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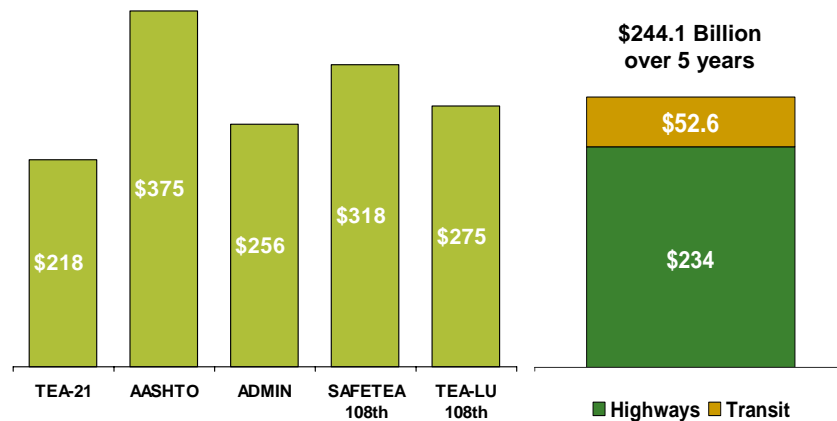
## “Show Me the Money”

How New Federal Legislation  
is Changing the TDM Landscape

- 
- Jon Martz, VPSI
  - Jason Pavluchuk, GRI



## Conference Agreement: SAFETEA-LU



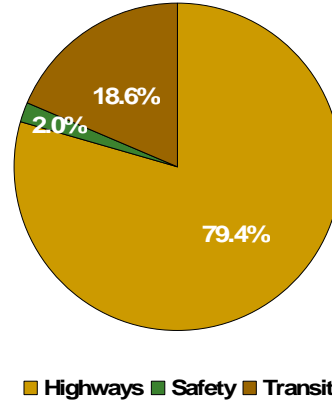
The long wait for Congress to reauthorize the federal transit program ended on Friday, July 29<sup>th</sup> with the passage in both houses of H.R. #, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act - A Legacy for Users, or SAFETEA-LU.

The House approved the legislation by a vote of 412 to 8, and the Senate by a vote of 91 to 4.

The bill provides \$286.4 billion in guaranteed funding for federal surface transportation programs over six years through FY 2009, including \$52.6 billion for federal transit programs - a 46% increase over transit funding guaranteed in TEA 21.

# Funding

- \$286.4 billion,  
a 38% increase over TEA-21
- Highways: \$228B
- Transit: \$52.6B
- Safety: \$6B
- \$21B in earmarks,  
over 6,000 earmarks
- In essence... a 5 year bill



## FTA Highlights

Jon Martz  
Vice President, Government Relations  
VPSI Inc.



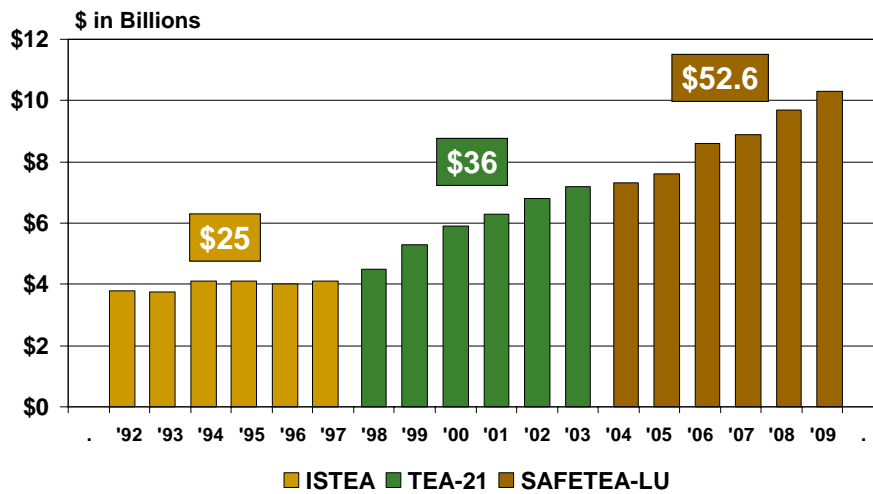
All of us in the transit business were elated when SAFETEA-LU was signed into law by President Bush on August 10. It is a significant piece of legislation with a big dollar payout for transit. A few of the goals established by the FTA which are of relevance to ACT members:

1. Increase the funds available for planning, technical assistance and administration to provide States and communities with additional flexibility in program development and planning.
2. Increase funding, its predictability and stability by distributing more funds by formula, including the Job Access and Reverse Commute Program.
3. Provide for technical assistance and planning, along with administrative expenses; and permit the use of other Federal funds (such as Medicaid or Temporary Assistance for Needy Families) as local match for FTA programs serving these groups.
4. Expand eligibility for the New Starts program to include non-fixed guideway corridor-based projects and permit streamlined project delivery for projects seeking less than \$75 million of New Starts funds.

The FTA is in the process of developing over a dozen new regulations and approximately thirty new guidance documents and circulars to implement the new legislative provisions.

A critical first step will be gathering stakeholder input, and an FTA workgroup is already working on plans for those important opportunities.

## Steady increase in transit funding



The \$286.4 billion bill provides \$52.6 billion in guaranteed transit funding for public transportation for six years, through Fiscal Year 2009. FY2005 at appropriations level \$7.3 billion)

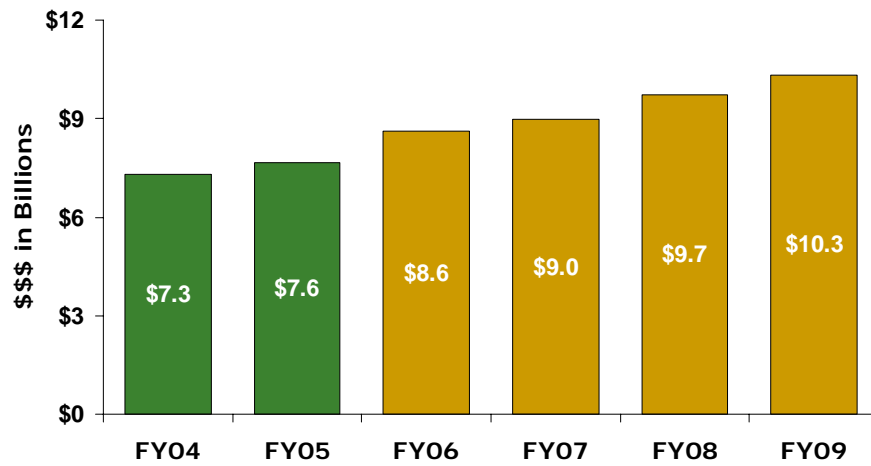
This is a 46% increase in guaranteed transit funding compared with TEA-21, which provided \$36 billion guaranteed for transit as part of a \$218 billion, six-year bill, and more than doubles the six-year federal investment in public transportation since the enactment of the ISTEA in 1991, which provided \$25 billion.

All funds “guaranteed” - Approximately 80 percent from the Mass Transit Account. New Starts, Research and FTA Administration from the General Fund

New programs to start in FY 2006:

- New Freedom Initiative
- Transit in the Parks
- Alternatives Analysis

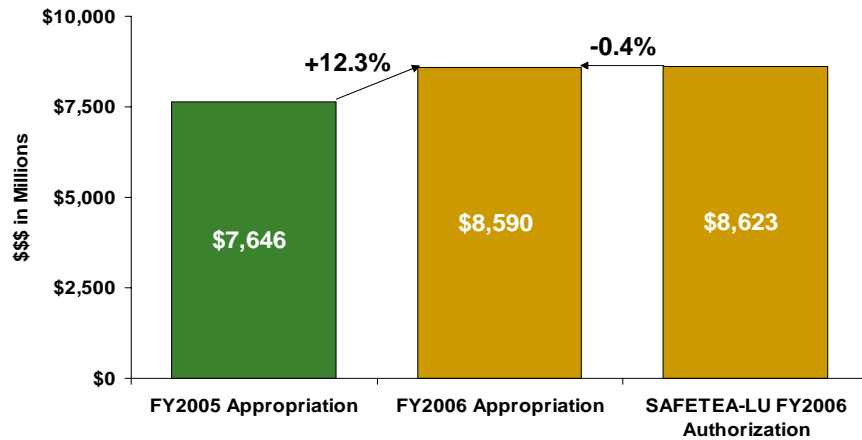
## SAFETEA-LU: \$52.6 Billion for Transit



In rough figures, SAFETEA-LU authorizes guaranteed funding levels of...

- \$7.3 billion in FY 2004
- \$7.6 billion in FY 2005
- \$8.6 billion in FY2006
- \$8.9 billion in FY 2007
- \$9.7 billion in FY 2008; and
- \$10.3 billion in FY 2009.

## FY06 Appropriations - Transit



Before recessing for Thanksgiving on Friday, November 18, both Houses of Congress approved the conference agreement on the Fiscal Year 2006 Departments of Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations bill (H.R. 3058). The House passed the measure by a vote of 392-31, and the Senate approved the bill by unanimous consent. The bill provides \$8.590 billion for federal transit programs during the current fiscal year, 12.3 percent or \$944 million more than the FY 2005 level. The President is expected to sign the bill soon. Once he does, FTA must by law publish its apportionment of funds within 10 days and FY 2006 transit funds can begin to be made available.

The conference agreement notes that the FY 2006 Appropriations bill..."follows the structure of SAFETEA-LU." The bill appropriates all funding authorized from the Mass Transit Account, but due to a smaller than anticipated allocation of general funds makes a small cut (\$33 million) from SAFETEA-LU levels.

## Other Current Transit Funding Issues

- **Across-the-Board Budget Cuts**
  - EOY Budget reconciliation bill could cut discretionary \$\$\$ by 1-2%
- **AMTRAK \$\$\$ Increased, but Split and Restricted**
  - Capital and Debt Service
  - Operating Subsidy Grants
  - Efficiency Incentive Grants
  - New Restrictions: Food Service & Sleeper Cars
  - "Determine & assess appropriate fees" to NE Corridor stakeholders
- **Transit Security**
  - \$3.5 Billion for 3 years – Capital and Operating (Senate)



### **Across-the-Board Cut Could Reduce Government-wide Funding for FY06**

While the new appropriations bill sets funding for the current fiscal year, Congress is expected to enact an across-the-board cut on discretionary spending before adjourning for the year in December. If enacted, an across-the-board cut would reduce funds for federal discretionary programs, including transit and other federal transportation programs. The cut is expected to be in the 1 to 2 percent range, and is likely to be applied to all discretionary programs with the possible exception of military programs.

The House is expected to return from the Thanksgiving recess during the week of December 5, and the Senate plans to return the week of December 12. Both Houses are expected to wrap up remaining appropriations bills, including another supplemental appropriations bill providing hurricane relief, and a budget reconciliation bill that may include the proposed across-the-board cut, before adjournment on or about December 16.

### **Amtrak Funding Increased; Commuter Rail Cost-Sharing Provisions Added**

The FY 2006 Transportation Appropriations bill also provides \$1.315 billion for Amtrak, an increase of \$107.7 million over FY 2005, but numerous new restrictions have been placed on the railroad's activities. For the first time, funding for Amtrak will be split among three accounts: Capital and Debt Service, Operating Subsidy Grants and Efficiency Incentive Grants with spending limitations and guidelines in each category. Amtrak is also required to cut costs below certain to-be-established baseline costs or federal subsidies for controversial Amtrak services like food service and first class (sleeper car) operations will be cut off next summer.

In addition, the US DOT Secretary is directed "to determine the capital and maintenance cost to Amtrak associated with the use of Amtrak-owned infrastructure on the Northeast Corridor by commuter railroads that operate over that corridor" and to "determine and assess appropriate fees" based on that use. The fees are to be established through an open and transparent process that seeks to yield a consensus among stakeholders on the appropriate distribution of costs.

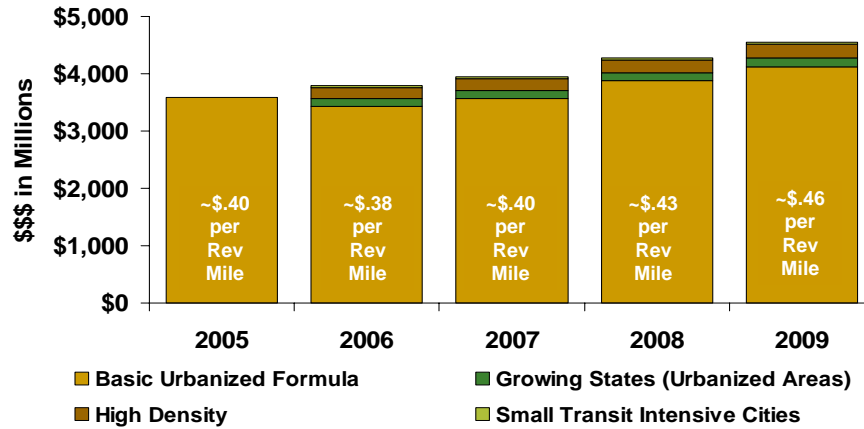
### **Homeland Security Issues - Security Bills Advanced by Senate Committees**

On November 16, the Senate Banking Committee approved the Public Transportation Terrorism Prevention Act of 2005 (S.2032). This legislation authorizes \$3.5 billion over three years for transit security, including both capital and operating assistance. A nearly identical bill was introduced last year and later passed by the Senate unanimously, but the House failed to advance similar legislation during last year's session. A new version of last year's House bill, the Rail and Public Transportation Security Act of 2005 (H.R. 153), was introduced earlier this year, but the bill has not advanced out of the Homeland Security Committee and the Transportation and Infrastructure Committee to which it was referred. Both bills envision that transit funding would be separate from and supplementary to federal programs for investment in public transportation infrastructure.

The Senate Commerce Committee also addressed security issues last week when on November 17 it reported the Transportation Security Improvement Act of 2005 (S.1052) out of committee. Among other things, the bill would direct a study to analyze the cost and feasibility of requiring security screening for passengers, baggage, and mail on passenger trains.

## Urbanized Area Formula Grants

49 U.S.C. Sections 5307, 5340 and 5336(j)



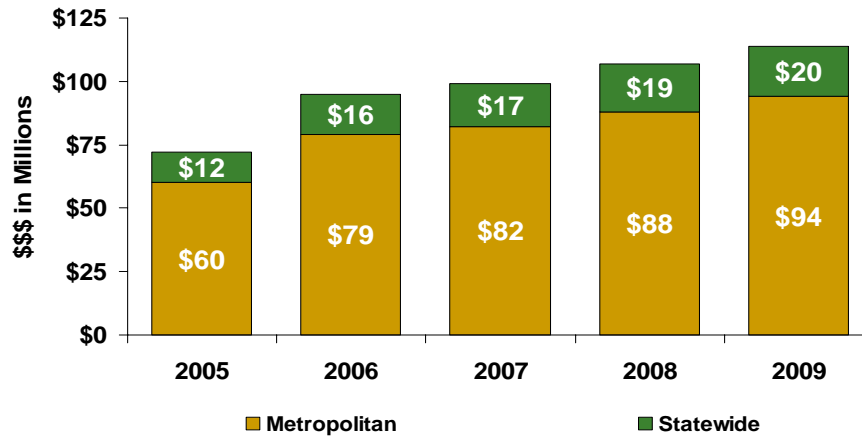
### Urbanized Area Formula Program

Same basic formula augmented by two new formula features

- **New Small Transit Intensive Cities** formula (Section 5336(j))  
The bill establishes a new tier for transit intensive urbanized areas with less than 200,000 in population that will grow from \$35 million in FY 2006 to \$42 million in FY 2009 funded through a set aside from the formula program.
- **New Growing States and High Density States** formula (Section 5340)  
Transit agencies in urban areas reclassified as being larger than 200,000 in population under the 2000 Census may continue to use formula funds for operating expenses in FY 2006 at 50% of their current limits, and 25% in FY 2007.

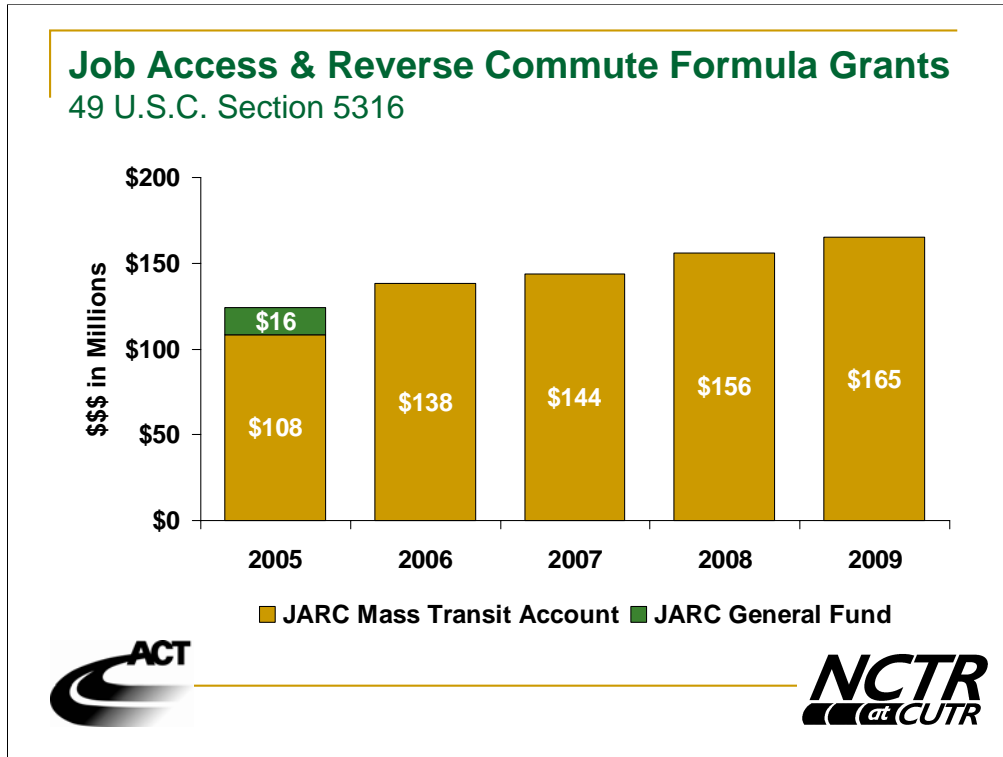
## Planning Programs

49 U.S.C. Sections 5303-5305



### Metropolitan Transportation Planning (§ 3005)

- The bill maintains a strong metropolitan planning program with increased funding at same formula split between Statewide and Metropolitan Planning. The bill consolidates all provisions for metropolitan planning under section 5303 of title 49.
- It maintains the requirement for separate transportation plans and transportation improvement programs (TIP) and requires certification and updating of the metropolitan plan and TIP every four years.
- The current law provisions regarding the scope of the planning process are amended to provide more detail on how protection of the environment is to be considered and adds a reference to planned growth patterns.
- A new public participation plan is established to afford parties who participate in the metropolitan planning process a specific opportunity to comment on the plan and TIP before its approval.
- A new provision is added that requires the Secretary to issue rules regarding the publication of the projects in the transportation improvement program for which funds have actually been obligated.
- In light of the “sub-recipient” status granted private providers of public transportation services (any entity receiving funding from a designated recipient), the bill requires the development of a private enterprise participation planning element. Locally-developed feasibility criteria will be the basis for such decision making and funding allocations.



### Job Access and Reverse Commute (JARC) Formula Grants

The JARC program is changed to become a formula program, rather than the existing competitive discretionary grants program.

The formula is based on ratios involving the number of eligible low-income and welfare recipients in each urbanized area, with 60% of funds going to urban areas with more than 200,000 population, 20% for urban areas with less than 200,000 population, and 20% to rural areas.

The bill contains report language expecting the FTA to continue its practice of providing maximum flexibility to job access projects designed to meet the needs of individuals who are not effectively served by public transportation.

The bill requires locally-developed coordination plan between private, non-profit, and public transportation providers and other federal programs in the JARC program, the New Freedom Program, and the Elderly and Disabled program.

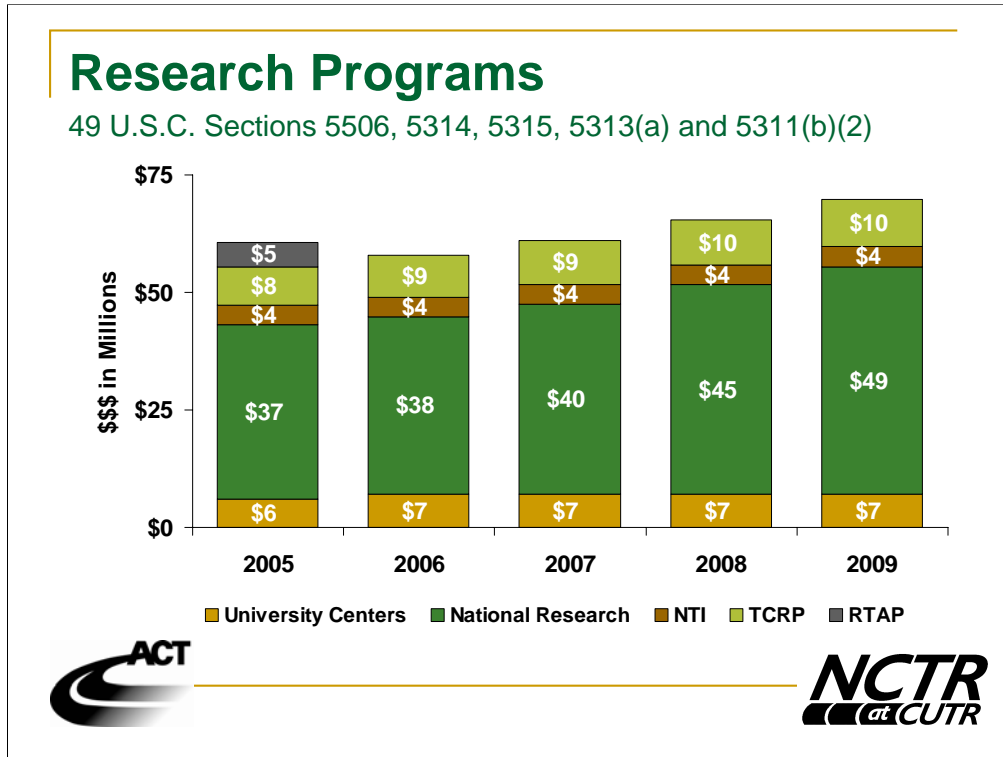
#### Eligibility

States and UZA's must select recipients competitively

10 percent for planning, administration and technical assistance

#### Match

Expanded matching funds



### Research Programs

The research programs are generally unchanged.

- The Transit Cooperative Research Program would grow from its current fixed amount of \$8.2 million a year to \$10 million in FY 2009.

A number of studies and entities are funded:

- a National Academy of Sciences study of 38 transit systems ability to accommodate evacuation in times of emergency;
- Center for Transit Oriented Development at \$1 million a year;
- transportation equity research program to assess transportation impacts on transit dependent at \$1 million a year;
- transit career ladder training program at \$1 million a year;
- hydrogen fuel cell shuttle deployment demonstration project at \$800,000 each year for two years;
- public transportation participation pilot program at \$1 million a year;
- National Bus Rapid Transit Institute at \$1.75 million a year for University of South Florida;
- Small Urban and Rural Transit Center \$800,000 per year at North Dakota State University;

University Centers Program - New competition required

## Commute-to-Work Benefit

- Preserved limitation on Qualified Transportation Fringe Benefit at \$105 per month (includes indexing for inflation).
- Codified Executive Order #13150 for federal employees in National Capital Region



### Transit-Vanpool Commute Benefit

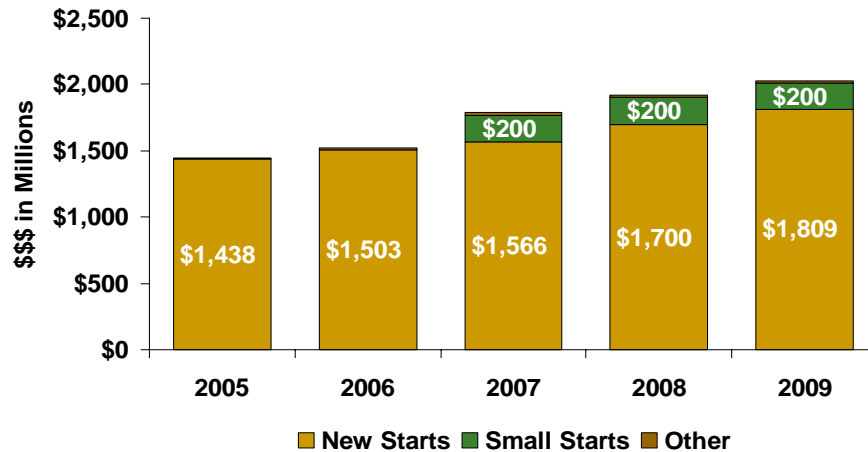
The bill did not increase the transit-vanpool commute benefit. The law preserves the current limitation for qualified transportation fringe benefits for transit and vanpools at \$105 per month (with indexing for inflation).

It also codified Executive Order #13150 which required federal agencies in the Washington, D.C. National Capital Region to provide employees with tax-free transit benefits to cover commuting costs up to the maximum allowed by law.

It extends benefits, beyond those provided in the Executive Order, to federal employees in the National Capital Region who work for the legislative and judicial branches or for independent agencies.

## Capital Investment Grants: “New Starts”

49 U.S.C. Sections 5309 (d) and (e), Section 5309 (m)

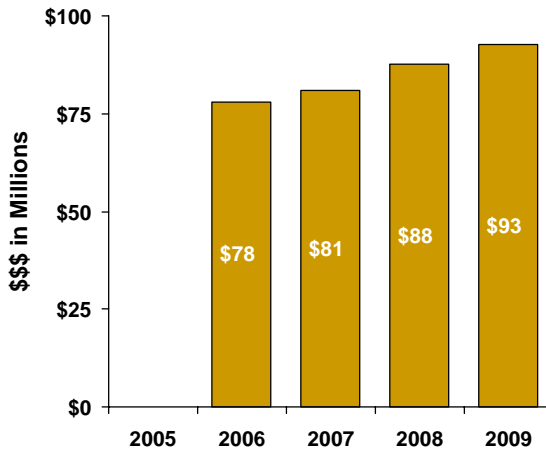


**Small Starts Program (§ 3011)** is funded by take down from the capital investment program.

It would provide funding for smaller projects with a federal New Starts share below \$75 million, including streetcar, trolley, bus rapid transit (if a substantial portion of the project operates in a separate right of way in a defined corridor dedicated for public transit use during peak hours or it has other characteristics of a fixed guideway system), and commuter rail projects.

Small Starts projects could not total more than \$250 million. Simplified procedures and criteria apply to the program.

## New Freedom Initiative



**New Freedom Initiative** would provide formula funding for new transportation services and public transportation alternatives beyond those required by ADA to assist persons with disabilities.

The New Freedom Program would be allocated using a formula based on the disabled population in a state, with 60% of the funds allocated to urbanized areas with populations larger than 200,000, 20% to states for use in urbanized areas of less than 200,000, and 20% to states for use in rural areas.

The funds would be made available to transit systems and the states.

The program contains language mandating locally developed coordination of transportation services with other federal human service programs.

The President's New Freedom Initiative is intended to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the workforce and full participation in society.

The labor protection provisions at § 5333 (formerly known as section 13(c)) do not apply to this new program.

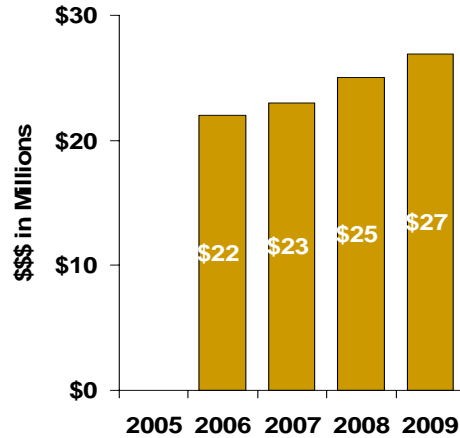
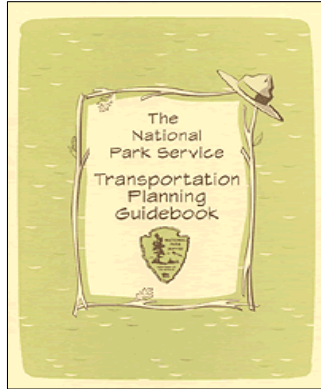
### Eligibility

Capital/Operating Costs of services and facility improvements in excess of ADA requirements

### Matching

Expanded Matching Funds

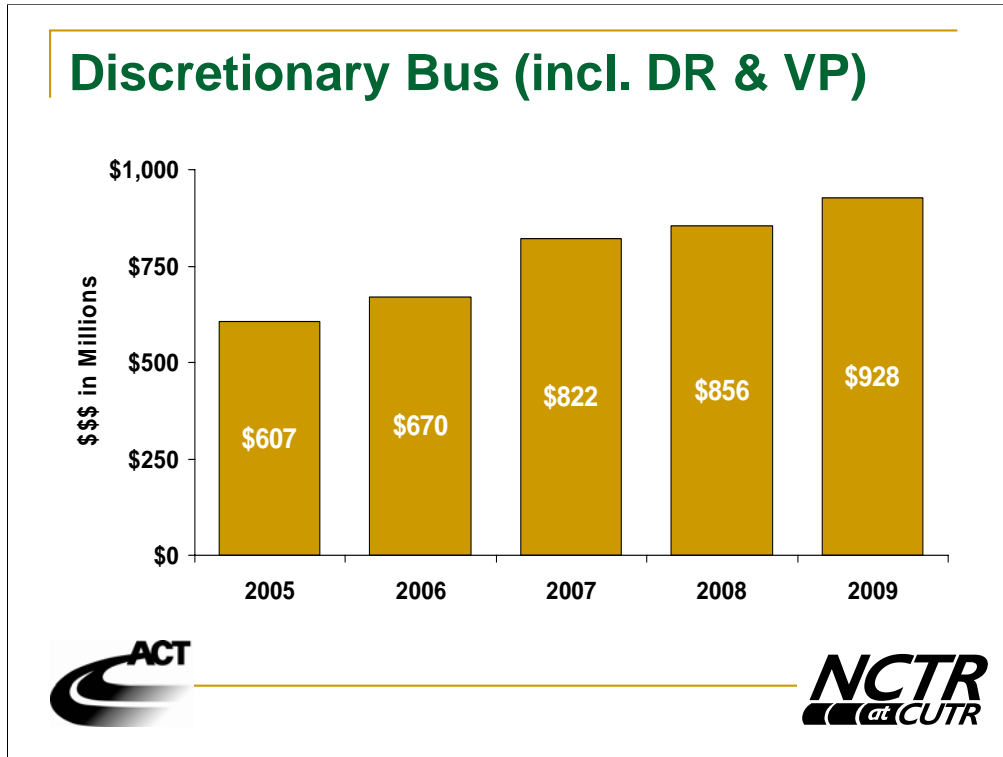
## Alternative Transportation in Parks & Public Lands Program (Section 3021)



**Alternative Transportation in Parks and Public Lands Program (§ 3021)** designed to develop public transportation in National Parks, with the goal of improving mobility and reducing congestion and pollution.

The Departments of Transportation and Interior will work cooperatively to develop and select capital projects.

The labor protection provisions at § 5333 (formerly known as section 13(c)) do not apply to this new program.



### Discretionary Bus

The bill makes few changes in the program, but provides significant increases in funding.

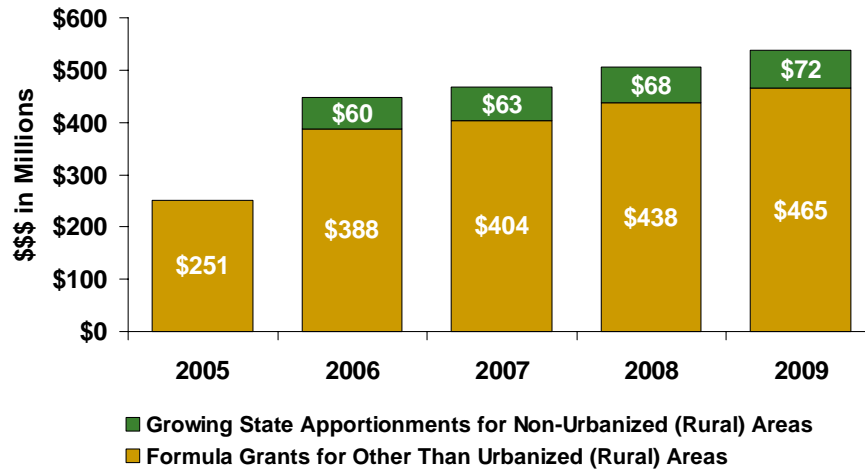
Some 600 earmarks are included in this section with approximately \$10 million for ferryboats and related facilities; these earmarks cover about half of the discretionary bus program resource in each fiscal year through FY 2009.

A new intermodal facilities program is established with a \$35 million annual set aside from the discretionary bus program.

The intercity portion of intermodal terminals is eligible for funding under this program, if the facility serves as a connector to public transportation.

Private non-profits and private providers of public transportation service (including demand responsive and vanpool service providers) may be sub-recipients, which means they can directly apply for funding through Metropolitan and Statewide planning process. These projects will require a public steward for contract administration.

## Other than Urbanized Area (Rural) Formula 49 U.S.C. Sections 5311 and 5340



### Rural Program

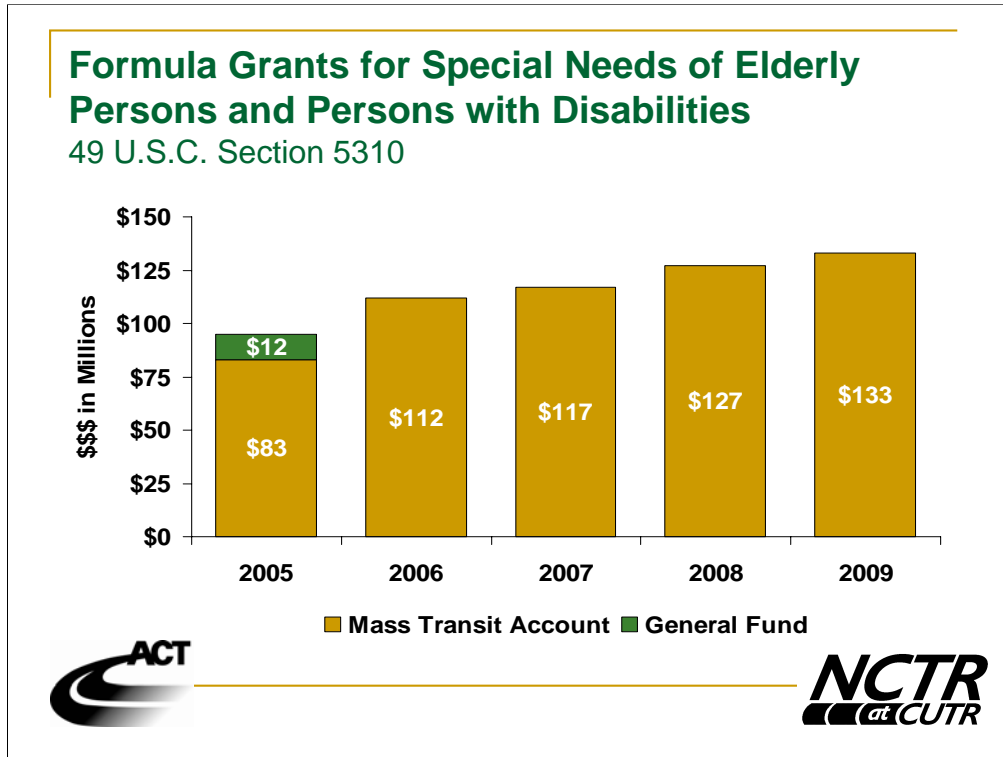
The bill significantly increases funding for the rural program of the transit formula program.

A new formula tier based on land area is established to address the needs of low-density states; 20% of section 5311 funds are distributed through this tier. Indian tribes are added as eligible recipients, and a portion of funding is set aside each year for Indian tribes - \$8 million in FY 2006 and rising to \$15 million by FY 2009.

Rural transit systems receiving formula funds will be required to report data to the National Transit Database; report language states that the reporting requirements should be tailored to the smaller size of most rural agencies.

The sliding scale federal match available under the federal highway program for states with a high percentage of federal lands is now available as well under the section 5311 program. (where operating share is 5/8 of capital share).

The rural transportation assistance program (RTAP) is funded with a 2% set aside of the rural formula program rather than from the Research program as under current law. Up to 15% of such funds can be used by FTA to carry out national projects.



## Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities

The conference agreement maintains the current program for special needs of elderly individuals and individuals with disabilities.

Because of strong interest in extending the authority to use section 5310 grant funds for operating assistance, a new seven-state pilot program is established for fiscal years 2006 through 2009 to determine whether this expanded authority improves services to elderly individuals and individuals with disabilities.

### Coordination

Locally developed human service transportation coordination plan

### Eligibility

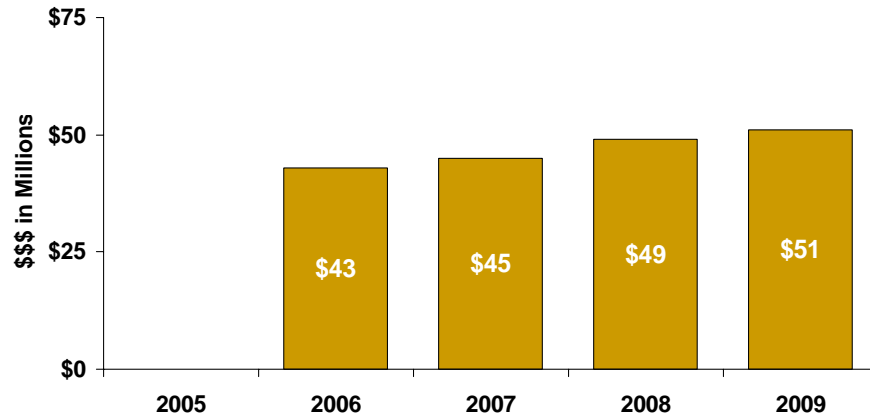
Capital (and contracted paratransit), but seven State pilot program allowing operating assistance

### Matching requirements

Expanded matching funds  
 "Sliding Scale" matching

## Clean Fuels Grant Program - Discretionary

49 U.S.C. Section 5308



### Clean Fuels Grant Program

The bill reauthorizes the Clean Fuels grant program with some modifications.

Grants would be provided for the purchase clean fuels buses, including clean diesel vehicles (up to 25% of grants annually), in certain non-attainment areas and areas trying to maintain compliance with clean air standards.

Grants would be made by the Secretary.

## General Provisions

- Defines mobility management activities eligible for Section 5307 CAPITAL funding... designed to improve coordination among all types of providers
- Bond proceeds, advertising revenue, concession revenue, and revenue derived from contracts with social service agencies may be used as local matching funds
- Exempts vanpool drivers from expanded FMCSA regulation of small Commercial Motor Vehicles



Mobility management is made an eligible capital expense to foster coordination amongst all types of providers, public-private-non-profit-DR-MB-VP-CR-LR-HR.

Certain bond proceeds may be used as local matching funds. Eligibility requirements for local match are streamlined to include advertising and concessions revenue, as well as contracts with social service agencies.

Of significant importance to ACT members (and something worked on since TEA-21 was promulgated)... Vanpool drivers are exempt from expanded FMCSA regulation of Commercial Motor Vehicles (9-15 passengers).

## General Provisions

- Section 5307 funds may be deposited in a debt service reserve under a pilot program for ten eligible recipients
- Security and emergency preparedness projects are eligible for CAPITAL funding
- Allows incidental use of federally funded alternative fueling facilities and equipment by non-transit public entities and private entities, so long as funds earned are used for transit purposes



Section 5307 funds may be deposited in a debt service reserve under a pilot program for ten eligible recipients.

Security and emergency preparedness projects, including training and drill expenses, are eligible for capital funding.

A transit system may allow the incidental use of federally funded alternative fueling facilities and equipment by non-transit public entities and private entities so long as funds earned are used for transit purposes.

## Energy Policy Act of 2005: Transit

### ■ Alternative Motor Vehicle Tax Credits

- Fuel cell vehicles (buses)
- Advanced lean burn technology vehicles (passenger vehicles)
- Hybrid vehicles
- Alternate fuel (including LNG and CNG) vehicles
- Mixed fuel vehicles get partial credit.
- Unique “seller credit” for government purchase, requires disclosure



The Energy Policy Act of 2005, signed into law by the President on August 8, 2005, includes some important new programs beneficial to public transportation.

- *Alternative Motor Vehicle Credit* - The new law creates an incentive program that amends the Tax Code to allow tax credits for "alternative motor vehicles." The program targets fuel cell vehicles (\$40,000 for anything with a GVR over 26,000 pounds), advanced lean burn technology vehicles (limited to passenger vehicles), hybrid vehicles (up to \$12,000 per vehicle), and alternate fuel (including LNG and CNG) vehicles (up to \$32,000 per vehicle). Mixed fuel vehicles get partial credit. The credits will phase out as production tops 60,000 vehicles per manufacturer. The most interesting part of this provision is that for vehicles purchased and used by transit agencies or other government entities (not under a lease), the seller of the vehicle can take the credit if the seller "clearly discloses to [the agency] in a document the amount of any credit allowable." The credits are good through 2014 (for fuel cell vehicles), 2009 (for hybrids), and 2010 (for alternate fuel vehicles), and apply to vehicles delivered after December 31, 2005.

## Energy Policy Act of 2005: Transit

- DOE Fuel Cell Transit Bus Demo
  - Favor locations “most likely to mitigate congestion and improve air quality”
  - Covers both vehicles AND infrastructure costs



The law establishes a fuel cell transit bus demonstration that will allow competitive, merit based awards for five-year projects to demonstrate fuel cell buses in five locations.

The total number of buses in the program is limited to 25, but infrastructure costs at the demonstration locations will be included.

The Secretary of Energy is directed to favor locations "most likely to mitigate congestion and improve air quality."

The authorized amount for the program is \$10M per year through 2010.

## Energy Policy Act of 2005: Transit

### ■ DOE Pilot Program

- Alternative fuel, fuel cell, hybrid, or ultra low sulfur diesel (incl. infrastructure)
- Up to 30 grants, up to \$15M over as long as 5 years, 50% local share req.



The law establishes a pilot program for up to 30 grants to states, local governments, or metropolitan transportation authorities to buy alternative fuel, fuel cell, hybrid, or ultra low sulfur diesel vehicles, infrastructure to support alternate fuel, fuel cell, or hybrids, and to maintain the vehicles and infrastructure.

This program is diverse, and includes school buses, delivery vehicles, and airport ground support vehicles. The vehicles can be anything from buses to motorized bicycles for law enforcement.

No grantee will be eligible for more than \$15M under this pilot program, there is a 50 percent local share requirement, and no pilot project can be funded for more than five years.

The Secretary of Energy is required to publish a request for applications within 90 days of enactment of the legislation.

There is no fixed authorization amount or time limit for the overall program.

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## Contact Information

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