

TW UPDATE
HOUSE APPROPRIATORS APPROVE STIMULUS BILL
THURSDAY, JANUARY 22, 2009 – 12:15 P.M.

Yesterday, the House Appropriations Committee approved its portion of a draft bill making available \$825 billion in economic stimulus spending and tax breaks. The Appropriations part of the bill is roughly \$358 billion, of which \$43.1 billion goes to the U.S. Department of Transportation. The panel approved the bill by a vote of 35 to 22.

Relatively few amendments were agreed to by the committee, but the panel did change the way in which the bill attempts to ensure speedy use of \$30 billion in highway funding and \$8 billion in transit formula spending.

In response to a Congressional Budget Office cost estimate which said that some provisions in the draft bill requested by the Transportation and Infrastructure Committee (a 120-day redistribution of any portion of the first half of the money apportioned to states not yet obligated "based on awarded contracts") would force a significant slowdown of the "spendout rate" of the money, the committee adopted, by voice vote, an amendment offered by Transportation-HUD Subcommittee chairman John Olver (D-MA) that moves the redistribution of the unused highway money, transit capital assistance grants, and transit fixed guideway infrastructure grants from 120 days after apportionment to 180 days after apportionment (which was the date in the original Appropriations stimulus bill from last September). The Olver amendment also struck the "based on awarded contracts" language wherever it appeared and replaced it with the standard term "obligated" as it is currently used by the DOT budget office.

As originally offered by Olver, the amendment would also have

given an additional incentive to states, MPOs and transit agencies to use their money quickly. The original amendment would have set aside five percent of the highway and transit money to be used as a bonus pool for states that could obligate more than 50 percent of their money within 180 days. As a penalty, the original amendment would have penalized states and transit agencies that failed to obligate all of their funds by September 30, 2010 by withholding five percent of their regular highway and transit apportionments for fiscal year 2011.

(No one at the markup mentioned that there will presumably be a surface transportation authorization law enacted before FY 2011 that would likely have repealed this penalty.)

However, Chairman Olver's new ranking minority member on the THUD subcommittee, Tom Latham (R-IA), offered a second-degree amendment to Olver's amendment that removed both the five percent bonus pool and the five percent FY 2011 penalty provisions, saying that some states might be forced by circumstances beyond their control to leave some stimulus money on the table and that the state planning processes should not be punished by the removal of previously budgeted contract authority.

The Latham second-degree amendment to the Olver amendment was agreed to by voice vote, at which point the Olver amendment, as amended, was agreed to as well.

Attached to this email is a PDF of the highway and transit portions of the bill incorporating the Olver amendment, as amended. Language removed by the amendment is shown in strikethrough type and language added is in bold italic type. Note that the Olver amendment did not affect the \$1 billion in transit new start grants in the stimulus bill, so that language is not included in the attachment.

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FEDERAL HIGHWAY ADMINISTRATION
HIGHWAY INFRASTRUCTURE INVESTMENT

For projects and activities eligible under section 133 of title 23, United States Code, section 144 of such title (without regard to subsection (g)), and sections 103, 119, 134, 148, and 149 of such title, \$30,000,000,000, of which \$300,000,000 shall be for Indian reservation roads under section 204 of such title; \$250,000,000 shall be for park roads and parkways under section 204 of such title; \$20,000,000 shall be for highway surface transportation and technology training under section 140(b) of such title; and \$20,000,000 shall be for disadvantaged business enterprises bonding assistance under section 332(e) of title 49, United States Code: *Provided*, That the amount set aside from this appropriation pursuant to section 1106 of this Act shall not be more than 0.2 percent of the funds made available under this heading instead of the percentage specified in such section: *Provided further*, That, after making the set-asides authorized by the previous provisos, the funds made available under this heading shall be distributed among the States, and Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, in the same ratio as the obligation limitation for fiscal year 2008 was distributed among the States in accordance with the formula specified in section 120(a)(6) of division K of Public Law 110–161, but, in the case of the Puerto Rico Highway Program and the Territorial Highway Program, under section 120(a)(5) of such division: *Provided further*, That 45 percent of the funds distributed to a State under this heading shall be suballocated within the State in the manner and for the purposes described in section 133(d) of title 23, United States Code, (without regard to the comparison to fiscal year 2005 in paragraph (2)): *Provided further*, That in selecting projects to be funded, recipients shall give priority to projects that can award contracts within 120 days of enactment of this Act, are included in an approved Statewide Transportation Improvement Program (STIP) and/or Metropolitan Transportation Improvement Program (TIP), are projected for completion within a three year time frame, and are located in economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161): *Provided further*, That funds made available under this heading shall be administered as if apportioned under chapter 1 of title 23, United States Code, except for funds made available for Indian reservation roads and park roads and parkways which shall be administered in accordance with chapter 2 of title 23, United States Code: *Provided further*, That the Federal share payable on account of any project or activity carried out with funds made available under this heading shall, at the option of the recipient, be up to 100 percent of the total cost thereof: *Provided further*, That funds made available by this Act shall not be obligated for the purposes authorized under section 115(b) of title 23, United States Code: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That, in lieu of the redistribution required by section 1104(b) of this Act, if less than 50 percent of the funds made available to each State and territory under this heading are obligated ~~based on awarded contracts~~ within ~~120~~ **180** days after the date of distribution of those funds to the States and territories, then the portion of the 50 percent of the total funding distributed to the State or territory that has not been obligated ~~based on awarded contracts~~ shall be redistributed, in the manner described in

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section 120(c) of division K of Public Law 110–161, to those States and territories that have obligated, ~~based on awarded contracts~~, at least 50 percent of the funds made available under this heading and are able to obligate amounts in addition to those previously distributed, except that, for those funds suballocated within the State, if less than 50 percent of the funds so suballocated within the State are obligated, ~~based on awarded contracts~~, within ~~90~~ ***150*** days of suballocation, then the portion of the 50 percent of funding so suballocated that has not been obligated, ~~based on awarded contracts~~, will be returned to the State for use anywhere in the State prior to being redistributed in accordance with the first part of this proviso: *Provided further*, That, in lieu of the redistribution required by section 1104(b) of this Act, any funds made available under this heading that are not obligated, ~~based on awarded contracts~~, by August 1, 2010, shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110–161, to those States able to obligate amounts in addition to those previously distributed, except that funds suballocated within the State that are not obligated, ~~based on awarded contracts~~, by ~~July~~ ***June*** 1, 2010, will be returned to the State for use anywhere in the State prior to being redistributed in accordance with the first part of this proviso: *Provided further*, That notwithstanding section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act.

FEDERAL TRANSIT ADMINISTRATION

TRANSIT CAPITAL ASSISTANCE

For transit capital assistance grants, \$6,000,000,000, of which \$5,400,000,000 shall be for grants under section 5307 of title 49, United States Code and shall be apportioned in accordance with section 5336 of such title (other than subsections (i)(1) and (j)) but may not be combined or commingled with any other funds apportioned under such section 5336, and of which \$600,000,000 shall be for grants under section 5311 of such title and shall be apportioned in accordance with such section 5311 but may not be combined or commingled with any other funds apportioned under that section: *Provided*, That of the funds provided for section 5311 under this heading, 3 percent shall be made available for section 5311(c)(1): *Provided further*, That applicable chapter 53 requirements shall apply except that the Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further*, In lieu of the requirements of section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into ~~contracts or other binding commitments~~ ***obligations*** to make use of not less than 50 percent of the funds awarded shall be ~~120~~ ***180*** days after apportionment: *Provided further*, That the provisions of section 1101(b) of Public Law 109–59 shall apply to funds made available under this heading: *Provided further*, That notwithstanding any other provision of law, of the funds apportioned in accordance with section 5336, up to three-quarters of 1 percent shall be available for administrative expenses and program management oversight and of the funds apportioned in accordance with section 5311, up to one-half of 1 percent shall be available for administrative expenses and program management oversight and both amounts shall remain available

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for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.

FEDERAL TRANSIT ADMINISTRATION

FIXED-GUIDEWAY INFRASTRUCTURE INVESTMENT

For an amount for capital expenditures authorized under section 5309(b)(2) of title 49, United States Code, \$2,000,000,000: *Provided*, That the Secretary of Transportation shall apportion funds under this heading pursuant to the formula set forth in section 5337 of title 49, United States Code: *Provided further*, That the funds appropriated under this heading shall not be commingled with funds available under the Formula and Bus Grants account: *Provided further*, In lieu of the requirements of section 1103 of this Act, funds made available under this heading shall be apportioned not later than 7 days after the date of enactment of this Act: *Provided further*, That for purposes of applying section 1104 of this Act to this appropriation, the deadline for grantees to enter into ~~contracts or other binding commitments~~ ***obligations*** to make use of not less than 50 percent of the funds awarded shall be ~~120~~ ***180*** days after apportionment: *Provided further*, That applicable chapter 53 requirements shall apply except that the Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent: *Provided further*, That the provisions of section 1101(b) of Public Law 109-59 shall apply to funds made available under this heading: *Provided further*, That notwithstanding any other provision of law, up to 1 percent of the funds under this heading shall be available for administrative expenses and program management oversight and shall remain available for obligation until September 30, 2012: *Provided further*, That the preceding proviso shall apply in lieu of the provisions in section 1106 of this Act.