publication are justified at this time.

FHWA believes that it is important to have a transparent process for contacting industry and verifying the information provided by the State DOT in its waiver request. Based on our experience, informal coordination methods seem to be the most effective in achieving this result, however, FHWA is happy to work with interested parties to determine if there are other methods (web-based communities of practice, user groups, or other web-based notification sites) that might improve transportation.

Question 3: The May 1, 2006 Federal Register notice regarding FHWA Size and Weight Enforcement Regulations states: "House committee staff that drafted the amendment alerted the FHWA that the lack of reference in the definition to the fullmount vehicle was intended to expand the term to include saddlemount combinations with or without fullmount." No Transportation and Infrastructure Committee Democratic staff was involved in any discussion regarding the legislative intent of this provision.

Please explain the process that the Department of Transportation (DOT) used for determining the "staff that drafted the amendment", the forum for DOT's discussion regarding the saddlemount definition, the parties consulted regarding the proposed legislative interpretation, and a legal analysis of the appropriateness of such discussions under DOT's rulemaking procedures and whether such communications should be included in the docket. Please also provide a copy of all written communications (including DOT e-mails) regarding this issue.

Answer: Since the passage of SAFETEA-LU, FHWA has had many meetings and conversations with Members and Committee staff regarding the status of our SAFETEA-LU implementation efforts. On February 2, 2006, majority staff of the House Transportation and Infrastructure Committee initiated a meeting with FHWA to discuss the FHWA implementation of SAFETEA-LU section 4141 regarding driveaway saddlemount vehicles. In response to this request, representatives from FHWA met with the majority staff on February 14, 2006. At this meeting, majority staff indicated that they had received concerns from operators of saddlemount vehicles about how the States were interpreting section 4141 and how FHWA would implement this provision. The majority staff offered the FHWA staff their interpretation of the provision. Because FHWA was considering using rulemaking to make related changes to its regulations, FHWA agreed to consider opening this issue up for public comment during the rulemaking process.

Substantive communications received prior to the publication of a notice of proposed rulemaking (NPRM), are documented either in the preamble to the proposed rule or in the rulemaking docket in accordance with DOT Order 2100.2, Policies for Public Contacts in Rule Making. By including the noted statement in the preamble to its NPRM, FHWA was not implying that all staff were consulted, nor was it implying that the interpretation offered by the majority staff was definitive. The interpretation offered was reasonable, based on the definition of saddlemount used in the statutory language, and deserved consideration by the public as part of the rulemaking process. FHWA will carefully consider all of the comments and viewpoints expressed during the public comment period before making any final decisions concerning the issuance of a final rule.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Question 1: Large truck-related fatalities increased from 5,190 in 2004 to 5,226 in 2005. The Federal Motor Carrier Safety Administration's (FMCSA) fatality goal is set at a rate of 1.65 per 100 million miles of truck travel by 2008, compared with the current fatality

rate of 2.3. To meet this goal, the agency can and must do better. Please provide a detailed explanation as to how FMCSA will use the resources provided in SAFETEA-LU and its regulatory authority to meet its fatality goal by 2008.

Answer: FMCSA recognizes the challenge that it faces in achieving its safety goal by 2008, but is proud of its accomplishments to date. Growth in the freight sector continues to outpace broader economic growth and such growth presents substantial challenges. Congress provided FMCSA with resources to enhance the Agency's safety programs and the statutory authority to take tougher enforcement actions against motor carriers that fail to comply with the safety regulations. The Agency is committed to pursuing performance-based approaches, supported by sound data and analyses, to achieve its safety goal. The following are examples of the major program areas addressed in SAFETEA-LU that will help the Agency achieve its goal.

Motor Carrier Safety Assistance Program (MCSAP)
FMCSA will continue to enhance its MCSAP through the States' implementation of performance-based activities, including the deployment of technology to improve efficiency and effectiveness. As provided by SAFETEA-LU, FMCSA will allow the States to use limited amounts of MCSAP funds for documented enforcement of State traffic laws and regulations designed to promote the safe operation of non-commercial motor vehicles (CMVs) in high crash corridors involving commercial vehicles.

New Entrant Audits
FMCSA will use the authority provided by SAFETEA-LU to improve its New Entrant Program to ensure that all new truck and bus companies have acceptable safety management controls to achieve compliance with the applicable safety regulations and to avoid crashes. Section 4107 allows the Agency to make grants to States and local governments for new entrant audits, up to $29,000,000 per year.

Expanded Enforcement Authority
As provided in section 4102 of SAFETEA-LU, FMCSA will impose increased penalties on motor carriers for out-of-service violations and false records. FMCSA will also impose civil penalties for motor carriers that deny the Agency access to the records required by the Federal Motor Carrier Safety Regulations based upon the authority provided by section 4103 of SAFETEA-LU.

In addition, FMCSA will implement section 4113 of SAFETEA-LU concerning patterns of safety violations by motor carrier management. Under this statute, FMCSA may suspend, amend, or revoke any part of a motor carrier's registration if the Agency finds that an officer of the company engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance with the safety regulations. FMCSA will also consider the intrastate operations of interstate motor carriers in making safety fitness determinations, as authorized by section 4114.

Commercial Driver's License (CDL)
SAFETEA-LU provides FMCSA with $25,000,000 for each fiscal year from 2006 to 2009 for CDL Program Improvement grants for State agencies. FMCSA will use the funds to strengthen the current CDL program to better ensure that only qualified individuals possess CDLs and build upon the requirements of the Motor Carrier Safety Improvement Act to ensure violations are properly posted to CMV driver records in a timely and accurate manner.

On May 2, FMCSA announced its plans in the Federal Register to modernize the Commercial Driver's License Information System (CDLIS) in response to SAFETEA-LU. The notice explains how the Agency's plan satisfies the statutory requirement to: comply with applicable Federal IT security standards; provide for the electronic exchange of information, including the posting of convictions; contain self-auditing features to ensure data is being posted correctly; and integrate the CDL and medical certificate.

Medical Review Board
FMCSA has implemented the SAFETEA-LU requirement to establish a Medical Review Board (MRB) to provide the Agency with expert medical advice in assessing the adequacy of the current medical standards for truck and bus drivers. In March, the Secretary announced his selection of five distinguished physicians to serve 2-year terms on the MRB. The MRB will greatly enhance FMCSA's ability to establish evidence-based medical standards that reflect the most up-to-date scientific data and research on the medical issues facing the truck and bus industry. The MRB will begin deliberations in August 2006.

National Registry of Certified Medical Examiners
Another important step in improving FMCSA's medical oversight of truck and bus drivers is the implementation of the SAFETEA-LU provision requiring the establishment of a National Registry of Medical Examiners (the National Registry). In anticipation of the SAFETEA-LU mandate, FMCSA held a public meeting in June 2005 to discuss its plans to establish the National Registry of healthcare professionals who perform physical examinations of truck and bus drivers. Another public meeting was held in June 2006 and a third will be held in July. The Agency described the concept of requiring that medical examiners complete training concerning FMCSA's medical regulations and the proper application of those standards in assessing driver medical fitness for duty. Upon completion of the rulemaking to prescribe the standards for including medical examiners in the registry and the offenses that would result in their being removed from the registry, FMCSA will have a means of ensuring that all healthcare professionals who certify driver medical fitness for duty do so in accordance with the Agency's standards.

Roadability of Intermodal Container Chassis
FMCSA has developed an NPRM to implement the roadability provision in SAFETEA-LU. This rulemaking proposes to establish a program to ensure that intermodal equipment used to transport containerized freight is systematically maintained to meet vehicle safety requirements. Equipment providers who offer intermodal equipment to interstate motor carriers will be required to establish maintenance programs and to keep

records documenting inspection, repair, and maintenance activities. The NPRM is now under Departmental review and we expect the rulemaking proposal to be published soon.

Question 2: FMCSA's Motor Carrier Safety Assistance Program (MCSAP) provides grants to states to enforce motor carrier safety regulations for trucks and buses. SAFETEA-LU provides $984.5 million for MCSAP for fiscal years 2005 through 2009. This funding level is a 20 percent increase over the previous five-year funding level. In its December 2005 report, the Government Accountability Office (GAO) determined that FMCSA's oversight of this enforcement grant program is "inadequate" and "lacking". Due to an overwhelming amount of missing performance information, GAO could not determine whether states substantially met almost two-thirds of their goals. Please provide a detailed explanation as to how FMCSA plans to address inadequacies in its oversight of the MCSAP program as highlighted by GAO.

Answer: FMCSA has developed and is implementing a National MCSAP Management and Performance Review Program (MCSAP Review Program). The MCSAP Review Program is a national standardized process to evaluate State compliance with related Federal MCSAP requirements and to assess the State's overall MCSAP performance. The MCSAP Review Program is composed of three review elements:

1) Regulatory review to determine if the State's laws, regulations, administrative procedures, and operational practices are in compliance with MCSAP regulations, policies, and procedures.

2) Financial review to determine the State's compliance with the conditions of FMCSA grant agreements, Federal regulations, and applicable Office of Management and Budget circulars.

3) Safety and Program Performance review to assess the State's safety planning and commercial motor vehicle (CMV) safety activities to ensure compliance with regulatory requirements including the formulation of a performance-based Commercial Vehicle Safety Plan through analysis of safety data.

Four MCSAP Reviews (Montana, Mississippi, West Virginia, and Ohio) have been conducted to date. FMCSA is procuring a contractor to provide support for the MCSAP Review Program. It is anticipated that the contract will be awarded by the end of this fiscal year so that additional reviews can begin in FY 2007. This effort will increase the effectiveness of State enforcement and CMV safety programs by focusing on the State's safety performance and planning activities and providing feedback to the State to facilitate the exchange of ideas, promote operational efficiency, and to promote Federal/State cooperation and partnership in making program improvements and achieving greater commercial vehicle safety benefits to reduce CMV-related fatalities and injuries.

Additionally, FMCSA has created an internal workgroup whose members include representatives from the Service Centers, Division Offices, and Headquarters, which has

been tasked with updating the guidelines for the administration of the MCSAP to ensure uniform grant oversight and program management procedures agency-wide. These guidelines will be included in the agency's Field Operations Training Manual (FOTM). It is anticipated that the administrative guidelines will be ready for inclusion in the FOTM by January 2007.

Question 3: SAFETEA-LU provides $100 million over five years in grants to States to improve their Commercial Driver's License (CDL) programs and to comply with the CDL requirements in the Motor Carrier Safety Improvement Act of 1999 (the 1999 Act). In the agency's testimony before the Subcommittee, FMCSA states that it continues to work with the States to finalize implementation of the provisions in the 1999 Act. States have had six years to comply. It is the Subcommittee's understanding that States needed to comply by September of 2005, but penalties will not be handed down until September of 2006. Please tell us how many States do not currently comply with the CDL requirements in the 1999 Act, and with which specific provisions these States do not comply.

Answer: Three States have not yet passed all the required legislation necessary to implement the Commercial Driver License (CDL) provisions of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). These States are Alaska, New Mexico, and New York.

Alaska lacks the following:
The requirement that violations committed in a non-commercial vehicle be included in the CDL holders record under 49 CFR §384.224 and §383.51;
The new major disqualifying offenses under 49 CFR §383.51(b)
Driving a CMV while disqualified, revoked, suspended, or cancelled
Causing a fatality through negligent operation of a CMV; and
The three new serious offenses under 49 CFR §383.51(c)
Driving a CMV without obtaining a CDL
Driving a CMV without a CDL in your possession
Driving a CMV without the proper class of CDL or required endorsement.

New Mexico lacks the no-masking or deferral of convictions requirement for CDL holders under 49 CFR §384.226 as it applies to every driver required to hold a CDL, whether or not the driver currently holds a CDL.

New York lacks the record check requirements under 49 CFR §384.206, which is part of the application procedures for obtaining a CDL.

These States face possible penalties on October 1, 2007, if legislation is not passed in their respective States.

Additionally, twelve States, including the District of Columbia, have passed the structured test administered by the American Association of Motor Vehicle Administrators (AAMVA) for sending and receiving the new data elements via the

Commercial Driver License Information System. This is necessary for implementation of the new MCSIA provisions. States that have not yet passed this testing have been asked to submit action plans that include key milestones up to and including the estimated date for putting the programming changes into production.

Question 4: The Office of the Inspector General (OIG) released a report in April 2006 finding that "FMCSA's repeat violator policy allows motor carriers to escape maximum fines" and that loopholes exist that allow "hundreds of motor carriers to repeatedly violate significant safety rules without exposure to maximum penalties." Please provide a detailed explanation as to how FMCSA plans to comply with each of the OIG's recommendations in this area.

Answer: FMCSA will strengthen the repeat violator policy by implementing a procedure to document all patterns of violations under MCSIA Section 222. For each regulatory Part within which an acute or critical violation is found during a compliance review (CR), the safety investigator (SI) will provide notice of MCSIA Section 222 applicability to the carrier and either 1) obtain the carrier's signed admission of the violation(s), or 2) document at least one of the violations within that regulatory Part. Previous interpretations published in the Federal Register clarify that the Agency will deem three violations "of the same Code of Federal Regulations (CFR) Part" within 6 years as "a pattern of violations" under Section 222 (69 FR at 77829). In the case of a pattern of noncompliance with a critical regulation, which requires a finding of a violation for 10 percent or more of the documents reviewed, if the carrier refuses to sign the admission, the SI will obtain documentation of the 10 percent.

To implement this approach, FMCSA will establish a working group of Agency staff. The first task for the working group will be to draft a policy memorandum detailing the Agency's revised Section 222 policy. FMCSA will circulate the approved policy to the field for implementation and will incorporate it into the Agency's electronic Field Operations Training Manual (eFOTM), now a web-based, searchable program available to Federal and State Motor Carrier Safety Assistance Program (MCSAP)-funded employees who conduct safety audits and compliance reviews (CR) for the Agency. As the policy memorandum is being developed, the working group will identify what related documents need revision, such as the Notice of Claim (NOC). The NOC is the Agency's notice to a carrier that an alleged violation(s) has been observed during a CR or roadside inspection and the Agency intends to take an enforcement action against the carrier based on the cited violation(s). The NOC must be revised to include notice to the carrier that the violation(s) alleged may subsequently be used to support imposition of a maximum penalty amount pursuant to Section 222 of MCSIA. The Section 222 changes from the OIG audit will be implemented by May 31, 2007.

Under section 49 CFR 386.11, the Agency may issue a Notice of Violation (NOV) as a means of notifying any persons subject to the rules in Part 386 that it has received information that alleges the individual has violated provisions of the Federal Motor Carrier Safety Regulations or applicable Hazardous Material Regulations. The Agency intends to revise the NOV so it can be used to notify motor carriers of the discovery of an

acute or critical violation during a CR in those instances where the Agency does not intend to pursue an enforcement case, i.e., where no NOC will be issued. The NOV will include appropriate notice language explaining the maximum penalty provisions of Section 222 and notifying the carrier of its right to challenge the discovered violation.

The working group will also identify which data-based information systems and other software need to be revised to implement the OIG's recommendations. These include, but are not limited to, the Compliance and Analysis and Performance Review Information (CAPRI) system and CaseRite software, which are used to conduct CRs and to create CR reports. Enhancements also will need to be identified and be made to the Agency's Enforcement Management Information System (EMIS), which is used to track and monitor all the Agency's enforcement cases. Once all these system changes are identified, they must be prioritized and scheduled for implementation. The implementation will be coordinated with the Agency's ongoing information technology (IT) modernization program.

Question 5: Progress is moving slowly on implementing the Unified Carrier Registration System. Will FMCSA be able to get the program in place by January 1, 2007? If not, should Congress give the agency a one-year extension to ensure that States do not lose funds?

Answer: FMCSA does not believe a timetable of 12 months to complete the UCR plan is enough time. FMCSA's experience in the 1990's demonstrated that the complexities involved when working with the States towards establishing the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA) were numerous and challenging. The development of the IRP and IFTA agreements took nearly three years to complete.

Similar to the IRP and IFTA agreements, the development of the UCR plan will require the Board of Directors and the States to: 1) design a proposed plan that meets all functional requirements, and 2) identify and resolve significant State-specific operational, administrative and funding issues associated with implementing the plan. The design and issue resolution process, while time-consuming, is critical to building a strong State consensus for an effective and uniform agreement that all States can accept and successfully implement. A time extension for the UCR deadline would be warranted.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Question 1: Preliminary traffic fatality estimates show disturbing data for 2005. Overall traffic fatalities are on the rise, as well as alcohol-related fatalities, large truck-related fatalities, and motorcycle fatalities. In 2005, 43,200 people died on our nation's highways, up from 42,630 in 2004. The fatality rate also increased to 1.46 deaths per 100 million vehicle miles traveled (VMT), up from 1.44 in 2004. Please provide a detailed description as to how the National Highway Traffic Safety Administration (NHTSA) will use the resources provided in SAFETEA-LU to meet DOT's goal of reducing the rate of

highway fatalities from 1.46 fatalities per 100 million vehicle miles traveled to 1.0 fatalities by 2008.

Answer: Section 2003 of SAFETEA-LU amends Section 403 of Title 23 and authorizes $431 million for fiscal years 2006-2009 to support, among other things, program development activities, safety data collection and highway safety research and evaluation. To assist the Agency and its safety partners in reaching the GPRA goal of 1.0 fatality per 100 million vehicle miles traveled, the Agency will use Section 403 funds to conduct research into driver behavior, implement demonstration projects with State and local partners to identify innovative safety countermeasures, and evaluate promising programs that have the potential to reduce motor vehicle related fatalities. Section 403 funding will also support the collection and dissemination of data on highway safety that is essential to program development and evaluation. The results of the Section 403 research provide the scientific basis for effective highway safety programs that States and local communities can tailor to their own needs.

The Section 403 research program addresses a wide range of safety problems through various programs, initiatives, and demonstrations, such as: impaired driving programs, safety belt and child safety seat demonstration programs and related enforcement mobilizations, teens, pedestrian, bicycle, and motorcycle safety initiatives and related law enforcement strategies, enforcement and justice services, speed management, emergency medical services, fatigue and inattention countermeasures, and data collection and analysis. All of these efforts produce a variety of scientifically sound data, safety countermeasures, and effective programs.

In addition, Congress identified specific research areas for special attention under Section 403. These mandates include, among other things: an on-scene motor vehicle collision causation study; drug-impaired driving enforcement; older driver safety; impaired motorcycle driving; and reducing impaired driving recidivism. Results from these projects will enable the Agency to craft more effective strategies to reach the GPRA goal.

SAFETEA-LU provided an increase in grant funding that will be used to encourage all States to implement key highway safety laws and programs that will move the Nation toward the goal of 1.0 fatality per 100 million VMT by 2008. Under the Section 402 program, in order to receive formula grant funds each year, all 50 States, DC, Puerto Rico, the Bureau of Indian Affairs and the territories will provide assurances that they will actively support the national law enforcement mobilizations to increase safety belt use and reduce impaired driving and will provide sustained enforcement of impaired driving, occupant protection and speeding-related laws throughout the year. NHTSA will monitor their activities to ensure compliance.

The Section 406 program provides large financial incentives to all States to enact and enforce a Primary Safety Belt law. SAFETEA-LU provides financial incentives 3 times greater than the prior authorization to enact the laws and implement the programs needed to qualify for Section 410 Alcohol-Impaired Driving Countermeasure funds and use those funds effectively to support efforts to stop those who drink and drive. The new Section

2010 Motorcyclist Safety Grant funding will enable States to implement rider training and awareness programs to help stop the alarming increase in motorcycle fatalities.

In addition, sections 10301 and 10302 of SAFETEA-LU include requirements for NHTSA to undertake new rulemaking actions to require stability enhancing technologies to prevent rollovers, performance standards to reduce ejections from motor vehicles, and upgrade our roof crush safety standard. Those sections also mandate that NHTSA must complete its rulemaking actions relating to an upgraded door lock and door retention standard and upgraded side impact crash protection standard. All of these rulemaking activities were identified in NHTSA's Priority Rulemaking Plan as important safety initiatives to help the Agency achieve future reductions in the fatality rate.

Question 2: SAFETEA-LU provides that in order for a State to receive a 402 grant it must provide assurances that it will implement activities in support of national highway safety goals. This provision requires assurances that the State will implement activities related to: national law enforcement mobilizations; sustained enforcement of impaired driving, occupant protection and speeding-related laws; an annual seat belt use survey in accordance with DOT criteria; and development of statewide data systems. Please provide a detailed explanation as to how NHTSA will confirm that these assurances are met.

Answer: The National Highway Traffic Safety Administration (NHTSA) required every State to provide a signed certification from the Governor's Highway Safety Representative, specifying that the State would comply with the new assurances in Section 402(b)(1)(E), as established in SAFETEA-LU, prior to receiving FY 2006 Section 402 State and Community Highway Safety formula grant funds. All eligible grant recipients -- the 50 States, the District of Columbia, Puerto Rico, Bureau of Indian Affairs and territories -- submitted this certification. The same certification will be required each year prior to receipt of Section 402 grant funds.

NHTSA will be reviewing the States' Highway Safety Plans (HSPs), submitted each year on September 1, to be sure that activities planned and implemented to support national mobilizations, sustained enforcement, and statewide data systems are adequately described. The Agency will also review the States' required annual reports to ensure that the required activities were completed. The States' documentation of these activities will be reviewed during routine monitoring functions performed by NHTSA.

To demonstrate completion of the annual statewide safety belt use survey each calendar year, States are required to submit a Safety Belt Survey Certification Form annually by September 1, the due date for submission of the HSP. If the survey has not been completed by September 1, the Certification Form may be submitted to the appropriate NHTSA Regional Administrator as soon as possible after receipt of the survey results -- but no later than March 1 of the following calendar year. (The survey data collection must have been conducted within the confines of the calendar year.)

Should a State fail to demonstrate compliance with the new requirements of Section 402(b)(1)(E), NHTSA may withhold or reduce the apportionment of funds to which the State would otherwise be entitled, as authorized under 23 U.S.C. 402(c).

Question 3: The Office of the Inspector General's (OIG's) office has briefed Committee staff on some ongoing issues within your agency, including NHTSA's efforts to oversee the use of grant funds. Program oversight is an area of concern. Given the significant increases in funding for behavioral highway safety programs – including a 35 percent increase in State and Community Grant funding (Section 402) and a 199 percent increase in Alcohol-Impaired Driving Countermeasure Grant funding (Section 410) – how will NHTSA better measure the effective use of these funds? What performance measures exist to ensure that States use this funding effectively?

Answer: The fundamental performance measure of a highway safety program is the fatality rate per 100 million vehicle miles of travel (VMT). For specific program areas (e.g., safety belts, impaired driving, speeding), similar VMT-based rates serve as the fundamental measures of performance: unbuckled passenger motor vehicle occupant fatalities per 100 million VMT, alcohol-involved fatalities per 100 million VMT and speed-involved fatalities per 100 million VMT, respectively. To measure performance of programs aimed at demographically defined audiences (e.g., the elderly, teenage males, African Americans); population-based fatality rates (fatalities per 100,000 persons in the relevant group) are used, because reliable measures of VMT cannot be obtained for those populations. NHTSA computes these VMT- and population-based fatality rates annually for every State, the District of Columbia, Puerto Rico and the country as a whole, using data from the Fatality Analysis Reporting System (FARS), VMT data obtained from the Federal Highway Administration, and population counts obtained from the U.S. Census Bureau. When these measures indicate that a State is performing more poorly than its neighbors or than the Nation at large, NHTSA may conduct a program assessment (a detailed, independent peer review of a component of a State's highway safety program, e.g., safety belts, traffic records, motorcycles, etc., initiated by the State itself) or (when appropriate) require a Management Review (a review routinely performed by NHTSA once every three years of a State Highway Safety Office's systems, programs or operational practices) or Special Management Review (a system of reviews by NHTSA that examine a State's management and operational practices in specific program area(s) as a result of worse-than-average performance and progress less than half of that recorded by the Nation as a whole) to identify more effective uses for the grant funds the State receives.

RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION

Question 1: SAFETEA-LU authorized the Bureau of Transportation Statistics (BTS) at a level of funding that is $4 million per year less than what was authorized in TEA 21. What steps has the agency taken to accommodate this reduction in funding?

Answer: The reduction from $31 million to $27 million in authorized funding for BTS has required the agency to prioritize its existing programs and streamline its efforts to collect, compile, analyze, and publish transportation statistics. BTS has eliminated or scaled back several studies and programs, including DOT's major personal travel survey, the National Household Travel Survey (NHTS), which has been discontinued. Other program and project eliminations include the:

- International Travel Report
- Research on economic indexes (e.g., travel time indexes)
- Capital Stock Accounts
- Economic trends and forecasts
- Data quality audits
- The Journal of Transportation Statistics
- Intermodal DataBase (non-air Transtats information)
- Internet Mapping Center
- The National Transportation Library (NTL) Digital Library Development

In addition, the following programs have been scaled back:

- Freight composite estimates
- Travel data mining (NHTS data)
- Transportation Statistics Annual Report (based on National Transportation Statistics)
- Airline data processing
- National Transportation Library cataloguing
- Website deployment and maintenance

BTS's major freight survey, the Commodity Flow Survey (CFS), is planned to continue. The CFS is the only source of freight flow data for many transportation planning and analysis functions. The CFS is a major underpinning for FHWA's Freight Analysis Framework and provides input to FHWA's Conditions and Performance Report. Finally, the CFS is the only source of information on certain aspects of hazardous materials transportation that transportation planners depend on.

The Research and Innovative Technology Administration received approval to offer Voluntary Early Retirement Authority/Voluntary Separation Incentive Payments in order for BTS to reduce salary expenses and streamline its operations. Seven BTS staff members took advantage of the buy-out, and BTS is reorganizing and restructuring its programs and staff to focus on Congressional mandates and Departmental priorities.

Finally, RITA and the Department are seeking funding from the Airport and Airway Trust Fund to continue BTS's Airline Statistics program, which is the only source of comprehensive airline traffic, financial and performance data, and is widely used by the public and private sectors. The loss of the Aviation program would mean that the government and the airline industry will lack comprehensive, objective financial data to evaluate the condition of the industry and individual carriers; uniform data will no longer

exist to gauge the performance of the aviation system; DOT will not have data to determine eligibility for Essential Air Service, allocate Airport Improvement grants, negotiate international air service agreements, and allocate safety resources; Congress and the Administration will not have access to the national, regional and local airport, airline and passenger data necessary to make informed decisions and provide industry oversight; and the public will lack access to vital airline information including on-time performance.

Until the passage of SAFETEA-LU, the Airline Statistics program had been funded from the Highway Trust Fund. However, Congress reduced the BTS annual budget by the cost of the program – $4 million – and sent a clear message that the collection and evaluation of airline data should instead be funded out of the Airport and Airway Trust Fund from which it is authorized. BTS will not be able to continue the Aviation Statistics program beyond the end of FY 2006 unless it receives additional resources for FY 2007.

Question 2: If, as a result of the lower funding level, BTS will be forced to significantly reduce its activities and quality of data, why did the Administration request only $27 million in the President's FY2007 Budget for BTS?

Answer: The Administration requested a total of $31 million for BTS, $27 million from the Highway Trust Fund and $4 million from the Airport and Airway Trust Fund (in the Federal Aviation Administration Operations account) to fund airline data needs. Funding for the Aviation Statistics program was authorized to be appropriated from the Airport and Airway Trust Fund in Vision 100 – Century of Aviation Reauthorization Act (P.L. 108-176, Section 103(c)).

APPENDIX A

Buy America Waivers

This list includes Buy America waiver waivers processed by FHWA headquarters from January 2001. The list includes some waivers with total product amount less than $50,000 processed by the Division offices (See Mr. Horne's May 5, 2003 memorandum).

State	Date	Material	Cost	Reason for request	Division Apprvd. < $50,000	HQ Concurrence
Montana	01/18/01	Stainless steel rebar (experimental)		Not available domestically		01/31/2001
Louisiana	02/05/01	Frodingham 4N (PZ-35)		Not available domestically		02/26/01
Massachusetts	05/21/01	Stainless steel rebar (experimental)		Not available domestically		05/25/01
California	05/15/01	W14 x 426 & W14 x 500 for seismic retrofit	$640,964	Not available domestically		06/13/01
Minnesota	06/15/01	Stainless steel rebar (experimental)		Not available domestically		06/28/01
Missouri	07/25/01	Stainless steel rebar (experimental)		Not available domestically		07/26/01
California	09/08/01	Prefabricated parallel wire strand, Cable Saddle, 75 mm High strength, S-wire		Not available domestically		09/18/02
Washington	10/22/02	Rock fence anchors	$5500	Not available domestically		10/22/02
Washington	12/20/02	PZ-40	$1,600,000	Not available domestically		3/15/03
Oregon	02/10/03	Scale & Sensor Frame		Not available domestically		03/13/03
Alaska	02/26/03	Self service espresso machine		Not available domestically		02/26/03
Alaska	05/21/03	Doors lockset for FVF		Not available domestically		05/22/03
Oregon	05/15/03	Hood Canal Rexroth Cylinder		Not available domestically		05/28/03
Massachusetts	05/21/01	Hot lolled sheet pile	$56,956.25	Not available domestically		05/25/01

West Virginia	04/04/01	Light pole	$24,000	Not available domestically		04/04/01
Missouri	07/25/01	Clad Rebar (experimental)		Not available domestically		08/01/01
Louisiana	09/26/01	Sheet piling Frodingham 4N		Not available domestically		10/11/01
Colorado	11/21/01	Brefen Wire Rope for Safety		Experimental		02/20/02
Alaska	12/10/01	Evacuation Chutes	$80,000 $100,000	Not available domestically		02/14/02
Alaska	10/04/03	M/V Lituya Lashing	$1,636	Not available domestically	12/04/03	
Oregon	02/13/02	Dyax Axle sensor frame	$7,590	Necessary to match existing frame hardware		02/15/02
Maryland	04/15/02	14 x 10 x 5/8 tubular truss		Not available domestically		05/14/02
Virginia	05/21/02	PZ-40	$284,000	Not available domestically		05/21/02
New York	07/16/02	Hot rolled sheet pile	$71,000	Not available domestically		07/15/02
Florida	07/22/02	AZ-26	$911,140	Not available domestically		07/23/02
Washington	05/07/03	Hyd. Clder	$250,000	Not available domestically		05/28/03
South Carolina	04/20/04	Post tension strand	$71,000	Not available domestically		04/26/04
Oregon	09/22/04	Type 1 fiber	$70,000	Not available domestically		10/08/04
Oregon	02/27/04	Fall protection system.	$68,687.34	Not available domestically		03/18/04
Puerto Rico	09/21/05	Light pole		Not available domestically		10/05/05
Alaska	02/24/04	M\V Solarium heater	$8,100	Not available domestically		04/04/04
California	03/29/04	Pier E2 Share keys		Not available domestically		05/04/04
Maryland	8/23/04	PZ-35/PZ-40		Not available domestically		08/23/04
Alaska	05/07/04	Marine Evac. Shute	$210,000	Not available domestically		05/20/04
Alaska	05/07/04	fire system	$35,000	Not available domestically		05/20/04
Alaska	11/04/04	Pre-stressed pile	$1600	Not available domestically		11/15/04
Montana	04/21/04	PZ-40		Not available domestically		05/10/05
Texas	11/10/04	Sheet piling AZ		Not available		09/09/05

				domestically		
Colorado	08/26/05	18" diameter pipe		Not available domestically		09/07/05
New York	01/30/06	Sheet piling	$1.03 ml	Not available domestically		01/30/06
Florida	03/20/06	ICP pile		Experimental		03/27/06

OPENING STATEMENT OF
THE HONORABLE RUSS CARNAHAN (MO-03)
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES
U.S. HOUSE OF REPRESENTATIVES

Hearing on
Implementation of SAFETEA:LU

Wednesday, June 7, 2006, 2:00 PM
2167 Rayburn House Office Building

Mr. Chairman and Mr. Ranking Member, thank you for hosting this important hearing.

The growth and well-being of our nation is dependent upon our ability to link our metropolitan centers to our outlying suburbs, rural communities and other cities. A poor transportation grid is not simply a nuisance; it's a detriment and an inexcusable waste of taxpayers' money. The goal of our interstate highway system should be to provide the most efficient and safest transportation routes for our citizens by using all available technologies and to sustain the highest level of maintenance possible. I am interested today in what further steps we can take to accomplish our goals of keeping America's highway system an advantage instead of an encumbrance for our people.

On a local level, I am particularly pleased that Missouri's Department of Transportation has begun work on two crucial areas of road improvement in my congressional district due to federal funding from the SAFETEA: LU legislation. Highway 21, a road that has been nicknamed "Blood Alley," and listed by Reader's Digest as one of the five most deadly roads in the nation, will soon be a safer place to drive due to a four lane expansion. In my 2004 campaign, I pledged to help improve Route MM conditions because of its consistently high accident rate. I am proud that the Highway bill included improvements to Route MM, which will relocate and upgrade Jefferson County portions of the road.

I welcome the witnesses to our subcommittee hearing today and am eager to learn from their testimony.

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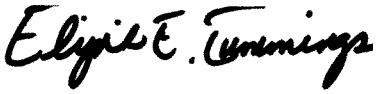

COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
Subcommittee on Highways, Transit, and Pipelines

"Implementation of SAFETEA-LU"

June 7, 2006
2:00 p.m.
2167 Rayburn House Office Building

Opening Statement of Congressman Elijah E. Cummings

Mr. Chairman:

A number of new programs were created by SAFETEA-LU for which regulations must now be promulgated, including such programs as the "Small Starts" transit program, the New Freedom Program to improve transportation for persons with disabilities, and a number of programs to enhance safety on our nation's roadways.

Our Committee will be vigilant in overseeing the implementation of these programs, and I thank the

Chairman for calling today's hearing to give us the opportunity to examine how the implementation of SAFETEA-LU is proceeding now, not quite a year after its enactment.

I would like to mention my concern about the implementation of Section 7131, which requires the Administrator of the Pipeline and Hazardous Materials Safety Administration to enter into a contract with the National Academy of Sciences to conduct 9 specific research studies on the transportation of hazardous materials. I understand that the slow release of funds from the Federal Highway Trust Fund has delayed initiation of these studies.

Section 7131 also required the Secretary of the Department of Transportation to submit a report not later than 6 months after the enactment of SAFETEA-LU on the need to establish a cooperative research program on hazardous materials transportation.

I understand that the Department of Transportation is waiting to clear the report before its final release. It does not appear that a representative of PHMSA (**pronounced FEMSA**) is with us today, but I certainly look forward to the initiation of the studies and to the receipt of the report as soon as possible.

Finally, I would note that in this year, the 50th anniversary of the Federal-Aid Highway Act that

created the U.S. Interstate Highway System, the biggest threat to our transportation system is still the lack of adequate funding. This was true before enactment of SAFETEA-LU and, unfortunately, it remains true after the enactment of SAFETEA-LU.

The construction of the Interstate System was a remarkable achievement made possible in large part through the creation in 1956 of a new federal financing system for transportation. This system remains centered on the Highway Trust Fund, to which the federal gas tax and related transportation taxes are directed.

Unfortunately, the funding generated through the federal gas tax – and concomitant state taxes – has begun to fall

short of need in recent years. As a result, states have focused their increasingly limited resources – rightfully so – on maintaining existing infrastructure and new construction has slowed.

According to the Federal Highway Administration, 30% of all state expenditures on roadways made in 1981 were made on new construction. By 2001, expenditures on new construction had fallen to just 13% of total expenditures.

We must ensure that revenue can keep pace with need – if we do not make the expenditures on new construction, we will make it in the costs of congestion and wasted time and opportunities. I therefore also look forward to

considering the findings of the panel created by SAFETEA-LU to examine future highway financing options.

I look forward to discussing these critical issues with today's panelists and I yield back the balance of my time.

Statement for Record

Congress of the United States
Washington, DC 20515

Statement of the Honorable Eddie Bernice Johnson
House Subcommittee on Highways & Transit: Hearing on SAFETEA-LU Implementation
Wednesday, June 7, 2006 – 2167 Rayburn

Thank you Mr. Chairman.

I want to thank you and Ranking Member DeFazio for holding today's hearing on SAFETEA-LU implementation.

I am in between hearings so I will be brief.

<u>My question is for Ms. Sandra Bushue of FTA:</u>

Ms. Bushue, Section 3011 of SAFETEA-LU contained a $35 million annual set-aside from the FTA bus program for intermodal terminals, including the intercity bus portion of those terminals.

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This set-aside is similar to the intercity bus intermodal program proposed in the Administration's SAFETEA proposal and in legislation that I sponsored.

I believe that the development of intermodal terminals and the inclusion of intercity buses in those terminals should be a high priority for FTA as they would provide increased convenience, efficiency, and seamlessness for passengers dependent on public transit.

When and how does FTA intend to implement this set-aside program?

Statement for Record

Jim Oberstar

STATEMENT OF
THE HONORABLE JAMES L OBERSTAR
SUBCOMMITTEE ON HIGHWAYS, TRANSIT, AND PIPELINES
HEARING ON IMPLEMENTATION OF SAFETEA-LU
JUNE 7, 2006

I commend Chairman Petri and Ranking Democratic Member Mr. DeFazio for scheduling today's hearing to receive testimony from the Administration on the implementation of SAFETEA-LU.

Mr. Chairman, as the Department moves forward with the implementation of SAFETEA-LU, safety must be the highest priority. The safety and security of our nation's transportation systems must be enhanced through continuing investments in the infrastructure; behavioral and operational improvements; and overall regulatory and management improvements.

I regret that the new Administrator for the National Highway Traffic Safety Administration (NHTSA) is not representing the agency today. NHTSA's preliminary traffic fatality estimates show disturbing data for 2005. Overall traffic fatalities are on the rise, as well as alcohol-related fatalities, large truck-related fatalities, and motorcycle fatalities. In 2005, 43,200 people died on our nation's highways, up from 42,630 in 2004. The fatality rate also increased to 1.46 deaths per 100 million vehicle miles traveled (VMT), up from 1.44 in 2004.

Fifty-five percent of vehicle occupants who died in 2005 on our roads were not wearing seat belts. If seat belt usage were increased from the current national average of 82 percent to 90 percent, more than 2,000 lives would be saved each year. In 2005, alcohol-related fatalities increased 1.7 percent from 16,694 to 16,972. In addition, one out of every eight traffic fatalities results from a collision involving a large truck. Large truck-related fatalities increased from 5,190 in 2004 to 5,226 in 2005.

SAFETEA-LU created a new incentive grant program to encourage states to enact primary seat belt laws and provides a significant boost in funding for the impaired driving countermeasure grant program and the motor carrier safety grants program (MCSAP). These programs, combined with high-visibility enforcement efforts, will increase seat belt use, reduce drunk driving, and decrease truck-related fatalities.

The National Highway Traffic Safety Administration (NHTSA) and the Federal Motor Carrier Safety Administration (FMCSA) can and must do better. I urge you to use every available authority to cut the extraordinary number of people who die on our highways each year.

Turning to the Federal Transit Administration (FTA), the Committee must continue to monitor FTA's effort to implement SAFETEA-LU and ensure that the statutory budgetary firewalls are honored each year of the Act. Under the President's fiscal year 2007 budget request, the Administration requested only one-half of the amount authorized for the "small starts" transit capital investment program. The Committee on Appropriations has used the Administration's proposed changes to SAFETEA-LU as an invitation to eliminate funds for the small starts program in its first year.

I strongly support the small starts program and urge the Committee to strongly oppose both the Administration's and Appropriations Committee's proposals to cut or eliminate funding for this innovative new program. Currently, there are more than 75 small start projects under consideration by local transit agencies. In addition, in developing the regulations for implementation of the program, I urge the Administration to adhere to SAFETEA-LU's requirements to provide a fair playing field for all possible modes and consider economic development along the transit corridor as a criterion for the program.

On another issue, I am extremely dissatisfied with the way that the Federal Highway Administration (FHWA) is implementing the Buy America provision in SAFETEA-LU. Section 1928 expresses the sense of Congress that in determining

whether the Buy America requirements will be waived in a bridge project we should look at the cost advantage of foreign products for the entire project, and not separate components. I understand that FHWA is ignoring the view of Congress because it is only a sense of Congress, and as such the provision does not the force of law.

I want to make clear that when Congress established the Buy America requirements in the Surface Transportation Assistance Act in 1982, with subsequent modifications, Congress' intent was – and is – to ensure that, when taxpayer money is used for federal-aid transportation projects, the investments will stimulate domestic production and create jobs. Congress clearly was unhappy with the way that provision was being implemented, and so included the sense of Congress in SAFETEA-LU to clarify Congressional intent. I am very disappointed that FHWA chose to ignore our advice.

One of the most important new programs established in SAFETEA-LU is the Projects of National and Regional Significance program. Steady, guaranteed funding is critical for these projects. To facilitate this long-term investment, the program's structure is modeled after the New Starts transit program requiring full funding grant agreements for individual projects and detailed analyses of designated projects and other projects in the pipeline. Regrettably, no regulations have been promulgated yet for this program. FHWA should give high priority to issuing these regulations,

developing full funding grant agreements for the designated projects, and reporting to Congress on the status of each project.

Finally, on a positive note, I want to express my great appreciation for FHWA's progress on implementing the new National Safe Routes to School Program (SRTS). To oversee the program, each state is required to hire a dedicated, full-time Safe Routes to School Coordinator. As of today, 25 States and the District of Columbia have hired a permanent, full-time coordinator; 15 States have designated an interim point of contact; and the remaining 10 States have not yet hired a coordinator or designated an interim contact. I expect that these remaining States will soon appoint a Coordinator to oversee this important program. Safe Routes to School has the potential to improve the living habits of an entire generation of schoolchildren.

Mr. Chairman and Ranking Member DeFazio, thank you for calling this hearing and I look forward to the Administrator's testimonies.

STATEMENT of Rep. JON PORTER (R-NV)
House Transportation and Infrastructure Committee
Subcommittee on Highways, Transit, and Pipelines
June 7, 2006

Mr. Chairman, I thank you for holding this hearing today on the implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users (SAFETEA: LU).

Southern Nevada is one of the fastest growing regions in the country with 5,000 new residents a month. In 1990, Clark County's population was 853,000, by 2000 it was 1,429,000, and today it is well over 1,800,000. By 2030 Southern Nevada's population is expected to increase to 3,000,000. With over 50 million tourist and 60,000 new residents each year Southern Nevada faces unique challenges when addressing the needs of congestion, safety, and bottlenecks on its highways.

SAFETEA-LU will provide $1.3 billion over the next five years for Nevada's much needed highway improvement projects. Nevada has over $13 billion in transportation infrastructure needs and a shortfall of over $4 billion. Seven of the states ten major projects are in Southern Nevada which is home to 87% of the states population. Presently, over 23,000 vehicles travel through the Las Vegas resort corridor a day and by 2008 over 30,000 vehicles are expected. As Nevada continues to grow the efficiency and safety of its highways are a major concern.

As Congress strives to address the needs of our nation's highway system we must ensure that this important piece of legislation is being implemented properly. The Department of Transportation is tasked with implementing this historic legislation and putting each program into place. I look forward to today's discussion.

I am extremely interested in hearing the comments from my fellow subcommittee members as well as the testimony from the witnesses. I yield back

Statement for Record

Ellen O Tauscher

Statement by Representative Ellen Tauscher
Subcommitee on Highways & Transit
Wednesday, June 7, 2006

Mr. Chairman, thank you for the time today to make an opening statement. I'd like to use this time to direct some comments and questions to Acting Administrator's Capka and Bushue.

While I know they won't be able to respond to my comments now, I hope they will respond in writing to me at the conclusion of today's hearing.

Administrator's Capka and Bushue, my questions are related to your agencies' implementation of the highway bill's changes to federal planning requirements placed on States and MPOs.

As you know, most of the planning changes in the highway bill come in Section 6001 of the legislation. As part of that section, language was included which, and I'll read the language, says:

> The Secretary shall ***NOT*** require a State or MPO to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or MPOs plan or program updates shall reflect changes by this section.

In early May, an FHWA Memo provided that if a State or MPO wanted to make a change to their TIP after July 1, 2007, they would need to make sure that their TIP, and not just the amendment, was SAFETEA-LU compliant. This would mean, in most cases, that the State or MPO would have to deviate from their *established planning update cycle* to update their TIP to add in any amendments. And, not only would this mean that they would have to update their TIP, presumably they would also have to update their Long-Range Plan to make sure their Plan and their TIP are congruent – a long-standing federal requirement.

My point here is that it seems that the agency is misinterpreting the intent of the implementing language – that DOT should not interrupt established planning cycles.

1. My first question is, can you explain your agencies' interpretation of the July 1, 2007 deadline? Have I fairly reflected your agencies' views on this subject?

2. How do you reconcile the line saying that the, "Secretary shall NOT require a State or MPO to deviate from its established planning update cycle?

Beyond my concerns with your agencies' interpretation of Congressional intent, I'm also concerned that your interpretation will force many MPOs and States to redo recently completed work on both TIPs and Long-Range Plans.

For example, in the Bay Area, the Metropolitan Transportation Commission recently completed an update to its Long-Range Plan. The process took over 16 months to complete and they go through it approximately ever two years.

In the case of MTC, it would seem that they may be forced to essentially redo existing good work if they want to make an amendment to this plan. In my view, this would be an inappropriate use of funds that could be used for actual project completion.

Before DOT moves forward in promulgating a Rule for implementation, you should sit down with the Membership of this Committee to understand the full intent of the implementing language. Beyond that, I hope you would work closely with the States and MPOs to ensure that any Rule promulgated by your agency does not force them to redo recently completed work.

I appreciate your time this afternoon and look forward to your responses.

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