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Transportation Weekly

MONITORING AND ANALYZING DEVELOPMENTS IN FEDERAL TRANSPORTATION AND PUBLIC WORKS POLICY

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Legislative Schedules
Week of January 26, 2009

House

Tuesday — meets at noon for legislative business — S. 181, Lily Ledbetter Act, plus general debate only on H.R. 1, the stimulus bill, and one measure under suspension of the rules (S. 328, DTV transition delay).

Wednesday and the balance of the week — meets at 10 a.m. (9 a.m. on Friday) — continue consideration of H.R. 1, the stimulus bill.

Senate

The Senate will convene at 10 a.m. today and will resume consideration of H.R. 2, SCHIP reauthorization.

Inside This Issue

Senate Panels Marking Up Stimulus Plan Today

$45.5 Billion for USDOT Includes Ambitious New $5.5 Billion Fund For Highway, Bridge, Transit, Rail, Port Infrastructure Grants at Secretary's Discretion

Two Senate committees are scheduled to hold markup sessions at 10:30 a.m. today to mark up their portions of the Senate version of the economic stimulus bill, which will eventually be given the number S. 1.

The Appropriations Committee and the Finance Committee are both scheduled to mark up their portions of the bill. The legislative text of the Finance portion is not public, but that is the usual committee procedure. (Unlike their Ways and Means counterparts, who use actual bill language for markups, Finance always marks up tax legislation conceptually and writes it later.)

The Appropriations Committee has the text of its bill written, but per committee norms, they aren't posting the "chairman's mark" for the public to see in advance of the hearing. However, parts of the transportation portion of the chairman's mark reached us, and this article summarizes the transportation portions of the draft bill.

The draft Senate bill would appropriate a total of $45.47 billion to the U.S. Department of Transportation, topping the $43.12 billion appropriated by the House bill. *All programs carry a 100 percent federal cost share.*

The stimulus bill will be the first legislation under the new leadership of Appropriations Chairman Daniel Inouye (D-HI).

Discretionary grants. The biggest single difference between the House and Senate approaches is the increased discretion given to the Department of Transportation in the Senate bill. While the House bill would have given out $29.2 billion to states via highway formu-

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House Stimulus Bill Moves Forward Amidst CBO Skepticism

The House is expected to begin debate on its version of the economic stimulus bill (H.R. 1) today amidst continuing skepticism regarding how quickly funds in the bill will actually become available to stimulate the economy.

The House Appropriations Committee approved it draft bill as slightly modified by a party-line vote of 35 to 22 on January 21 after amending it slightly.

The House Rules Committee approved a rule for general debate on the bill yesterday, and that debate should begin on the House floor today. The panel is scheduled to consider possible amendments to H.R. 1 at a hearing at 3:00 p.m. this afternoon.

Yesterday evening, the nonpartisan Congressional Budget Office issued its final cost analysis of H.R. 1 as reported from all House committees and brought before the House.

CBO concludes that changes made in committee accelerated the "spendout" rate of the Appropriations portion slightly — before markup,

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the Appropriations portion of the bill was projected to release 38.1 percent of its funding into the economy over the roughly eighteen months between now and September 30, 2010 — the window during which most economists say economic stimulus is most necessary to lessen the effects of the recession.

CBO says that the changes made by the Appropriators have increased the 18-month spendout of the Appropriations portion of the bill to 40.4 percent. When combined with the direct spending and tax cut portions of the bill from the Ways and Means Committee and other panels (see box, above at right), the spendout rate of the entire House bill during the 18-month stimulus window rises to 64.2 percent.

SCORING THE HOUSE STIMULUS SPENDING (H.R. 1)

	FY 2009	FY 2010	Later
Division A - Appropriations	28,953	115,842	213,444
	8.1%	32.3%	59.6%
Division B - Direct Spending	64,122	108,853	75,080
	25.8%	43.9%	30.3%
Division B - Tax Cuts	76,480	131,320	4,019
	36.1%	62.0%	1.9%
TOTAL STIMULUS, H.R. 1	**169,535**	**356,015**	**292,563**
	20.7%	**43.5%**	**35.8%**
18-Month Stimulus (2009 & 2010):		**64.2%**	

This could create problems with (and for) the new Obama Administration. In response to the initial CBO scoring of the Appropriations portions only, new White House Budget Director Peter Orszag (who headed CBO until last month) said in a January 22 letter to Congressional leaders that his new office's analysis showed an 18-month spendout of the whole bill closer to 75 percent and promised that "We are committed to maintaining at least a 75 percent spend-out rate for the package as a whole as the legislation moves through the Senate and House and into conference."

These words will likely be brought up repeatedly when President Obama meets privately with Congressional Republicans today to seek support for the stimulus bill.

OMB will probably issue a Statement of Administration Policy on the House stimulus bill sometime today, and it will be *very interesting* to see whether or not the SAP promises that the President will not sign a stimulus bill with an 18-month spendout rate of less than 75 percent, and whether or not the White House is willing to accept CBO's numbers (which, remember, were Orszag's numbers until last month).

According to CBO's numbers, in order to get H.R. 1 to an 18-month spendout of 75 percent, about $88 billion in the bill's funding needs to be moved up — from FY 2011 and beyond into the remainder of FY 2009 and FY 2010 (if the total bill stays at its net size of about $818 billion).

Even if the entire $43 billion in the bill for the (mostly) slow-spending U.S. Department of Transportation

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Selected Amendments Offered in House Appropriations Markup of H.R. 1

- **Olver (D-MA) amendment** striking the definition of obligation of highway and transit funds as being "based on awarded contracts", changing the 120-day redistribution deadline for half of the highway and transit funds to a 180-day deadline, and establishing financial bonuses for states and localities that obligate money ahead of schedule and financial penalties for states and localities that obligate money slowly — *agreed to, as amended (see below), by voice vote.*

⇒ **Latham (R-IA) second-degree amendment to the Olver amendment** striking the financial bonuses and penalty requirements for fast-obligating and slow-obligating states — *agreed to by voice vote.*

- **Latham (R-IA) amendment** preventing any funds in the Act from being used to substitute for, or in any way supplant, federal, state or local funds that have already been committed, assigned or obligated — *failed by recorded vote of 22 yeas, 36 nays.*
- **Frelinghuysen (R-NJ) amendment** transferring $84 billion in forward funding (appropriations that do not become available until FY 2010 or afterwards) from social programs, energy programs and aid to states to infrastructure programs — *failed by recorded vote of 22 yeas, 37 nays.*
- **Visclosky (D-IN) amendment (Division 1)** adding a new sec. 1110 to the bill providing that no funds under the Act may be used for construction, alteration, maintenance, or repair of a public building or public work unless all of the iron and steel used in the project is produced in the U.S. (subject to possible waiver on the grounds of public interest, inadequate domestic quality or quantity, or cost differential of more than 25 percent) — *agreed to by recorded vote of 55 yeas, zero nays (with one "present").*
- **Visclosky (D-IN) amendment (Division 2)** adding a new sec. 1111 to the bill providing that, notwithstanding any other provision of law, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act must be paid the prevailing union wage under the Davis-Bacon Act — *agreed to by recorded vote of 42 yeas, 16 nays.*
- **Kirk (R-IL) amendment** adding a new sec. 1112 to the bill preventing any funds being made available directly to the State of Illinois at the state level while Rod Blagojevich is governor unless the state passes a law approving receipt of the funds after the date of enactment of this Act — *agreed to by voice vote, as modified by Mr. Obey's unanimous consent request to exempt funds distributed within the state by statutory formula from the ban.*

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were eliminated and replaced with fast-spending social welfare grants and tax cuts, this would still get you less than halfway to a 75 percent spendout rate in the stimulus window.

Bigger spendout problems are found in the bill's state revolving fund (SRF) grants for state drinking water and wastewater grants — CBO says that $2 billion of the $8.4 billion provided won't be spent until Obama's (presumed) second term of office, and five percent of the money won't be spent until after 2016.

And the Appropriations portion of H.R. 1 provides $84 billion in "forward funding" — appropriations that, by definition, cannot become available for obligation (to start the spending process) until some future date after FY 2009.

Much of the improvement in the spendout rate for the Appropriations portion of H.R. 1 stems from an amendment offered in committee by Rep. John Olver (D-MA), chairman of the Transportation-HUD subcommittee.

Olver's amendment got rid of language included in the draft bill at the request of the House Transportation and Infrastructure Committee that attempted to speed up the spendout of the bill's highway and transit money.

However, CBO felt that the T&I provisions, which accelerated the timetable for redistribution of up to half of the highway and transit money from 180 days to 120 days and which used a new definition of the word "obligate" that could have made states take 60 to 100+ days longer to reach the point of obligation, could have forced a situation where no state was able to obligate at least half of its money within 120 days — setting off a stagnation spiral in which no state was eligible to get redistributed funds, thereby ensuring that most of the money would sit fallow until August 2010.

Olver's amendment struck the T&I language and pushed back the timeframe for the obligation of the first half of the money to 180 days after apportionment (with the standard definition of "obligation" used). The Olver amendment originally would have established financial rewards for states that obligated more money quickly and would have penalized slow-spending states by reducing their FY 2011 contract authority, but Olver's new ranking member Tom Latham (R-IA) successfully struck the bonus and penalty language from the Olver amendment.

This change increased CBO's spendout estimate for the highway and transit money. With the original T&I language, the 18-month

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Updated Congressional Budget Office Cost Estimate of H.R. 1 (Economic Stimulus) As Reported By All House Committees

(Millions of Dollars, By Fiscal Year - Assumes H.R. 1 Is Signed Into Law in Mid-February)

	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	11 years
Highway Construction												
Budget Authority	30,000	-	-	-	-	-	-	-	-	-	-	30,000
Outlays	3,000	7,500	6,000	4,500	3,300	3,000	2,100	600	-	-	-	30,000
Spendout Rate	*10.0%*	*25.0%*	*20.0%*	*15.0%*	*11.0%*	*10.0%*	*7.0%*	*2.0%*	*0.0%*	*0.0%*	*0.0%*	*100.0%*
Other USDOT												-
Budget Authority	13,100	-	-	-	-	-	-	-	-	-	-	13,100
Outlays	1,635	2,495	2,970	2,190	1,575	1,140	825	270	-	-	-	13,100
Spendout Rate	*12.5%*	*19.0%*	*22.7%*	*16.7%*	*12.0%*	*8.7%*	*6.3%*	*2.1%*	*0.0%*	*0.0%*	*0.0%*	*100.0%*
U.S. Army Corps of Engineers (Civil Works)												
Budget Authority	4,500	-	-	-	-	-	-	-	-	-	-	4,500
Outlays	1,128	1,664	975	365	268	100	-	-	-	-	-	4,500
Spendout Rate	*25.1%*	*37.0%*	*21.7%*	*8.1%*	*6.0%*	*2.2%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*0.0%*	*100.0%*
EPA State Revolving Funds (Water)												
Budget Authority	8,400	-	-	-	-	-	-	-	-	-	-	8,400
Outlays	238	2,050	2,460	1,670	815	449	169	101	57	38	24	8,071
Spendout Rate	*2.8%*	*24.4%*	*29.3%*	*19.9%*	*9.7%*	*5.3%*	*2.0%*	*1.2%*	*0.7%*	*0.5%*	*0.3%*	*96.1%*
Other, Division A (Appropriations)												
Budget Authority	218,136	66,529	4,147	3,575	2,848	1,404	1,420	1,435	1,435	890	420	302,239
Outlays	22,952	102,133	93,063	44,864	20,510	8,324	3,756	1,987	1,584	819	334	300,326
Spendout Rate	*7.6%*	*33.8%*	*30.8%*	*14.8%*	*6.8%*	*2.8%*	*1.2%*	*0.7%*	*0.5%*	*0.3%*	*0.1%*	*99.4%*
Total, Division A (Appropriations)												
Budget Authority	**274,136**	**66,529**	**4,147**	**3,575**	**2,848**	**1,404**	**1,420**	**1,435**	**1,435**	**890**	**420**	**358,239**
Outlays	**28,953**	**115,842**	**105,468**	**53,589**	**26,468**	**13,013**	**6,850**	**2,958**	**1,641**	**857**	**358**	**355,997**
Spendout Rate	***8.1%***	***32.3%***	***29.4%***	***15.0%***	***7.4%***	***3.6%***	***1.9%***	***0.8%***	***0.5%***	***0.2%***	***0.1%***	***99.4%***
Total, Division B (Direct Spending)												
Budget Authority	**64,476**	**109,440**	**53,285**	**6,922**	**6,889**	**14,840**	**4,776**	**(4,724)**	**(3,834)**	**(2,203)**	**(1,813)**	**248,055**
Outlays	**64,122**	**108,853**	**53,963**	**7,102**	**6,937**	**14,852**	**4,780**	**(4,715)**	**(3,834)**	**(2,203)**	**(1,813)**	**248,045**
Spendout Rate	***25.8%***	***43.9%***	***21.8%***	***2.9%***	***2.8%***	***6.0%***	***1.9%***	***-1.9%***	***-1.5%***	***-0.9%***	***-0.7%***	***100.0%***
Total, Division B (Tax Reductions)												
Tax Cut (Increase)	**76,460**	**131,320**	**14,485**	**(12,155)**	**(8,056)**	**(4,007)**	**(621)**	**1,835**	**3,454**	**4,252**	**4,841**	**211,819**
Rate	***36.1%***	***62.0%***	***6.8%***	***-5.7%***	***-3.8%***	***-1.9%***	***-0.3%***	***0.9%***	***1.6%***	***2.0%***	***2.3%***	***100.0%***
NET DEFICIT INCREASE	**169,535**	**356,015**	**173,916**	**48,536**	**25,349**	**23,858**	**11,009**	**78**	**1,261**	**2,906**	**3,386**	**815,861**
FROM THE HOUSE BILL	***20.8%***	***43.6%***	***21.3%***	***5.9%***	***3.1%***	***2.9%***	***1.3%***	***0.0%***	***0.2%***	***0.4%***	***0.4%***	***100.0%***

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spendout rate for highways was 12.6 percent — now, the rate is 35.0 percent. For other DOT programs (mostly transit, but all lumped together in the latest estimate), the 18-month spendout was originally 19.2 percent — now, the rate is 31.5 percent.

(T&I chairman James Oberstar (D-MN) has filed an amendment with the House Rules Committee to move the obligation deadline for the first half of that money up to 90 days. It is unclear whether or not the Rules Committee will allow him to offer the amendment, and how much CBO might say his amendment slows the bill by.

Other amendments added to the bill during markup (see list in the box at bottom left of page 2) affected the entire bill, adding Buy America requirements for all iron and steel used in construction projects funded by the bill and requiring Davis-Bacon prevailing wages to be paid to all contractors and subcontractors. However, where transportation programs are concerned, the new Buy America and Davis-Bacon do not appear to extend far beyond the existing Buy America and Davis-Bacon requirements for those programs.

Members have filed over 200 amendments with the Rules Committee, which is expected to make only a handful in order when the House considers the bill.

It will be very interesting to see if any promises President Obama might make to Republicans during his meeting today regarding an open political process get reflected in the amendments selected by the Rules Committee.

Unlike the earlier preliminary (numbers-only) CBO analysis, their new cost estimate gives some explanation of how they reached their numerical conclusions (see below).

EXCERPTS FROM NEW CBO ANALYSIS OF HOUSE STIMULUS BILL (H.R. 1) AS REPORTED

The budgetary impact of the bill stems primarily from three types of transactions:

- Direct payments to individuals (for example, unemployment compensation or refundable tax credits), which would generally occur fairly rapidly during fiscal years 2009, 2010, and 2011;
- Reductions in federal taxes, which would have most of their effects on revenues in fiscal years 2009 and 2010; and
- Purchases of goods and services, either directly by the federal government or indirectly in the form of grants to state and local governments. Many of those involve construction or investment activity that would take several years to complete.

In estimating outlays for that third category, CBO expects that the rate of spending in 2009 for many programs funded in H.R. 1 would be considerably slower than historical rates of spending for a full year of funding because the bill would be enacted almost halfway into the fiscal year. Thus, it would not be appropriate in most cases to use the full-year rates that CBO typically employs for appropriations enacted near the start of the fiscal year. Moreover, under H.R. 1, some programs would receive funding that is significantly above (double, triple, or more) the amounts provided for existing or similar programs in recent years. Frequently in the past, in all types of federal programs, a noticeable lag has occurred between sharp increases in budget authority and the resulting increases in outlays. Based on such experiences, CBO expects that federal agencies, along with states and other recipients of that funding, would find it difficult to properly manage and oversee a rapid expansion of existing programs so as to expend the added funds as quickly as they expend the resources provided for their ongoing programs.

Lags in spending stem in part from the need to draft plans, solicit bids, enter into contracts, and conduct regulatory or environmental reviews. Spending can be further delayed because some activities are by their nature seasonal. For example, major school repairs are generally scheduled during the summer to avoid disrupting classes, and construction and highway work are difficult to carry out during the winter months in many parts of the country.

Brand new programs pose additional challenges. Developing procedures and criteria, issuing the necessary regulations, and reviewing plans and proposals would make distributing money quickly even more difficult—as can be seen, for example, in the lack of any disbursements to date under the loan programs established for automakers last summer to invest in producing energy-efficient vehicles. Throughout the federal government, spending for new programs has frequently been slower than expected and rarely been faster…

Title XII—Transportation and Housing and Urban Development…In fiscal year 2008 (and at an annualized rate under the continuing resolution for fiscal year 2009), state and local governments have been allocated $41.2 billion per year for highway programs and $10.4 billion per year for transit programs. The $39 billion provided for those purposes in H.R. 1 would nearly double the recent funding levels. Grantees would be required to move quickly to obligate the new funds (that is, commit them for specific projects). After obligation of funds, grantees would need to muster significant staff and private-sector resources to undertake the projects. Simple projects typically take several months from the time the funds are obligated to the start of construction. Complicated projects can take significantly longer. Scheduling many projects during the warmer months (as would be necessary in some areas of the country) and ensuring that adequate traffic management measures are taken (such as nighttime work hours) can also affect the pace of spending. Many projects funded under these programs take several years to complete. Historically, money appropriated for highways and transit is spent at a slow rate in the first year and has an extremely long “tail,” in that funds provided in a particular year are frequently spent over a six-to-eight-year period. As a result, when those programs have seen previous significant increases in budgetary resources, outlays have increased more slowly.

For this estimate, CBO consulted with transportation officials in nearly half of the states, accounting for roughly two-thirds of annual highway spending. CBO found that many states are anxious to receive additional funding and can probably begin some projects quickly, but that many states are also concerned about how quickly local governments can undertake new projects. In addition, concerns exist about how quickly state and local governments can adjust their contracting procedures to accommodate the significant increase in the amount of funding. On balance, CBO concludes that many states would probably move as rapidly as possible to obligate new funds, but that much of the construction and procurement work associated with highway and transit projects would occur over an extended period of time, leading to federal outlays over several years...

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las (after set-asides) and $8.0 billion to transit agencies via transit formulas, the Senate bill only gives out $26.3 billion to states via highway formulas after set-asides (and $8.4 billion via transit formulas).

But the Senate bill has a large new program within the Office of the Secretary of Transportation entitled "Supplemental Discretionary Grants for a National Surface Transportation System" which receives a $5.5 billion appropriation. The draft bill provides that the Secretary "shall distribute funds provided under this heading as discretionary grants to be awarded to State and local governments on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region".

This new discretionary grant program is multi-modal: eligible projects include basically any highway or bridge project eligible under title 23 U.S.C., any transit project eligible under chapter 53 of title 49 U.S.C., and "passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement."

The draft bill sets a minimum grant size of $20 million and a maximum grant size of $500 million. The draft bill requires the Secretary to "take such measures so as to ensure an equitable geographic distribution of funds and an appropriate balance in addressing the needs of urban and rural communities" and that he "shall give priority to projects that require an additional share of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within 3 years of enactment". It also allows up to $200 million of the $5.5 billion to be used for TIFIA credit support.

U.S. Department of Transportation

Admin.	Program	House Bill	Senate Bill
OST	Competitive surface transportation grants:	$ -	$ 5,500,000,000
FAA	Facilities and equipment:	$ -	$ 200,000,000
FAA	Airport improvement grants:	$ 3,000,000,000	$ 1,100,000,000
FHWA	Highways and bridges:	$ 30,000,000,000	$ 27,060,000,000
FRA	Intercity passenger rail:	$ 300,000,000	$ 250,000,000
FRA	Amtrak capital grants:	$ 800,000,000	$ 850,000,000
FRA	High-speed rail corridors:	$ -	$ 2,000,000,000
FTA	Transit formula grants:	$ 6,000,000,000	$ 8,400,000,000
FTA	Transit rail modernization:	$ 2,000,000,000	$ -
FTA	Transit new starts:	$ 1,000,000,000	$ -
MARAD	Assistance to small shipyards:	$ -	$ 100,000,000
OIG	Office of Inspector General	$ 20,000,000	$ 7,750,000
Total, USDOT		**$ 43,120,000,000**	**$ 45,467,750,000**

Moreover, the $5.5 billion appropriation for the new discretionary grant program could grow significantly. The draft bill provides that any portion of the $26.36 billion in highway formula money and of the $8.4 billion in transit formula money that is not obligated within one year of apportionment shall be taken away from the state and transferred to the new DOT discretionary grant program. The draft bill provides that the Secretary may give a state DOT an extension of the one-year "use it or lose it" limit only "to the extent that he or she feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances".

Highway formula funds. The draft bill appropriates $27.06 billion for highway and bridge grants. The extra $60 million is for ferry boats and facilities, leaving an even $27.0 billion for highways and bridges. A total of $500 million is set aside off-the-top for roads on federal lands and Indian reservations, and another $144 million is either set aside for Federal Highway Administration overhead or for roads in Puerto Rico.

This leaves $26.36 billion for apportionment to states, which the draft Senate bill gives out via the surface transportation program (STP) formula, which gives each state a 0.5 percent minimum apportionment (unlike the House bill) and which does not give as much weight to donor state minimums or specific donee state sinecures as does the formula used by the House bill. 40 percent of the remaining highway money is set aside for sub-allocation to areas within a state based on population under 23 U.S.C. 133(d)(3) and 133(d)(4). The draft bill singles out those two paragraphs of title 23 and does not mention 133(d)(2), so it appears that the bill does not set aside any money for transportation "enhancements' (bike paths, nature trails, etc.), unlike the House bill, which set aside over $1 billion for those purposes.

The draft Senate bill contains what appears to be a major advancement over the House bill. Both bills divide each state's highway money in half: 50 percent to be obligated within 180 days, and the other half to be obligated within a longer period (one year under the draft Senate bill; by August 1, 2010 under the House bill).

The House bill would require half of the money suballocated based on population to be obligated within 180 days and the other half to be obligated later. But the Senate bill specifies that all of the money that gets suballocated to MPOs based on population is in the second, slower-spending half of the state total.

This may be a better way to handle the issue, as many states have expressed concerns that MPOs won't be able to obligate their money within six months.

The remainder of the money is at the discretion of the state DOT and can be used for "restoration, repair,

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construction, and other activities" eligible under 23 U.S.C. 133(b). Elsewhere, the draft bill specifies that the highway money *may* be used for "projects that address stormwater runoff, investments in passenger and freight rail transportation, and investments in port infrastructure".

Another 5 percent of the money appears to be set aside for CMAQ (congestion mitigation and air quality) projects under 23 U.S.C. 149(b) and 149(c), but an initial reading does not make it quite clear whether that five percent for CMAQ applies to both the state DOT discretionary funding and the suballocated MPO money or not.

The table at rights makes clear that there are serious differences between the House bill and the draft Senate bill in the way in which their highway funding is distributed to each state. This is principally due to the fact that the Senate bill distributes about eleven percent less ($2.84 billion) via the highway formulas and makes up for it in the discretionary grants. But it is also due to the House decision to use the obligation limitation "formula of formulas" to give out its money. This approach has no 0.5 percent minimum apportionment for each state and is weighted heavily by the equity bonus program, which guarantees donor states minimum return on gas tax dollars and which guarantees a specified donee states minimum annual cash payments through 2009.

The table on the following page shows that the combination of these two provisions makes a very large difference for many states in their highway apportionments under the House bill and the draft Senate bill, with some small donee states standing to get over 50 percent more guaranteed money from the House bill, and with big "megadonee" states like New York

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HOW THE SENATE BILL WOULD DIVIDE UP ITS $27 BILLION IN HIGHWAY SPENDING

(Not an official committee or FHWA table - this is our in-house "best guess" - dollar amounts in thousands)

	Senate Bill	House Bill
Total highway appropriation	**27,060,000**	**30,000,000**
Set-aside for Indian reservation roads:	320,000	300,000
Set-aside for National park roads:	100,000	250,000
Set-aside for forest highways:	70,000	-
Set-aside for refuge roads:	10,000	-
Set-aside for ferry boats:	60,000	-
Set-aside for FHWA administrative expenses/other:	12,000	100,000
Set-aside for Puerto Rico/territories:*	132,440	154,207
Remainder, to be apportioned to states as shown below:	**26,355,560**	**29,195,793**

	40% sub-allocated by population to MPOs:	5% for CMAQ* Projects:	55% at State DOT Discretion:	Total, Senate Highway Stimulus Apportionment:	Comparison: Total House Highway Apportionment:
ALABAMA	204,155	25,519	280,714	**510,389**	**559,666**
ALASKA	52,976	6,622	72,842	**132,440**	**238,322**
ARIZONA	200,972	25,122	276,337	**502,431**	**586,554**
ARKANSAS	144,298	18,037	198,409	**360,744**	**370,303**
CALIFORNIA	1,021,747	127,718	1,404,902	**2,554,368**	**2,796,972**
COLORADO	170,315	21,289	234,184	**425,788**	**412,851**
CONNECTICUT	97,534	12,192	134,110	**243,836**	**391,354**
DELAWARE	52,976	6,622	72,842	**132,440**	**120,854**
DIST. OF COL.	52,976	6,622	72,842	**132,440**	**124,532**
FLORIDA	537,056	67,132	738,452	**1,342,640**	**1,461,783**
GEORGIA	359,056	44,882	493,702	**897,639**	**1,045,903**
HAWAII	52,976	6,622	72,842	**132,440**	**129,435**
IDAHO	65,679	8,210	90,309	**164,198**	**216,573**
ILLINOIS	378,173	47,272	519,988	**945,433**	**1,001,676**
INDIANA	250,880	31,360	344,960	**627,201**	**746,339**
IOWA	155,777	19,472	214,194	**389,443**	**353,045**
KANSAS	160,490	20,061	220,673	**401,224**	**317,232**
KENTUCKY	167,902	20,988	230,865	**419,755**	**457,310**
LOUISIANA	170,025	21,253	233,785	**425,063**	**470,649**
MAINE	53,329	6,666	73,328	**133,323**	**138,665**
MARYLAND	167,988	20,999	230,984	**419,971**	**478,655**
MASSACHUSETTS	163,387	20,423	224,657	**408,468**	**506,364**
MICHIGAN	353,850	44,231	486,543	**884,624**	**875,167**
MINNESOTA	224,710	28,089	308,977	**561,776**	**477,633**
MISSISSIPPI	152,924	19,116	210,271	**382,311**	**353,025**
MISSOURI	255,314	31,914	351,057	**638,286**	**688,320**
MONTANA	67,315	8,414	92,558	**168,286**	**277,453**
NEBRASKA	103,164	12,896	141,851	**257,910**	**230,261**
NEVADA	80,628	10,079	110,864	**201,570**	**217,736**
NEW HAMPSHIRE	52,976	6,622	72,842	**132,440**	**137,526**
NEW JERSEY	234,606	29,326	322,584	**586,516**	**777,809**
NEW MEXICO	98,284	12,286	135,141	**245,711**	**281,159**
NEW YORK	396,922	49,615	545,768	**992,306**	**1,354,887**
NORTH CAROLINA	291,963	36,495	401,449	**729,907**	**802,259**
NORTH DAKOTA	64,310	8,039	88,426	**160,775**	**194,498**
OHIO	365,839	45,730	503,029	**914,599**	**1,036,087**
OKLAHOMA	199,805	24,976	274,731	**499,512**	**464,228**
OREGON	137,898	17,237	189,610	**344,745**	**349,352**
PENNSYLVANIA	358,824	44,853	493,383	**897,061**	**1,254,267**
RHODE ISLAND	52,976	6,622	72,842	**132,440**	**154,292**
SOUTH CAROLINA	192,926	24,116	265,273	**482,315**	**479,859**
SOUTH DAKOTA	72,995	9,124	100,368	**182,487**	**198,689**
TENNESSEE	231,506	28,938	318,321	**578,765**	**613,114**
TEXAS	905,265	113,158	1,244,740	**2,263,163**	**2,420,703**
UTAH	88,963	11,120	122,324	**222,407**	**221,325**
VERMONT	52,976	6,622	72,842	**132,440**	**129,533**
VIRGINIA	279,963	34,995	384,950	**699,909**	**745,537**
WASHINGTON	198,028	24,753	272,288	**495,070**	**529,547**
WEST VIRGINIA	78,816	9,852	108,372	**197,039**	**243,473**
WISCONSIN	214,830	26,854	295,391	**537,075**	**563,779**
WYOMING	52,976	6,622	72,842	**132,440**	**199,237**
TOTAL	**10,542,224**	**1,317,778**	**14,495,558**	**26,355,560**	**29,195,793**

**In the Senate bill, Puerto Rico receives a 0.5 percent minimum apportionment like a state, but it's easier to show them as a set-aside. And we're not quite sure if the 0.5 percent CMAQ dedication is a set-aside from the total (as shown here) or if it is part of the 40% or the state discretionary total.*

Senate Stimulus Bill

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and Pennsylvania getting from 35 to 40 percent less under the Senate formula.

An amendment may be offered during today's markup by Sen. Kit Bond (R-MO) to strike the $5.5 billion in DOT discretionary grants and transfer all of that money to the highway formulas, in which case the highway apportionments for most states would exceed the apportionments in the House bill.

Statutory provisions that the draft Senate bill specifically applies to the highway money include Davis-Bacon applicability under 40 U.S.C. chapter 31, the Buy America requirements of 23 U.S.C. 313, and the DBE requirements of sec. 1101 (b) of SAFETEA-LU.

Transit formula funds. Of the $8.4 billion in transit formula grants in the draft Senate bill, after some set-asides mentioned below, 71 percent is to be apportioned via the urbanized area formula, 19 percent is to be apportioned via the growing states and high-density states formula factors, and 10 percent is to be apportioned via the rural area formula. All money can be used for any capital project eligible under 49 U.S.C. 5302(a)(1).

While the total transit spending levels in the House bill and the draft Senate bill are similar ($8.4 billion in the draft Senate bill versus $9.0 billion the House bill), the funds are structured very differently. The House bill gives $5.4 billion out via the urbanized area formula, $600 million via the rural area formula, and $2.0 billion out using the fixed guideway modernization formula. In addition, the House bill contains a $1.0 billion appropriation for new starts.

The draft Senate bill contains no fixed guideway formula money and no new starts. However, the way in which the $5.5 billion DOT discretionary program is structured seems to anticipate that some of the discretionary money will go to new starts.

The draft Senate bill also sets aside $200 million of the $8.4 billion for grants to transit agencies to lower their greenhouse gas production and sets aside two percent of the 10 percent rural formula money for public transportation on Indian reservations. $3 million is set aside for oversight.

The "use it or lose it" provisions for the transit money are similar to that for the highway money — half of the money must be obligated within 180 days of apportionment or it is withdrawn, and the other half must be obligated within one year of apportionment (with the same provision for the Secretary to waive the deadline if he determines it isn't the state's fault).

Statutory provisions that the draft bill specifically applies to the transit money include what seems to be intended to be the DBE requirements of sec. 1101(b) of SAFETEA-LU, the Buy America requirements of 49 U.S.C. 5323(j), Davis-Bacon applicability under 49 U.S.C. 5333, the state TIP procedures under 49 U.S.C. 5304, and the state planning provisions of 49 U.S.C. 5305.

The draft Senate bill also includes one somewhat extraneous general provision relating to transit. Section 1201 of the draft bill amends section 5309(g)(4)(A) of title 49 U.S.C. to expand the amount of money available for the Federal Transit Administration's "contingent commitments."

Contingent commitment authority allows FTA to commit to full funding grant agreements that extend beyond the expiration of funding under an authorization law. The total amount of contingent commitment authority is capped by law at a total amount not to exceed the total new start funding for the last

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HIGHWAY FORMULA APPORTIONMENT COMPARISON IN STIMULUS BILLS

(Dollar amounts in thousands of dollars)

STATES RECEIVING LESS MONEY IN HIGHWAY APPORTIONMENTS IN THE SENATE BILL THAN IN THE HOUSE BILL:

ALASKA	-105,882	-79.9%
MONTANA	-109,166	-64.9%
CONNECTICUT	-147,518	-60.5%
WYOMING	-66,797	-50.4%
PENNSYLVANIA	-357,206	-39.8%
NEW YORK	-362,581	-36.5%
NEW JERSEY	-191,293	-32.6%
IDAHO	-52,375	-31.9%
MASSACHUSETTS	-97,897	-24.0%
WEST VIRGINIA	-46,434	-23.6%
NORTH DAKOTA	-33,723	-21.0%
INDIANA	-119,139	-19.0%
ARIZONA	-84,123	-16.7%
GEORGIA	-148,263	-16.5%
RHODE ISLAND	-21,852	-16.5%
NEW MEXICO	-35,448	-14.4%
MARYLAND	-58,684	-14.0%
OHIO	-121,488	-13.3%
U.S. TOTAL	**-2,840,233**	**-10.8%**
LOUISIANA	-45,586	-10.7%
NORTH CAROLINA	-72,352	-9.9%
ALABAMA	-49,277	-9.7%
CALIFORNIA	-242,604	-9.5%
KENTUCKY	-37,555	-8.9%
SOUTH DAKOTA	-16,202	-8.9%
FLORIDA	-119,143	-8.9%
NEVADA	-16,165	-8.0%
MISSOURI	-50,034	-7.8%
WASHINGTON	-34,478	-7.0%
TEXAS	-157,540	-7.0%
VIRGINIA	-45,628	-6.5%
ILLINOIS	-56,243	-5.9%
TENNESSEE	-34,349	-5.9%
WISCONSIN	-26,704	-5.0%
MAINE	-5,342	-4.0%
NEW HAMPSHIRE	-5,086	-3.8%
ARKANSAS	-9,559	-2.6%
OREGON	-4,607	-1.3%

STATES RECEIVING MORE MONEY IN HIGHWAY APPORTIONMENTS IN THE SENATE BILL THAN IN THE HOUSE BILL:

KANSAS	+83,992	+20.9%
MINNESOTA	+84,142	+15.0%
NEBRASKA	+27,650	+10.7%
IOWA	+36,398	+9.3%
DELAWARE	+11,586	+8.7%
MISSISSIPPI	+29,285	+7.7%
OKLAHOMA	+35,283	+7.1%
DIST. OF COL.	+7,908	+6.0%
COLORADO	+12,937	+3.0%
HAWAII	+3,005	+2.3%
VERMONT	+2,907	+2.2%
MICHIGAN	+9,457	+1.1%
SOUTH CAROLINA	+2,456	+0.5%
UTAH	+1,082	+0.5%

The difference, of course, is that the draft Senate bill apportions $2.84 billion less to states via highway formulas than does the House bill. The Senate draft makes up for this by appropriating $5.5 billion for a new program by which DOT can make discretionary grants for surface transportation projects of all types (minimum federal share of $20 million, maximum federal share of $500 million).

However, the percent of the $5.5 billion that will go to highways is, of course, unknowable, as is the eventual distribution of that $5.5 billion to states and localities. The numbers shown in this table are of the only guaranteed highway funding in the House and Senate stimulus bills at this time.

Senate Stimulus Bill

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three years of the authorization bill.

As it turns out, the pending transit tunnel projects in New York City are so expensive that they would blow the contingent commitment cap, so the draft Senate bill amends this section to change the cap to "the sum of funds available for the next e fiscal years beyond the current fiscal year, assuming an annual growth of the program of 10 percent."

Rail. Like the House bill, the Senate bill provides a nice bonus for Amtrak capital spending, including the rehab of cars and locomotives — $850 million (the House bill gives $800 million). The funding must be allocated directly to Amtrak. There is no enforceable deadline for the obligation of the money, but the draft bill directs the Amtrak board to "take measures to ensure that projects funded under this heading shall be completed within 2 years of enactment of this Act, and shall serve to supplement and not supplant planned expenditures for such activities from other Federal, state, local and corporate sources" — and the Board must certify compliance to the Appropriations Committees. The draft bill applies Amtrak's existing Buy America preference under 49 U.S.C. 24305 to the new money and provides that no more than 50 percent of the money can be spent on the Northeast Corridor.

The draft Senate bill gives $250 million for grants to states for intercity passenger rail projects under 49 U.S.C. 24401 (the House bill gives $300 million). Projects must be on the statewide TIP at the time of application to qualify. The draft bill specifically applies Davis-Bacon and appears to try to apply Amtrak's Buy America requirements to the funding under 49 U.S.C. 44305.

The big difference between the House bill and the draft Senate bill in rail funding is that the Senate bill contains $2.0 billion for the high-speed rail corridor program under section 26106 of title 49 U.S.C. — an appropriation not contained in the House bill. No specific time limit is set for the expenditure of this money, and the funds are to remain available for obligation until September 30, 2011, indicating that the committee intends to allow much of the money to remain unspent for a long time to come.

The draft committee report says that "As required under authorization law, the Secretary shall select high speed rail projects that are anticipated to result in significant improvements to intercity passenger rail service, and to give greater consideration to projects that encourage intermodal connectivity, provide environmental benefits, and produce positive economic and employment impacts."

Aviation. The draft Senate bill contains a $1.1 billion appropriation for discretionary (not formula) airport improvement grants, well below the $3.0 billion contained in the House bill. The funds can be used for any project eligible under 49 U.S.C. 47102(3) and 47504(c) and for the procurement, installation and commissioning of runway incursion prevention devices and systems.

There is no real "use it or lose it" requirement for the airport grants except the expiration of the appropriation (we are not sure if there is a bill-wide proviso declaring the expiration date of all the budget authority provided under the bill). The bill does require that the FAA use its discretion to give priority to projects that can be completed within two years. The draft bill applies Davis-Bacon to the airport grants and, as mentioned above, states that the federal share is 100 percent.

(There is some dispute about the federal share of AIP grants in the House bill, and Reps. Corrine Brown (D-FL) and John Mica (R-FL) have filed an amendment with the House Rules Committee to set the federal share of the House AIP grants at 100 percent as well.)

The draft Senate bill also appropriates $200 million for FAA facilities and equipment, an appropriation not found in the House bill. The F&E funding is to be used "to make improvements to power systems, air route traffic control centers, air traffic control towers, terminal radar approach control facilities, and navigation and landing equipment."

The draft Senate bill applies the Buy America provisions of 49 U.S.C. 50101 to the F&E appropriation.

Maritime. The draft Senate bill also includes $100 million for MARAD assistance to small shipyards under 46 U.S.C. 54101 or under section 3506 of P.L. 109-63, an appropriation which is not found in the House bill. There is no hard deadline for obligation of funds, but DOT is instructed to take steps to ensure that the funds are obligated within 180 days of their distribution.

Inspector General. The draft Senate bill appropriates $7.75 billion to the USDOT Inspector General to oversee the distribution of the funds appropriated by the Act.

Amendments. The only transportation amendment to be offered at the Appropriations markup that we know about is the Bond (R-MO) amendment to transfer the $5.5 billion from the new discretionary grant program to the highway formulas.

An amendment may be offered during the markup to repeal the $8.7 billion rescission of highway contract authority scheduled to take place on September 30, 2009 pursuant to section 10212 of the SAFETEA-LU law. That rescission has no budgetary impact but is a planning nightmare for some states. However, repealing the rescission will be scored by CBO as costing $8.7 billion in new direct spending under the PAYGO rule, so repealing the rescission will be easiest in a must-pass bill that busts the budget anyway.

LaHood Sworn In As U.S. Secretary of Transportation

Transportation Secretary Ray LaHood at his Senate confirmation hearing on January 21.

The sixteenth U.S. Secretary of Transportation is on the job after being sworn in late last week.

Secretary Ray LaHood was sworn in on Friday afternoon (January 23) at around 1:00 p.m. by the Assistant Secretary for Administration. This followed his confirmation by the Senate by unanimous consent the previous evening.

LaHood's nomination was discharged from the Commerce, Science and Transportation Committee by unanimous consent of the full Senate. The Commerce panel held a hearing on LaHood's nomination on January 21 but never held a formal vote on the nomination.

Most of LaHood's confirmation hearing was taken up by opening statements and glowing introduction, as befits a popular nominee who has served on Capitol Hill for decades and whose nomination faced no opposition.

Anyone who was curious about how far LaHood, a Republican, would go in toeing a more "progressive" transportation policy was not disappointed by two of the four major points he tried to get across in his opening statement, which we quote at some length:

> As I said before, my primary goal at the Department, if confirmed, will be effective implementation of President-elect Obama's national priorities for transportation. In doing this I will work closely with Congress and the nation's Governors and local elected officials. As I see it, this will require a strong focus in at least four areas.
>
> First is the economy. I do not need to tell anyone here about the severe economic challenges we face – more than a million jobs lost in 2008 and unfortunately more to come in 2009. The President-elect and the members of his economic team have spoken extensively about the need for quick action, and the economic recovery and renewal plan currently under discussion responds directly to this need. Transportation infrastructure is a substantial part of that plan, and one of my first and most important tasks, if confirmed, will be to manage the effective use of those funds…
>
> ...second major policy focus: our transportation system and the development it enables must be sustainable. We must acknowledge the new reality of climate change. This has implications for all areas; investments in intercity rail and mass transit, as called for in the economic recovery and reinvestment plan, are part of the equation, but only part. Sustainability must be a principle reflected in all our infrastructure investments, from highways and transit to aviation and ports. President-Elect Obama is committed to this principle and so am I.
>
> Third is a strong focus on people and the communities where they live and work...In our surface transportation programs, it implies a commitment to the principles that some refer to as livability; that is, investing in a way that recognizes the unique character of each community. The era of one-size-fits-all transportation projects must give way to one where preserving and enhancing unique community characteristics, be they rural or urban, is a primary mission of our work rather than an afterthought.
>
> And finally, I am mindful that safety – on the road, on the rails, in the air, and on the water – has always been and must continue to be the central focus of the Department of Transportation. This goal must guide everything done by both the leadership of the Department and its workforce, who will be our partners in everything we do.

(*Ed. Note:* Priority #1, the economy, is a no-brainer, and priority #4, safety, is the perennial. But when the other two of your top four priorities are mitigation of global warming and promotion of sustainable communities, then we truly have come a long, long way from the priorities of the previous Administration, haven't we?)

LaHood was introduced by Senate Majority Whip Richard Durbin (D-IL) and LaHood,s old boss, former House Minority Leader Bob Michel (R-IL), who both gave him glowing recommendations.

From then on, the statements and questions had almost nothing to do with LaHood and everything to do with the priorities of the individual

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LaHood Hearing

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members of the Commerce panel and the degree to which they want to influence LaHood's eventual decisions in these areas in the coming years.

New ranking minority member on the full committee Kay Bailey Hutchison (R-TX) led off, talking about the needs of highway donor states, the problems of toll roads, the need for a speedy reauthorization of the FAA, and the needs of the non-Northeast-Corridor parts of the national passenger rail system.

Maria Cantwell (D-WA) talked about the recent flood damage to roads in her home state and CAFE standard implementation.

Olympia Snowe (R-ME) talked about unsustainably low highway revenue levels and CAFE standards.

Frank Lautenberg (D-NJ) talked about basically everything, especially the need for an expensive new rail tunnel under the Hudson River.

Roger Wicker (R-MS) talked about the "Katrina Effect" of cost inflation whenever you pour a lot of extra money into construction programs.

Mark Warner (D-VA) talked about multi-modal projects, changes in metrics for formulas, and public-private partnerships.

John Thune (R-SD) pushed his Build America Bonds Act.

Tom Udall (D-NM) actually talked about the need to increase the percentage of federal spending going to non-highway modes of transportation.

Byron Dorgan, unsurprisingly, talked about essential air service, air traffic controller training, and Amtrak, but mostly about the evils of Mexican trucks.

Jim DeMint (R-SC) talked about shifting a greater degree of the spending burden for transportation programs away from the federal government and onto states.

And on the issue of earmarks, DeMint summarized his colleagues' defense of earmarks so: "...I've heard a number of congressmen and senators say we should not turn that over to unelected bureaucrats, of which you're getting ready to become one."

Amy Klobuchar (D-MN) talked about the I-35 bridge collapse and the lack of competition in freight rail in some areas.

After all that, new panel chairman Jay Rockefeller (D-WV) said something that will have a wonderfully positive impact on future hearings: "...we're going to have two new procedures in this committee. One is that at the beginning of any hearing where there are witnesses, I and Senator Kay Bailey Hutchison will have opening statements. But I think it is not a good use of our time to have every single member make an opening statement."

When it came time for actual questions and answers, Rockefeller led off by talking about the FAA reauthorization bill and betrayed what was on his mind the most by asking LaHood "...private jets, things of this sort, have to be treated the same way by an air traffic controller, same attention, and they're paying for about 8 percent of the cost. That doesn't strike me as entirely fair. Do you have thoughts on this?"

As befits a new Secretary, LaHood responded with a vague generality that neither stuck it to the business jets nor planted a flag in favor of general aviation.

LaHood did respond to Hutchison's toll road query, saying that "...the idea of taking an interstate road and putting a toll booth on it, I think, is not a good idea."

On slot auctions, he told Hutchison that he thought the overall reduction of slots at LaGuardia would be a better congestion reliever than would auctioning off existing slots.

When it comes to FAA labor issues, LaHood told Lautenberg that the most pressing job on his table was "resolve the [air traffic controller labor] dispute and get it off the table" quickly while working to move the NextGen system forward.

When it came to future revenue options for the Highway Trust Fund, LaHood spoke generically but told Klobuchar that "...people are still going to drive, but the resources to pay for it through the trust fund is a dinosaur, if you'll excuse the expression. It was developed when, you know, when Eisenhower and the Congress came up with the idea of developing an interstate system. We've come far afield of that now."

When Snowe asked him about CAFE standards, he prophetically responded that "I assume that I'll be hearing from [the White House] very soon." (See the executive order that President Obama issued yesterday, with LaHood standing by his side.)

LaHood also spoke in support of essential air service subsidies.

Claire McCaskill (D-MO) talked knowledgably about federal earmarks crowding out other programs on the state master plan. LaHood responded: "...I was on the T&I Committee in the House for six years and, you know, I'm not going to, you know, describe in detail all the stories that went on over there about when a bill was marked up, like ISTEA, but the point is it's up to the members to decide there aren't going to be earmarks, and it's up to the members to decide that this money is going to be spent in a certain way...President Obama wants to eliminate earmarks, and particularly in the stimulus, and I think it will carry over to the reauthorization of the transportation bill...I'm going to work with the committee to fashion a bill that makes sense for America that funds the infrastructure needs of America, and if it doesn't have one earmark, that's not going to cause me any heartburn.

Senators Get New Committee Assignments

Last week, the U.S. Senate broke through a two-week stalemate and agreed to some of the initial organizing resolutions necessary to conduct its business in the new 111th Congress. Chief among these were resolutions electing Senators to committees for the new Congress.

Prior to the enactment of these resolutions (S. Res. 18 and S. Res. 19) on January 21, the holdover chairmen and memberships from the 110th Congress were still technically in charge of the panels.

The delay was due to disagreements between both parties over how large a majority Democrats should have on the committees in light of their enlarged majority in the new Congress (either 58 seats or 59 seats, depending on the outcome of the Minnesota seat).

The final resolution: the Democrats have a four-seat majority on the powerful Appropriations Committee and three-seat majorities on most of the other standing committees, including all of the transportation-related panels.

Democrats left vacancies on both the Environment and Public Works panel, which oversees highways, and the Banking, Housing and Urban Affairs panel, which oversees transit. Both vacancies, along with majority vacancies on other panels, were left so that they could eventually be filled by the appointees from Colorado (sworn in on January 22), New York (scheduled to be sworn in today), and the possible Democratic victor in Minnesota.

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Environment and Public Works
Old ratio: 10 D, 9 R
New ratio: 11 D, 8 R

Democrats (10)	**Republicans (8)**
1 Boxer (CA)	1 Inhofe (OK)
2 Baucus (MT)	~~Warner (VA)~~
~~Lieberman (CT)~~	2 Voinovich (OH)
3 Carper (DE)	~~Isakson (GA)~~
~~Clinton (NY)~~	3 Vitter (LA)
4 Lautenberg (NJ)	4 Barrasso (WY)
5 Cardin (MD)	~~Craig (ID)~~
6 Sanders (VT)	**5 Specter (PA)**
7 Klobuchar (MN)	**6 Crapo (ID)**
8 Whitehouse (RI)	**7 Bond (MO)**
9 Udall (NM)	**8 Alexander (TN)**
10 Merkley (OR)	
Vacancy (NY?)	

Appropriations
Old ratio: 15 D, 14 R
New ratio: 17 D, 13 R

Democrats (17)	**Republicans (13)**
1 Inouye (HI)	1 Cochran (MS)
2 Byrd (WV)	~~Stevens (AK)~~
3 Leahy (VT)	2 Specter (PA)
4 Harkin (IA)	~~Domenici (NM)~~
5 Mikulski (MD)	3 Bond (MO)
6 Kohl (WI)	4 McConnell (KY)
7 Murray (WA)	5 Shelby (AL)
8 Dorgan (ND)	6 Gregg (NH)
9 Feinstein (CA)	7 Bennett (UT)
10 Durbin (IL)	~~Craig (ID)~~
11 Johnson (SD)	8 Hutchison (TX)
12 Landrieu (LA)	9 Brownback (KS)
13 Reed (RI)	~~Allard (CO)~~
14 Lautenberg (NJ)	10 Alexander (TN)
15 Nelson (NE)	**11 Collins (ME)**
16 Pryor (AR)	**12 Voinovich (OH)**
17 Tester (MT)	**13 Murkowski (AK)**

Banking, Housing and Urban Affairs
Old ratio: 11 D, 10 R
New ratio: 13 D, 10 R

Democrats (12)	**Republicans (10)**
1 Dodd (CT)	1 Shelby (AL)
2 Johnson (SD)	2 Bennett (UT)
3 Reed (RI)	~~Allard (CO)~~
4 Schumer (NY)	~~Enzi (WY)~~
5 Bayh (IN)	~~Hagel (NE)~~
~~Carper (DE)~~	3 Bunning (KY)
6 Menendez (NJ)	4 Crapo (ID)
7 Akaka (HI)	~~Sununu (NH)~~
8 Brown (OH)	~~Dole (NC)~~
~~Casey (PA)~~	5 Martinez (FL)
9 Tester (MT)	**6 Corker (TN)**
10 Kohl (WI)	**7 DeMint (SC)**
11 Warner (VA)	**8 Vitter (LA)**
12 Merkley (OR)	**9 Johanns (NE)**
Vacancy	**10 Hutchison (TX)**

Senate Committees

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Back when it appeared that the New York seat would go to Caroline Kennedy, EPW chairman Barbara Boxer (D-CA) had indicated that the vacant seat on her committee was being reserved for Kennedy. It is not known if Kirsten Gillebrand will get the EPW seat now that she is the appointee.

The Banking panel and the Commerce, Science and Transportation Committee have the most turnover, with four new Democratic members and five new Republican members on Banking and four new members on Commerce.

Change at the top is particularly sharp on Commerce, with former chairman Ted Stevens (R-AK) losing re-election and former chairman John McCain (R-AZ) taking leave from the panel.

In other news, Sen. Arlen Specter (R-PA), the tenth-most-senior Senator, has rejoined the EPW panel in likely anticipation of the committee's upcoming consideration of the surface transportation reauthorization bill.

Finance
Old ratio: 11 D, 10 R
New ratio: 13 D, 10 R

Democrats (13)	Republicans (10)
1 Baucus (MT)	1 Grassley (IA)
2 Rockefeller (WV)	2 Hatch (UT)
3 Conrad (ND)	3 Snowe (ME)
4 Bingaman (NM)	4 Kyl (AZ)
5 Kerry (MA)	~~Smith (OR)~~
6 Lincoln (AR)	5 Bunning (KY)
7 Wyden (OR)	6 Crapo (ID)
8 Schumer (NY)	7 Roberts (KS)
9 Stabenow (MI)	8 Ensign (NV)
10 Cantwell (WA)	~~Sununu (NH)~~
~~Salazar (CO)~~	**9 Enzi (WY)**
11 Nelson (FL)	**10 Cornyn (TX)**
12 Menendez (NJ)	
13 Carper (DE)	

Commerce, Science and Transportation
Old ratio: 12 D, 11 R
New ratio: 14 D, 11 R

Democrats (14)	Republicans (11)
1 Rockefeller (WV)	1 Hutchison (TX)
2 Inouye (HI)	~~Stevens (AK)~~
3 Kerry (MA)	~~McCain (AZ)~~
4 Dorgan (ND)	2 Snowe (ME)
5 Boxer (CA)	~~Smith (OR)~~
6 Nelson (FL)	3 Ensign (NV)
7 Cantwell (WA)	~~Sununu (NH)~~
8 Lautenberg (NJ)	4 DeMint (SC)
9 Pryor (AR)	5 Thune (SD)
~~Carper (DE)~~	6 Wicker (MS)
10 McCaskill (MO)	**7 Isakson (GA)**
11 Klobuchar (MN)	8 Vitter (LA)
12 Udall (NM)	**9 Brownback (KS)**
13 Warner (VA)	**10 Martinez (FL)**
14 Begich (AK)	**11 Johanns (NE)**

Construction Commodity Prices Drop Again in December

Recent data released by the U.S. Bureau of Labor Statistics and compiled by the Associated General Contractors shows that the drop in demand caused by the contracting economy has had the effect of lowering the prices of many commodities and produced goods on which transportation construction relies.

However, when measured over the last five years, transportation construction costs have still increased by far more than the rate of inflation.

The data shows that over the last five years, the standard measure of inflation (CPI-U) increased by a total of 14.1 percent, but that the overall producer price index (PPI) for highway and street construction has increased by 46.5 percent. The table below shows how the international markets in petroleum and milled steel caused the greatest increases in the last five years and have taken the lead in giving back some of those costs in the last three months as international demand unravels.

PRODUCER PRICE INDICES (PPIs) FOR CONSTRUCTION COMMODITIES

	1-Month Nov. 2008-Dec. 2008	3-Month Sep. 2008-Dec. 2008	5-Year Dec. 2003-Dec. 2008
Baseline inflation (CPI-U)	-1.0%	-3.9%	+14.1%
Highway and street construction materials	-5.4%	-16.7%	+46.5%
#2 diesel fuel	-23.7%	-49.9%	+74.8%
Asphalt paving mixtures and blocks	-8.3%	-12.3%	+106.3%
Ready-mixed concrete	-0.1%	+0.0	+43.0%
Prestressed concrete products	0.0%	+0.0	+38.5%
Hot-rolled structural steel	-7.4%	-24.4%	+84.5%
Fabricated steel plate	0.0%	-4.2%	+53.2%
Construction sand/gravel/crushed stone	0.0%	+0.6%	+41.9%
Cement	-0.5%	+0.3%	+38.7%

NEW AND NOTABLE ON THE INTERNET

Economic Stimulus Legislation

The full text of the House stimulus bill (H.R. 1), as reported by all committees, is here:
http://www.rules.house.gov/111/LegText/111_hr1_text.pdf

The list of amendments submitted to H.R. 1 is posted here:
http://www.rules.house.gov/amendment_details.aspx?NewsID=4133

And the updated Congressional Budget Office cost estimate for the complete House bill is here:
http://www.cbo.gov/ftpdocs/99xx/doc9968/hr1.pdf

When the White House eventually issues its SAP on the bill, it will be posted here:
http://www.whitehouse.gov/omb/legislative_sap_date/

The letter from OMB Director Orszag promising a 75-percent 18-month spendout rate in the bill is here:
http://budget.house.gov/doc-library/fy2009/01.22.2009_Orszag_letter_economi_recovery_proposal.pdf

Sen. Patty Murray's (D-WA) summary of the transportation spending in the Senate stimulus bill is here:
http://murray.senate.gov/news.cfm?id=307305

LaHood Confirmation Hearing

Secretary LaHood's prepared statement from last week's Senate confirmation hearing is here:
http://commerce.senate.gov/public/_files/LaHoodTestimony12109FINAL.pdf

And archived video of the full hearing can be accessed here:
http://commerce.senate.gov/public/index.cfm?FuseAction=Hearings.LiveStream&Hearing_id=c6392a99-4cb8-4ffe-b977-ffeb7b858068

CAFE Standards

The new executive order on CAFE standards will eventually be posted here:
http://www.whitehouse.gov/briefing_room/executive_orders/

STATUS OF TRANSPORTATION-RELATED NOMINATIONS

Agency	Nominee	Position	Senate Committee	Latest Action
Department of Transportation	Ray LaHood	Secretary	Commerce, Science and Transportation	Sworn into office 1/23/09

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THIS WEEK IN COMMITTEE

Tuesday, January 27, 2009 — House Transportation and Infrastructure — Subcommittee on Highways and Transit — subcommittee hearing on energy reduction and environmental sustainability in surface transportation — *10:00 a.m., 2167 Rayburn.*

Senate Appropriations — full committee business meeting to mark up S. 1, the stimulus bill — *10:30 a.m., 216 Hart.*

Senate Finance — full committee business meeting to mark up S. 1, the stimulus bill — *10:30 a.m., 215 Dirksen.*

House Rules — full committee meeting to consider an order of business and amendments for H.R. 1, the stimulus bill — *3:30 p.m., H-313, The Capitol.*

Wednesday, January 28, 2009 — House Transportation and Infrastructure — Subcommittee on Railroads, Pipelines and Hazardous Materials — subcommittee hearing on freight and passenger rail roles, performance, benefits and needs — *10:00 a.m., 2167 Rayburn.*

UPCOMING CALENDAR

Monday, February 2, 2009 — Statutory deadline for the President to submit the FY 2010 budget (though Obama will undoubtedly submit a current services, or placeholder, budget initially).

Friday, March 6, 2009 — Current continuing resolution expires.

Tuesday, March 31, 2009 — Current extension of federal aviation taxes and spending authority expires.

Wednesday, September 30, 2009 — Expiration of fiscal year 2009 and expiration of spending authority for surface transportation programs under the SAFETEA-LU law.

STATUS OF MAJOR TRANSPORTATION BILLS — 111th CONGRESS

BILL	HOUSE ACTION	SENATE ACTION	RESOLUTION
FY 2009 Omnibus Appropriations Act	House floor action tentatively scheduled for week of 1/26/09		
Economic Stimulus Appropriations & Tax Cuts	House Appropriations Cmte. Approved draft bill 1/21/09	Markup scheduled for 1/26/09	
FY 2010 Congressional budget resolution			
FY 2010 Transportation-HUD Appropriations			
FY 2010 Energy and Water Appropriations			
FY 2010 Homeland Security Appropriations			
Federal Aviation Admin. Reauthorization Bill			
Surface Transportation Reauthorization Bill			
Water Resources Development Act			
FY 2010 Coast Guard Authorization			