

THE LEGISLATIVE SERVICES GROUP'S

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Legislative Schedules Week of February 9, 2009

House

Tuesday — meets at 2 p.m. for legislative business — 11 measures under suspension of the rules, plus a possible motion to instruct conferees on H.R. 1, the stimulus bill.

Wednesday and the balance of the week — meets at 10 a.m. (9 a.m. Friday) — S. 22, omnibus public lands (subject to a rule), plus complete action on a conference report on H.R. 1, economic stimulus, and any other items cleared for business.

Senate

The Senate will convene at 10 a.m. today and will resume consideration of H.R. 1, the stimulus bill. A vote on waiving the Budget Act is scheduled for noon, followed by a vote on final passage of H.R. 1.

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Stimulus Set To Pass Senate With 61 Votes

Senate Invokes Cloture, 61-36, Setting Stage For Passage of Downsized Bill At Noon Today—Quick Conference With House Tops Week's Agenda

The U.S. Senate demonstrated yesterday that the Democratic majority has picked up enough Republican votes to pass their current version of the economic stimulus bill (H.R. 1) later today.

By a vote of 61 to 36, the Senate voted to invoke cloture on the Reid (for Nelson-Collins) substitute amendment for H.R. 1. No less than 60 votes were necessary.

Under a previous agreement, at noon today, the Senate will vote on waiving the Budget Act with respect to the amendment (another vote which will require no less than 60 votes), and assuming that the result is the same, the Senate will then immedi-

ately vote on final passage of H.R. 1 (amended).

This sets the stage for a furious House-Senate conference between the Appropriations Committees later this week, with the stated goal of Speaker Pelosi and Majority Leader Reid being to hold Congress in session through this weekend and into next week (a scheduled recess week) if the bill is not completed and sent to President Obama for his signature.

The 61 votes for cloture included all 58 Democrats presently serving in the chamber (including the ailing Sen. Ted Kennedy (D-MA)), plus Republicans Arlen Specter (PA), Olympia Snowe (ME),



Sens. Susan Collins (R-ME), Olympia Snowe (R-ME), and Arlen Specter (R-PA), clockwise from top, are set to provide the margin of victory for the economic stimulus bill.

and Susan Collins (ME). Two Republicans (John Cornyn (TX) and Judd Gregg (NH) did not vote but would have been "no" votes had they voted.

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FAA Reauthorization Bill Re-Introduced in House

Yesterday, Democratic leaders in the House re-introduced a slightly modified version of the Federal Aviation Administration bill that passed the House last year but was never able to pass the Senate.

House Transportation and Infrastructure Committee chairman James Oberstar (D-MN) said that "This legislation is

long overdue. Short-term funding extensions and continuing resolutions have led to delays in critical capital projects. Timely passage is needed to sustain FAA's programs and keep the FAA moving forward on airport development and the Next Generation Air Transportation System (NextGen)."

The new bill (H.R. 915) was introduced by chairman James Oberstar (D-MN) and Aviation Subcommittee chairman Jerry Costello (D-IL).

Conspicuously absent from the sponsorship list were T&I ranking minority member John Mica (R-FL) and Aviation ranking member Tom Petri (R-WI).

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Senate Stimulus

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The likely passage of the bill was made possible by a deal struck between a few moderate Senators of both parties, led by Sens. Ben Nelson (D-NE) and Susan Collins (R-ME) to trim the total cost of the bill over the next eleven years by \$108 billion (\$83 billion in spending cuts, \$25 billion in fewer tax cuts) based on the bill that had been originally reported from the Appropriations and Finance Committees.

However, according to a new Congressional Budget Office analysis, the bill now pending in the Senate is only \$46.3 billion less expensive over the FY 2009-2019 period than the original Senate bill. The difference is due to \$60+ billion in additions agreed to on the Senate floor via amendment prior to the Nelson-Collins amendment being finalized on Friday night, much of which involves tax incentives for car buyers and home buyers.

CBO says the pending Nelson-Collins substitute for H.R. 1 will increase the deficit by \$838.2 billion over the next eleven years, as opposed to \$819.5 billion for the House-passed bill. (The big difference is the Senate's extra \$70 billion AMT patch.)

Once the bipartisan group of Senators had put forward their final package of spending cuts and Reid had the Republican votes to pass the bill, Reid shut down the amendment process on H.R. 1 on February 6 so that the stimulus bill would no longer be a moving target. Senators with transportation-related amendments who had not yet offered those amendments from the floor by midday Friday, like Kit Bond (R-MO), Jay Rockefeller (D-WV), and Max Baucus (D-MT), were left hanging once Reid put out the word that no further amendments would be allowed. And Sen. Patty Murray (D-WA) was forced to withdraw her amendment to pro-

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COMPARING THE HOUSE AND SENATE STIMULUS BILLS

Compares the House-passed version of H.R. 1 with the Reid-Nelson-Collins substitute amendment #570 to H.R. 1 on which cloture was invoked yesterday and to which no further amendments are in order.

U.S. Department of Transportation

Admin.	Account	House-Passed	Senate Version
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	\$ 7,500,000,000	\$ 8,400,000,000
	Formula grants: Urbanized area formula	\$ 6,750,000,000	\$ 5,964,000,000
	Formula grants: Nonurbanized area formula	\$ 750,000,000	\$ 840,000,000
	Formula grants: Dense/fast growth formula	\$ -	\$ 1,596,000,000
FTA	Transit fixed guideway modernization	\$ 2,000,000,000	\$ -
FTA	Transit new starts	\$ 2,500,000,000	\$ -
MARAD	Assistance to small shipyards	\$ -	\$ 100,000,000
OIG	Office of Inspector General	\$ 20,000,000	\$ 7,750,000
Total, USDOT		\$ 46,120,000,000	\$ 45,467,750,000

U.S. Department of Homeland Security

Admin.	Account	House-Passed	Senate Version
DHS	Under Sec. for Management (new HQ)	\$ -	\$ 198,000,000
DHS	Office of Inspector General	\$ 2,000,000	\$ 5,000,000
CBP	Salaries and expenses (sea port EDS)	\$ 100,000,000	\$ 198,000,000
CBP	Border security fencing	\$ -	\$ 200,000,000
CBP	Construction (land ports of entry)	\$ 150,000,000	\$ 800,000,000
ICE	Automation modernization	\$ -	\$ 27,800,000
TSA	Aviation security (EDS/checkpoints)	\$ 500,000,000	\$ 1,000,000,000
USCG	Acquisition, construction & improvements	\$ -	\$ 450,000,000
USCG	Alteration of bridges	\$ 150,000,000	\$ 240,400,000
FEMA	Management and administration	\$ -	\$ 6,000,000
FEMA	State and local programs	\$ -	\$ 950,000,000
	S&LP: Transit and rail security grants	\$ -	\$ 100,000,000
	S&LP: Port security grants	\$ -	\$ 100,000,000
	S&LP: Emergency operations centers	\$ -	\$ 250,000,000
	S&LP: Critical infrastructure grants	\$ -	\$ 500,000,000
FEMA	Firefighter assistance grants	\$ -	\$ 500,000,000
FEMA	Emergency food and shelter	\$ 200,000,000	\$ 100,000,000
FLETC	Acquisition, construction & improvements	\$ -	\$ 15,000,000
Total, USDHS		\$ 1,102,000,000	\$ 4,690,200,000

U.S. Army Corps of Engineers (Civil Works)

Admin.	Account	House-Passed	Senate Version
USACE	Investigations	\$ -	\$ 25,000,000
USACE	Construction	\$ 2,000,000,000	\$ 2,000,000,000
USACE	Mississippi River and tributaries	\$ 250,000,000	\$ 500,000,000
USACE	Operation and maintenance	\$ 2,225,000,000	\$ 1,900,000,000
USACE	Regulatory program	\$ 25,000,000	\$ 25,000,000
USACE	Formerly utilized sites (cleanup)	\$ -	\$ 100,000,000
USACE	Flood control and coastal emergencies	\$ -	\$ 50,000,000
Total, USACE (Civil)		\$ 4,500,000,000	\$ 4,600,000,000

Environmental Protection Agency

Admin.	Account	House-Passed	Senate Version
EPA	Hazardous substance Superfund	\$ 800,000,000	\$ 600,000,000
EPA	LUST trust fund	\$ 200,000,000	\$ 200,000,000
EPA	State and tribal assistance grants	\$ 8,400,000,000	\$ 6,400,000,000
	STAG: Clean Water State Revolving Funds	\$ 6,000,000,000	\$ 4,000,000,000
	STAG: Drinking Water State Revolving Funds	\$ 2,000,000,000	\$ 2,000,000,000
	STAG: Brownfields remediation grants	\$ 100,000,000	\$ 100,000,000
	STAG: Diesel emission reduction grants	\$ 300,000,000	\$ 300,000,000
Total, EPA		\$ 9,400,000,000	\$ 7,200,000,000

Senate Stimulus

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vide an extra \$25 billion for infrastructure spending.

The list in the box at the bottom of this page shows the only transportation-related amendments that were actually offered on the Senate floor and their disposition. The most problematic may be the Coburn (R-OK) amendment now incorporated into the Senate bill that bans any funds in the bill from being used for a variety of purposes deemed wasteful by Coburn. This includes casinos, golf courses, swimming pools, and museums, but it also prohibits "highway beautification projects."

This contrasts with the House bill, which not only allows highway beautification projects but sets aside 4.5 percent of each state's highway funding under the bill to fund transportation enhancements,

many of which are beautification projects.

Coburn also won passage (by a 97 to zero vote) of an amendment banning no-bid contracts with stimulus funding.

What next? Senate Minority Leader Mitch McConnell (R-KY) has been cooperating with Majority Leader Reid to move the bill along. To that effect, he allowed Reid to move the bill with a minimum of procedural hurdles in exchange for Reid keeping the amendment process relatively open and promising a real House-Senate conference committee to finalize the bill.

As part of the unanimous consent request that McConnell and Reid negotiated, under which the Senate is currently operating, Republicans gave up at least other four opportunities to force cloture votes (cloture on the bill itself, on the motion to insist on the Senate amendment, on the motion to request a conference,

and on the motion to authorize the chair to appoint conferees). All of those items will instead be automatically agreed to between noon and 1 p.m. today.

It is possible that a bipartisan "managers' amendment" to the substitute to H.R. 1 could be agreed to before the bill passes today. However, this would require the unanimous consent of all 99 Senators — any one could block it for any reason — and several Republican Senators have indicated that they intend to scrutinize any proposed managers' amendment very closely before signing off.

Once the Presiding Officer of the Senate names the Senate's negotiators (which should happen quickly if Reid has his act together), then the paperwork accompanying H.R. 1 can be walked down the long hallway to the House chamber, where the House then has to formally

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TRANSPORTATION-RELATED AMENDMENTS OFFERED ON THE SENATE FLOOR TO H.R. 1

All amendments shown below were offered as amendments to the Inouye-Baucus amendment in the nature of a substitute #98 to H.R. 1. On Friday night, amendment #98 was withdrawn and re-drafted to incorporate all amendments adopted as of that point as well as the package of Nelson-Collins spending cuts. A new substitute amendment, #570, is now pending in the Senate.

- #110 by Ms. Murray to add \$25 billion in additional appropriations with no spending offset - \$13 billion for highways, \$5 billion for mass transit, and \$7 billion for water and wastewater treatment plants – offered on February 3 – by a vote of 58 yeas, 39 nays, the Senate did not waive the Budget Act, so the emergency spending designation in the amendment was stricken, and the amendment was then withdrawn on February 6.
- #140 by Mr. Feingold and Mr. McCain amending the Budget Act to create points of order in the Senate against unauthorized appropriations in general appropriations bills, amendments between the Houses, and conference reports, and amending the Lobbying Disclosure Act to provide that all recipients of federal funding awards, grants and loans must file paperwork naming all lobbyists retained by the recipient – offered on February 3 and failed by a roll call vote of 32 yeas, 65 nays on February 5.
- #176 by Mr. Coburn prohibiting no-bid contracts and earmarks by requiring all contracts to be awarded in accordance with existing federal law requiring that all grants and cooperative agreements be competitively awarded – offered on February 5 and agreed to on February 6 by a roll call vote of 97 yeas, 0 nays (motion to table failed, by roll call vote of 1 yeas to 96 nays, on February 5).
- #179 by Mr. Vitter eliminating a variety of appropriations from the bill including the \$248 million for a new Department of Homeland Security headquarters building, the \$850 million for Amtrak capital grants, and the \$2 billion for high-speed rail corridors, and providing that the Davis-Bacon Act does not apply to projects funded by the bill – offered on February 4 and failed by a vote of 35 yeas, 62 nays on February 4.
- #279 by Mr. McCain to remove not only the additional Buy America requirements for steel contained in the bill but all existing statutory Buy America requirements as well in relation to projects funded by the bill – offered on February 4 and defeated by a vote of 31 yeas, 65 nays on February 4.
- #300 by Mr. Dorgan providing that the additional Buy America requirements contained in the bill shall be applied in a manner consistent with United States obligations under international agreements – offered on February 4 and agreed to by voice vote on February 4.
- #309 by Mr. Coburn providing that no funds in the bill can be used for any casino or other gambling establishment, aquarium, zoo, golf course, swimming pool, stadium, community park, museum, theater, art center, and highway beautification project – offered on February 5 and agreed to on February 6 by a roll call vote of 73 yeas, 24 nays.
- #326 by Mr. Barrasso adding a new section to the bill requiring that all reviews carried out pursuant to the National Environmental Policy Act of 1969 with respect to any actions taken under this Act or for which funds are made available under this Act shall be completed within 270 days of enactment – offered on February 4 and failed by voice vote on February 5.
- #363 by Ms. Boxer requiring that funds appropriated by the Act be available for expeditious completion of NEPA reviews for projects funded by the Act and requiring periodic reports to Congress on the status of NEPA assessments on projects funded by the Act – offered on February 4 and agreed to, as modified and further modified, by voice vote on February 5.

Senate Stimulus

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agree to the conference and appoint its own conferees. This is done by a simple majority vote.

At that time, House Republicans will be eligible to make one (and only one) non-binding "motion to instruct conferees" to agree or disagree to some specific part(s) of the House or Senate bill. This allows the minority to put all members on record with an (admittedly non-binding) vote on some particular.

Once that happens, the Speaker can name the House conferees and a conference committee is free to meet.

Conference committees have few formal rules, only two of which really matter:

1. Every House-Senate conference must have at least one formal meeting which is open to the public.
2. The conference is over when a majority of the conferees from each chamber have affixed their signatures to the conference report. (Well, technically, it isn't over until one chamber has voted to agree to the conference report, but it's practically over.)

The gap between items 1 and 2 can be as short as a few minutes or as long as several months. However, this conference is unlikely to last more than a few days.

The usual *modus operandi* in recent years has been for little of significance beyond opening statements to take place in the one formal conference meeting and for the real deal to be negotiated afterwards, behind closed doors, by the majority party if they can hold enough of their conferees to form a majority of required signatures.

Once the signatures are affixed, the conference report is filed (the paperwork is given to the Clerk of the House and sent to GPO for printing). At this point, it is too late for the conferees to change anything in the conference report unilaterally

The Senate Stimulus Bill - Before and After

("Before" = original Inouye-Baucus substitute; "Now" = Nelson-Collins substitute)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011-2019</u>
Division A (Appropriations) - Before	43,829	134,930	186,871
Division A (Appropriations) - Now	36,692	101,333	151,769
Division B (Direct Spending) - Before	88,326	107,414	74,331
Division B (Direct Spending) - Now	83,027	104,863	71,512
Division B (Tax Cuts) - Before	101,037	218,534	(67,027)
Division B (Tax Cuts) - Now	94,486	235,024	(37,024)
Net Increase in Deficit - Before	233,192	460,878	190,442
Net Increase in Deficit - Now	214,206	441,223	182,769

Spending numbers are Treasury outlays; tax cut numbers are lost (raised) revenues.

without the consent of both chambers.

The House usually moves first, and the Rules Committee can bring a conference report before the House for a vote within two or three hours of the conference report being filed, if the majority leadership doesn't mind the possible PR backlash of forcing a vote on a bill this large that no one has had time to read.

Once the House passes the conference report, the Senate takes its turn. If the majority still has 60 votes, passage is inevitable, although even a single Senator has the power to drag things out by a day or three by blocking unanimous consent to waive reading or to schedule a vote without cloture.

But will the majority still have its 60+ votes for a conference report on the stimulus bill? It all depends on Sens. Collins, Specter and Snowe. The tradition of House-Senate conferences is all about splitting the difference and meeting in the middle. If one chamber has \$80 billion for a program and the other chamber has \$100 billion, the conference report is very unlikely to go below \$80 or above \$100.

Similarly, any conference report that attempts to meet the House bill partway is almost certain to have more spending and fewer tax cuts than the Senate-passed bill. It is hard to see how a bill costing more than the current Nelson-Collins bill would get *more* Republican votes. So the question then becomes: how much spending can be

added back to the Senate bill before Collins, Snowe and Specter balk?

(*Ed. Note:* one Hill aide suggested that the conference on this bill will eventually be reduced to Pelosi and Collins by themselves in a room.)

The three Republican "yes" votes are playing a dangerous game — if the conference adds back so much spending that the bill looks much like the pre-Nelson-Collins legislation, will they actually switch their votes to "no" and kill the bill?

In transportation, some of the programs will be easier to reconcile than others. A cursory glance at the tables on page 2 and pages 5-11 show that the Department of Transportation provisions are fairly close in both bills (except for the glaring exception of the Senate's \$5.5 billion in discretionary grants).

And even at DOT, there are a lot of fine print differences between the House and Senate bills, both major (the House and Senate use different formulae to distribute highway and transit funds, which has a big effect on certain states, and the two bills have very different "use it or lose it" redistribution timetables) to minor (in what universe can the House think FTA needs \$74 million for administrative oversight of the formula money and the Senate think they only need \$3 million?).

Assuming the Senate passes H.R. 1 by 1:00 p.m. today, the House motion to instruct conferees should occur as soon as the papers can be walked down the hall, and a formal conference meeting could be held tonight or tomorrow morning.

COMPARING HIGHWAY FUNDING CONDITIONS IN THE STIMULUS BILLS

SENATE AMENDMENT

HOUSE BILL

	\$27.060 billion	\$30.000 billion
Total amount		
Off-the-top set-asides:	\$500 million for federal lands highways \$12 million for FHWA oversight \$132 million for Puerto Rico highways* \$60 million for ferry boats	\$450 million for federal lands highways \$60 million for FHWA oversight \$108 million for Puerto Rico \$46 million for other U.S. territories \$20 million for DBE bonding \$20 million for job training
Apportioned to states + DC:	\$26.356 billion	\$29.196 billion
Apportionment formula:	STP formula (23 U.S.C. 104(b)(3))	FY 2008 obligation ratio distribution (sec. 120(a)(6) of Division K of P.L. 110-161)
Federal share of project cost:	100 percent	100 percent
Suballocated within state by population:	40% of each state's apportionment. Aggregate total: \$10.542 billion.	40.5% of each state's apportionment. Aggregate total: \$11.824 billion.
Set-aside for CMAQ projects:	5% of each state's apportionment. Aggregate total: \$1.318 billion.	None
Set-aside for transportation enhancements:	None	4.5% of each state's apportionment. Aggregate total: \$1.314 billion.
Funds may be used for:	"restoration, repair, construction and other activities eligible under 23 U.S.C. 133(b)"	"projects and activities eligible under 23 U.S.C. 133, 144 (without regard to subsection (g), 103, 119, 134, 148, and 149"
First redistribution:	"180 days following the date of such apportionment, the Secretary of Transportation shall withdraw from each State an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other States that have had no funds withdrawn under this proviso in the manner described in section 120(c) of division K of Public Law 110-161"	"if less than 50 percent of the funds made available to each State and territory under this heading are obligated within 90 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 shall be redistributed, in the manner described in section 120(c) of division K of Public Law 110-161, to those States and territories that have obligated at least 50 percent of the funds made available under this heading and are able to obligate amounts in addition to those previously distributed"
Does first redistribution apply to funds that have been sub-allocated by population?	No	Yes - MPOs have just 75 days to obligate up to 50 percent of their suballocation or else it is returned to the state DOT and subject to the 90-day redistribution.
Second redistribution:	"1 year following the date of such apportionment, the Secretary shall withdraw from each recipient of funds apportioned under this heading any unobligated funds and transfer such funds to 'Supplemental Discretionary Grants for a National Surface Transportation System'"	"any funds made available under this heading that are not obligated 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"
Can DOT grant states an extension of the second redistribution?	Yes - if DOT "feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances"	No
Are states given any directives on how to prioritize project selection?	No	Yes - states must give priority to projects that are (1) ready to begin construction within 90 days; (2) included in an approved TIP or STIP; (3) projected for completion within a three-year timeframe; and (4) located in economically distressed areas.
Are funds explicitly available for non-highway purposes?	Yes - funds "may be used for, but not be limited to, projects that address stormwater runoff, investments in passenger and freight rail transportation, and investments in port infrastructure"	No
Other restriction:	Sec. 1609 of the Senate amendment prevents any appropriations in the Act from being used for any highway beautification project.	None

COMPARISON OF HIGHWAY FUNDING APPORTIONMENTS TO STATES IN THE STIMULUS BILLS

(Dollar amounts in thousands of dollars)

STATE	SENATE AMENDMENT				HOUSE-PASSED BILL				COMPARISON	
	CMAQ Projects	Sub-allocated by Pop.	At State Discretion	Total Apport.	Enhancements	Sub-allocated by Pop.	At State Discretion	Total Apport.	Which is Larger?	By how Much?
	Total highway appropriation 27,060,000				Total highway appropriation 30,000,000					
	Set-aside for Indian reservation roads: 320,000				Set-aside for Indian reservation roads: 300,000					
	Set-aside for National park roads: 100,000				Set-aside for National park roads: 250,000					
	Set-aside for forest highways: 70,000				Set-aside for forest highways: -					
	Set-aside for refuge roads: 10,000				Set-aside for refuge roads: -					
	Set-aside for ferry boats: 60,000				Set-aside for ferry boats: -					
	Set-aside for FHWA admin./other: 12,000				Set-aside for FHWA admin./other: 100,000					
	Set-aside for Puerto Rico/territories:* 132,440				Set-aside for Puerto Rico/territories:* 154,207					
	Remainder, to be apportioned: 26,355,560				Remainder, to be apportioned: 29,195,793					
ALABAMA	25,519	204,155	280,714	510,389	25,185	226,665	307,816	559,666	House	49,277
ALASKA	6,622	52,976	72,842	132,440	10,725	96,521	131,077	238,322	House	105,882
ARIZONA	25,122	200,972	276,337	502,431	26,395	237,554	322,605	586,554	House	84,123
ARKANSAS	18,037	144,298	198,409	360,744	16,664	149,973	203,667	370,303	House	9,559
CALIFORNIA	127,718	1,021,747	1,404,902	2,554,368	125,864	1,132,774	1,538,335	2,796,972	House	242,604
COLORADO	21,289	170,315	234,184	425,788	18,578	167,205	227,068	412,851	Senate	12,937
CONNECTICUT	12,192	97,534	134,110	243,836	17,611	158,498	215,245	391,354	House	147,518
DELAWARE	6,622	52,976	72,842	132,440	5,438	48,946	66,470	120,854	Senate	11,586
DIST. OF COL.	6,622	52,976	72,842	132,440	5,604	50,435	68,493	124,532	Senate	7,908
FLORIDA	67,132	537,056	738,452	1,342,640	65,780	592,022	803,981	1,461,783	House	119,143
GEORGIA	44,882	359,056	493,702	897,639	47,066	423,591	575,246	1,045,903	House	148,263
HAWAII	6,622	52,976	72,842	132,440	5,825	52,421	71,189	129,435	Senate	3,005
IDAHO	8,210	65,679	90,309	164,198	9,746	87,712	119,115	216,573	House	52,375
ILLINOIS	47,272	378,173	519,988	945,433	45,075	405,679	550,922	1,001,676	House	56,243
INDIANA	31,360	250,880	344,960	627,201	33,585	302,267	410,487	746,339	House	119,139
IOWA	19,472	155,777	214,194	389,443	15,887	142,983	194,175	353,045	Senate	36,398
KANSAS	20,061	160,490	220,673	401,224	14,275	128,479	174,478	317,232	Senate	83,992
KENTUCKY	20,988	167,902	230,865	419,755	20,579	185,210	251,520	457,310	House	37,555
LOUISIANA	21,253	170,025	233,785	425,063	21,179	190,613	258,857	470,649	House	45,586
MAINE	6,666	53,329	73,328	133,323	6,240	56,159	76,266	138,665	House	5,342
MARYLAND	20,999	167,988	230,984	419,971	21,539	193,855	263,260	478,655	House	58,684
MASSACHUSETTS	20,423	163,387	224,657	408,468	22,786	205,078	278,500	506,364	House	97,897
MICHIGAN	44,231	353,850	486,543	884,624	39,383	354,443	481,342	875,167	Senate	9,457
MINNESOTA	28,089	224,710	308,977	561,776	21,494	193,442	262,698	477,633	Senate	84,142
MISSISSIPPI	19,116	152,924	210,271	382,311	15,886	142,975	194,164	353,025	Senate	29,285
MISSOURI	31,914	255,314	351,057	638,286	30,974	278,770	378,576	688,320	House	50,034
MONTANA	8,414	67,315	92,558	168,286	12,485	112,368	152,599	277,453	House	109,166
NEBRASKA	12,896	103,164	141,851	257,910	10,362	93,256	126,643	230,261	Senate	27,650
NEVADA	10,079	80,628	110,864	201,570	9,798	88,183	119,755	217,736	House	16,165
NEW HAMPSHIRE	6,622	52,976	72,842	132,440	6,189	55,698	75,639	137,526	House	5,086
NEW JERSEY	29,326	234,606	322,584	586,516	35,001	315,013	427,795	777,809	House	191,293
NEW MEXICO	12,286	98,284	135,141	245,711	12,652	113,869	154,637	281,159	House	35,448
NEW YORK	49,615	396,922	545,768	942,306	60,970	548,729	745,188	1,354,887	House	362,581
NORTH CAROLINA	36,495	291,963	401,449	729,907	36,102	324,915	441,242	802,259	House	72,352
NORTH DAKOTA	8,039	64,310	88,426	160,775	8,752	78,772	106,974	194,498	House	33,723
OHIO	45,730	365,839	503,029	914,599	46,624	419,615	569,848	1,036,087	House	121,488
OKLAHOMA	24,976	199,805	274,731	499,512	20,890	188,013	255,326	464,228	Senate	35,283
OREGON	17,237	137,898	189,610	344,745	15,721	141,487	192,143	349,352	House	4,607
PENNSYLVANIA	44,853	358,824	493,383	897,061	56,442	507,978	689,847	1,254,267	House	357,206
RHODE ISLAND	6,622	52,976	72,842	132,440	6,943	62,488	84,861	154,292	House	21,852
SOUTH CAROLINA	24,116	192,926	265,273	482,315	21,594	194,343	263,923	479,859	Senate	2,456
SOUTH DAKOTA	9,124	72,995	100,368	182,487	8,941	80,469	109,279	198,689	House	16,202
TENNESSEE	28,938	231,506	318,321	578,765	27,590	248,311	337,212	613,114	House	34,349
TEXAS	113,158	905,265	1,244,740	2,263,163	108,932	980,385	1,331,387	2,420,703	House	157,540
UTAH	11,120	88,963	122,324	222,407	9,960	89,637	121,729	221,325	Senate	1,082
VERMONT	6,622	52,976	72,842	132,440	5,829	52,461	71,243	129,533	Senate	2,907
VIRGINIA	34,995	279,963	384,950	699,909	33,549	301,942	410,045	745,537	House	45,628
WASHINGTON	24,753	198,028	272,288	495,070	23,830	214,467	291,251	529,547	House	34,478
WEST VIRGINIA	9,852	78,816	108,372	197,039	10,956	98,607	133,910	243,473	House	46,434
WISCONSIN	26,854	214,830	295,391	537,075	25,370	228,331	310,079	563,779	House	26,704
WYOMING	6,622	52,976	72,842	132,440	8,966	80,691	109,580	199,237	House	66,797
TOTAL	1,317,778	10,542,224	14,495,558	26,355,560	1,313,811	11,824,296	16,057,686	29,195,793	House	2,840,233

Notes: the Senate amendment treats Puerto Rico as a state, not an off-the-top set-aside. However, for comparison with the House, it is easier to show it as a set-aside. And we're still not quite sure if the 5% CMAQ requirement in the Senate amendment is of-the-top, as shown here, or if it means that 5% of both the state discretionary total and each sub-allocation has to be spent on CMAQ projects, so bear that in mind.

COMPARING MASS TRANSIT FUNDING CONDITIONS IN THE STIMULUS BILLS

SENATE AMENDMENT

HOUSE BILL

Total amount	\$8.4 billion in formula grants Total: \$8.4 billion	\$7.5 billion in capital formula grants \$2.0 billion in rail mod. formula grants \$2.5 billion in discretionary new starts Total: \$12.0 billion
Off-the-top formula set-asides:	\$3 million for FTA oversight \$16.4 million for Indian reservations \$200 million for discretionary grants to reduce energy consumption by transit agencies	\$74.4 million for FTA oversight \$22.5 million for Indian reservations
Apportioned by formula:	\$8.180 billion	\$9.403 billion
Apportionment formulae:	71% (\$5.820 billion) urbanized area formula 19% (\$1.557 billion) fast-grown/high-density state formula 10% (\$820 million) non-urbanized formula	71.2% (\$6.699 billion) urbanized area formula 21.1% (\$1.980 billion) fixed guideway modernization formula 7.7% (\$724 million) non-urbanized formula
Funds may be used for:	"capital expenditures authorized under section 5302(a)(1) of title 49, United States Code"	49 U.S.C. 5307, 5311, and 5309(b)(2) apply to the funds, as appropriate.
Federal share of project cost:	100 percent	100 percent
First redistribution of formula apportionments:	"180 days following the date of such apportionment, the Secretary shall withdraw from each grantee an amount equal to 50 percent of the funds awarded to that grantee less the amount of funding obligated, and the Secretary shall redistribute such amounts to other grantees that have had no funds withdrawn under this proviso utilizing whatever method he or she deems appropriate to ensure that all funds provided under this paragraph shall be utilized promptly"	"the deadline for grantees to enter into obligations to make use of not less than 50 percent of the funds awarded shall be 90 days after apportionment", then (sec. 1104) "The head of the Federal department or agency involved shall recover or deobligate any grant funds not committed in accordance with subsection (a), and redistribute such funds to other recipients eligible under the grant program and able to make use of such funds in a timely manner (including binding commitments within 120 days after the reallocation)."
Second redistribution of formula apportionments:	"1 year following the date of such apportionment, the Secretary shall withdraw from each grantee any unobligated funds and transfer such funds to 'Supplemental Discretionary Grants for a National Surface Transportation System'"	"Each recipient...shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the grant is awarded, if later) to make use of the remaining funds."
Can DOT grant states/transit agencies an extension of the second redistribution?	Yes - if DOT "feels satisfied that the State has encountered extreme conditions that create an unworkable bidding environment or other extenuating circumstances"	No
Are states/agencies given any directives on how to prioritize project selection?	No	No
New Starts - Is DOT given any directives on how to prioritize project selection?	No new starts funding	"priority shall be given to projects that are currently in construction or are able to award contracts based on bids within 90 days of enactment of this Act"
New Starts - first redistribution:	No new starts funding	"the deadline for grantees to enter into contracts or other binding commitments to make use of not less than 50 percent of the funds awarded shall be 90 days after award"
New Starts - second redistribution:	No new starts funding	"Each recipient...shall enter into contracts or other binding commitments not later than 2 years after the date of the enactment of this Act (or not later than 21 months after the grant is awarded, if later) to make use of the remaining funds."
Other provision:	Sec. 1201 of the Senate amendment increases the cap on total FTA contingent commitment authority found in 49 U.S.C. 5309(g)(4)(A).	No provision.

COMPARISON OF TRANSIT FUNDING APPORTIONMENTS TO STATES IN THE STIMULUS BILLS

State	SENATE AMENDMENT				HOUSE-PASSED BILL			
	Urban	Rural	Growth-Density	Total	Urban	Rural	Fixed	Total
	Formula	Formula	Formula		Formula	Formula	Guideway	
Alabama	\$ 26,300,354	\$ 20,488,842	\$ 11,683,062	\$ 58,472,258	\$ 30,274,891	\$ 18,650,021	\$ -	\$ 48,924,912
Alaska	\$ 34,716,888	\$ 10,432,571	\$ 1,778,371	\$ 46,927,830	\$ 39,963,341	\$ 9,496,274	\$ 25,838,720	\$ 75,298,335
Arizona	\$ 85,820,841	\$ 14,788,118	\$ 18,545,408	\$ 119,154,367	\$ 98,790,178	\$ 13,460,922	\$ 5,005,946	\$ 117,257,046
Arkansas	\$ 13,212,067	\$ 15,677,242	\$ 7,262,105	\$ 36,151,414	\$ 15,208,689	\$ 14,270,249	\$ -	\$ 29,478,938
California	\$ 1,004,584,453	\$ 35,319,275	\$ 94,626,224	\$ 1,134,529,952	\$ 1,156,398,333	\$ 32,149,462	\$ 294,322,998	\$ 1,482,870,793
Colorado	\$ 92,631,941	\$ 13,308,165	\$ 13,244,127	\$ 119,184,233	\$ 106,630,579	\$ 12,113,791	\$ 11,269,972	\$ 130,014,342
Connecticut	\$ 70,668,823	\$ 4,131,553	\$ 84,246,993	\$ 159,047,369	\$ 81,348,371	\$ 3,760,757	\$ 53,456,185	\$ 138,565,313
Delaware	\$ 10,817,987	\$ 1,888,488	\$ 13,940,010	\$ 26,646,485	\$ 12,452,813	\$ 1,719,001	\$ -	\$ 14,171,814
District of Columbia	\$ 119,676,972	\$ -	\$ -	\$ 119,676,972	\$ 137,762,684	\$ -	\$ 112,502,711	\$ 250,265,395
Florida	\$ 293,754,532	\$ 20,478,860	\$ 49,097,010	\$ 363,330,402	\$ 338,147,032	\$ 18,640,935	\$ 36,863,622	\$ 393,651,589
Georgia	\$ 111,569,387	\$ 25,549,663	\$ 26,492,760	\$ 163,611,810	\$ 128,429,872	\$ 23,256,646	\$ 47,841,606	\$ 199,528,124
Hawaii	\$ 42,764,069	\$ 3,007,332	\$ 3,264,797	\$ 49,036,198	\$ 49,226,621	\$ 2,737,432	\$ 2,835,393	\$ 54,799,446
Idaho	\$ 9,503,096	\$ 9,380,862	\$ 4,155,315	\$ 23,039,273	\$ 10,939,214	\$ 8,538,954	\$ -	\$ 19,478,168
Illinois	\$ 365,800,363	\$ 21,915,793	\$ 32,095,806	\$ 419,811,962	\$ 421,080,506	\$ 19,948,906	\$ 191,779,080	\$ 632,808,492
Indiana	\$ 58,449,387	\$ 20,823,706	\$ 15,985,959	\$ 95,259,616	\$ 67,282,971	\$ 18,954,831	\$ 12,993,189	\$ 99,230,991
Iowa	\$ 21,673,216	\$ 15,879,249	\$ 7,393,696	\$ 44,946,161	\$ 24,948,496	\$ 14,454,127	\$ -	\$ 39,402,623
Kansas	\$ 16,502,702	\$ 14,933,643	\$ 6,989,904	\$ 38,426,249	\$ 18,996,608	\$ 13,593,387	\$ -	\$ 32,589,995
Kentucky	\$ 31,567,789	\$ 19,702,585	\$ 10,763,892	\$ 62,034,266	\$ 36,338,347	\$ 17,934,328	\$ -	\$ 54,272,675
Louisiana	\$ 48,994,230	\$ 16,038,074	\$ 10,502,767	\$ 75,535,071	\$ 56,398,291	\$ 14,598,698	\$ 4,126,535	\$ 75,123,524
Maine	\$ 5,183,588	\$ 8,492,345	\$ 3,258,825	\$ 16,934,758	\$ 5,966,937	\$ 7,730,178	\$ -	\$ 13,697,115
Maryland	\$ 119,588,599	\$ 7,543,532	\$ 107,983,869	\$ 235,116,000	\$ 137,660,957	\$ 6,866,520	\$ 47,377,093	\$ 191,904,570
Massachusetts	\$ 206,003,946	\$ 5,353,686	\$ 165,689,548	\$ 377,047,180	\$ 237,135,484	\$ 4,873,206	\$ 112,359,465	\$ 354,368,155
Michigan	\$ 110,038,405	\$ 26,805,112	\$ 24,234,737	\$ 161,078,254	\$ 126,667,527	\$ 24,399,421	\$ 1,110,837	\$ 152,177,785
Minnesota	\$ 75,514,832	\$ 19,842,307	\$ 13,209,959	\$ 108,567,098	\$ 86,926,715	\$ 18,061,511	\$ 16,346,771	\$ 121,334,997
Mississippi	\$ 8,041,240	\$ 17,904,238	\$ 7,277,045	\$ 33,222,523	\$ 9,256,440	\$ 16,297,378	\$ -	\$ 25,553,818
Missouri	\$ 64,219,290	\$ 21,464,754	\$ 14,907,685	\$ 100,591,729	\$ 73,924,178	\$ 19,538,347	\$ 11,631,300	\$ 105,093,825
Montana	\$ 4,370,609	\$ 12,642,075	\$ 2,468,043	\$ 19,480,727	\$ 5,031,100	\$ 11,507,481	\$ -	\$ 16,538,581
Nebraska	\$ 13,572,680	\$ 10,596,216	\$ 4,448,324	\$ 28,617,220	\$ 15,623,798	\$ 9,645,233	\$ -	\$ 25,269,031
Nevada	\$ 42,443,175	\$ 8,226,355	\$ 7,532,406	\$ 58,201,936	\$ 48,857,233	\$ 7,488,060	\$ -	\$ 56,345,293
New Hampshire	\$ 7,870,159	\$ 5,323,982	\$ 3,338,397	\$ 16,532,538	\$ 9,059,506	\$ 4,846,168	\$ -	\$ 13,905,674
New Jersey	\$ 358,741,904	\$ 4,951,570	\$ 254,940,857	\$ 618,634,331	\$ 412,955,366	\$ 4,507,179	\$ 149,887,005	\$ 567,349,550
New Mexico	\$ 15,565,933	\$ 13,364,396	\$ 5,128,667	\$ 34,058,996	\$ 17,918,274	\$ 12,164,976	\$ -	\$ 30,083,250
New York	\$ 909,037,258	\$ 27,052,485	\$ 234,601,465	\$ 1,170,691,208	\$ 1,046,411,944	\$ 24,624,594	\$ 537,643,346	\$ 1,608,679,884
North Carolina	\$ 70,333,790	\$ 32,975,430	\$ 24,689,065	\$ 127,998,285	\$ 80,962,708	\$ 30,015,969	\$ 358,479	\$ 111,337,156
North Dakota	\$ 5,174,419	\$ 6,663,318	\$ 1,543,782	\$ 13,381,519	\$ 5,956,383	\$ 6,065,303	\$ -	\$ 12,021,686
Ohio	\$ 139,480,673	\$ 30,769,403	\$ 27,948,876	\$ 198,198,952	\$ 160,559,142	\$ 28,007,928	\$ 24,069,335	\$ 212,636,405
Oklahoma	\$ 22,129,718	\$ 17,667,004	\$ 9,178,363	\$ 48,975,085	\$ 25,473,985	\$ 16,081,435	\$ -	\$ 41,555,420
Oregon	\$ 61,963,209	\$ 15,446,066	\$ 9,907,153	\$ 87,316,428	\$ 71,327,155	\$ 14,059,821	\$ 15,128,906	\$ 100,515,882
Pennsylvania	\$ 241,883,629	\$ 31,163,038	\$ 30,339,803	\$ 303,386,470	\$ 278,437,343	\$ 28,366,235	\$ 134,193,083	\$ 440,996,661
Rhode Island	\$ 16,723,324	\$ 890,750	\$ 30,541,392	\$ 48,155,466	\$ 19,250,570	\$ 810,808	\$ 227,580	\$ 20,288,958
South Carolina	\$ 23,878,768	\$ 16,752,856	\$ 11,777,648	\$ 52,409,272	\$ 27,487,354	\$ 15,249,330	\$ -	\$ 42,736,684
South Dakota	\$ 3,975,614	\$ 8,096,075	\$ 2,041,287	\$ 14,112,976	\$ 4,576,413	\$ 7,369,473	\$ -	\$ 11,945,886
Tennessee	\$ 50,865,213	\$ 21,495,322	\$ 16,079,262	\$ 88,439,797	\$ 58,552,018	\$ 19,566,172	\$ 954,067	\$ 79,072,257
Texas	\$ 324,512,076	\$ 50,978,231	\$ 65,927,587	\$ 441,417,894	\$ 373,552,689	\$ 46,403,065	\$ 30,579,385	\$ 450,535,139
Utah	\$ 51,993,501	\$ 7,875,256	\$ 7,652,696	\$ 67,521,453	\$ 59,850,815	\$ 7,168,472	\$ 4,559,030	\$ 71,578,317
Vermont	\$ 1,767,178	\$ 4,075,860	\$ 1,522,838	\$ 7,365,876	\$ 2,034,236	\$ 3,710,062	\$ -	\$ 5,744,298
Virginia	\$ 94,339,748	\$ 18,846,433	\$ 20,170,987	\$ 133,357,168	\$ 108,596,472	\$ 17,155,014	\$ 32,650,580	\$ 158,402,066
Washington	\$ 164,512,045	\$ 14,816,525	\$ 17,157,622	\$ 196,486,192	\$ 189,373,282	\$ 13,486,780	\$ 54,296,452	\$ 257,156,514
West Virginia	\$ 8,379,501	\$ 10,478,419	\$ 4,383,877	\$ 23,241,797	\$ 9,645,820	\$ 9,538,008	\$ 1,901,006	\$ 21,084,834
Wisconsin	\$ 62,547,079	\$ 20,799,978	\$ 14,114,592	\$ 97,461,649	\$ 71,999,261	\$ 18,933,233	\$ 1,782,646	\$ 92,715,140
Wyoming	\$ 2,339,293	\$ 7,881,923	\$ 1,365,137	\$ 11,586,353	\$ 2,692,810	\$ 7,174,541	\$ -	\$ 9,867,351
American Samoa	\$ -	\$ 411,174	\$ -	\$ 411,174	\$ -	\$ 374,273	\$ -	\$ 374,273
Guam	\$ -	\$ 1,111,388	\$ -	\$ 1,111,388	\$ -	\$ 1,011,643	\$ -	\$ 1,011,643
Northern Marianas	\$ 1,144,510	\$ 63,298	\$ -	\$ 1,207,808	\$ 1,317,469	\$ 57,617	\$ -	\$ 1,375,086
Puerto Rico	\$ 71,341,271	\$ 2,544,179	\$ -	\$ 73,885,450	\$ 82,122,441	\$ 2,315,845	\$ 4,107,677	\$ 88,545,963
Virgin Islands	\$ 1,384,162	\$ -	\$ -	\$ 1,384,162	\$ 1,593,338	\$ -	\$ -	\$ 1,593,338
Indian Reservations	\$ -	\$ 24,591,000	\$ -	\$ 24,591,000	\$ -	\$ 22,500,000	\$ -	\$ 22,500,000
FTA Oversight	\$ -	\$ -	\$ -	\$ 3,000,000	\$ 50,625,000	\$ 3,750,000	\$ 20,000,000	\$ 74,375,000
Discretionary Grants	\$ -	\$ -	\$ -	\$ 200,000,000	\$ -	\$ -	\$ -	\$ -
Total	\$ 5,819,870,000	\$ 819,700,000	\$ 1,557,430,000	\$ 8,400,000,000	\$ 6,750,000,000	\$ 750,000,000	\$ 2,000,000,000	\$ 9,500,000,000

Source: Federal Transit Administration.

Note: While the source of the numbers above is authoritative, the state totals can only be good approximations, since much transit funding is given directly to individual transit agencies that cross state lines. For example, it is impossible to know in advance, to the exact dollar, how much money the Washington DC-area WMATA will spend in DC versus Maryland versus Virginia. But the numbers provided by FTA are fairly close approximations based on historical distribution patterns.

COMPARING RAIL FUNDING CONDITIONS IN THE STIMULUS BILLS

	SENATE AMENDMENT	HOUSE BILL
Total amount	\$250 million for intercity passenger rail \$850 million for Amtrak capital grants \$2.000 billion for high-speed rail corridors Total: \$3.1 billion	\$300 million for intercity passenger rail \$800 million for Amtrak capital grants Total: \$1.1 billion
Intercity Passenger Rail: purpose of appropriation	"discretionary grants to States to pay for the cost of projects described in paragraphs (2)(A) and (2)(B) of section 24401 of title 49, United States Code, and subsection (b) of section 24105 of such title"	"to enable the Secretary of Transportation to make grants for capital costs as authorized by chapter 244 of title 49 United States Code"
Intercity Passenger Rail: federal share of project cost	100 percent	100 percent
Intercity Passenger Rail: funds available for obligation until:	September 30, 2009	September 30, 2010
Intercity Passenger Rail: must projects be on TIP?	"the specific project must be on a Statewide Transportation Improvement Plan at the time of the application to qualify"	Not stated in the bill
Intercity Passenger Rail: is DOT given priorities for project selection?	DOT "shall give priority to projects that demonstrate an ability to be completed within 2 years of enactment of this Act, and to projects that improve the safety and reliability of intercity passenger trains"	DOT "shall give preference to projects for the repair, rehabilitation, upgrade, or purchase of railroad assets or infrastructure that can be awarded within 90 days of enactment of this Act" and "shall give preference to FRA-compliant rolling stock and locomotives" and "shall give preference to projects that support the development of intercity high speed rail service"
Intercity Passenger Rail: are unobligated funds redistributed?	No	Yes - under sec. 1104 of the House bill, half the uncommitted money is redistributed after one year and the other half after two years
Amtrak: purpose of appropriation	"the immediate investment in capital projects necessary to maintain and improve national intercity passenger rail service, including the rehabilitation of rolling stock"	"capital grants to Amtrak as authorized by section 101(c) of the Passenger Rail Investment and Improvement Act of 2008"
Amtrak: is Amtrak given priorities for project selection?	"priority is given to capital projects that expand passenger rail capacity" and "projects funded under this heading shall be completed within 2 years of enactment of this Act"	"priority shall be given to projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure"
Amtrak: other restrictions	No more than 50 percent of the funds can be used on the Northeast Corridor	None of the funds shall be used to subsidize Amtrak operating losses
High-speed rail: purpose of appropriation	"To make grants for high-speed rail projects under the provisions of section 26106 of title 49, United States Code"	No appropriation
High-speed rail: federal share of project cost	100 percent	No appropriation
High-speed rail: funds available for obligation until:	September 3, 2011	No appropriation

COMPARING AVIATION FUNDING CONDITIONS IN THE STIMULUS BILLS

	SENATE AMENDMENT	HOUSE BILL
Total amount	\$1.100 billion for FAA airport grants (AIP) \$200 million for FAA procurement (F & E) Total: \$1.300 billion	\$3.000 billion for FAA airport grants (AIP) Total: \$3.000 billion
AIP: purpose of appropriation	"for capital expenditures authorized under sections 47102(3) and 47504(c) of title 49, United States Code, and for the procurement, installation and commissioning of runway incursion prevention devices and systems at airports of such title"	"to enable the Secretary of Transportation to make grants for discretionary projects as authorized by subchapter I of chapter 471 and subchapter I of chapter 475 of title 49, United States Code"
AIP: federal share of project cost	100 percent	The bill does not specify a federal share, so the statutory share found in 49 U.S.C. 47109 presumably applies.
AIP: funds available for obligation until:	September 30, 2009	September 30, 2010
AIP: distributed by formula?	No - purely at DOT discretion	No - purely at DOT discretion
AIP: is DOT given priorities for project selection?	Yes - DOT must give priority "to those projects that demonstrate to his or her satisfaction their ability to be completed within 2 years of enactment of this Act, and serve to supplement and not supplant planned expenditures from airport-generated revenues or from other State and local sources on such activities"	No
AIP: is unobligated funding subject to redistribution?	No	Yes, under sec. 1104 of the bill - half the uncommitted money is redistributed after 90 days and the other half after two years
F & E: purpose of appropriation	"for necessary investments in Federal Aviation Administration infrastructure...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"	No appropriation
F & E: funds available for obligation until:	September 30, 2009	No appropriation

COMPARING MARITIME FUNDING CONDITIONS IN THE STIMULUS BILLS

	SENATE AMENDMENT	HOUSE BILL
Total amount	\$100 million for aid to small shipyards \$450 million for Coast Guard procurement \$150 million for Coast Guard alteration of bridges Total: \$700 million	\$150 million for Coast Guard alteration of bridges Total: \$150 million
MARAD: purpose of appropriation	"To make grants to qualified shipyards as authorized under section 3506 of Public Law 109-163 or section 54101 of title 46, United States Code"	No appropriation
MARAD: funds available	Until September 30, 2009	No appropriation
MARAD: obligation deadline?	DOT "shall institute measures to ensure that funds provided under this heading shall be obligated within 180 days of the date of their Distribution"	
Coast Guard procurement/AC&I: purpose of appropriation	"\$195,000,000 shall be for shore facilities and aids to navigation facilities; and of which \$255,000,000 shall be for priority procurements due to materials and labor cost increases, and to repair, renovate, assess, or improve vessels"	No appropriation
AC&I: funds available	Until September 30, 2010	No appropriation
Alteration of bridges: purpose of appropriation	"alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516)"	"alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516)"
Alteration of bridges: funds available	Until September 30, 2010	Until September 30, 2010

COMPARING TRANSPORTATION SECURITY FUNDING CONDITIONS IN THE STIMULUS BILLS

	SENATE AMENDMENT	HOUSE BILL
Total amount	\$198 million for port security construction \$1.000 billion for TSA airport EDS \$100 million for transit and rail security grants \$100 million for port security grants Total, \$1.398 billion	\$100 million for port security construction \$500 million for TSA airport EDS Total, \$600 million
Port security construction: purpose of appropriation	"\$100,800,000 shall be for the procurement and deployment of non-intrusive inspection systems to improve port security; and of which \$97,200,000 shall be for procurement and deployment of tactical communications equipment and radios"	"non-intrusive detection technology to be deployed at sea ports of entry"
Port security construction: funds available until:	September 30, 2010	September 30, 2010
TSA EDS: purpose of appropriation	"procurement and installation of checked baggage explosives detection systems and checkpoint explosives detection equipment"	"the purchase and installation of explosive detection systems and emerging checkpoint technologies"
TSA EDS: funds available until	September 30, 2010	September 30, 2010
TSA EDS: is TSA given priorities for funding?	No	Yes - TSA "shall prioritize the award of these funds to accelerate the installations at locations with completed design plans and to expeditiously award new letters of intent"
Rail and transit security grants: purpose of appropriation	"Public Transportation Security Assistance, Railroad Security Assistance, and Systemwide Amtrak Security Upgrades under sections 1406, 1513, and 1514 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53; 6 U.S.C. 1135, 1163, and 1164)"	No appropriation
Rail and transit security grants: funds available until:	September 30, 2010	No appropriation
Port security grants: purpose of appropriation	"Port Security Grants in accordance with 46 U.S.C. 70107, notwithstanding 46 U.S.C. 70107(c)"	No appropriation
Port security grants: funds available until:	September 30, 2010	No appropriation

COMPARING TRANSPORTATION TAXATION PROVISIONS IN THE STIMULUS BILLS

	SENATE AMENDMENT	HOUSE BILL
"Build America" bonds	Sec. 1531 of Division B - allows certain state and local bonds issued by the end of 2011 to pay a federal tax credit equivalent to 35 to 40 percent of interest due.	Sec. 1521 of Division B - allows certain state and local bonds issued by the end of 2011 to pay a federal tax credit equivalent to 35 percent of interest due.
High-speed rail bonds	Sec. 1504 of Division B lowers the minimum speed a high-speed rail project can maintain to be eligible for high-speed rail bonds under sec. 142(i) of the Internal Revenue Code.	No similar provision.
Transit fringe benefit levels	Sec. 1251 of Division B increases the maximum tax-free employer-provided transit benefit from \$120 per month to \$230 per month (the same as the maximum parking benefit) and indexes the total for inflation thereafter.	No similar provision.
AMT on private activity bond interest	Sec. 1503 of Division B prevents interest on private activity bonds issued in 2009 and 2010 from being treated as a tax preference item under sec. 57(a) of the Internal Revenue Code.	Sec. 1503 of Division B prevents interest on private activity bonds issued in 2009 and 2010 from being treated as a tax preference item under sec. 57(a) of the Internal Revenue Code.
Davis-Bacon applicability	Sec. 1901 of Division B applies Davis-Bacon prevailing wage laws to all projects funded by new energy bond, economic recovery bond, school construction bond, or QZAB under the bill.	Sec. 1701 of Division B applies Davis-Bacon prevailing wage laws to all projects funded by new energy bond, economic recovery bond, school construction bond, or QZAB under the bill.

House FAA Bill

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While there is a long tradition on the T&I panel of the “Big Four” chairmen and ranking members on the pertinent issue jointly sponsoring major legislation, the FAA bill has been problematic since Democrats took over the House in 2007.

The 2003 FAA authorization law was a “Big Four” bill upon introduction, as were the 2000 and 1996 laws.

In the last Congress, the FAA bill (H.R. 2881, 110th Congress) was a bipartisan “Big Four” bill upon introduction, but during the committee markup session on June 28, 2007, the T&I panel adopted two Democratic amendments sought by organized labor (both of which had significant Republican support) which caused Mica and Petri to pull their support from the bill.

Both of those provisions are in the new bill, H.R. 915, as introduced, and continue to preclude Mica and Petri’s support for the bill.

One provision is the “NATCA” provision (section 601 of H.R. 915) that would void the labor “agreement” under which air traffic controllers have worked since June 2005 and throw the contract into binding arbitration, with the possibility of controllers getting four years worth of substantial back pay.

(*Ed. Note:* we put the word “agreement” in quotes because NATCA didn’t agree to the contract — it was unilaterally imposed by the FAA under their statutory authority to do so after negotiations were unsuccessful).

The second provision is the “FedEx provision” (section 806 of H.R. 915) that changes the definition of which carriers are subject to the Railway Labor Act in such a way as to make it easier for labor unions to organize at Federal Express.

Both provisions were in last Congress’s bill as it passed the House on September 20, 2007, and the House-passed bill is the basis for Oberstar’s new bill.

The NATCA provision drew a strong veto threat from the Bush White House and a filibuster threat from Republicans, which should be much less of an issue this time around.

Mica issued a statement yesterday denouncing the new bill as a “rehash” of last year’s bill, saying that “If Democrats are serious about this bill, we could sit down and resolve the half-baked, controversial issues in about two hours and ensure that we move a bill that both parties can support.

“With this legislation, Democrats are prepared to engender the wrath of the aviation community. There’s a common expression, ‘this is no

way to run a railroad’ – well , this is no way to run our aviation system.”

H.R. 915 authorizes a total of \$70.4 billion in appropriations over a four-year period spanning fiscal years 2009 through 2012.

The bill in the last Congress covered fiscal years 2008 through 2011. Some of the 2009-2011 authorization levels in H.R. 915 are the same as those of H.R. 2881, and some are not. For example, the authorizations for the FAA’s procurement (facilities and equipment) account are the same in this bill as in the last Congress for those years.

However, the numbers for FAA operations are \$593 million higher in H.R. 915 over the FY 2009-2011 period than were the numbers in H.R. 2881.

And the existing appropriation for discretionary appropriations for essential air service subsidies (currently at \$77 million per year from the general fund) would be increased by H.R. 915 to \$150 million per year, from the Airport and Airway Trust Fund. (H.R. 2881 only increased the authorization from \$77 million to \$83 million per year.)

And some of the authorizations in the bill are not set yet — in particular, the numbers for the “safety

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FUNDING AUTHORIZATIONS UNDER H.R. 915, FAA REAUTHORIZATION ACT OF 2009

Sec.	Program	Source	FY 2009	FY 2010	FY 2011	FY 2012	Total
101	Airport improvement grants	AATF	\$ 3,900,000,000	\$ 4,000,000,000	\$ 4,100,000,000	\$ 4,200,000,000	\$ 16,200,000,000
102	Facilities & equipment	AATF	\$ 3,246,000,000	\$ 3,259,000,000	\$ 3,553,000,000	\$ 3,506,000,000	\$ 13,564,000,000
	<i>Set-aside: runway incursion reduction</i>		\$ 10,000,000	\$ 12,000,000	\$ 12,000,000	\$ 12,000,000	\$ 46,000,000
	<i>Set-aside: runway status lights</i>		\$ 50,000,000	\$ 125,000,000	\$ 100,000,000	\$ 50,000,000	\$ 325,000,000
	<i>Set-aside: NextGen systems development</i>		\$ 41,400,000	\$ 102,900,000	\$ 104,000,000	\$ 105,300,000	\$ 353,600,000
	<i>Set-aside: NextGen demonstration programs</i>		\$ 28,000,000	\$ 30,000,000	\$ 30,000,000	\$ 30,000,000	\$ 118,000,000
	<i>Set-aside: additional programs</i>		\$ 21,900,000	\$ 22,500,000	\$ 22,500,000	\$ 22,500,000	\$ 89,400,000
103(a)	Operations	GF & AATF	\$ 8,998,462,000	\$ 9,531,272,000	\$ 9,936,259,000	\$ 10,350,155,000	\$ 38,816,148,000
103(c)	BTS airline data analysis	AATF	\$ 6,000,000	\$ 6,000,000	\$ 6,000,000	\$ 6,000,000	\$ 24,000,000
104	Research, engineering & development	AATF	\$ 323,277,000	\$ 327,935,000	\$ 339,341,000	\$ 360,008,000	\$ 1,350,561,000
219	Airspace redesign	GF	\$ 14,500,000	\$ 20,000,000	\$ 20,000,000	\$ 20,000,000	\$ 74,500,000
404	Essential air service subsidies (discretionary)	GF	\$ 73,000,000	\$ 73,000,000	\$ 73,000,000	\$ 73,000,000	\$ 292,000,000
601	FAA dispute resolution	GF	\$ 20,000,000	\$ -	\$ -	\$ -	\$ 20,000,000
606	Safety critical staffing	GF	<i>to be named later</i>	<i>to be named later</i>	<i>to be named later</i>	<i>to be named later</i>	<i>to be named later</i>
610	FAA task force on ATC conditions	GF	\$ 250,000	\$ -	\$ -	\$ -	\$ 250,000
909	Research grants for undergraduate students	GF	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000	\$ 5,000,000	\$ 20,000,000
910	Aviation gasoline R&D program	GF	\$ 750,000	\$ 750,000	\$ 750,000	\$ 750,000	\$ 3,000,000
912	Review of safety-related research	GF	\$ 700,000	\$ 700,000	\$ 700,000	\$ 700,000	\$ 2,800,000
Total funding authorizations, H.R. 915			\$ 16,587,939,000	\$ 17,223,657,000	\$ 18,034,050,000	\$ 18,521,613,000	\$ 70,367,259,000
Mandatory budget authority:			\$ 3,900,000,000	\$ 4,000,000,000	\$ 4,100,000,000	\$ 4,200,000,000	\$ 16,200,000,000
Subject to annual appropriation:			\$ 12,687,939,000	\$ 13,223,657,000	\$ 13,934,050,000	\$ 14,321,613,000	\$ 54,167,259,000

House FAA Bill

CONTINUED FROM PAGE 12

critical staffing” authorization in sec. 606 of the bill were left blank.

Other high points of the legislation include:

NextGen accountability. Elevates the Director of the Joint Planning and Development Office (“JPDO”) to the status of Associate Administrator of NextGen within the FAA, reporting directly to the FAA Administrator. Annual reporting requirements on NextGen-related deliverables; and provisions to ensure FAA vendor accountability for providing safe, quality services for automatic dependant surveillance broadcast (“ADS-B”) and flight service stations.

PFC increase. Increases the PFC cap from \$4.50 to \$7.00. According to the FAA, if every airport currently collecting a \$4.00 or \$4.50 PFC raised its PFC to \$7.00, it

would generate approximately \$1.1 billion in additional revenue for airport development each year. Provides significant increases in AIP funding for smaller airports that are particularly reliant on AIP for capital financing.

Oversight. Creates an independent Aviation Safety Whistleblower Investigation Office within the FAA; mandates a two-year “post-service” cooling off period after FAA inspectors leave the FAA; principal supervisory inspectors must be rotated between airline oversight offices every five years; and monthly reviews of the Air Transportation Oversight System database are required to ensure that trends in regulatory compliance are identified and appropriate corrective actions taken

EAS changes. Incorporates financial incentives into EAS contracts based on specified performance goals (such as establishing reasonable fares (including joint fares be-

yond the hub airport), creating convenient connections to hub airports, and increasing market efforts); utilizes long-term contracts for stability; and reduces the local share of AIP project costs from ten percent to five percent for certain economically depressed communities that receive subsidized air service under the EAS program. Increases the existing \$200 per passenger subsidy cap by an amount necessary to account for the increase in the cost of aviation fuel in the 24 months preceding the date of enactment; authorizes the Secretary to provide emergency across-the-board increase in EAS subsidy payments to compensate EAS carriers for increased aviation fuel costs; and requires faster adjustments to subsidy rates to reflect changing costs.

H.R. 915 will be the subject of a hearing in the House Aviation Subcommittee tomorrow (Wednesday, February 11.)

GAO Criticizes Methodology of TSA Study on Cost-Effectiveness of Private Aviation Screeners

Yesterday, the U.S. Government Accountability Office released its own review of a study conducted last year by the Transportation Security Administration on the cost-effectiveness of using private screening companies under contract instead of using TSA employees to screen passengers and baggage.

A February 2008 TSA study of the Security Partnership Program (SPP), which allows certain airports to employ private screening contractors using funds provided by TSA, analyzed six airports participating in SPP (Rochester, NY, Jackson Hole, WY, Sioux Falls, SD, Kansas City, MO, San Francisco, CA, and Tupelo, MS) and found that “screening at SPP airports currently costs approximately 17.4 percent more to operate than at airports with federal screeners, and that SPP airports fell within the ‘average performer’ category for the performance measures included in its analysis.”

In reviewing the TSA study, GAO found that the TSA study had several methodological flaws, including failure to include administrative staff overlap in its finding, failure to account for workers compensation, liability insurance, and other costs, and failure to provide statistical analysis to determine the level of confidence in observed differences between SPP and non-SPP airports.

GAO’s conclusion: “TSA should not use the study as sole support for major policy decisions regarding the SPP.”

House Passes Bill to Increase Airline Flight Crew Eligibility Under Family & Medical Leave Act

Yesterday, the U.S. House of Representatives passed legislation designed to allow more airline flight crew members to become eligible for federally mandated leave benefits under the Family and Medical Leave Act.

The bill (H.R. 912) passed the House by voice vote and was sponsored by Rep. Tim Bishop (D-NY)

The Family and Medical Leave Act of 1993 (FMLA) sets minimum hours that individuals must work at a job in order to become eligible for leave benefits. However, airline flight crews do not accrue FMLA hours of service during their non-flight or between-flight on-duty hours, leaving some full-time workers ineligible under FMLA.

H.R. 912 amends the Family and Medical Leave Act of 1993 to declare that a flight attendant or flight crew-member will be considered to meet FMLA minimum hours-of-service requirements if he or she has worked or been paid for: (1) 60% of the applicable monthly guarantee, or the equivalent annualized over the preceding 12-month period; and (2) a minimum of 504 hours during such period.

The bill also authorizes the Secretary of Labor to provide, by regulation, a method for calculating such leave for airline flight crews.

The bill was under the jurisdiction of the House Education and Labor Committee.

NEW AND NOTABLE ON THE INTERNET

Economic Stimulus Legislation

The text of the revised Senate economic stimulus bill (incorporating all amendments adopted as of February 6 and the package of Nelson-Collins spending reductions) may be found here:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1as2.txt.pdf

The Congressional Budget Office cost estimate for the Nelson-Collins substitute to H.R. 1 is here:

<http://www.cbo.gov/ftpdocs/99xx/doc9981/ReidAmendment.pdf>

An updated summary of the appropriations provisions of the Senate substitute is here:

http://appropriations.senate.gov/download.cfm?file=2009_02_08_UPDATED_Appropriations_Provisions_of_American_Recovery_and_Reinvestment_Act.pdf&dir=News

FAA Reauthorization Bill

The text of H.R. 915, the FAA reauthorization bill introduced yesterday by House T&I Chairman Oberstar, can be found online here:

<http://transportation.house.gov/Media/File/press/HR%20915%20FAA%20Reauthorization.pdf>

And a two-page executive summary of the introduced bill can be found here:

<http://transportation.house.gov/Media/File/press/FAA%20Reauth%202009%20Summary%20INTRO.doc>

A letter to Oberstar and Aviation Chairman Costello from Reps. John Mica and Thomas Petri outlining Republican concerns with the FAA bill can be found here:

<http://republicans.transportation.house.gov/Media/File/111th/Aviation/1-26-09-MicaPetriFAAReauthConcerns.pdf>

GAO Report on TSA Private Security Screener Study

The GAO report mentioned in the article on page 13 can be found here:

<http://www.gao.gov/new.items/d0927r.pdf>

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

Wednesday, February 11, 2009 — House Transportation and Infrastructure — Subcommittee on Aviation — subcommittee hearing on H.R. 915, the FAA Reauthorization Act of 2009 — *2:00 p.m., 2167 Rayburn.*

Thursday, February 12, 2009 — Senate Commerce, Science and Transportation — full committee organizational business meeting — *10:00 a.m., SR-253 Russell.*

Senate Environment and Public Works — full committee organizational business meeting — *10:00 a.m., SD-406 Dirksen.*

House Transportation and Infrastructure — full committee business meeting to mark up various public buildings items — *11:00 a.m., 2167 Rayburn.*

House Transportation and Infrastructure — Subcommittee on Economic Development, Public Buildings, and Emergency Management — subcommittee hearing on GSA's role in economic recovery — *2:00 p.m., 2167 Rayburn.*

UPCOMING CALENDAR

Tuesday, February 24, 2009 — President Obama addresses a joint session of Congress and submits his FY 2010 budget framework.

Friday, March 6, 2009 — Current continuing appropriations 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 2/23/09		
Economic Stimulus Appropriations & Tax Cuts	H.R. 1 passed House 1/28/09 by a vote of 244-188	H.R. 1 scheduled for passage vote in Senate on 2/10/09	
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	H.R. 915 introduced in House 2/9/09		
Surface Transportation Reauthorization Bill			
Water Resources Development Act			
FY 2010 Coast Guard Authorization			