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*Highway and Traffic Safety Programs Reauthorization:
Background and Selected Key Provisions in Conference*

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Abstract. The House and Senate have passed their respective versions of H.R. 3, which reauthorizes federal surface transportation programs, including funding through FY2009 for the highway and traffic safety programs and grants administered by the Federal Highway Administration (FHWA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMCSA). These bills would create a new separate grant program to improve highway safety infrastructure, and revise federal programs or policies seeking to increase safety-belt use rates, reduce alcohol-impaired driving, and strengthen commercial drivers licensing and information systems. A conference committee will attempt to reconcile differences between the House and Senate bills regarding the amounts to be authorized, purposes, and eligibility criteria for various highway and traffic safety grants. Decision makers face the challenge of allocating resources used to advance primarily safety objectives against funds needed to meet other surface transportation needs. This report provides background information on several of the key safety-oriented provisions and issues addressed in these bills.

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Highway and Traffic Safety Programs Reauthorization: Background and Selected Key Provisions in Conference

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Summary

The House and Senate have passed their respective versions of H.R. 3, which reauthorizes federal surface transportation programs, including funding through FY2009 for the highway and traffic safety programs and grants administered by the Federal Highway Administration (FHWA), the National Highway Traffic Safety Administration (NHTSA), and the Federal Motor Carrier Safety Administration (FMCSA). These bills would create a new separate grant program to improve highway safety infrastructure, and revise federal programs or policies seeking to increase safety-belt use rates, reduce alcohol-impaired driving, and strengthen commercial drivers licensing and information systems. A conference committee will attempt to reconcile differences between the House and Senate bills regarding the amounts to be authorized, purposes, and eligibility criteria for various highway and traffic safety grants. Decision makers face the challenge of allocating resources used to advance primarily safety objectives against funds needed to meet other surface transportation needs. This report provides background information on several of the key safety-oriented provisions and issues addressed in these bills, and supplements CRS Issue Brief IB10138. This report will not be updated.¹

The Policy Context and Diversity of Challenges²

Traffic crashes each year in the United States result in some 42,000 fatalities and about 2.9 million injuries, and thus create a major public health problem. These traffic incidents result in significant economic costs totaling more than \$230 billion annually,

¹ Note: Paul Rothberg, who has retired from CRS, is the author of this report. Randy Peterman is the CRS analyst who currently handles issues covered by this report.

² Clare Brigidini, Resources, Science, and Industry Division, provided editorial support.

according to NHTSA.³ Motor vehicle crashes are the leading cause of death in the United States for people ages 3 to 33. Despite these sobering statistics, there is cause for optimism. The lowest fatality rate ever recorded — 1.48 fatalities per 100 million vehicle miles traveled — was achieved in 2003.⁴ NHTSA reports that alcohol-related fatalities declined significantly in 2003 — the first drop in that level since 1999.⁵ Preliminary 2004 NHTSA data indicate further improvement over the 2003 fatality rate and the number of alcohol-related fatalities. Furthermore, survey data indicate that the national average safety-belt use rate hit 80% in 2004 — the highest level in the nation’s history. NHTSA estimates that 15,200 lives and \$50 billion in economic costs associated with traffic related crashes, injuries, and deaths are saved, every year, when this high level of seat belt use prevails.⁶

To help continue these improvements in safety trends and make progress toward many other national objectives, the House and Senate have passed their respective versions of H.R. 3. These bills reauthorize various federal surface transportation programs, including those that significantly affect diverse safety challenges. As envisioned in these bills, Congress seeks to revise some of the existing highway and traffic safety grants that are provided to the states, and to create some new grants affecting safety.⁷ Because many states and local governments are still struggling with tight budgets, federal grants to enhance safety play an important role in promoting safety. These bills also would catalyze significant changes in some federal safety programs and regulations. Because of their financial impacts and life saving potential, legislative changes to federal grants and regulations are of fundamental importance to the states, local governments, industry, and other users of the surface transportation system.

Safety concerns resonate through numerous provisions of H.R. 3. Essentially all groups support safety-oriented legislation that saves lives, but the means favored to accomplish this objective vary. The diversity of interest groups and their safety-oriented goals is substantial. This diversity is reflected by legislative provisions intended to improve driver education, motorcycle safety, rural road safety, state traffic safety information systems, and commercial drivers licensing programs and information systems, as well as child transportation safety.

A conference committee will try to reconcile numerous differences between the House and Senate versions of H.R. 3. In specific, this committee will specify funding levels for the core federal safety programs administered by the FHWA, NHTSA, and FMCSA. Also, its members will decide on the purposes, eligibility criteria, and structure of various safety grants provided to the states. To a large extent, the final statute will determine the availability of federal funds provided to supplement state investments in

³ [<http://www.nhtsa.dot.gov/nhtsa/whatis/BB/2006/pages/AdminStmt.htm>].

⁴ 2003 is the latest year for which full year statistics are available.

⁵ NHTSA press release 38-04, August 25, 2004.

⁶ DOT press release 173-04, September 16, 2004.

⁷ Highway safety programs can refer to efforts to improve or enhance the specific safety components of the surface transportation infrastructure, e.g., hazard-elimination investments or grade-crossing improvements; traffic safety programs typically refer to efforts to improve driver or pedestrian behavior; but sometimes these terms are used interchangeably.

highway safety infrastructure, as well as the resources for such traffic safety activities as sobriety road checks and safety belt “buckle up” campaigns. Of pivotal importance is the funding formula used to determine how much money a state receives from the Federal Highway Trust Fund to improve its highway infrastructure, as well as the grant criteria that determine whether a state qualifies to receive incentive funds to improve its occupant protection and alcohol countermeasure (anti-drunk driving) programs.

In the reauthorization bill, Congress faces the challenge of providing the legislative framework to improve upon federal programs, grants, and regulations influencing specific areas of highway and traffic safety. To different degrees, the bills reflect the desire for continued efforts or improved laws to encourage more people to “buckle up” and to deal with repeat traffic-safety offenders who continue to violate driving-while-intoxicated (DWI) or driving-under-the-influence (DUI) prohibitions. Both versions of H.R. 3 include authority to establish a new grant program to improve motorcycle safety. The substantial increase in the number of fatalities of motorcyclists in recent years has underpinned support to enhance state motorcycle training and outreach efforts with federal monies.⁸ Both bills also respond to those who seek changes in existing federal motor carrier programs and regulations. By creating a new grant program to improve traffic information safety systems, both bills respond to pleas from the safety community for resources that can enhance decision making, including improved safety data systems and driver records. Despite many similarities, there also are major difference between the two bills. For example, the Senate version of H.R. 3 specifically addresses the mobility and safety challenges posed by some older drivers and authorizes \$2 million in each year of FY2006 through FY2009 for this purpose. The House bill does not include this provision.

Competition for funds is intense among various safety programs. A key challenge will be to find additional funds to increase federal support for safety-oriented activities, and to find the appropriate balance to meet such diverse objectives as improving safety, retaining state flexibility, and ensuring accountability. Decision makers also face the difficult hurdle of balancing funds primarily intended to promote safety against funds needed to meet other surface transportation objectives, such as increasing mobility and reducing environmental impacts of highway operations.

Key Safety Provisions Included in H.R. 3

Infrastructure and Highway Safety. Both versions of H.R. 3 authorize billions of dollars of federal-highway program funds intended to improve the design, throughput, and overall performance and safety of the highway infrastructure. These bills authorize increased transit funding that is intended to reduce the growth in the number of vehicles on the highway system, and thus also impact traffic safety. Both bills authorize a new grant program, called the “Highway Safety Improvement Program,” that would fund an array of safety investments, including funds to enhance safety at highway/rail grade crossings and reduce road hazards.⁹ Both bills establish a “Safe Routes to School

⁸ The number of motorcyclist fatalities rose from 3,270 in 2002 to 3,661 in 2003, an increase of 12%, with preliminary 2004 NHTSA data indicating 3,927 such deaths.

⁹ For example, for the Highway Safety Improvement Program specified under sections 130 and (continued...)

Program” with funds for the planning, design, and construction of projects to encourage children to bike and walk to school safely.¹⁰ Both bills call for improved regulations regarding the safety of highway construction workers. If the Senate version prevails, states also would be required to develop and implement a strategic plan that identifies and analyzes highway safety problems and opportunities and that results in strategies or projects to reduce such problems. Under the Senate bill, states also would be required to adopt performance-based goals that focus resources on areas of greatest need and establish and implement a schedule for conducting safety projects for hazards correction and prevention. The House bill authorizes a new High Risk Rural Road Safety Improvement Program.¹¹ The set aside for highway safety infrastructure projects now specified as part of the Surface Transportation Program is proposed to be eliminated.

FHWA’s and Other Highway Research and Development Activities Affecting Safety. The conferees are debating the amount of funding authorized for FHWA’s and other core research, development, and technology deployment activities. Safety is an integral component of these activities. Research and technical guidance and outreach activities regarding pedestrian, grade crossing, and intersection concerns, and work to improve the visibility of road signage are illustrative activities likely to be funded. As envisioned in both bills, the reauthorization statute will include funding amounts for the Local Technical Assistance Program, the National Highway Institute, and the University Transportation Research (or Centers) Program. Each of these training or technical assistance efforts has important safety components.

NHTSA’s Section 403 Activity. Both bills would increase significantly the amount of funds authorized for NHTSA’s Section 403 provision, which provides the working capital that this agency uses to address behavioral as opposed to vehicular issues. Congress historically has provided a separate authorization for these activities and in recent years that funding amount was roughly \$72 million per year. NHTSA uses Section 403 funds for a variety of purposes, including to enter into cooperative arrangements with numerous partners to achieve common safety objectives or to increase fundamental knowledge regarding traffic safety.¹² There is much evidence that the studies and

⁹ (...continued)

152, the House version of H.R. 3 authorizes \$630 million for FY2005, \$645 million for FY2006, \$660 million for FY2007, \$680 million for FY2008, and \$695 million for FY2009. The Senate bill authorizes for each year FY2005 through FY2009 roughly \$1.32 billion for its version of the Highway Safety Improvement Program specified under section 148.

¹⁰ House version of H.R. 3 authorizes specifically for the Safe Routes to School Program \$150 million for FY2005, \$175 million for each of FY2006, FY2007, and FY2008, and \$200 million for FY2009. The Senate version specifies that before apportioning amounts to carry out Section 148 (the Highway Safety Improvement Program) for a fiscal year, the Secretary shall set aside and use roughly \$65.7million to carry out the Safe Routes to School Program.

¹¹ Under Section 1403, the House version of H.R. 3 authorizes for the High Risk Rural Road Safety Improvement Program \$105 million for FY2005, \$110 million for FY2006, \$120 million for FY2007, \$125 million for FY2008, and \$130 million for FY2009.

¹² For example, funds are used to formulate and implement various innovative traffic safety programs or campaigns sponsored by NHTSA. These efforts seek to reduce impaired driving, increase occupant protection, collect and analyze safety data, and sponsor demonstrations to test
(continued...)

technical assistance resulting from Section 403 funds have improved state and local governmental traffic safety activities and have been used as a basis for strengthening related laws.¹³ The House and Senate bills differ substantially on the amount of funds set aside for Section 403 funding and on specified purposes for these funds.¹⁴

NHTSA's Vehicle Safety and Consumer-Oriented Activities. The reauthorization statute may set a funding level for NHTSA's operations and research account, which includes support for its vehicle safety programs.¹⁵ As part of the reauthorization process, the conference committee is considering whether to require NHTSA to issue a variety of vehicle safety regulations. The Administration maintains that congressional mandates take away NHTSA's ability to prioritize its work, while others maintain that such directives and deadlines are needed and expedite the rulemaking process or help promote accountability.

Traffic Safety Grants, Penalties, and Transfers. Strategies are incorporated into federal law to encourage states to adopt and maintain certain traffic safety laws or programs. Three approaches include incentives, transfers, or loss of certain highway monies.¹⁶ The House and Senate bills would modify the specifications for a law regarding a repeat intoxicated driver offense that any state must enforce to avoid a transfer provision. The Senate bill also would extend a transfer provision to affect any state not enforcing laws that impose certain penalties on an individual convicted of DWI or DUI with a blood alcohol concentration level of 0.15 percent or greater or driving with a license suspended because of a DUI conviction. The Senate bill would impose a financial penalty against any state that does not enforce a law that prohibits the possession of any

¹² (...continued)

or evaluate innovative safety measures. NHTSA uses Section 403 funds to help address key current issues in traffic safety, such as those pertaining to older, drowsy, or fatigued drivers.

¹³ See CRS Report RS21368, *Traffic Safety: Reauthorization of Section 403*.

¹⁴ For Section 403, the House version of H.R. 3 authorizes \$75 million each year for FY2006 through FY2009, while, the Senate version authorizes approximately \$142 million each year during this period. These amounts are not comparable for several reasons, e.g., the Senate bill would fund public information activities to support high visibility enforcement campaigns out of Section 403 funds, while this activity would be funded separately in the House bill.

¹⁵ With these funds, NHTSA issues new safety regulations, checks vehicles for compliance with its regulations, investigates vehicle safety concerns, conducts an array of crash-worthiness tests, studies various safety systems, and determines its vehicle rollover ratings. NHTSA investigators develop technical information that can help consumers better evaluate aspects of vehicle safety performance. The total amount of funding authorized, and subsequently appropriated, affects the ability of NHTSA to conduct these activities and thus the quality of the consumer information the agency provides as well as the effectiveness of federal oversight of vehicle safety.

¹⁶ For example, an incentive grant can be awarded to a state if it adopts certain measures to improve occupant protection. Or, a state may lose some of its flexibility on how it can spend certain monies it receives from the Federal Highway Trust Fund, e.g., a state may be forced to transfer some of its highway construction funds into hazard elimination investments or alcohol-impaired driving countermeasures if it does not enforce certain laws. As a penalty, a portion of a state's apportioned Federal Highway Trust funds can be taken away if it does not enforce a law which determines the threshold needed for someone to be convicted of driving-while-intoxicated or an equivalent per se offense.

open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle.

Based on H.R. 3, Congress is likely to change the amount of funding and the eligibility criteria for various traffic safety grants. Support exists for increasing funding for the Section 402 (state and community traffic safety), Section 410 (drunk driving countermeasures), and Section 405 (occupant protection enhancement) grants.¹⁷ The Senate-passed bill places substantial emphasis on rewarding those states that adopt and enforce primary seat belt laws; whereas the House-passed bill allows a state to qualify for Section 405 funding even if it does not enact and enforce such a law.

Motor Carrier Safety. Both the House and Senate versions of H.R. 3 authorize on average slightly more than \$500 million per year for FY2006 through FY2009 for the operations and the various grant programs administered by the FMCSA. These bills also specify new required rulemakings affecting motor carriers and changes to agency enforcement authorities and programs.¹⁸ The conference committee is now deciding the amount of federal funding to support federal and state programs or enforcement activities, various programmatic changes to improve these efforts, and future regulatory actions.

Based on the bills passed, the final reauthorization law will set funding levels for grants for (1) the Motor Carrier Safety Assistance Program, which supplements state funds for enforcement of commercial motor carrier safety regulations and hazardous materials transportation safety regulations; and (2) various information systems, which help monitor industry performance. The final statute is likely to strengthen the enforcement powers of the FMCSA, authorize a dedicated grant program to improve commercial driver licensing efforts, establish a Medical Review Board to provide advice on driver physical qualification standards, and establish a more clearly defined enforcement program intended to improve the safety of intermodal containers.

Intelligent Transportation Systems (ITS). The federally-supported ITS program funds research, development, and demonstrations (R&D&D) of many different safety-oriented technologies. The conference committee on H.R. 3 will debate the goals, objectives, and the amount of funding (proposed at roughly \$115 million per year), as well as the purposes of the federal component of the national ITS R&D&D program. The House bill identifies areas for higher priority funding, including projects that enhance safety through improved crash avoidance and notification, and infrastructure-based safety systems. The Senate version also identifies projects for priority funding, including those to test the integration of at least three crash-avoidance technologies in passenger vehicles; integrate intelligent infrastructure, vehicle, and control technologies; and improve the overall safety performance of vehicles and roadways. Safety-oriented projects will need to compete for funding against other projects funded by the DOT ITS R&D&D program.

¹⁷ Websites that describe key components of these grants under current law include [http://www.nhtsa.dot.gov/people/perform/trafrecords/pages/tea21/tea_21_issues.htm], and [<http://www.nhtsa.dot.gov/nhtsa/whatsup/tea21/tea21programs>].

¹⁸ The House version of H.R. 3 would authorize \$919 million for FY2006 through FY2009 funding for the administrative operations of the FMCSA. The Senate version would authorize \$880 million for these activities. Separate authorization is provided for various grants to states.