



## **SAFETEA-LU: CONSERVATION PROVISIONS OF INTEREST**

### ***Analysis of the Safe, Accountable, Flexible, Efficient Transportation Equity Act in the context of wildlife conservation***

After three years, two election cycles and twelve extensions, on August 10, 2005, the President signed the federal transportation bill, funding highways and transit through FY 2009 to the tune of \$286.5 billion. HR3, the *Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users* (SAFETEA-LU) is detrimental for the environment overall, but it does include some important, and historic, milestones for America's wildlife.

In the final bill, Congress included provisions that integrate consideration of wildlife conservation into the transportation planning process. Congress also commissioned a comprehensive study on the causes and impacts of wildlife-vehicle collisions, and fully funded the Enhancements program that provides funding for wildlife passages.

In the debit column, so-called “streamlining” provisions effectively weakened the National Environmental Policy Act (NEPA) by short-circuiting public involvement and bullying resource agencies. Further, over \$24 billion (9% of total spending) was earmarked for nearly 6,500 pork projects, many of which will have serious impacts to wildlife.

The following table contains provisions of special interest to wildlife conservation (on the left) with explanation and analysis (on the right).

*Note: There are countless existing provisions that have indirect impacts on wildlife conservation. The focus of this document is to highlight those provisions that are new or altered and have potential to directly impact wildlife conservation.*

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| <b>SEC. 6001. TRANSPORTATION PLANNING.</b><br>The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.<br><b>COMPARISON AND CONSIDERATION</b><br>Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.<br><b>MITIGATION ACTIVITIES</b><br>A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the | Currently, highway projects are planned, funded and designed before considering the potential impacts to wildlife and habitat. Often, this can lead to expensive delays, lawsuits and unnecessary loss of habitat. Under new law, each metropolitan planning organization (MPO) and state department of transportation (DOT) will consult with federal, state, tribal and local land use management, natural resources, wildlife, environmental protection, conservation and historic protection agencies in developing their long range transportation plans. Each consultation will include a comparison of the transportation plan with conservation maps |
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| <p>environmental functions affected by the plan.</p> <p>CONSULTATION. —The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>or inventories of natural and historic resources. Each plan will also include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>SEC. 1119. FEDERAL LANDS HIGHWAYS</b></p> <p><b>(n) WILDLIFE VEHICLE COLLISION REDUCTION STUDY</b> (p. 114)—The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as “wildlife vehicle collisions”).</p> <p>AREAS OF STUDY. —The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.</p> <p>METHODS FOR CONDUCTING THE STUDY.—In carrying out the study, the Secretary shall conduct a thorough literature review; and survey current practices of the Department of Transportation.</p> <p>CONSULTATION. —In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.</p> <p>REPORT. —Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.</p> <p>CONTENTS. —The report shall include a description of each of the following:</p> <ul style="list-style-type: none"> <li>(i) Causes of wildlife vehicle collisions.</li> <li>(ii) Impacts of wildlife vehicle collisions.</li> <li>(iii) Solutions to and prevention of wildlife vehicle collisions.</li> </ul> <p>MANUAL. — Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.</p> <p>AVAILABILITY. —The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).</p> <p>CONTENTS. —The manual shall include, at a minimum, the following:</p> <ul style="list-style-type: none"> <li>(i) A list of best practices addressing wildlife vehicle collisions.</li> <li>(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.</li> <li>(iii) Recommendations for addressing wildlife vehicle collisions.</li> <li>(iv) Guidance for developing a State action plan to address wildlife vehicle collisions.</li> </ul> <p>TRAINING. —Based upon the manual developed under paragraph (5), the Secretary shall develop a</p> | <p>We have 4 million miles of roads and 200 million vehicles in the U.S. and the system continues to grow. Our highway network has severely fragmented the landscape, forcing wildlife into smaller and more degraded patches of habitat. As wildlife moves about in this fragmented habitat, millions of animals are killed on our highways. In fact, vehicle collisions are the number one human-related cause of wildlife mortality in the United States. Likewise, hundreds of people are killed in wildlife-vehicle collisions every year and thousands more are injured.</p> <p>SAFETEA-LU calls for a comprehensive study of the causes and impacts of wildlife-vehicle collisions (WVC), and methods to reduce the number of collisions.</p> <p>The results of the study are to be crafted into a best practices manual and guidance for developing statewide action plans to reduce WVCs. The manual then, will become the basis for a training course for transportation professionals.</p> |

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| <p>training course on addressing wildlife vehicle collisions for transportation professionals.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p><b>SEC. 1113. SURFACE TRANSPORTATION PROGRAM (p. 65)</b><br/> TRANSPORTATION ENHANCEMENT ACTIVITIES<br/> Effective October 1, 2005, section 133(d)(2) of such title 15 is amended by striking “10 percent” and all that follows through “section 104(b)(3) for a fiscal year” and inserting the following: “In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005,”.</p>                      | <p>*(Existing, continuing program)<br/> Transportation Enhancements (TE) activities are federally-funded, community-based projects that expand travel choices and enhance the transportation experience by improving the cultural, historic, aesthetic and environmental aspects of our transportation infrastructure. TE projects must be one of 12 eligible activities and must relate to surface transportation. Activity 11, known in law as “Environmental Mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity,” allows communities to decrease the negative impacts of roads on the natural environment, such as water pollution and wildlife habitat fragmentation. Projects funded in this category seek to reduce these environmental impacts by controlling surface runoff and improving wildlife habitat connectivity with wildlife passages. Since the TE program began in 1992, approximately 1 percent of available TE funds have been programmed for “Environmental mitigation” projects.</p> <p><a href="http://www.enhancements.org/index.asp">http://www.enhancements.org/index.asp</a></p> <p>* TE is included in this document because there were early threats to cut or decrease funding in reauthorization.</p> |
| <p><b>SEC. 1119. FEDERAL LANDS HIGHWAYS (j) REFUGE ROADS (Page 110)</b><br/> Section 204(k)(1) of such title is amended by adding: (D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and (E) maintenance and improvement of recreational trails; except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.</p> <p><b>SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.</b><br/> Page 17</p> | <p>Over 40 million people visit our national refuges each year, arriving mostly via privately owned vehicles. There are approximately 4,800 miles of public use roads on Fish and Wildlife Service lands. Maintaining a safe and adequate system of roads has been a drain on scarce refuge funds. TEA-21 expanded the Federal Lands Highway Program to include National Wildlife Refuge System roads, contributing approximately \$100 million to address long-standing needs for repair and rehabilitation</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| <p>(C) REFUGE ROADS. —For refuge roads under section 204 of such title, <b>\$29,000,000</b> for each of fiscal years 2005 through 2009.</p>                                                                                                                           | <p>of refuge roads and bridges.</p> <p>In 1999, the Federal Highway Administration and the Fish and Wildlife Service entered into a cooperative agreement for the management and improvement of public use roads within the National Wildlife Refuge System.</p> <p>SAFETEA-LU increased funding for the Refuge Roads program from \$17 million to \$29 million annually.</p> <p>Provided this funding is not used to build new roads and is instead applied to improve the environmental performance of existing roads and to build interpretive trails and signs, the increase is a success for refuges. Every dollar spent out of transportation funding means a potential dollar saved out of refuge operations and maintenance.</p> <p><a href="http://www.fws.gov/refuges/roads/index.html">http://www.fws.gov/refuges/roads/index.html</a></p> |
| <p><b>SEC. 1119. FEDERAL LANDS HIGHWAYS (p. 113)</b><br/> (m) FOREST HIGHWAYS—Of the amounts made available for public lands highways under section 1101—<br/> (1) not to exceed \$20,000,000 per fiscal year may be used for the maintenance of forest highways;</p> | <p>The Forest Service manages 155 national forests and 20 grasslands, occupying 192 million acres in 44 states and territories. National forests are home to 2,140 threatened and endangered species, 50% of our big game species and half of our cold-water fisheries.</p> <p>There are 381,000 miles of roadway in our national forests, sustaining 1.7 million vehicle visits per day.</p> <p>This provision provides \$20 million per year to maintain forest highways.</p> <p>While it is not specifically stipulated in the language, this funding should be used for wildlife-friendly maintenance practices that are appropriate for the landscape and surrounding natural resources. The Federal Highway Administration <i>On these Keeping It Simple</i></p>                                                                                |

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|                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p>pages you'll read about numerous "easy," complementary strategies that help make roads more wildlife friendly. You'll also read about simple ways states are managing roadside habitats...minimizing highway construction's impact on sensitive species...controlling highway runoff so it doesn't pollute water and harm aquatic life...and improving roadside lighting so it doesn't disrupt the flight pattern of migratory birds.</p> <p>such as native roadside vegetation management. These funds should not be used for road construction, paving aggregate/soil roads or any modifications that would result in further impacts to resident wildlife populations.</p> <p><a href="http://www.fs.fed.us/eng/road_mgt/factsheet">http://www.fs.fed.us/eng/road_mgt/factsheet</a></p> <p>For ideas on wildlife-friendly maintenance, see FHWA's KEEPING IT SIMPLE: Easy Ways to Help Wildlife Along Roads<br/> <a href="http://www.fhwa.dot.gov/environment/wildlife_protection/">http://www.fhwa.dot.gov/environment/wildlife_protection/</a></p> |
| <p><b>SEC. 1119. FEDERAL LANDS HIGHWAYS (p. 114)</b><br/> (m) FOREST HIGHWAYS<br/> (3) not to exceed <b>\$10,000,000</b> per fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the <b>passage of aquatic species</b> beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.</p>      | <p>Structures designed to allow water to pass under roads often present barriers to fish. These structures may channelize water, making it difficult for fish to swim against the current or may not provide water deep enough for fish to swim through them. Anadromous fish like salmon enter river systems from the sea in order to breed. Inadequate structures under roads and highways pose a great threat to these and other aquatic species.</p> <p>This provision provides \$10 million per year to remove, replace and repair culverts and bridges to improve fish passage under forest roads.<br/> <a href="http://www.defenders.org/habitat/highways/new/target/aquatics.html">http://www.defenders.org/habitat/highways/new/target/aquatics.html</a></p>                                                                                                                                                                                                                                                                                      |
| <p><b>SEC. 3021. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS (p. 176, Title III)</b><br/> The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other agreement to carry out a qualified project under this section to enhance the protection of national parks and public lands and</p> | <p>Federal lands, including national parks, forests, wildlife refuges and monuments embody one quarter of the United States and provide habitat for nearly two-thirds of all listed species. Millions of visitors flock to our public lands from around the world, pumping billions of dollars into rural economies. Vehicle overcrowding and air</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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| <p>increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with State and local governments and improving park and public land transportation infrastructure.</p> <p><b>ELIGIBLE AREA</b>—The term ‘eligible area’ means</p> <p>(A) a unit of the National Park System;</p> <p>(B) a unit of the National Wildlife Refuge System;</p> <p>(C) a recreational area managed by the Bureau of Land Management;</p> <p>(D) a recreation area managed by the Bureau of Reclamation; and</p> <p>(E) a unit of the National Forest System.</p> <p><b>ALTERNATIVE TRANSPORTATION</b> —The term ‘alternative transportation’ means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a non-motorized transportation system (including the provision of facilities for pedestrians, bicycles, and non-motorized watercraft).</p> <p><b>QUALIFIED PROJECT</b>—The term ‘qualified project’ means a planning or capital project in or in the vicinity of an eligible area that involves clean fuel technology or the replacement of buses, vehicles that introduce innovative technologies, coordinating with other public transportation systems, provides a non-motorized transportation system, provides waterborne access, is any other alternative transportation project that enhances the environment, prevents or mitigates an adverse impact on a natural resource, improves Federal land management agency resource management, improves visitor mobility and accessibility and the visitor experience, reduces congestion and pollution or conserves a natural, historical, or cultural resource</p> <p><b>GRANTS AND OTHER ASSISTANCE</b>—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts or other agreements for research, development, and deployment of new technologies in eligible areas that will conserve resources, prevent or mitigate adverse environmental impact, improve visitor mobility, accessibility, and enjoyment and reduce pollution (including noise pollution and visual pollution).</p> | <p>pollution threaten wildlife populations and diminish the environmental quality that keep visitors coming back.</p> <p>This provision supports environmentally sensible, energy efficient transportation options such as trams and bike/pedestrian on public lands that will improve mobility and overall experience for visitors, while mitigating the impacts of existing roads on wildlife.</p> <p><a href="http://www.npca.org/across_the_nation/visit_or_experience/tea21.asp">http://www.npca.org/across_the_nation/visit_or_experience/tea21.asp</a></p> |
| <p><b>SEC. 6006. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS AND ESTABLISHMENT OF NATIVE SPECIES.</b></p> <p>(a) MODIFICATION TO NHS/STP FOR</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <p>After habitat destruction, introduced species are the second greatest cause of species endangerment and decline worldwide – far exceeding all forms of harvest. Invasive species degrade habitats and threaten</p>                                                                                                                                                                                                                                                                                                                                             |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <p>ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS.—</p> <p>§ 328. Eligibility for environmental restoration and pollution abatement</p> <p>(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.</p> <p>§ 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species</p> <p>(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:</p> <p>(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, and aesthetic enhancement.</p> <p>(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.</p> <p>(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—</p> <p>(1) <b>right-of-way surveys</b> to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;</p> <p>(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in 5 subsection (a)(1);</p> <p>(3) control or elimination of plants as defined in subsection (a)(2);</p> <p>(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and</p> <p>(5) training.</p> | <p>natives through predation, disease competition and/or hybridization. Because they disturb natural systems, roads and highways facilitate the spread of plant and animal species outside their natural range.</p> <p>Since highway construction began in the early 20<sup>th</sup> century, the engineering objective of roadside vegetation management was to establish an inexpensive, attractive and fast-growing slope stabilizer. If the native flora was costly, slow-growing and/or deemed less attractive, non-native species were used on roadsides. As a result, our rights-of-way are deluged with invasive species like kudzu and grasses. In addition, these invasives have undoubtedly contributed to the spread of invasives beyond the right-of-way, onto private and public properties, further degrading habitat for biodiversity.</p> <p>This provision makes transportation funds available to control noxious weeds and establish native vegetation as part of any transportation project.</p> |
| <p><b>Subtitle D—Highway Safety</b><br/><b>SEC. 1401. HIGHWAY SAFETY</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <p>Over 300 Americans die each year in</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

**IMPROVEMENT PROGRAM**

**(3) HIGHWAY SAFETY IMPROVEMENT PROJECT**

(B) INCLUSIONS.—The term ‘highway safety improvement project’ includes a project for one or more of the following:

(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.

wildlife-vehicle collisions, and the number of fatalities continues to increase every year.

It has been estimated that more than a million deer-vehicle crashes occur each year in the United States, but that less than half of them are reported. These collisions are believed to cause more than one billion dollars in property damage. From 2000-2002, deer-vehicle collisions alone in just 5 states of the upper Midwest claimed 25 lives, caused nearly 5000 injuries and cost \$211 million in property damage.<sup>i</sup>

Wildlife passages provide the means to reduce and prevent these tragedies. Using existing accident data, transportation agencies can easily determine locations for structures and include them during routine improvements of existing roads.

**SEC. 6009. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES (4f and 106) (page 96)**

With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and  
(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.

Section 4(f) of the USDOT Act of 1966 is designed to protect public park and recreation lands, wildlife and waterfowl refuges, and historic sites. According to 4(f), the FHWA will not approve any program or project which requires the use of any publicly owned public park, recreation area, or wildlife or waterfowl refuge, or any land from an historic site of national, state, or local significance unless:

1. there is no feasible and prudent alternative to the use, and
2. all possible planning to minimize harm resulting from such use is included.

The law is remarkably simple, yet has been the bane of some vocal state DOTs who found it overly restrictive and prohibitive. Following attempts to remove or weaken 4(f) through reauthorization, the amended language will retain the restrictions on impacting public resources, but provide flexibility for projects that have “de minimus” impacts.

[http://www.fhwa.dot.gov/environment/4\\_f.htm](http://www.fhwa.dot.gov/environment/4_f.htm)



## **TITLE V—RESEARCH**

### **SEC. 5401. NATIONAL UNIVERSITY TRANSPORTATION CENTERS**

ELIGIBLE NONPROFIT INSTITUTION OF  
HIGHER LEARNING DEFINED

- (1) University of Alaska.
- (2) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.
- (3) University of Minnesota.
- (4) University of Missouri, Rolla.
- (5) Northwestern University.
- (6) Oklahoma Transportation Center.
- (7) Portland State University, in partnership with the University of Oregon, Oregon State University, and the Oregon Institute of Technology.
- (8) University of Vermont.

#### **(9) Western Transportation Institute at Montana State University.**

- (10) University of Wisconsin.

REGIONAL, TIER I, AND TIER II CENTERS— For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

#### **(A) 10 regional university transportation centers; and**

- (B) 10 Tier I university transportation centers.

#### **(2) TIER II CENTERS.—**

(A) For each of fiscal years 2006 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 22 Tier II university transportation centers.

(B) The tier II centers consist of the following:

- (i) University of Arkansas, Mack-Blackwell Rural Transportation Center.
- (ii) **University of California, Davis.**
- (iii) California State University, San Bernardino.
- (iv) Cleveland State University, Work Zone Safety Institute.
- (v) University of Connecticut.
- (vi) University of Delaware in Newark.
- (vii) University of Detroit Mercy (including the coalition partners of the university).
- (viii) George Mason University.
- (ix) Hampton University, Eastern Seaboard Intermodal Transportation Applications Center (ESITAC).
- “(x) Kansas State University.
- “(xi) Louisiana State University, LTRC-TTEC.
- “(xii) University of Massachusetts Amherst.
- “(xiii) Michigan Technological University.
- “(xiv) University of Nevada Las Vegas.
- (xv) **North Carolina State University, Center for Transportation and the Environment.**
- “(xvi) Northwestern University.

Perhaps more than any other sector, transportation makes great investments in research. Part of that investment is supporting University Transportation Centers (UTC); institutions of higher learning with a particular focus on transportation research.

The mission of UTCs is to advance U.S. technology and expertise in the many disciplines comprising transportation through the mechanisms of education, research and technology transfer at university-based centers of excellence.

ISTEA added four national centers and six University Research institutes (URI). TEA-21 created 13 new UTCs and established education as one of the primary objectives of a university transportation center, institutionalized the use of strategic planning in university grant management, and reinforced the program's focus on multi-modal transportation.

SAFETEA-LU continued the UTC program, with some variations. There will now be ten regional university centers, 10 Tier I UTCs and 22 Tier II UTCs. Three of these UTCs are of great importance to wildlife conservation.

North Carolina State University Center for Transportation and the Environment (CTE) conducts research, education, and technology transfer that seek to mitigate the impacts of surface transportation on the environment. CTE provides many services for transportation and resource professionals, including organizing the International Conference on Ecology and Transportation (ICOET) and hosting the Wildlife, Fisheries and Transportation gateway and listserv (WFT).

<http://itre.ncsu.edu/CTE/gateway/home.asp>

Montana State University Western Transportation Institute (WTI)

“(xvii) Ohio Higher Education Transportation Consortium—University of Akron.  
“(xviii) University of Rhode Island.  
“(xix) University of Toledo.  
“(xx) Utah State University.  
“(xxi) Youngstown State University.  
“(xxii) University of Memphis.

**SEC. 5207. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM**

The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.

CONTENTS—The program carried out under this section may include research—

- (1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in **designing implementation plans to meet Federal, State, and local environmental requirements;**
  - (2) to improve understanding of the factors that contribute to the demand for transportation;
  - (3) to develop **indicators** of economic, social, and **environmental performance** of transportation systems to facilitate analysis of potential alternatives;
  - (4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and
  - (5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.
- FUNDING**—Of the amounts made available by section 5101(a)(1) of this Act, **\$16,875,000** for each of fiscal years 2006 through 2009 shall be available to carry out section 507 of such title.

advances rural transportation through research and education. One research focus is Transportation System Wildlife Interactions, to address animal-vehicle issues that are a particular concern in rural areas.

<http://www.coe.montana.edu/wti/>

University of California, Davis  
Institute of Transportation Studies (ITS-  
Davis) created the Road Ecology Center to bring together researchers and policy makers from ecology and transportation to design sustainable transportation systems based on an understanding of the impact of roads on natural landscapes and human communities.

[http://johnmuir.ucdavis.edu/road\\_ecology/about.html](http://johnmuir.ucdavis.edu/road_ecology/about.html)

<http://www.its.ucdavis.edu/>

It’s no mistake that all but three UTCs are in states represented by a Senator or Representative on the SAFETEA-LU conference committee. WTI (Montana) was chosen as a regional center and received an increase in funding. Unfortunately, CTE (North Carolina) was named a Tier II UTC and suffered a 50% reduction in funding.

<http://utc.dot.gov/>

**SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING FEDERAL LEAD AGENCY.** —The Department of Transportation shall be the Federal lead agency in the environmental review process for a project.  
**CONCURRENT REVIEWS.** —Each Federal agency shall, to the maximum extent practicable carry out obligations of the Federal agency under other applicable law concurrently  
**PREFERRED ALTERNATIVE.** —At the discretion

Responding to complaints that the environmental review process is too burdensome, time-consuming and expensive, Congress included a revised NEPA process specifically for transportation projects. In fact, studies have shown that less than 2% of road projects are subject to a full environmental review and that NEPA does not slow project delivery.

of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.

#### **COMMENT DEADLINES**

(A) For comments by agencies and the public on a **draft** environmental impact statement, a period of not more than **60 days** after publication in the Federal Register of notice of the date of public availability of such document,

(B) For all **other** comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than **30 days** from availability of the materials on which comment is requested

**DEADLINES FOR DECISIONS UNDER OTHER LAWS.**—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

#### **ISSUE IDENTIFICATION AND RESOLUTION.—**

##### **MEETING OF PARTICIPATING**

**AGENCIES.**—At any time upon request of a project sponsor or the Governor of a State in which the project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

In the process of trying to streamline environmental review, Congress developed a process that at once, significantly weakens NEPA and unnecessarily complicates the process for participating agencies.

The most troublesome changes include:

- The public and participating agencies will have no more than 60 days to comment on a draft EIS. Overburdened agencies and understaffed citizen groups often need more time to read and respond to an EIS, which can be thousands of pages in length.
- The public is also limited to just 180 days to file a claim following a record of decision on a road project.
- The preferred alternative may be developed to a higher level of detail than all other alternatives, in effect defeating the purpose of considering more than one alternative.
- A “tattle-tale” clause requires all participating agencies to immediately identify any issues that could delay the review or be cause for denial of permits. If said issues are not resolved in less than 180 days, the lead agency can tell the heads of all relevant agencies, Congress and the Governor.

**NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.**

—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

**ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.**

— For a project that is subject to the environmental review process ... the Secretary may approve a request by the a State to provide funds...to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State.

**ACTIVITIES ELIGIBLE FOR FUNDING.**

—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

**USE OF FEDERAL LANDS HIGHWAY FUNDS.**

—The Secretary may also use funds made available under section 204 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

**AMOUNTS.** —Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

**CONDITION.** — A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

**LIMITATIONS ON CLAIMS.** —Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within **180 days** after publication of a notice in the Federal Register

Section 1309 of TEA-21 called for a coordinated environmental review process to expedite federal highway and transit projects. Specifically, section 1309 permitted state DOTs to provide highway funding to natural resource agencies to help expedite the review process while ensuring that environmental concerns are fully considered. To date, a handful of states have taken advantage of the provision and now enjoy the benefits of having early and substantive involvement from resource agencies.

Section 6002 of SAFETEA-LU further sanctifies the practice of reimbursing state and federal agencies participating in the environmental review process for transportation projects. Funds can be used for planning, training, information gathering, mapping and dedicated staff. Unfortunately, the provision limits the available funds to those needed to meet unrealistic new deadlines.

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| <p>announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p><b>SEC. 6003. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS</b><br/> The Secretary may establish a <b>pilot program</b> under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.<br/> Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary's responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decisionmaking or other actions required under any Federal law</p> <p><b>SEC. 6004. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS</b><br/> The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).</p> <p><b>SEC. 6005. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM</b><br/> The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').<br/> Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).<br/> The Secretary may permit not more than 5 States [(including the States of Oklahoma, California)] to participate in the program. [add 3 States]</p> | <p>SAFETEA-LU's streamlining measures continue with a series of provisions designed to devolve NEPA responsibilities to the states.</p> <p>Section 6003 establishes a pilot program to give handpicked state DOTs the sole responsibility for environmental review for all transportation projects.</p> <p>Section 6004 allows all state DOTs to determine if a project can be categorically excluded from environmental review.</p> <p>Section 6005 establishes a pilot program in which 5 states are given full responsibility for NEPA on one or more highway projects.</p> <p>States were not chosen based upon capacity to accept these critical responsibilities. Not surprisingly, the chosen pilot states are represented by congressmen in leadership positions within the reauthorization conference committee.</p> |

## RESOURCES

The full text of the bill can be found at:  
<http://www.house.gov/rules/109textTEALU.htm>

Congressional Quarterly Summary  
<http://www.cq.com/graphics/har/2005/08/03/har20050803-1802832-confsumm0803.pdf>

Washington Post Graphic: Bringing Home the Bacon  
<http://www.washingtonpost.com/wp-dyn/content/graphic/2005/08/04/GR2005080400150.html?referrer=emallink>

Taxpayers for Common Sense: Database of Earmarks in Conference Agreement to the Transportation Bill  
<http://www.taxpayer.net/Transportation/safetealu/states.htm>

<sup>i</sup> Deer-Vehicle Crash Countermeasure Toolbox: A Decision and Choice Resource.  
Wisconsin DOT, SPR Project Number 0092-01-11