



Speak Up!

Programs and Processes

- Summary Description of SAFETEA-LU Programs
- Reauthorizing Federal Highway Safety Grant Programs



I. BEHAVIORAL SAFETY PROVISIONS

GHSA Summary of the Safety Provisions in Safe, Accountable, Flexible, and Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU)

1. Section 402 Highway Safety Program

SAFETEA-LU continues the Section 402 and authorizes funding for the period FY 2005-09. The Act also adds airbag awareness programs and aggressive, fatigued and distracted driving programs to the list of programs that are part of the uniform 402 guidelines and are eligible for 402 funding. The apportionment for Indian nations (administered through the Bureau of Indian Affairs) is increased from $\frac{3}{4}$ to 2%. (**Note:** The increase for minimum apportionment states [from $\frac{1}{2}$ % to $\frac{3}{4}$ %] was inadvertently left out of the bill. The provision may be added in a technical corrections bill.)

In order to receive a 402 grant, a state must provide satisfactory assurances that it will implement activities in support of national highway safety goals that also reflect the primary data-related factors within a state, as identified by the state highway safety planning process including: national law enforcement mobilizations; sustained enforcement of impaired driving, occupant protection and speeding-related laws, an annual safety belt use survey conducted in accordance with DOT criteria, and development of statewide data systems. (Emphasis added.)

As another condition of 402 grants, states are required to “actively encourage all relevant law enforcement officials in the state” to follow the IACP guidelines on police pursuits.

NHTSA is required to establish an approval process in which states can apply for all behavioral highway safety grants with a single application process and one annual deadline.

The Section 402 program is funded at \$163.68 million in FY 2005, \$217 million in FY 2006, \$220 million in FY 2007, \$225 million in FY 2008, and \$235 million in FY 2009.

2. Section 403 Highway Safety Research and Demonstration Program

SAFETEA-LU provides increased funding for NHTSA's R&D program and reauthorizes the Section 403 program for FY 2005-09. The Act clarifies that the purpose of the Section 403 program is to conduct: research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care; research or demonstration projects on fatigued and distracted driving; training or education programs with other federal departments, states, private sector or law enforcement



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personnel; research and develop best practices on driver education programs and make recommendations for harmonizing drivers education with GDL; older driver research, training and education programs; motorcycle safety research, training and education, including impaired motorcycling; evaluations of technology for detecting drug use and research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.

The Act gives NHTSA the authority to participate and cooperate in international highway safety activities. It also indicates a number of specific R&D activities that NHTSA must undertake:

- An on-scene motorcycle crash causation study. The report is due to Congress two years after enactment.
- Not less than two demonstration projects to evaluate new and innovative means of combating fatigued, inattentive and distracted drivers
- A study on the most effective advanced technology and ITS (such as automated pedestrian detection and warning systems), road design, and vehicle design that could reduce crash forces on pedestrians. The report is due to Congress two years after enactment.
- A study on BAC test refusal. The Governors, the state Attorneys General and the U.S. Sentencing Commission must be consulted on the study. The report is due to Congress two years after enactment and must include recommendations for legislation, including model state laws.
- A study on educational, public information and other activities relating to impaired motorcycling. The report, including recommendations, is due to Congress within two years of enactment.
- A study on reducing impaired driving recidivism through advanced vehicle-based alcohol detection systems, including an assessment of the cost effectiveness and practicality of such systems. The report is due to Congress two years after enactment.
- A compilation of statistics on fatal and injury accidents involving motor vehicles backing up on any roadway, driveway or parking facility. The report, along with recommendations, is due to Congress by Jan. 1, 2009. NHTSA is also required to report to Congress on a method to collect and maintain data on deaths and injuries involving vehicles with GVW of less than 10,000 lbs. involved in non-traffic incidents. This data must be reported to Congress at least biennially.

In addition, the Act earmarks funding for certain specific R&D projects as follows:

- \$1.2 million each year for FY 2006 – 2009 for drug impaired driving. Not later than 18 months after enactment, NHTSA, in consultation with the National Institutes of Health (NIH), must: assess the methodologies and technologies for measuring drug impaired driving (including drugs in combination with alcohol); identify effective and efficient methods



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for training law enforcement personnel, including DRE's, to detect or measure the level of impairment; describe the role of drugs as a causal factor in traffic crashes and the extent of the problem; assess current state and federal drug impaired driving laws; and make recommendations for addressing drug impaired driving and for developing a model statute. Based on the research, NHTSA must then develop a model statute that includes threshold levels of impairment for illicit drugs, practical methods for detecting drugs and penalties for drug impaired driving. The model law must be submitted one year after the research report.

- Such sums as necessary for developing and implementing programs to promote compliance with state and local laws governing the safe operation of first responder vehicles, compiling a list of best practices, analyzing relevant state and local laws and developing model legislation. NHTSA must complete this within one year of enactment.
- \$1 million in FY 2006 for the Alaska rural EMS optimization pilot program.
- \$1 million in FY 2005 for a study on the effects of window glare on driver performance, including the increased risks on rural two-lane roads and for drivers over 50.
- \$1.7 million each year for FY 2006-09 for a comprehensive older driver research and demonstration program. The program must provide information and guidelines to assist older drivers, physicians and other medical personnel, families, licensing agencies, law enforcement personnel, and various transit agencies in enhancing the safety of older drivers. It must also improve the scientific basis of medical standards and screening strategies and conduct field tests to assess the safety and mobility impacts of different licensing strategies, driver assessments and rehabilitation strategies. Additionally, it must assess the value and improve the safety potential of older driver retraining courses. NHTSA has to formulate a plan and submit it to Congress one year after enactment.
- \$500,000 each year for FY 2006-09 to train police on safe police pursuit techniques.

The Section 403 NHTSA Research and Development program is funded at \$71.4 million in FY 2005, \$110 million in FY 2006, \$107.75 million in FY 2007 and 2008, and \$105.5 million in FY 2009.

3. Section 405 Occupant Protection Incentive Grants

SAFETEA-LU continues, for the period FY 2004-09, the Section 405 program as authorized under the TEA-21. Under the Section 405 program, a state is



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eligible for an incentive grant if it satisfies four of the following six criteria:

- A law requiring safety belt use by passengers in all seating positions
- A primary enforcement safety belt law
- Minimum fines or points for violations of seat belt and child safety seat laws
- A statewide special enforcement program for occupant protection
- A statewide child passenger protection education program
- A child passenger protection law

Grants are available for six years beginning in FY 2004. Qualifying states may receive a grant up to 100% of their FY 2003 402 apportionment. Funds must be used to implement and enforce occupant protection programs. The federal matching share is 75% in FY 2004 and 2005, 50% in the next two fiscal years and 25% for the fifth and sixth fiscal years. Unobligated 405 funding may be transferred into the 408 or 410 program in order to ensure that states receive the maximum funding to which they are eligible under those programs.

(Note: in FY 2004, 31 states, DC, PR and two territories qualified for funding. On the one hand, it is likely that more states will continue to qualify than there are available funds, and states will **not** receive an allocation equal to 100% of their FY 2003 402 funds as a result. On the other, since unobligated 408 and 410 funds can be flexed into the 405 program, it may be possible to increase state allocations closer to the 100% level. This will obviously vary from year to year.)

The Section 405 program is authorized at \$19.8 million for FY 2005 and \$25 million a year for FY 2006-2009.

4. Section 406 Safety Belt Performance Grants

SAFETEA-LU authorizes a new Section 406 program to reward states that enact new primary belt laws or secondary states that have high safety belt usage rates. The program is authorized for the period FY 2006-09.

States that have enacted and are enforcing a primary belt law after Dec. 31, 2002 or secondary states that have reached an 85% or higher safety belt usage rate for two consecutive years immediately prior to the grant year are eligible to receive a one-time grant equal to 4.75 times their FY 2003 402 apportionment. States have to enact a primary belt law by July 1 in order to be eligible for Section 406 grants in the same fiscal year in which the law was enacted.

States that enacted a primary belt law prior to Dec. 31, 2002 receive a one-time apportionment equal to 2 times their FY 2003 402 apportionment. The apportionment may be spread over four years.



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If there is a shortfall of 406 funding in any fiscal year, then states will receive funding in the order in which the primary belt law came into effect or the state achieved an 85% belt usage rate or higher in two consecutive years, whichever occurred first. Eligible states will receive catch up grants in the subsequent fiscal year. Grants to secondary states with 85% belt use or above would only be made in the last two years of the grant program. Grants to states with older primary belt laws will be funded last in any fiscal year, following grants to eligible primary and high belt use states (in the last two years only) and catch up grants. Unallocated funds in the Section 406 program may be reallocated in FY 2009 to primary belt law states. The federal share of grants is 100%.

All but \$1 million of each state's grants may be used for any safety infrastructure improvements or any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems. Eligible activities include: intersection improvements, pavement and shoulder widening, installation of rumble strips and other warning devices, improving skid resistance, pedestrian improvements, rail-highway crossing safety, traffic calming, elimination of roadside obstacles, improvements in highway signage and pavement markings, priority control systems at intersections for emergency vehicles, traffic controls at high accident locations, safety conscious planning and crash data system improvements. \$1 million of each eligible state's grant must be spent on behavioral safety programs.

The Act also allows the DOT Secretary or his designee to "engage in activities with states and state legislators to consider proposals relating to safety belt laws."

The Section 406 program is authorized at \$124.5 million for each year FY 2006–2009.

5. Section 408 State Traffic Safety Information System Improvement Grants

SAFETEA-LU authorizes a new data improvement incentive grant program for FY 2006–2009. In order to be eligible for a first-year grant, a state must demonstrate that it has:

- a functioning Traffic Records Coordinating Committee (TRCC) that includes managers, collectors and users of traffic records, public health and injury control data;
- a multi-year strategic plan that addresses system deficiencies, is approved by the TRCC, specifies how deficiencies were identified, prioritizes system needs and goals, identifies performance indicators by which progress toward the goals can be tracked and specifies how funds will be spent.



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In order to be eligible for subsequent year grants, a state must:

- certify that it has had a traffic records assessment within the preceding five years;
- certify that the TRCC continues to operate and support the multi-year plan
- specify how grant funds are to be used to address system needs and goals identified in the plan
- demonstrate measurable progress toward achieving the plan goals and objectives
- submit a current progress report

As a condition of a Section 408 grant, the state must certify that it “has adopted and uses model data elements” identified by the Secretary or that it “will use (408) grant funds ...toward adopting and using the maximum number of such model data elements as soon as practicable.” The state must also satisfy a maintenance of effort requirement. Eligible states will receive a grant of equal to the higher of their 402 proportionate share or \$300,000 the first year and \$500,000 in subsequent years. The federal share payable is 80%. Funds may only be used to make safety information system improvements such as: undertaking efforts to increase the timeliness and accuracy of the data; evaluating the effectiveness of state data improvements; linking state data systems; and improving the compatibility with national data systems. Unobligated 408 funding may be transferred into the 405 or 410 programs in order to ensure that states receive the maximum funding to which they are eligible under those programs.

The Section 408 program is authorized at \$34.5 million a year for each year FY 2006 -2009.

6. Section 410 Alcohol Impaired Driving Countermeasure Grants

SAFETEA-LU continues the 410 impaired driving incentive grant program but revises the eligibility criteria. Funds are authorized for FY 2006-09.

In order to be eligible for grants, a state must have an alcohol-related fatality rate of .05 or less per 100 VMT as of the date of the grant OR satisfy three eligibility criteria in FY 2006, four criteria in FY 2007 and five criteria in FY 2008 and 2009. The criteria are as follows:

- Checkpoint or saturation patrol program – The state must conduct a series of high visibility, statewide law enforcement campaigns, including campaigns conducted in coordination with the national mobilizations. The state must also demonstrate that it has increased its total number of impaired driving enforcement activities at high incident locations by an amount determined by NHTSA.



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- BAC testing – The state must have an effective system for increasing the level of BAC testing of dead drivers from the previous year
- High risk driver program – The state must have a law that establishes stronger sanctions and additional penalties for convicted offenders with a BAC of .15 or higher. Additional penalties are defined to mean a one-year license suspension that includes a 45-day hard suspension followed by a provisional (restricted) license that allows the offender to driver to work and only in an interlock-equipped vehicle. The penalties also must include a mandatory assessment by a certified substance abuse official and possible referral to counseling, as appropriate.
- Program for effective alcohol rehabilitation and DWI courts – The state must have a program for effective inpatient or outpatient alcohol rehabilitation for repeat offenders OR a program that refers impaired driving cases to DWI courts that emphasize close supervision of high-risk offenders.
- Underage drinking program – The state must have an effective strategy, as determined by NHTSA, for preventing underage purchases of alcoholic beverages and adult purchases of beverages for those under 21. The underage program may include the issuance of tamper-resistant drivers' licenses and a training program for point-of-sale training personnel.
- ALR law – The state must have an ALR law for individuals that, within the five-year period following enactment, either fail a chemical test for impairment or refuse to submit to such a test. If the person is a first-time offender, the state law must suspend the license for not less than 90 days, with a 15-day hard suspension, followed by a restricted license and an ignition interlock on each vehicle owned and/or operated by the individual. The offender may be allowed to drive to work, school or alcohol treatment program if the ignition interlock is installed on each vehicle. If the individual is a repeat offender within the five-year period, then the offender's license must be suspended for one year, with a 45-day hard suspension, followed by a restricted license and an ignition interlock on each vehicle owned and/or operated by the individual. The repeat offender may be allowed to drive to work, school or alcohol treatment



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program only if the ignition interlock is installed on each vehicle. In either case, the suspension must take effect within 30 days after the offender is determined to be a DUI.

- Self-sustaining impaired driving prevention program – The state must have a program in which a significant portion of the fines or surcharges collected for DUIs are returned to communities for comprehensive programs for impaired driving prevention.

Eligible states may use the funds for: labor, management and equipment costs for statewide high visibility enforcement campaigns; law enforcement training; procurement of technology and equipment (including video equipment and passive alcohol sensors); costs of public awareness, advertising and educational campaigns that publicize high visibility enforcement efforts or that target those under 34; the costs of developing and implementing a DUI information system; and the costs of operating license plate impoundment or vehicle impoundment or forfeiture programs. Funds for education, public awareness or advertising campaigns may be expended in conjunction with the state's 402 funds and may be coordinated with employers, schools, members of the hospitality industry, and nonprofits and at sporting or other entertainment events. Funds are allocated to eligible states based on the 402 formula.

No more than 15% of the funds must be earmarked for the 10 highest impaired driving fatality rate states, as determined by FARS. Those states must prepare an impaired driving plan that is approved by NHTSA. At least 1/2 of the allocated funding must be used for sobriety checkpoints or saturation patrols. Funds to the 10 states are allocated on the basis of the 402 formula, and no state will receive more than 30% of the earmark.

NHTSA has twelve months after enactment to issue implementing regulations specifying the types of data that states should collect. The matching share and maintenance of effort requirements are unchanged from current law. Unobligated 410 funding may be transferred into the 405 or 408 programs in order to ensure that states receive the maximum funding to which they are eligible under those programs.

The Section 410 program is authorized at \$39.68 million in FY 2005, \$120 million in FY 2006, \$125 million in FY 2007, \$131 million in FY 2008, and \$139 million in FY 2009.

7. Section 2010 Motorcyclist Safety Grants

SAFETEA-LU authorizes a small, new motorcycle safety program that provides grants to states that adopt and implement effective programs to reduce the number of crashes involving motorcyclists. Funds are authorized for FY 2006-2009.



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In order to be eligible for grants, a state must satisfy a maintenance of effort requirement and satisfy one out of six criteria in FY 2006 and two out of six criteria in FY 2007, 2008 and 2009. The criteria are as follows:

- Motorcycle rider training courses – The state must have an effective statewide motorcycle training course that provides instruction on accident avoidance and other safety-related operating skills that may include innovative regional training. The training must be approved for use in the state by a state authority having jurisdiction over motorcycle safety issues. The state authority may include the state motorcycle safety administrator or motorcycle advisory council appointed by the Governor.
- Motorcyclist awareness program – The state must have an effective statewide program to enhance motorist awareness of and safe practices around motorcyclists on or near roadways. The awareness program must be developed by or in cooperation with the designated state authority (see above).
- Reduction of fatalities and crashes involving motorcycles – The state must have a reduction in the number of motorcycle fatalities and in the motorcycle fatality rate (fatalities per 10,000 registrations) in the preceding calendar year.
- Impaired driving program – The state must implement a program to reduce impaired motorcycling.
- Reduction of fatalities and accidents involving impaired motorcyclists – The state must have a reduction in the number of alcohol- or drug-impaired motorcycle fatalities and fatality rate (see above) for the preceding calendar year.
- Fees collected from motorcyclists – All fees collected by the state from motorcyclists for training and other safety programs must be used for motorcyclist training and other safety programs.

Eligible SHSO's will receive grants of at least \$100,000 but not more than 25% of their FY 2003 402 funds. Grant funds may be sub-allocated to nonprofits capable of carrying out motorcyclist training and safety programs.

Funds may be used for: improvements to the motorcycle safety training curricula, improvements in delivery of the training program (including procurement or repair of training motorcycles, instructional materials, mobile training units and leasing or purchasing of facilities for closed-course skills training), measures designed to increase recruitment and retention of instructors, and public awareness, PSA's or other outreach programs (including share the road messages).



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NHTSA must also develop and disseminate, within one year of enactment, model language for use in traffic safety education courses, drivers' manuals, and other driver's training materials instructing drivers on how to share the road with motorcyclists.

The Section 2010 motorcycle safety grants are authorized at \$6 million each year for FY 2006-08 and \$7 million in FY 2009.

8. Section 2011 Child Safety and Child Booster Seat Incentive Grants

SAFETEA-LU authorizes a new booster seat incentive grant program to encourage states to enact and enforce booster seat laws. Funds are authorized for FY 2006-2009.

In order to be eligible for grants, a state must have a law requiring children too large for a child safety seat to be secured in a restraint that meets revised FMVSS 213 federal child restraint requirements (which covers children 50-65 lbs.) States must satisfy a maintenance of effort requirement and submit a report documenting how the funds were expended and what programs were funded. The federal share payable is 75% for the first three years and 50% for the last year.

Not more than half of the funding allocated to eligible states must be used for purchasing and distributing child safety seats and child restraints to low income families. The remaining funding can be used for enforcement of child restraint laws, CPS training, or public education programs about the proper use and installation of child safety seats and child restraints.

The Section 2011 booster seat grants are authorized at \$6 million each year for FY 2006-2008 and \$7 million in FY 2009.

9. Section 412 NHTSA Accountability

SAFETEA authorizes new Section 412 language that specifies requirements for holding NHTSA accountable for its performance.

First, NHTSA must conduct management reviews of all grant programs at least once every three years. NHTSA must provide review-based recommendations on how each state could improve the management and oversight of its grant activities and may provide a management and oversight plan for such programs. Second, NHTSA must conduct program improvement reviews of state programs that do not make substantial progress in meeting their priority goals over a three-year period. NHTSA must provide technical assistance and safety program requirements for the state for any goal that is not achieved. Third, NHTSA must provide data-based recommendations to states at least 90 days before submission of their state plans.



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NHTSA and the DOT Inspector General must undertake an administrative review of the practices and procedures used during management and program reviews and develop a best practices report for use by the regional offices. This best practices report must be completed within 180 days of enactment.

NHTSA is also required to issue uniform management and program review guidelines based on the best practices report. The regional offices must use the guidelines when conducting management and program reviews. NHTSA must also publish on the web: the management and program review guidelines, all state HSPP's, state Annual Reports, and a summary report of findings from the management and program reviews. NHTSA may not make any report publicly available until after the state has officially submitted the document to NHTSA.

The Government Accountability Office (GAO) must analyze the effectiveness of NHTSA's oversight by determining the usefulness of advice to the states, the extent to which the states incorporated NHTSA's recommendations into their plans and programs, and the improvements that resulted. GAO must report to Congress by no later than September 30, 2008. (**Note:** presumably, if GAO found that a state's performance improved upon the advice of the Agency, then in the next reauthorization, NHTSA would be directed to have an even stronger oversight role on how states spend their funding.)

10. Section 2009 High Visibility Enforcement Program

SAFETEA-LU authorizes funds for NHTSA (and not the states) to carry out at least two high visibility enforcement campaigns each year for FY 2006- 2009. The campaigns must be focused on reducing alcohol-or drug-impaired driving and/or increasing the use of safety belts. NHTSA may use the funds for the development, production and use of broadcast and print media advertising. NHTSA must consider advertising to non-English speaking populations and must conduct an annual evaluation of the effectiveness of the campaigns. NHTSA is required to coordinate the campaigns with the states, and states may use their 402, 405, 406, and 410 funds on the campaigns.

The Act authorizes \$29 million a year for NHTSA's high visibility enforcement program each year for FY 2006-2009.

11. Other Behavioral Safety Provisions

SAFETEA-LU includes a Sense of the Senate that the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving. This Commission, not later than Sept. 30, 2006, would conduct a full examination of alcohol-impaired driving issues and make recommendations on a broad range of policy and program changes.



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The Act also includes a Sense of the Congress that NHTSA should work with state and local governments and independent organizations to increase public awareness about state BAC limits and the dangers of alcohol-impaired driving.

The Act continues funding for the Section 157 and 163 programs for FY 2005 only.

NHTSA is required to conduct a review of safety belt use technologies in order to achieve further gains in safety belt use. The report is due to Congress by July 1, 2008.

There are no new penalties or sanctions under SAFETEA-LU. (The Lautenberg amendment authorizing new high risk driver penalties was rejected by the conferees.) The current 154 open container and current 164 repeat offender requirements are unchanged and remain in effect. The .08 BAC sanctions, originally authorized under the FY 2000 DOT appropriations bill, are removed from that legislation and codified in SAFETEA-LU.

12. Summary of State Behavioral Grant Program Authorizations

Program	FY 2005	FY 2006*	FY 2007*	FY 2008*	FY 2009*
402	163.68	217.00	220.00	225.00	235.00
405	19.84	25.00	25.00	25.00	25.00
406	0.00	124.50	124.50	124.50	124.50
408	0.00	34.50	34.50	34.50	34.50
410	39.68	120.00	125.00	131.00	139.00
2010	0.00	6.00	6.00	6.00	7.00
2011	0.00	6.00	6.00	6.00	7.00
157	112.00				
163	100.00				
Total	445.20**	533.00	541.00	552.00	572.00

(in millions)

*does not include the NHTSA takedown for grant program administration. NHTSA administrative funds are authorized separately in FY 2006-2009.

** Includes the NHTSA administrative takedown.



II. SAFETY INFRASTRUCTURE PROVISIONS

1. Section 148 Highway Safety Improvement Program

SAFETEA-LU replaces the existing safety set-aside program within the Surface Transportation Program (STP) and creates a new Section 148 Highway Safety Improvement Program (HSIP) core safety infrastructure grant program. Funds are authorized for four years, FY 2006-2009.

Under the HSIP, funds can be used for: an intersection safety improvement; pavement and shoulder widening (including an addition of a passing lane); installation of rumble strips or other warning devices as long as they don't affect the mobility of bicyclists; pedestrians and the disabled; installation of skid-resistant surfaces at an intersection or other high accident location; an improvement for bike or pedestrian safety or the safety of the disabled; elimination of hazards at railroad grade crossings (including grade separations); construction of a rail-highway grade crossing feature (including the installation of protective devices); traffic enforcement activity at a rail-highway grade crossing; construction of traffic calming features; elimination of a roadside obstacle; improvement of highway signage or pavement markings; installation of a priority control system at signalized intersections for emergency vehicles; installation of traffic control or other warning device at high accident locations; safety conscious planning; improvements in the collection and analysis of crash data; planning, emergency communications, operational improvements, or traffic enforcement activities at work zones; installation of guardrails, barriers and crash attenuators; structures or other measures to eliminate or reduce accidents involving wildlife; installation; maintenance of signs at ped-bike crossings and in schools zones; signage and construction at ped-bike crossings and at school zones; and construction and operational improvements at high risk rural roads. Improvement projects can be on any public roadway or publicly owned bike or pedestrian pathway or trail.

States are required to develop and implement a state strategic highway safety plan that identifies and analyzes highway safety problems and opportunities. The plan must be developed by the state DOT in consultation with a Governor's highway safety representative, regional transportation planning organization and metropolitan planning organization, representatives of the major modes of transportation, state and local traffic enforcement officials, state persons responsible for administering the federal rail-grade crossing program, representatives from Operation Lifesaver, state MCSAP administrators, state motor vehicle administrators, other major state and local stakeholders. The plan must:

- make use of different types of crash data
- have a crash data system with the ability to perform problem identification and countermeasure analysis
- addresses engineering, management, operation, education, enforcement and emergency services elements
- identify hazardous locations, sections and elements and establish criteria that indicates the relative severity of these locations



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- adopt strategic and performance-based goals that address the broad spectrum of safety improvements (including behavioral improvements), focus resources on the areas of greatest need and are coordinated with other highway safety programs
- advance the state's capabilities for traffic records data collection, analysis and integration with other sources of safety data and include information on all public roads
- consider the results of state, regional, and local transportation and highway safety planning processes
- set priorities for corrective action on high hazard locations, segments and elements
- identify opportunities for preventing the development of new hazardous locations
- establish and implement a schedule of improvements
- establish an evaluation process to assess the results achieved by the highway safety improvement projects
- produce a program of projects that is consistent with the State Transportation Improvement Program (STIP).
- be approved by the Governor.

States also must evaluate the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements. States must submit an annual report to DOT that describes not less than the top 5% of hazardous locations and an assessment of the potential remedies, the estimated costs of implementing those remedies, and the impediments to implementation. The annual report must describe the progress being made to implement HSIP projects and the extent to which these projects help the state meet its safety goals.

The Secretary must establish the content and schedule for the annual reports. The reports must be listed on the DOT web site, and states would have the same immunity regarding the publication of crash data as under the current Section 409 of Title 23 of the U.S. Code. Nothing in the Section 148 requirements would alter other safety plans, including the HSP, required under other sections.

The federal share for roadway safety projects is 90%. Up to 10% of the HSIP funds can be used to "carry out safety projects under any other section as provided by the state strategic highway safety plan." However, the state must first certify that the state has met rail-grade crossing safety and safety infrastructure needs. **(Note:** This means that HSIP funds can only be spent on behavioral programs as long as the funded activities are consistent with the recommendations of the strategic highway safety plan and the state is willing to say that other safety construction needs have been met. FHWA may be able to more flexibly interpret this language.)

States that don't have a plan by Oct. 1, 2006, would still get an HSIP apportionment but funds must be obligated for the Hazard Elimination Program



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(HEP) and Rail-Highway Grade Crossing program purposes only and not for the other, more innovative purposes outlined in Section 148. States have until October 1, 2007 to develop and implement a strategic highway safety plan. If the state doesn't have a plan by that date, then the state's HSIP apportionment will be frozen at the FY 2007 level.

The Section 148 program would be funded at \$1.235 billion in FY 2006, \$1.255 billion in FY 2007, \$1.275 billion in FY 2008, \$1.296 billion in FY 2009. \$220 million of that amount would be earmarked annually for rail-highway grade crossing improvements, including the installation of protective devices. \$90 million a year in FY 2006-2009 is earmarked for high risk rural roads. The high risk rural road and rail grade crossing funding can be used for safety infrastructure purposes authorized in Section 148 if the state demonstrates that it has met its highway-rail grade crossing and rural roads needs.

2. Section 1404 Safe Routes to School Program

SAFETEA-LU creates a new Section 1404 Safe Routes to School (SR2S) program to enhance the safety of primary and middle school children.

State, regional and local agencies and nonprofits that demonstrate an ability to meet the requirements of the program can receive funding. Funds must be used for infrastructure-related projects within two miles of any primary or middle school that will improve students' ability to walk or bike to school including: sidewalk improvements; traffic calming and speed reduction improvements; pedestrian and bicycle crossing improvements; on-street bicycle facilities; off-street bicycle and pedestrian facilities; secure bicycle parking facilities; and traffic diversion improvements on any public road, pedestrian or bicycle way. Not less than 10% nor more than 30% of the funding must be used for: public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools; student sessions on bicycle and pedestrian safety, health and the environment; and funding for training, volunteers and managers of safe routes to school programs. Each state must use its SRS funding to pay for a full-time Safe Routes to School coordinator.

A national Safe Routes to School clearinghouse is created. Its purpose is to develop SRS programs and provide technical assistance to grantees. A national SR2S task force is also created. The task force must study and develop a strategy for advancing SR2S programs nationwide. The task force must submit a report to Congress by March 31, 2006.

Funds are apportioned on the basis of student enrollment in primary and middle schools. State DOT's are the eligible recipients of these funds. The federal share is 100%. Funds are not transferable and must remain available until expended. No



II. SAFETY INFRASTRUCTURE PROVISIONS

state can receive less than \$1 million dollars in grant funds each year. \$3 million a year is earmarked for FHWA administration of the grant program.

The program is funded at \$54 million in FY 2005, \$100 million in FY 2006, \$125 million in FY 2007, \$150 million in FY 2008 and \$183 million in FY 2009.

3. Summary of Safety Infrastructure Authorizations

Program	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
HSIP		1,235*	1,255*	1,275*	1,296*
SR2S	54	100	125	150	183
Total	54	1,335	1,380	1,425	1,479

(in millions)

* includes \$220 million for rail-grade crossing improvements and \$90 million for high risk rural road improvements annually.

4. Other Safety Infrastructure Provisions

SAFETEA-LU provides \$5 million a year for FY 2006-2009 to make grants to nonprofit and not-for-profit organizations for work zone safety training. \$1 million a year for FY 2006-2009 is authorized for a nonprofit organization to operate the national work zone safety clearinghouse. \$500,000 a year for FY 2006-2009 is authorized for a nonprofit organization to improve the quality of roadway safety-related data, develop and implement a public awareness campaign about roadway safety, and promote roadway safety research and technology transfer activities. \$300,000 in FY 2005 and \$500,000 a year in FY 2006-2009 is authorized for a national nonprofit organization to serve as a clearinghouse on bicycle and pedestrian safety activities and provide educational information and technical support.

Under SAFETEA-LU, \$500,000 in FHWA funds are earmarked for a study of the safety of toll facility workplaces. FHWA must report to Congress by one year after enactment. FHWA is also directed to develop a program to improve traffic signs and pavement markings in all states in accordance with the Older Driver and Pedestrian Guidelines. The federal share payable is 100%. No new funds are provided for this purpose.

**III.
RESEARCH
PROVISIONS****1. FSHRP**

SAFETEA-LU creates a new Section 510 future strategic highway research program (FSHRP). DOT may make grants or enter into cooperative agreements with AASHTO and the National Academy of Sciences, to conduct research based on the National Research Council Special Report 260, "Strategic Research: Saving Lives, Reducing Congestion, Improving the Quality of Life." The research program must address certain program priorities, including "driver behavior and likely crash causal factors to support improved countermeasures." The Transportation Research Board of the National Research Council must submit a report to Congress by no later than February 1, 2009. \$51.25 million is authorized each year for FY 2006-09.

2. TSIMS

SAFETEA-LU authorizes funds for the "development of a comprehensive transportation safety information management system" (TSIMS). TSIMS is a software application for the collection, integration, management, and dissemination of safety data "from and for use among state and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases." TSIMS is funded at \$1 million in each of FY 2006 and 2007. The federal funds must be supplementary to voluntary contributions of the states.

3. Motorcycle Crash Causation Study

SAFETEA-LU authorizes \$1.408 million in FY 2006 and in FY 2007 for the Oklahoma Transportation Center to conduct a comprehensive, in-depth crash causation study. This is not a NHTSA study but will be conducted by one of the other modal agencies in DOT.



IV. MISCELLANEOUS PROVISIONS

1. Section 1906 Grant Program to Prohibit Racial Profiling

SAFETEA-LU authorizes a new Section 1906 grant program to prohibit racial profiling. SHSO's are the recipients of the grants. States are eligible for grants if they: 1) enact and enforce a law that prohibits the use of racial profiling in the enforcement of state laws regulating the use of federal-aid highways and; 2) maintain and allow public inspection of race and ethnicity data for each motor vehicle stop made by law enforcement on federal-aid highways OR provide assurances to DOT that the state is undertaking activities to comply with 1) and 2). Eligible states may use the grant funds to: collect and maintain data on traffic stops; evaluate the results of the data; develop and implement programs to reduce racial profiling (including law enforcement training programs); undertake activities to comply with the basic requirements of the grant program; or undertake any activities relating to enacting and enforcing a law and collecting data on traffic stops.

\$7.5 million is authorized for each year FY 2005 – 2009. Eligible states may not receive more than 5% of total funding or grants for more than two years. The federal share payable is 80%. Funds are available until expended and may not be transferred.

2. Motorcyclist Advisory Council

SAFETEA-LU authorizes a Motorcyclist Advisory Council to advise FHWA on infrastructure issues of concern to motorcyclists including barrier design, road design, construction and maintenance practices, and ITS. The Council is composed of 10 members: one member representing a national motorcyclist association, one member representing the national motorcycle riders foundation, one National Association of State Motorcycle Safety Administrators (SMSA) representative, two members of state motorcyclist organizations, one representative of highway builders, one representative of the traffic safety systems industry, one member of a national safety organization, at least one and not more than two motorcyclists with engineering or state DOT backgrounds.

3. EMS Interagency Council

SAFETEA-LU authorizes a federal interagency committee to address emergency medical services (EMS) issues. The membership of the committee must consist of representatives of NHTSA, Department of Homeland Security (DHS), Department of Health and Human Services (HHS), Centers for Disease Control, U.S. Fire Administration, Department of Defense, Indian Health Service, Federal Communications Commission, another federal representative appointed by DOT or DHS, and a state EMS director. The purpose of the committee is to: ensure coordination among the federal agencies with state, local, regional or tribal EMS

**IV.
MISCELLANEOUS
PROVISIONS**

and 911 services; identify 911 needs; recommend new or expanded programs for improving EMS; identify ways to streamline federal support for EMS; assist state, local, regional and tribal EMS agencies in setting priorities based on identified needs; and make recommendations to coordinate state EMS programs. NHTSA, HHS and DHS must provide administrative support, and the Committee must report to Congress annually.

4. Signal Preemption Penalties

SAFETEA-LU makes it an offense to knowingly, in or affecting interstate or foreign commerce, sell traffic preemption devices to non-qualifying users. Sellers are subject to a fine and/or one year in jail, and users are subject to a fine and/or six months in jail. Non-qualifying users are defined to mean anyone not acting on behalf of a public agency or private corporation authorized to provide fire protection, law enforcement, EMS, transit services, maintenance or other services for a federal, state or local agency. Use of signal preemption devices in classroom for instructional purposes is allowed.

5. Fifteen Passenger Vans

SAFETEA-LU requires the Secretary to conduct further testing on the safety of 15-passenger vans as part of the new car assessment program. It prohibits states from purchasing or leasing new 15-passenger vans used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school unless the vans meet federal school bus and multi-function school activity vehicle safety standards. It also establishes penalties for any entity that knowingly manufactures, sells, imports or uses in interstate commerce 15-passenger vans for school purposes.

6. State and MPO Planning Requirements

SAFETEA-LU continues the requirements that states and Metropolitan Planning Organizations (MPO) consider safety in their planning processes. Security is separated from safety and becomes a separate planning factor.



DEFINITIONS

An authorization:

- provides multi-year funding for a program or agency
- sets the upper limits on program funding
- creates spending authority for a program or agency
- defines program scope, structure and responsibilities
- creates new agencies or
- continues the operation of existing agencies

An appropriation:

- permits obligations to be incurred and payments to be made for the year and purposes authorized.
- cannot exceed upper limit set by authorization legislation.
- may place restrictions on funding or earmark funds
- may create reporting requirements
- may establish policy directives relating to spending

These are two separate legislative processes, governed by separate Congressional committees.

HISTORY

Multi-year authority for the federal highway safety grant programs was initially created by the Highway Safety Act of 1966. That authority has been amended and extended many times over the intervening years. The federal highway safety grant programs were last authorized under the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU) of 2005. Under SAFETEA-LU, Congress extended the authority of and made changes in the 402, 405 and 410 programs and created a new data improvement incentive grant program (408) as well as a new primary safety belt incentive program (406), a motorcyclist safety incentive program (2010) and a booster seat incentive program (2011). It also continued the authority for two penalty programs (154,164).

The reauthorization of the federal highway safety grant programs will be part of a larger reauthorization bill – a bill which will extend the authority and authorize funding for the federal-aid highway program, the federal transit programs, federal motor carrier programs, intelligent transportation programs, federal research programs, and many other programs.

LEGISLATIVE PROCESS

Generally, the reauthorization process begins when the Administration submits its reauthorization legislative proposal to Congress. The Administration's bill will reflect the views and ideas of the President and his Transportation Secretary. The Administration's proposed reauthorization legislation will be introduced, usually by request, and then referred to the appropriate the Congressional authorizing committees.

The leadership of each authorizing committee may use the Administration's proposal as the starting point for its own reauthorization proposal, picking and choosing the provisions that they wants and adding in ideas and proposals of their own.



LEGISLATIVE PROCESS

After a reauthorization proposal is referred to committee, hearings are typically held (though not required) so that the committee members may consider the views and opinions of interested and affected members of Congress, organizations and individuals. Following the hearings, a proposed reauthorization bill is marked up (amended) in subcommittee and then in full committee. (Sometimes a bill bypasses a subcommittee and goes straight to full committee for markup.)

Once a bill is reported out of the authorizing committee and an accompanying report is filed, the bill is entered into the House or Senate calendar for floor consideration. When the bill is on the floor, amendments may be offered before there is a final vote. After each amendment is debated and dispensed with, a final floor vote is taken.

In the House, a bill must first go through the House Rules Committee which determines the rules governing floor consideration of every bill, including whether and how many amendments may be offered. There is no comparable committee in the Senate. Instead, the Senate may use the filibuster in order to slow or halt action on a bill. Only a cloture vote of 60 Senators can close debate and end a filibuster.

Rarely are bills considered by both chambers at the same time. Usually the chamber that finishes first (most often the House) sends its bill to the other chamber for consideration. The second chamber will typically enact its own bill in the form of a substitute to the other chamber's bill.

Following floor action in both chambers, a conference committee – composed of members of the House and Senate authorizing committees – is appointed to reconcile differences between the House and Senate versions of the bill. The conference committee is typically comprised of the chairman and ranking minority members of the key authorizing committees and subcommittees in the House and Senate. By practice, chairmanship of the conference committee alternates between the lead House and Senate authorizing committee chairs (that is, the Senate Environment and Public Works Committee and the House Transportation and Infrastructure Committee).

The conference committee negotiates on the provisions that are in disagreement between the two versions of the legislation and reports out a bill. The conference bill and report then go back to the floor of both houses for a final vote. If the conference bill and report are accepted by both houses, then it goes to the President for final action.

The President may sign the bill or veto it. If he signs the bill, it becomes law and is assigned a Public Law number. If he does not sign it within a ten-day period while Congress is in session, it becomes law without his signature. The President would use the latter option if he disagreed with the legislation but knew that there were enough votes to override his veto.

The President may opt to veto the bill. He may also refuse to sign the bill over a ten-day period when Congress is not in session. (This is called a “pocket veto.”) Under either scenario, the bill dies. The authorizing committees may opt to begin the legislative development process again, renegotiate the controversial provisions in order to gain the President's approval or take no further action.



LEGISLATIVE PROCESS

Alternatively, Congress can override the veto by a two-thirds vote in both chambers. If the override is successful, then the bill becomes law. If the override vote is unsuccessful, then the veto stands and the authorization process begins again or Congress can choose to take no further action on the legislation.

AUTHORIZING COMMITTEE JURISDICTIONS

In the House, the Transportation and Infrastructure Committee has jurisdiction over all transportation modes and activities, including highways, transit, motor carriers and highway safety (except for vehicle safety). This is the committee that will take the lead on reauthorization. The House Ways and Means Committee has responsibility for Highway Trust Fund and other financing issues in the reauthorization bill. The House Commerce Committee has jurisdiction over the vehicle safety issues covered in the reauthorization bill. The House Committee on Science and Technology has jurisdiction over the research portions of the reauthorization bill. These committees will combine their portions of the reauthorization legislation into a single bill before it is considered by the full House. The Chairman of the House Transportation and Infrastructure Committee will serve as the floor manager of the bill.

In the Senate, the responsibility rests with a number of different committees. The Senate Environment and Public Works Committee has jurisdiction over the federal-aid highway program and any activity that may affect that program, including the two highway safety penalty programs and any sanction provisions. This is the committee with lead jurisdiction on reauthorization in the Senate. The Senate Banking, Housing and Urban Affairs Committee has jurisdiction over the federal transit program. The Senate Commerce, Science and Transportation Committee has jurisdiction over the federal motor carrier program, the vehicle safety programs and the behavioral highway safety grant programs. Surface transportation financing issues, including anything affecting the Highway Trust Fund, are handled by the Senate Finance Committee. These committees must fold the portions of the reauthorization bill into one larger Senate bill before it can be considered on the Senate floor. The Chairman of the Senate Environment and Public Works Committee will serve as the floor manager of the Senate reauthorization bill.

APPROPRIATIONS

Once Congress enacts a new authorization bill, it must take action to fund the agencies and programs it has authorized. (Unlike state legislatures which enact bills with fiscal notes, Congress authorizes and funds federal programs in two separate and distinct legislative steps.) Until the funds are actually provided through the annual appropriations process, then the authorization legislation will have no impact on federal agencies, states, localities or other eligible recipients of the authorized programs. For example, Congress authorized a small bicycle safety program in the 1991 authorizing legislation but never appropriated any funds for it.

Responsibility for the yearly appropriations bills rests with the House and Senate Appropriations Committees and their transportation-related subcommittees. The process for enacting an appropriations bill is similar to that for an authorization bill.

For a more detailed explanation of Congress' legislative processes, see the following:
http://congress.indiana.edu/backgrounders/the_legislative_process.php
http://thomas.loc.gov/home/laws_made.html