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Legislative Schedules
Week of June 22, 2009

House

Tuesday — meets at noon for legislative business—five measures under suspension of the rules.

Wednesday and the balance of the week — more suspensions, plus H.R. 2892, Homeland Security appropriations, H.R. 2647, defense authorization, and H.R. ___, Interior-Environment appropriations (all subject to rules).

Senate

The Senate will convene at 10 a.m. today for morning business. The Senate will recess for the weekly policy luncheons from 12:30-2:15 p.m. and may take up the legislative branch appropriations bill if an agreement can be reached.

Inside This Issue

House Highway Bill Text Released; Wednesday Subcommittee Markup Still On Schedule

At about 2 p.m. yesterday, the staff of the House Transportation and Infrastructure Committee started to electronically distribute the text of Chairman James Oberstar's 775-page draft legislation called the "Surface Transportation Authorization Act of 2009."

The T&I Highways and Transit Subcommittee is scheduled to hold a markup session on the draft bill at 11 a.m. tomorrow in 2167 Rayburn.

At the moment, it appears that Oberstar will not actually introduce the bill in the House. Instead, the subcommittee will mark up the draft "committee print". (This will work in subcommittee. But when and if there is a full committee markup, someone will have had to introduce the bill by then, as T&I is not among the House committees with the authority to report original bills that have not already been introduced.)

TW has prepared an initial section-by-section summary appearing on pages 4-12 of this issue. But in an overview, it is much easier to say what is not in the bill than what is.

The bill does not contain any numbers — no dollar amounts of authorizations, no budget authority, no obligation ceilings, no apportionment formulas, no allocated amounts, and no percentage deductions or takedowns.

House Transportation and Infrastructure chairman James Oberstar (D-MN), left, and ranking minority member John Mica (R-FL), right, pose with a shovel at a June 18 press conference to announce the outline of their surface transportation reauthorization bill.

The bill also contains no way to pay for the spending amounts that will eventually be inserted into the bill (which Oberstar has said should total around $450 billion over

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Senate Panel Approves $44.3 Billion DHS Spending Bill

On June 18, the Senate Appropriations Committee approved, by unanimous vote, a $44.3 billion spending bill funding the Department of Homeland Security for fiscal year 2010.

The 30-0 vote reflects the nonpartisan nature of the markup session. Aside from a bipartisan manager's amendment, which only affected report language and which was agreed to by voice vote, no other amendments to the bill were offered in the markup.

The reported bill is numbered S. 1298 and the report is S. Rept. 111-31.

TSA. Under the Senate bill, the gross budget of the Transportation Security Administration would rise 10.5 percent over the enacted FY 2009 level (excluding stimulus and other emergency funding) — from $6.978 billion to $7.710 billion, an increase of $732 million.

The Senate funding level, however, is still $84 million (1.1 percent) below the Obama Administration's budget request for TSA and is $18 million above the House bill.

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six fiscal years). The taxes flowing into the Highway Trust Fund under current law will only support a bill perhaps half that size.

And the bill also contains no earmarked projects (except a set-aside for the America's Byways Resource Center in Duluth, Minnesota, which does not yet have a dollar amount attached to it). The final version of the bill to be marked up in by the full committee at an undetermined future date will contain thousands of earmarked highway and mass transit projects.

The subcommittee markup tomorrow will be important, but may not be exactly action-packed. The T&I chief counsel notified all Democratic member offices in a memo last Friday that:

"As Chairman Oberstar noted at the Caucus of Democratic T&I Committee Members, we strongly discourage Members from offering amendments to the bill at the Subcommittee markup. Given the enormous pressure that we have placed on the House Legislative Counsel this Congress, we would like to limit the need for them to draft amendments for the Subcommittee markup. The Full Committee markup is not expected to occur before the third week of July and there is a great opportunity to address issues of concern to Democratic Members between the Subcommittee and Full Committee markups."

Oberstar said last week that the date of the full committee markup is contingent on a financing deal for the bill being reached between T&I, the Ways and Means Committee, the Democratic Congressional leadership, and the Obama Administration. So that third week of July date may be somewhat optimistic.

A 90-page "blueprint" describing the bill was released at a press event last Thursday. The event (which could not fairly be called a press conference since Oberstar and ranking member John Mica (R-FL) were unable to take questions) was delayed several times due to an unending series of votes on the House floor (53 recorded votes that day in total).

Eventually, Oberstar and Mica were able to arrive during a long 15-minute vote, talk for ten minutes about how excited they were to unveil the legislation and how determined they were to move the bill through the House, then they posed for photos and ran back to the floor to vote again.

Highways and Transit Subcommittee chairman Peter DeFazio (D-OR) arrived a few minutes later, complained about the Obama Administration's handling of the bill (choice quotes: "The Obama Administration apparently lifted a play out of the Bush White House playbook" and "The administration of change has said status quo is just fine"), then left to go vote.

(Video of Oberstar and Mica's statements is posted on the T&I website. Tragically, the committee made the editorial decision not to post the video of DeFazio's comments.)

The remainder of this article tries to distill the high points of the 9-page section-by-section summary that follows.

First, while 775 pages seems like a lot, the bill is much longer in terms of word count and pages than it needs to be to achieve its policy aims. In part, this is because the Legislative Counsel drafting much of the bill tried to straighten up existing law, so they rewrote entire sections of U.S. Code from start to finish instead of only making the changes needed to specific subsections or clauses.

For example, the draft bill could spend 15 pages rewriting a major section of title 23 but only change about five percent of the wording in that section.

Second, the bill bears a strong resemblance to the January 2008 of the National Surface Transportation Policy and Revenue Study Commission in at least three areas.

- **Program consolidation.** The draft bill follows through on Oberstar's promise to provide significant consolidation of existing programs, though not as much consolidation as the Commission wanted (and not as much as Oberstar's hand-written outline of the bill first seemed to promise). The Commission recommended consolidating the 108 programs at FHWA, FTA, FMCSA, NHTSA and FRA into ten programs. The draft bill does not go that far but does provide significant program consolidation in some areas, particularly highway safety. The Commission proposed a National Asset Management Program; the draft bill gives us a Critical Asset Investment Program combining the existing Interstate Maintenance, Bridge, and NHS programs. The Commission proposed a Freight Transportation program; the draft bill gives a Freight Improvement Program. The Commission proposed a Metropolitan Mobility Program; the draft bill gives a Metropolitan Mobility and Access Program. But the draft bill does not go nearly as far as the Commission recommended in terms of breaking down the barriers between all of the surface transportation modal administrations and merging their programs. Although there is significantly more flexibility to shift funds from highways to transit in the draft bill, the programs of FTA, FMCSA, NHTSA and FRA are still separate from FRA and many are relatively unchanged.
- **Performance-based measurements.** The word "performance" appears 248 times in the draft bill. For many new and existing programs, the bill requires DOT to set performance measures and targets. For the freight program, it's measuring the speed and reliability of freight movement and increasing those numbers. For the various safety programs, it's

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Highway Bill

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lowering the number of crashes and fatalities. For the CAI program, it's reductions in the number and square footage of deficient bridges and percentage reductions in the number of road lane-miles rated as fair or poor (based on the "international roughness index"). For the metropolitan mobility program, it's quantifiable reductions in the annual hours of delay and overall travel time. For transit programs, it's getting the equipment into a state of good repair. States must make reports to DOT on their progress in meeting these targets (though the bill is somewhat vague on the "or else" that takes place when and if the state fails to meet the target.

- **Intermodalism.** Intermodalism was a key focus of the Commission's report (yet why, after all these years, does Microsoft spellcheck still fail to recognize "intermodalism" as a real word?) and the draft bill creates a new Under Secretary of Transportation for Intermodalism with the authority to run the Metropolitan Mobility and Access program and the Projects of National Significance program (which Oberstar said together would have at least $75 billion of funding in a $450 billion bill) and would generally coordinate intermodal activities at DOT. The new Under Secretary would also hold monthly meetings of a new Council on Intermodalism within the Office of the Secretary, whose voting members shall be the Secretary, the Under Secretary, and all ten DOT modal administrators, and whose non-voting members shall be the USACE Chief of Engineers and the Commandant of the Coast Guard, or their designees. While the Under Secretary gets to choose which projects and programs of projects get funded under the MMA and PNS "megaprojects" programs, the Council has to vote to approve the project lists on what appears to be a one-man, one-vote basis. (*Ed. Note:* We start out by saying that we love the St. Lawrence Seaway, we just love it. But we question why the Administrator of the Seaway's vote is counted the same as that of the Secretary of Transportation in the votes of the Council on Intermodalism, given that a very small percentage of the projects under consideration will be anywhere near the Seaway. In fact, of the twelve voting members of the Council, six are the heads of MARAD, FMCSA, NHTSA, RITA, PHMSA and the Seaway, none of whom are required to have much knowledge of highway and transit infrastructure and mobility issues.) The draft bill also creates a new Office of Intermodalism, to be headed by the Under Secretary, to carry out these duties of the Under Secretary and generally promote intermodalism within the Department.

Beyond those similarities to the Commission's recommendations, there are a couple of other big themes that seem to be at work within the draft bill.

Emphasizing transit and "livability". The numbers provided in the 90-page blueprint say that total spending for mass transit would rise from 18.3 percent of the SAFETEA-LU law to 22.2 percent of a $450 billion bill. And that the growth would come from the Highway Trust Fund, not the general fund — the HTF share of transit would rise from 2009's 82.5 percent of the total FTA budget to 87.7 percent over the six years of the draft bill.

But this does not tell the whole story, as the Metropolitan Mobility and Access program (which Oberstar said would get at least $50 billion in funding under a $450 billion bill) gives local metropolitan planning organizations unprecedented authority to shift funding from highways to transit, or vice versa, in order to meet specific local mobility needs. And DeFazio told reporters last week that almost all of those transfer decisions would probably go from highways to transit and not the other way around.

The draft bill also talks a lot about "livability", "sustainability" and cutting greenhouse gas emissions. The bill creates an Office of Livability within FHWA that will run the safe routes to school program, the nonmotorized transportation pilot program, transportation enhancements, the recreational trails program, the national scenic byways program, and a new U.S. bicycle route program and which is tasked with the ominous-sounding duty to "develop quantifiable national mode share targets for sustainable modes of transportation, develop a timeline for achievement of these targets, and support projects, programs, and activities within the Department of Transportation and nationally in support of these targets."

Power to the MPOs. As mentioned above, the draft bill provides significant new authority to local MPOs under the new Metropolitan Mobility and Access program. This power comes at the expense of the state DOTs, of course. And the draft bill expands the percentage of Surface Transportation Program funding that is allocated directly to MPOs based on population from 62.5 percent of the (post-enhancement-takedown) program to 80 percent, which of course lowers the amount of money apportioned directly to the state DOT by a corresponding amount. And since highway money gets apportioned directly to states while transit money mostly is apportioned directly to local transit agencies, the state DOTs have cause for concern when the transit percentage of the bill increases at the expense of highways.

Much more coverage of this bill will follow in the succeeding weeks and months (and possibly years) as the bill moves through Congress.

SECTION-BY-SECTION SUMMARY OF OBERSTAR DRAFT SURFACE TRANSPORTATION BILL

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TITLE I—FEDERAL-AID HIGHWAYS

Sec. 1001. Amendments to title 23, United States Code. Provides that all language in title I is amendatory to title 23 U.S.C. unless otherwise stated.

Subtitle A—Programs and Funding Authorizations

Sec. 1101. Authorization of appropriations. Contains blank spaces for dollar amounts for each of fiscal years 2010-2015 for the Critical Asset Investment Program, the Surface Transportation Program, the Congestion Mitigation and Air Quality Program, the Highway Safety Improvement Program, the Freight Improvement Program, the Appalachian Development Highway System program, the Recreational Trails Program, the Federal and Tribal Lands, Puerto Rico, and Territorial Highway Program, the National Scenic Byways Program, the Ferry Program, the High Priority Projects program, and the Safe Routes to School program.

Sec. 1102. Obligation ceiling. Left blank, to be supplied later.

Sec. 1103. Apportionment. Amends 23 U.S.C. 104 to authorize the appropriation of blank dollar amounts for annual FHWA administrative expenses, and provide for the apportionment of formula programs to states via formulas that are not yet contained in the bill (to be supplied later). The percentage set-aside for metropolitan planning is left blank as well.

Sec. 1104. Equity adjustment. Left blank, to be supplied later.

Sec. 1105. Freight improvement program. Replaces the text of 23 U.S.C. 119 (Interstate maintenance) with a new sec. 119 establishing a freight improvement program. Funds may be used for publicly owned highway freight transportation projects that provide community and highway benefits by addressing economic, congestion, security, and safety issues associated with freight transportation. Projects must be on the NHS, the National Network, or a designated secondary freight route. Requires each state DOT to come up with a state freight plan, and projects must be on that plan to receive funding. Directs each state to submit a list of secondary freight routes to USDOT, which shall review the lists and designate roads with substantial economic or freight significance as secondary freight routes. Allows funding to be given to freight corridor coalitions.

Sec. 1106. Surface transportation program. Amends 23 U.S.C. 133(b) to make tunnels and previously ineligible bridge activities eligible for STP funding and striking (b)(12) relating to accident-prone intersections. Requires STP funds sub-allocated to MPOs to have a 10 percent enhancement set-aside. Shifts the percentage of post-enhancement-takedown STP funds that are suballocated based on population from the current 62.5 percent to 80 percent. Allows an administrative takedown for administration of enhancements by FHWA.

Sec. 1107. Ferry program. Amends 23 U.S.C. 147 to strike the current set-aside from the ferry program for certain states and adds a requirement for a National Ferry Database.

Sec. 1108. Highway safety improvement program. Amends 23 U.S.C. 148 to add a set of definitions for HSIP. Requires states to develop HSIP investment plans and makes funding for FY 2012 and after contingent on the implementation of that plan. Requires DOT to establish quantifiable HSIP performance targets for each state, including (blank) percentage reductions in fatalities and serious injuries. Provides for a (blank) annual set-aside for high-risk rural roads. Sets the federal cost share of all SHIP projects at 90 percent unless otherwise required by 23 U.S.C. 130.

Sec. 1109. Congestion mitigation and air quality improvement program. Amends 23 U.S.C. 149(b) to lessen the Secretary's discretion to allow CMAQ funds to be used in areas that are in Clean Air Act attainment. Allows CMAQ funds to be used for HOV lane construction. Allows states to fund projects for areas in ozone and CO and PM-10 nonattainment without regard to DOT ambient air quality standards addressed by the project. Allows states to use CMAQ funds to purchase public transportation buses (but they must be clean fuel buses). Rewrites formula weightings with numbers to be provided later.

Sec. 1110. Critical asset investment program. Adds a new 23 U.S.C. 150 to establish the Critical Asset Investment Program. Eligible projects are for any highway on the NHS or any bridge on a federal-aid highway if the project is for preservation, rehabilitation, protection or replacement and is consistent with the state's investment strategy. Allows a state to spend up to x percent of its CAI apportionment on overhead costs such as inspections and training. Requires DOT to establish performance targets for the CAI including an x percent reduction in deficient bridges and an x percent reduction in lane-miles rated as being in poor condition. Sets an interim definition of "poor condition" as having a roughness index over 170 ("fair condition" is between 94 and 170). Requires states to submit CAI plans to USDOT for approval. States must meet performance targets but USDOT is allowed to lower the targets due to insufficient funding being provided to the state or to emergencies. Starting in 2012, if the Secretary determines that a project is inconsistent with a state's investment strategy in the plan, the Secretary can withhold funds for the project. Allows the transfer of existing NHS, Bridge and Interstate Maintenance apportionments to CAI. Requires a new rulemaking on performance measures for highway condition and structural adequacy within 18 months.

Sec. 1111. Safe routes to school program. Amends 23 U.S.C. 152 to establish the Safe routes to school program. Requires that between 10 and 30 percent of each state's apportionment be used for non-infrastructure activities like outreach, public awareness, and student sessions on bicycle and pedestrian safety. The federal share of all project costs is 100 percent.

Sec. 1112. National scenic byways program. Amends 23 U.S.C. 162 to add a permanent funding set-aside for the America's Byways Resource Center (in chairman Oberstar's home town of Duluth, MN) at a 100 percent federal share.

Sec. 1113. Federal and tribal lands, Puerto Rico, and territorial highway program. Amends 23 U.S.C. 201 and 204 to consolidate the various federal lands highway programs (public lands highways, forest development roads and trails, forest highways, park roads and parkways, and Indian reservation roads), the territorial highway program, and the Puerto Rico highway program into a single "lands program" under sec. 204. No dollar amounts or allocation percentages for individual subprograms are given. Amends sec. 204(k) to make transit facilities located in wildlife refuges eligible for refuge road funding. Requires a rule-

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making within 2 years of enactment to review if DOT's formula for allocating territorial highway funds is fair.

Sec. 1114. Recreational trails program. Amends 23 U.S.C. 206(h) to direct DOT to encourage states to enter into contracts and agreements with youth conservation and service corps to perform work on recreational trails.

Sec. 1115. Nonmotorized transportation pilot program. Amends sec. 1807 of SAFETEA-LU to allow statistical information on improved pedestrian and cyclist safety to be gathered and to provide for an orderly wrap-up and summary of the program.

Sec. 1116. Appalachian development highway system. Directs ADHS funds to be apportioned via the latest cost-to-complete estimate and guarantees each state a minimum one percent share and a maximum 25 percent share. Caps the federal share of cost-to-complete corridor X-1 in Alabama at $500 million. Rescinds all unobligated ADHS balances apportioned before the end of FY 2009 on September 30, 2013. Amends 40 U.S.C. 14501(a) to lower the total amount of local access roads in the ADHS from 1,400 miles to 1,000 miles. Repeals the Shuster corridor O-1 designation from sec. 1117(d) of TEA21.

Sec. 1117. Delta Region transportation development program. Reauthorizes the Delta Region transportation development program in sec. 1308 of SAFETEA-LU (with no dollar amounts given).

Sec. 1118. Grant program to prohibit racial profiling. Amends sec. 1906 of SAFETEA-LU to extend authorization for the racial profiling grant program through FY 2015 (with no dollar amounts given.)

Sec. 1119. Technical amendments. Repeals 23 U.S.C. 126 (uniform transferability) and sec. 1310 of SAFETEA-LU (Interstate Oasis program).

Subtitle B—Intermodal and Organizational Innovations

Sec. 1201. Intermodalism. Amends 49 U.S.C. 102 to establish an Under Secretary of Transportation for Intermodalism (nominated by the President, confirmed by the Senate) who shall rank fourth behind the Secretary, the Deputy Secretary, and the Under Secretary for Transportation Policy, and who shall "coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States." Amends 49 U.S.C. 5502 to create a Council on Intermodalism within OST, whose voting members shall be the Secretary, the Under Secretary, and all DOT modal administrators, and whose non-voting members shall be the USACE Chief of Engineers and the Commandant of the Coast Guard, or their designees. The Council shall meet monthly and shall have the ability to override the Under Secretary's funding decisions: "The Council shall review and may approve or disapprove or modify the recommendations of the Under Secretary of Transportation for Intermodalism." Amends 49 U.S.C. 5503 to create an Office of Intermodalism within OST, to be headed by the Under Secretary and a Director who shall be appointed in the competitive service who shall carry out duties and powers prescribed by the Under Secretary. Provides numerous responsibilities and duties for the Under Secretary to coordinate modal administrations and to specifically oversee the Metropolitan Mobility and Access program, the Projects of National Significance program, and the development and implementation of the criteria and rules and project selection for those programs (subject to approval by the Council). The Director of the Office shall develop the national transportation strategic plan. Authorizes an undetermined amount of money to fund the Office.

Sec. 1202. Office of Expedited Project Delivery. Adds a new 23 U.S.C. 330 creating an Office of Expedited Project Delivery within FHWA headed by a Director appointed by the Secretary. The Director shall "shall provide national leadership to enhance the speed of delivery of highway construction projects, with particular focus on significant highway construction projects and substantially delayed projects." This section appears to limit his duties to a coordinating capacity and does not give him the ability to cut statutory steps or deadlines. The Director can designate projects as "substantially delayed", report those projects to Congress, and utilize conflict resolution techniques.

Sec. 1203. Office of Livability. Adds a new 23 U.S.C. 331 creating an Office of Livability within FHWA to "provide leadership and support for policies and decision-making at all levels of government that increase modal choice and enhance livability and sustainable modes of transportation", to be headed by a Director appointed by the Secretary. The Director will administer the safe routes to school program, the nonmotorized transportation pilot program, transportation enhancements, the recreational trails program, the national scenic byways program, and the new U.S. bicycle route program. "The Director shall promote and support policies that advance livable communities, modal choice, and sustainable modes of transportation." Perhaps most significantly, "The Director shall develop quantifiable national mode share targets for sustainable modes of transportation, develop a timeline for achievement of these targets, and support projects, programs, and activities within the Department of Transportation and nationally in support of these targets." The Director shall try to expedite project delivery and shall gather statistical data on livability projects. The Director shall encourage the adoption of comprehensive street design policies and conduct a study of the rights of cyclists and pedestrians under state and local laws. Sec. 331(k) establishes a U.S. bicycle route system "to provide for the 3 establishment and support of an interconnected, intercity network of bicycle facilities of all classes, to improve and enhance mobility, modal choice, economic development, and quality of life." The federal share of all projects to construct the system is 80 percent but no dollar amount is supplied.

Sec. 1204. Office of Public Benefit. Adds a new 23 U.S.C. 611 creating an Office of Public Benefit within FHWA, to be headed by a Director appointed by the Secretary. The Director shall look to protect the public interest in relation to toll and PPP projects, compile best practices in this regard, and assist states and localities in implementing such practices. The Director shall administer toll agreements under 23 U.S.C. 129 (see below) and shall monitor PPP compliance with 23 U.S.C. 112 (see below) and shall report to Congress thereon.

Sec. 1205. Metropolitan mobility and access program. Adds a new chapter 7 at the end of title 23 U.S.C. Sec. 701 creates a new Metropolitan mobility and access program (MMA) "to provide multimodal transportation funding and financing authority directly to metropolitan planning organizations, thereby allowing MPOs broad multi-modal flexibility in planning and implementing

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programs of surface transportation projects to reduce vehicular congestion, to maximize mobility and access of people and goods, and to improve safety, environmental sustainability, and livability in large urbanized areas." The Transportation Research Board of the National Academy of Sciences shall provide recommendations to DOT for selection and evaluation criteria. Within 18 months of enactment, the Secretary shall issue a rule to carry out this section. Eligible MPOs must have a population of at least 500,000; must submit a proper application form, have a USDOT-approved metropolitan mobility plan in effect, demonstrate legal, financial and technical capacity, carry out a congestion management process; and demonstrate to DOT loc cost management strategies and systems. There will be two types of grants: tier one (for populations over 1 million with substantial time delays, with 40 percent of the funding) and tier two (other, with 60 percent of the funding). No more than ten tier one grants can be issued. Tier two grants shall be geographically equitably distributed. DOT shall enter into full funding grant agreements with grant recipients establishing the terms of multi-year assistance. Any tolls in the program of projects must be approved by the Office of Public Benefit. DOT shall set performance management targets for recipients. The federal cost share shall be 80 percent of any individual project, which must be otherwise eligible under title 23 or chapter 53 of title 49, U.S.C. The use of metropolitan infrastructure banks and tolls is approved.

Sec. 1206. Projects of national significance. Adds a new 23 U.S.C. 702 establishing a projects of national significance program (PNS) to provide federal support for high-cost infrastructure facilities that cannot easily be addressed through regular state apportionments. Eligible project cost must be at least the lesser of $500 million or 75 percent of a state's annual formula apportionment. Eligible projects include: anything otherwise eligible under title 23 or chapter 53 of title 49; international bridges and tunnels; public or private freight rail facilities providing public benefits; intermodal freight transfer facilities; means of access to freight facilities; service improvements to freight facilities; or a series of such related projects. Port projects are only eligible if directly facilitating intermodal freight transfer. There must be an "acceptable level" of non-federal funding for a project. The Secretary shall establish selection criteria and carry out a national solicitation and award grants on a competitive basis. Some criteria are provided by this section. DOT shall issue letters of intent to selected projects, then enter into full funding grant agreements and early work agreements. The total amount of contingent commitment authority is capped at the total of the last three years worth of funding provided for the program. The federal share of project cost is 80 percent unless the grant recipient requests a lower percentage.

Sec. 1207. National transportation strategic plan. Adds a new 23 U.S.C. 703 to require a solicitation for states to submit projects to be included in the national transportation strategic plan. The Under Secretary for Intermodalism shall review submissions and shall select projects to be included in the plan. The plan shall identify nationally significant projects, regionally significant projects, shall provide for interconnectivity, and shall provide cost estimates for projects. DOT shall use 20-year demographic and economic projections in defining the plan.

Subtitle C—Finance

Sec. 1301. Toll roads, bridges, tunnels, and ferries. Amends 23 U.S.C. 129 to require the Office of Public Benefit to administer all toll agreements and requiring that all toll revenues be used first for debt service or reasonable return on investments and for operational costs of the toll facility. After that, any remaining toll revenues can be used only for projects that are eligible under title 23 or chapter 53 of title 49 and transit operating costs of nearby transit agencies. Public authorities may not enter into non-compete agreements with private toll operators as part of an agreement. DOT shall review the rate schedules of all proposed tolls before implementation. Allows federal participation in HOV projects where hybrids or low-emission single-occupant vehicles pay a toll in order to use the facility. Allows states to use HOV tolls to pay for operating costs of transit in the same operating corridor. Allows federal participation in variable tolls as part of the MMA program. Directs DOT to issue a rulemaking to establish a national standard for interoperable electronic toll collection devices.

Sec. 1302. Transportation Infrastructure Finance and Innovation Act amendments. Authorizes a yet-to-be-determined amount of funding for the TIFIA program through FY 2015. Makes passenger rail projects under 49 U.S.C. 24405(a) eligible for TIFIA assistance. Increases the maximum amount of a secured loan from 33 percent of total project cost to 49 percent.

Sec. 1303. State infrastructure banks. Reauthorizes the SIB program in 23 U.S.C. 610 through the end of FY 2015.

Sec. 1304. Metropolitan infrastructure banks. Adds a new 23 U.S.C. 612 to allow the creation of metropolitan infrastructure banks to provide federal credit assistance for programs of projects within individual metropolitan areas participating in the MMA program. Allows DOT to enter into cooperative agreements with MPOs to create the MIBs. The Secretary may permit an eligible MPO that has established a MIB pursuant to a cooperative agreement to deposit into the bank not to exceed x percent of the funds available to the MPO for a fiscal year under the MMA program to capitalize the MIB. Loans and other credit assistance can only be made to projects eligible under title 23 or capital projects under sec. 5302 of title 49. At least x percent of the amount of each capitalization grant must come from non-federal sources. MIBs must maintain investment-grade ratings on their bonds. All title 23 and 49 requirements apply to projects funded by MIBs.

Subtitle D—High Priority Projects

Left blank - reserved for later.

Subtitle E—Miscellaneous

Sec. 1501. Project approval and oversight. Amends 23 U.S.C. 106(h) to add a project delivery schedule to the list of megaproject requirements. Amends 23 U.S.C. 106(i) to add a project delivery schedule to the requirements for projects over $100 million.

Sec. 1502. Standards. Amends 23 U.S.C. 109(a)(1) to require federal project standards to be consistent with comprehensive street design policies and principles and practical design standards. Substitutes "shall" for "may" in sec. 109(c) to require NHS projects to take environmental and aesthetic considerations into account. The

Sec. 1503. Revenue aligned budget authority. Left blank - reserved for later.

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Sec. 1504. Public-private partnership agreements. Adds a new subsection (h) to 23 U.S.C. 112 requiring DOT to impose minimum requirements on all public-private partnerships that require a federal funding element. Those requirements include a value-for-money assessment, transparency requirements, and opportunity for public comment. All contracts awarded shall require PPP agreements to prohibit closing of the facility except in specially enumerated circumstances, and may allow truck lane prohibition at certain times, may restrict motorcycle and bicycle access, and shall allow the public authority to retake and reopen a highway if the private party closes it. Contracts may not include noncompete agreements and shall allow early termination with fair market compensation.

Sec. 1505. Prevailing rate of wage. Amends 23 U.S.C. 113 to clarify that 113 applies to all projects funded under title 23, not just highway projects, and eliminates the existing 113(b).

Sec. 1506. Emergency relief. Amends 23 U.S.C. 120 to change the definition of comparable bridge facility, Amends 23 U.S.C. to cap project cost at the amount of repair or reconstruction of a comparable facility. Makes debris removal eligible for ER funds only if it's not eligible under the Stafford Act. Allows temporary ferry or additional transit service as an eligible expense while a highway facility is under repair. Continues the authorization for general funds as necessary if ER costs exceed $100 million per year. Requires a rulemaking to update the ER rules within six months of enactment.

Sec. 1507. Highway-rail crossings. Amends 23 U.S.C. 130 to require that a state's survey of grade crossings is consistent with its strategic highway safety plan and the HSIP investment and, as applicable, the grade crossing safety plan under the RSIA section 202. Extends the protective device set-aside in sec. 130(e)(1) at an undetermined dollar amount, but only for FYs 2010 and 2011.

Sec. 1508. Metropolitan planning. Amends 23 U.S.C. 134(a) to add decreased reliance of foreign oil, environmental impacts, greenhouse gas emissions, and livability and sustainability to the policy goals. Amends 23 U.S.C. 134(b) to define rural planning organization. Increases the minimum population for a designated MPO from 50,000 to 100,000. Amends 23 U.S.C. 134(f) to "require", not "encourage", state governors to coordinate with multistate MPOs. Amends 23 U.S.C. 134(k) to exclude the Critical Asset Investment program and the Freight Improvement program from TIP requirements and requiring the transportation planning process to address greenhouse gas emissions through reduction targets and strategies. Adds a new requirement as 134(q) requiring DOT to certify MPO compliance with law every four years. Failure to pass certification means the withholding of federal funds. Creates a national MPO database.

Sec. 1509. Statewide planning. Amends 23 U.S.C. 135(a)(3) to require consultation with the state bicycle and pedestrian coordinator and the state safe-routes-to-schools coordinator. Adds decreased reliance of foreign oil, environmental impacts, greenhouse gas emissions, public health, and livability and sustainability to the policy goals. Requires a 20-year state long-term strategic transportation plan that provides for the development and implementation of the intermodal interconnected transportation system of the state. Provides for greenhouse gas emission reductions and targets as part of the plan. Requires the implementation of state performance management systems.

Sec. 1510. Project delivery. Amends 23 U.S.C. 108(c)(2)(G) to eliminate the need for the EPA Administrator's concurrence. Authorizes DOT to encourage states and localities to acquire right-of-way for long-term transportation needs, with capacity for expansion over 50 or 100 years. Adds a definition of "planning product" to 23 U.S.C. 139(a). Allows a draft notice in the *Federal Register* to satisfy the requirement of 23 U.S.C. 139(e). Adds a new sec. 139(m) to integrate planning and environmental review to allow certain planning decisions to be incorporated by reference. Adds a new sec. 139(n) directing DOT to issue a record of decision and advance the project to final design within 120 days after the final EIS is completed. Amends 23 U.S.C. 327(b) to extend the surface transportation project delivery pilot program to all states (not just five).

Sec. 1511. Disadvantaged business enterprise program. Reauthorizes the 10 percent DBE set-aside.

Sec. 1512. Highway bridge inventories, standards, and inspections. Amends 23 U.S.C. 144 to focus the section on the National Bridge Inventory and the national bridge inspection standards, requiring annual inspections of structurally deficient bridges and fracture critical members, and biennial inspections of other bridges. Prohibits the obligation of funds for a bridge project unless the state is complying with the inspection regime. Requires state inspection of privately owned or operated border bridges. Establishes a process for assigning risk-based priorities to bridge replacement. Requires a GAO study of the effectiveness of the bridge rating system.

Sec. 1513. National tunnel inspection program. Amends 23 U.S.C. 151 to establish national tunnel inspection standards within 2 years of enactment and to establish minimum requirements for inspection standards. Establishes a National Tunnel Inventory.

Sec. 1514. Safety provisions. Amends 23 U.S.C. 153 to remove references to motorcycle helmets and eliminate the stand-alone seat belt grant program while retaining the financial penalties for states that don't have primary seat belt laws. Amends 23 U.S.C. 154(c) to remove the ability of states to use impounded funds for hazard elimination. Requires DOT to withhold 10 percent of a state apportionment if the state fails to suspend the drivers licenses of drug offenders in FY 2010 or thereafter. Amends 23 U.S.C. 163 to eliminate the stand-alone grant program for states with certain DUI laws but retains the penalties if they don't comply.

Sec. 1515. HOV facilities. Amends 23 U.S.C. 166(b) to extend the allowance for low-emission vehicles through the end of FY 2015 and allows DOT to withhold some state apportionments if the state allows HOT lanes or low-emission vehicles in HOV lanes to degrade road quality.

Sec. 1516. Enforcement of primary seat belt laws. Amends 23 U.S.C. 157 to eliminate the stand-alone grant program for states with primary seat belt laws and replace it with an escalating series of apportionment withholding penalties.

Sec. 1517. Use of ignition interlock devices to prevent repeat intoxicated driving. Adds a new 23 U.S.C. 167 to require

SECTION-BY-SECTION SUMMARY OF OBERSTAR DRAFT SURFACE TRANSPORTATION BILL

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states to pass laws forcing each first-time DUI offender to have an ignition interlock device installed in their car for 6 months after the conviction. Penalties for noncompliance start at one percent of a state's apportionment in FY 2013 and rising to five percent in FY 2015 and thereafter.

Sec. 1518. Buy America. Amends 23 U.S.C. 313 to add a new (g) making Buy America for bridge projects apply to all contracts under the scope of the NEPA record of decision.

Sec. 1519. Workforce development. Left blank - reserved for later.

Sec. 1520. Roadway, bicycle and pedestrian, work zone, and highway-rail grade

crossing safety. Directs DOT to make grants to national nonprofit organizations for activities to improve roadway, bicycle and pedestrian, work zone, and highway-rail grade crossing safety. Authorizes an as-yet-undetermined amount of money for the grants at a 100 percent federal share.

Sec. 1521. Budget justification. Requires all DOT modal administrations to submit their budget justifications to the House Transportation and Infrastructure, Senate Environment and Public Works, and Senate Banking Committees at the same time they are submitted to the Appropriations Committees.

Sec. 1522. Extension of public transit vehicle exemption from axle weight restrictions. Amends sec. 1023(h)(1) of ISTEA to extend the aforementioned exemption through the end of FY 2015.

Sec. 1523. Technical amendments. Makes various technical and conforming amendments.

Sec. 1524. Definitions. Amends 23 U.S.C. 101(a) to add definitions for various public lands roads.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Amendments to title 23, United States Code. Provides that all language in title II is amendatory to title 23 U.S.C. unless otherwise stated.

Sec. 2002. Authorization of appropriations. Contains blank spaces for dollar amounts for each of fiscal years 2010-2015 for the Highway Safety Programs, the Highway Safety R&D programs, the State Traffic Safety Information System Improvements, the National Driver Register, the High Visibility Enforcement Program, and NHTSA Administrative Expenses.

Sec. 2003. Highway safety programs. Amends 23 U.S.C. 402 to better organize the section but leaves funding apportionments and allocations blank. Sets aside x percent of a state's apportionment under sec. 402 for motorcycle safety. Establishes performance management targets to be incorporated into each state's highway safety plan. Beginning in FY 2011, requires states to submit highway safety plans in order to receive safety funds.

Sec. 2004. High visibility enforcement program. Requires NHTSA to establish and administer a program under which not more than 5 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes of drunk driving reduction or increase seat belt usage in each of years 2010 through 2015.

Sec. 2005. National Driver Register. Requires DOT, within one year of enactment, to ensure that states enter information into the National Driver Register within 31 days of a conviction, verify the accuracy of records, and determine unique identifiers. Requires annual reporting to Congress on NDR accuracy. Requires DOT to modernize and increase the capacity of the NDR. Establishes a National Driver Register Advisory Committee. Gives DOT the authority to collect fees for requests for NDR information, which shall be deposited into the Highway Account of the Highway Trust Fund.

TITLE III—PUBLIC TRANSPORTATION

Sec. 3001. Short title; amendments to title 49, United States Code. Cites title III as the Public Transportation Act of 2009 and specifies that all references are to title 49 U.S.C. unless otherwise noted.

Sec. 3002. Policies and purposes. Amends 49 U.S.C. 5301 to insert new policies and goals.

Sec. 3003. Definitions. Amends 49 U.S.C. 5302 to add definitions for clean fuel vehicles and rural area (less than 50,000 population).

Sec. 3004. Metropolitan planning. Amends 49 U.S.C. 5303 to add decreased reliance of foreign oil, environmental impacts, greenhouse gas emissions, and livability and sustainability to the policy goals, define rural planning organization, and increases the minimum population for a designated MPO from 50,000 to 100,000. Provides for greenhouse gas emission reductions and targets. Requires DOT to certify MPO compliance with law every four years. Failure to pass certification means the withholding of federal funds.

Sec. 3005. Statewide planning. Amends 49 U.S.C. 5304 to require consultation with the state bicycle and pedestrian coordinator and the state safe-routes-to-schools coordinator. Adds decreased reliance of foreign oil, environmental impacts, greenhouse gas emissions, public health, and livability and sustainability to the policy goals. Requires a 20-year state long-term strategic transportation plan that provides for the development and implementation of the intermodal interconnected transportation system of the state. Provides for greenhouse gas emission reductions and targets as part of the plan. Requires the implementation of state performance management systems.

Sec. 3006. Urbanized area formula grants. Amends 49 U.S.C. 5307(a) to add a definition of "state of good repair investment plan". Amends 49 U.S.C. 5307(b) to allow areas with a population between 200,000 and 500,000 to use up to 20 percent of their annual apportionment on operating expenses, to allow areas between 500,000 and 1,000,000 to use up to 10 percent of their annual apportionment on operating expenses, and allow areas with a population over 1 million to use up to 5 percent of their annual apportionment on operating assistance. Adds a new sec. 5307(m) requiring performance management standards. Adds a new sec. 5307(n) requiring state of good repair investment plans.

SECTION-BY-SECTION SUMMARY OF OBERSTAR DRAFT SURFACE TRANSPORTATION BILL

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Sec. 3007. Intermodal and energy efficient transit facilities grants. Replaces the clean fuels grant program in 49 U.S.C. 5308 with a new intermodal and energy efficient transit facilities grant program in sec. 5308. Grants can fund capital projects to construct, replace, and rehabilitate an intermodal passenger facility to directly connect transit users to at least one other mode or a public transportation facility that will assist in reducing greenhouse gas emissions. Grants shall be subject to the requirements of sec. 5307 or 5311, as applicable. Lays out selection criteria for the grants and sets the federal cost share at 80 percent.

Sec. 3008. Capital investment grants. Rewrites 49 U.S.C. 5309 to eliminate references to alternatives analysis and to integrate the small starts program (with the threshold moved from $75 million to $100 million) into the section. Shortens the evaluation criteria to eliminate any references to cost-benefit analysis. Sets the federal share of a capital investment grant at 80 percent. The draft bill does not clarify how much of the program is set aside for small starts. Prohibits DOT from using any form of cost-effectiveness index to judge projects and prohibits the use of a transportation system user benefit calculation to evaluate any benefit other than mobility. Directs DOT to develop and utilize special warrants to advance projects.

Sec. 3009. Coordinated access and mobility program formula grants. Amends 49 U.S.C. 5310 to combine the existing elderly/disabled transit program and the job access and reverse commute program into a new coordinated access and mobility program formula grant program. 60 percent of the funds shall be apportioned to urbanized areas (over 200,000 population), 20 percent shall be apportioned to states in the ratio that the number of elderly/disabled/low-income/welfare persons in areas less than 200,000 in population bears to the nation total, and 20 percent shall be apportioned to states in the ratio that the ratio that the number of elderly/disabled/low-income/welfare persons in areas less than 50,000 in the state bears to the national total. Sets performance standards for grant recipients. The federal share of all grants for capital projects shall be 80 percent (operating assistance grants have a 50 percent federal share except for sliding-scale federal lands states where it's 62.5 percent).

Sec. 3010. Rural area formula grants. Amends 49 U.S.C. 5311 to rename the program "rural area formula grants" and establish new program goals. Allows DOT to include a state's unsubsidized capital costs of private-sector intercity-bus service as an in-king matching share for operating costs of connecting rural intercity feeder bus service. Establishes performance management standards for the program.

Sec. 3011. Transit research grants. Amends 49 U.S.C. 5312 to make funds available under sec. 5338(d) available for research grants and to set aside up to 25 percent of the program for special demonstration initiatives at the discretion of the Secretary. Adds a new 5312(d) for the national fuel cell bus technology development program.

Sec. 3012. Bus testing facility. Amends 49 U.S.C. 5318 to add a new (f) requiring retesting of bus models if the model is modified after completion and DOT determines that the modification may have materially affected the testing results.

Sec. 3013. Transit in the parks grants. Replaces the language in 49 U.S.C. 5320 with a new transit in the parks grant program, removing the cooperative requirement with the Secretary of the Interior, and providing for expedited project delivery.

Sec. 3014. Workforce development programs. Amends 49 U.S.C. 5322 to rename the human resource programs "workforce development programs" and to establish a National Joint Workforce Development Council

Sec. 3015. General provisions. Amends 49 U.S.C. 5323 to set the federal cost share for ADA compliance, Clean Air Act compliance, and clean fuel vehicles at 90 percent and to change the rules for cost share of vanpool projects. Amends 49 U.S.C. 5323(j) to require advance written justification of FTA Buy America waivers.

Sec. 3016. Contract requirements. Amends 49 U.S.C. 5325(h) to incorporate this Act's requirements into the contract requirements.

Sec. 3017. Office of Expedited Project Delivery. Adds a new 49 U.S.C. 5326 to establish within FTA a new Office of Expedited Project Delivery headed by a Director appointed by the Secretary. The Director shall "shall provide national leadership to enhance the speed of delivery of public transportation construction projects, with particular focus on new starts projects and substantially delayed projects." This section appears to limit his duties to a coordinating capacity and does not give him the ability to cut statutory steps or deadlines. The Director can designate projects as "substantially delayed", report those projects to Congress, and utilize conflict resolution techniques.

Sec. 3018. Program. Repeals 49 U.S.C. 5328(c) ('program of interrelated projects").

Sec. 3019. National Transit Database. Amends 49 U.S.C. 5335(a) to add asset condition to the factors listed in the National Transit Database.

Sec. 3020. Apportionment of appropriations for formula grants. Left blank, to be supplied later.

Sec. 3021. Fixed guideway modernization formula grants. Rewrites 49 U.S.C. 5337 to declare program goals and remove the formulas and the project-related provisions already in the section.

Sec. 3022. Authorizations. Left blank, to be supplied later.

Sec. 3023. Repeals. Repeals 49 U.S.C. 5339 (alternatives analysis) and 5340 (growing states/high-density states apportionment factors).

Sec. 3024. Over-the-road bus accessibility program. Reauthorizes the program in sec. 3038(g) of TEA21 through the end of FY 2012.

Sec. 3025. Obligation limits. Left blank, to be supplied later.

Sec. 3026. Transportation fringe benefits. Amends sec. 3049(a)(1) of SAFETEA-LU to make the transportation fringe benefit program permanent in all places served by fixed route public transportation and by placing in the statute a definition of the maximum benefit level as being the maximum amount that can be excluded from gross income for employer-provided parking.

SECTION-BY-SECTION SUMMARY OF OBERSTAR DRAFT SURFACE TRANSPORTATION BILL

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Sec. 3027. Streetcar categorical exclusion. Requires DOT, one year after enactment, to complete a rulemaking regarding light rail streetcars that travel within existing right-of-way and which have categorical exclusions from NEPA.

Sec. 3028. SAFETEA-LU repeals. Repeals sections 3009(i), 3011(c), 3012(b), 3045 and 3046 of SAFETEA-LU.

TITLE IV—COMMERCIAL MOTOR VEHICLE SAFETY

Sec. 4001. Short title. Cites title IV as the Motor Carrier Safety Enhancement Act of 2009.

Sec. 4002. Amendments to title 49, United States Code. Provides that all language in title IV is amendatory to title 49 U.S.C. unless otherwise stated.

Subtitle A—Authorization of Appropriations

Sec. 4011. Motor carrier safety grants. Authorizes unspecified dollar amounts of funding for motor carrier safety grants in each of FYs 2010-2015 with an unspecified percentage deduction for administrative expenses under 49 U.S.C. 31102. Authorizes unspecified dollar amounts for program administrative expenses. Replaces the high priority program in 49 U.S.C. 31104(k) with a new incentive grant program for states that show significant improvement in reducing CMV-related crashes and fatalities (funded as a 10 percent set-aside from the main grant program). Authorizes the withholding of up to 5 percent of a state's primary highway apportionment for failure to comply with section 31102.

Sec. 4012. Grant programs. Authorizes undetermined dollar amounts for each of FYs 2010-2015 for the Commercial Driver's License program implementation grants, the Commercial Vehicle Information Systems and Networks Deployment program, and the Commercial Motor Vehicle Operator Safety Grants program.

Subtitle B—General Authority and State Grants

Sec. 4021. Motor carrier safety assistance program. Rewrites 49 U.S.C. 31102 to establish program goals. Plans must include maintenance of effort requirements. Requires the Secretary to establish performance measures, including a national goal for CMV-related crash and fatality reductions. The Secretary shall require plans in the second fiscal year after enactment to include state fatality and crash reductions. Grants can only be made to states with approved plans in effect.

Sec. 4022. Commercial driver's license program. Amends 49 U.S.C. 31309 to require states to use the system to receive and submit conviction and disqualification data. Requires states to requires information from the drug and alcohol clearinghouse before granting a CMV and to ensure that the state's CDL database will be compatible with federal standards. Requires an expedited rulemaking within 180 days of critical requirements for an effective state CDL program. Adds a new 31309(e) to require states to develop and submit plans to the Secretary for compliance with 31309 through September 30, 2015. Provides for public comparison of state levels of compliance and amends 49 U.S.C. 31312 to declare states in noncompliance. Amends 49 U.S.C. 31313 (a) to rewrite the CDL Program Implementation grants.

Sec. 4023. National clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators. Adds a new 49 U.S.C. 31306(a) to require DOT to establish (within one year of enactment) and maintain a system to serve as a national clearinghouse for records relating to the alcohol and controlled substances testing program applicable to operators of commercial motor vehicles under section 31306. Requires checks with the clearinghouse in order to allow persons to perform safety-sensitive functions. Allows both state DMVs and private employers access to the clearinghouse information, with privacy safeguards. Allows DOT to collect fees for requests for clearinghouse information. Authorizes a $5 million set-aside from administrative expenses in 2010 to establish the clearinghouse and $2 million per year through 2015 to operate it.

Sec. 4024. Performance and registration information systems management program. Amends 49 U.S.C. 31109 to rewrite the rules for the PRISM program. Requires states to participate in the program by September 30, 2013 and allows grant funds made to the state under sec. 4126 of SAFETEA-LU to meet the requirements of this section.

Sec. 4025. Commercial vehicle information systems and networks deployment grants. Amends sec. 4126 of SAFETEA-LU to reauthorize the grant program through FY 2013 at a 100 percent federal share.

Sec. 4026. Amendments to compliance review process. Requires DOT, within one year of enactment, to revise its safety fitness determination methodology to reflect Safety Recommendation H-99-6 of the NTSB.

Sec. 4027. New entrant carriers. Amends 49 U.S.C. 31144(g)(1) to require new entrants to undergo a safety review within the first 18 months (with an accelerated schedule for new entrants who carry passengers and/or hazmat).

Sec. 4028. Motor carrier registration. Amends 49 U.S.C. 13902 to add a requirement that applicants demonstrate, through successful completion of a proficiency examination to be developed by the Secretary, knowledge of the requirements and regulations described in 13092(a)(1)(A) and has disclosed common ownership, management, or familial connection with other motor carriers during the preceding three years.

Sec. 4029. Reincarnated carriers. Amends 49 U.S.C. 13905(d) to allow DOT to revoke licenses and certificates of reincarnated carriers that reorganized to avoid the effects of prior penalties and judgments. Prohibits two or more employers from using common ownership, control, or familial relationships to avoid compliance.

Sec. 4030. Commercial motor vehicle operator training. Requires that DOT issue rules establishing minimum training requirements for CMV operators within two years of enactment. Establishes specific criteria for the training requirements. Amends 49 U.S.C. 31308 to require minimum standards for CMV issuance. Establishes a grant program for driving schools or other providers to provide training to CMV operators in accordance with the new standards.

Sec. 4031. Improved oversight of motor carriers of passengers. Amends 49 U.S.C. 31444 to add a new subsection (h) requiring DOT, by the end of FY 2005, to determine the safety fitness of each owner, and each operator, of a commercial motor vehicle designed or used to transport passengers who the Secretary registers under secs. 13902 or 31134 and assign a safety fitness rating

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to each one. Allows DOT to carry out targeted enforcement of CMV safety regulations.

Sec. 4032. Commercial driver's license passenger endorsement requirements. Requires that, within 2 years of enactment, DOT review and assess the current knowledge and skill testing requirements for a CDL passenger endorsement to determine any necessary improvements to the knowledge test or examination of driving skills in order ensure the safe operation of commercial motor vehicles designed or used to transport passengers.

Sec. 4033. Commercial motor vehicle safety inspection programs. Amends 49 U.S.C. 31142(b) to require DOT to prescribe regulations for federal standards for inspection of CMVs and retention by employers of inspection records.

Sec. 4034. Driver medical qualifications. Amends 49 U.S.C. 31149 to change the requirements for doctors serving as examiners of CMV applicants and requiring a report to Congress on the feasibility of requiring doctors to submit the results of such exams directly to the state DMV.

Sec. 4035. Requirement for registration and USDOT number. Adds a new 49 U.S.C. 31134 to require any employer subject to federal regulation under that chapter of title 49 to be registered by DOT and have a DOT registration number before operating a CMV in interstate commerce.

Sec. 4036. Electronic on-board recorders. Requires a rulemaking within one year of enactment to require that all CMVs owned or operated by carriers subject to hours-of-service regulations to be equipped with electronic on-board recorders. The rule shall set performance standards for the recorders.

Sec. 4037. Motor Carrier Safety Advisory Committee. Amends sec. 4144(b)(1) of SAFETEA-LU to add nonprofit labor organizations to the MCSAC.

TITLE V—RESEARCH

Left blank - reserved for later.

TITLE VI—RAIL TRANSPORTATION

Sec. 6001. High-speed rail assistance. Amends 49 U.S.C. 26101 to increase the maximum federal share of a corridor development project from 50 percent to 80 percent and remove right-of-way acquisition from the list of eligible expenses. Eliminates many of the criteria from sec. 26101. Authorizes blank dollar amounts to be appropriated from the general fund for the program. Amends 49 U.S.C. 26102 to authorize blank dollar amounts to be appropriated from the general fund for the program. Amends 49 U.S.C. 26104 to make it the new definitions section and give a series of new definitions. Moves the existing sec. 26106 (added by last year's Amtrak bill) to sec. 26105 and adds provisions relating to letters of intent and cooperative agreements. Reserves the "funding" section for the newly numbered sec. 26105 until a later date. Adds a new sec. 26106, "Statutory construction" which clarifies that Secretary retains the ability to select rail corridors in effect the day before enactment.

Sec. 6002. Capital grants for rail line relocation projects. Amends 49 U.S.C. 20154 to allow political subdivisions of states, and government-sponsored authorities and corporations, to enter into cooperative agreements and extend authorization for the program through FY 2015.

Sec. 6003. Technical corrections to Public Law 110–432. Makes a series of technical corrections to last year's rail safety/ Amtrak authorization law.

Sec. 6004. Capital grants for class II and class III railroads. Amends 49 U.S.C. 22301(g) to authorize appropriations from the general fund of up to $50 million per year for each of FYs 2010-2015 for the class II/III grant program.

Sec. 6005. Railroad rehabilitation and improvement financing. Amends sec. 502(e) of the Railroad Revitalization and Regulatory Reform Act of 1976 to allow DOT to lower the interest rate to be paid on direct RRIF loans for the sole purpose of installing a positive train control system. Amends sec. 502(f) to allow DOT to require borrowers to buy bond insurance. Authorizes the appropriation of such sums as necessary over FYs 2010-2015 to carry out this section.

Sec. 6006. Amtrak domestic buying preference. Amends 49 U.S.C. 24305(f) to require the Secretary to give advance notification, with explanation, of Amtrak's waivers of its Buy America requirements.

Sec. 6007. Separation requirements. Requires DOT to submit a study to Congress within 18 months of enactment that determines the optimum separation requirements between locomotives and railroad cars containing hazardous materials.

Sec. 6008. Reports on railroad conditions and performance. Adds a new 49 U.S.C. 10103 requiring quadrennial reports to Congress starting by December 31, 2010 on conditions and performance of the freight and intercity passenger rail system.

TITLE VII—HAZARDOUS MATERIAL TRANSPORTATION

Sec. 7001. Short title. Cites this title as the Hazardous Materials Transportation Safety Act of 2009.

Sec. 7002. Amendment of title 49, United States Code. Provides that all language in title VII is amendatory to title 49 U.S.C. unless otherwise stated.

Subtitle A—Strengthening Emergency Response Capabilities and Information

Sec. 7003. Minimum standards for emergency response information services. Requires DOT, within 18 months of enactment, to prescribe minimum standards for persons who provide hazmat transportation emergency information services.

Sec. 7004. Training for emergency responders. Amends 49 U.S.C. 5116 to require states and tribes to certify that first responders receiving hazmat training are able to protect nearby persons and property from hazmat spills and makes training grants contingent on such ability.

Sec. 7005. Assessment of volunteer firefighter training capabilities. Requires DOT, within 18 months of enactment, to conduct an assessment of the training capabilities of volunteer fire departments to respond to hazmat fires. Authorizes a pilot pro-

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gram to improve volunteer firefighter hazmat training after the assessment is complete.

Sec. 7006. National Hazardous Materials Fusion Center. Adds a new 49 U.S.C. 5128 establishing a national hazardous materials fusion center to serve as a data and information network for emergency

response providers, Federal, State, and local government agencies, and for-profit and nonprofit organizations that are engaged in hazardous material response.

Sec. 7007. Emergency response to accidents and incidents involving alternative

technologies. Requires DOT to conduct research to develop appropriate techniques, training, and

equipment necessary for public sector employees to respond to accidents and incidents involving the transportation or use in transportation of alternative technologies that utilize hazardous material, including biofuels, hybrid fuel cells, lithium batteries, and hydrogen fuel cells.

Sec. 7008. Collection and sharing of commodity flow data. Adds a new 49 U.S.C. 5129 directing DOT to establish, within 12 months of enactment, a system to collect data on the volume of hazmat transported throughout the U.S. over all modes.

Sec. 7009. Paperless hazard communications pilot program. Authorizes DOT to conduct 3 pilot projects, at least one of which shall be in a rural area, to evaluate the feasibility and effectiveness of using paperless hazard communication systems.

Subtitle B—Strengthening Hazardous Material Safety

Sec. 7010. Transportation of lithium cells and batteries. Adds a new 49 U.S.C. 5111 directing PHMSA, in coordination with the FAA, to come up with regulations within 24 months of enactment governing the transportation of lithium cells and batteries that may create a heat or fire hazard.

Sec. 7011. Requirements relating to external product piping on cargo tanks transporting hazardous material. Adds a new 49 U.S.C. 5118 prohibiting the transportation of hazmat in external product piping of all cargo tank vehicles manufactured after 2 years from the date of enactment. Prohibits all hazmat transport in external product piping after December 31, 2020.

Sec. 7012. Commercial motor vehicle operators registered to operate in Mexico

or Canada. Amends 49 U.S.C. 5103a(h)(2) to require TSA to perform background checks that include criminal histories in Canada and Mexico where appropriate.

Sec. 7013. Improving data collection, analysis, and reporting. Creates a working group to improve collection and analysis of data from hazmat accidents, to consist of representatives from FAA, FMCSA, FRA, MARAD, and PHMSA. The working group shall develop an action plan.

Subtitle C—Strengthening Enforcement

Sec. 7020. Hazardous material enforcement training program. Directs DOT to carry out a hazmat enforcement training program and to develop guidelines for qualifications, best practices and standards, and standard protocols.

Sec. 7021. Inspections and investigations. Amends 49 U.S.C. 5121 to provide training on how to deal with perishable hazmat items and the proper closure of packaging. Makes safety, along with security, a grant objective in sec. 5121(g)(1) and adds a 5121 (i) allowing designated officers or agents to investigate hazmat transportation accidents, enter property, subpoena witnesses, require document production, issue oaths, and take testimony.

Sec. 7022. Civil penalties for denial of entry. Amends 49 U.S.C. 5123 to add a subsection (h) to allow DOT to impose a civil penalty on a person who obstructs or prevents DOT from carrying out investigations or inspections.

Sec. 7023. Inspector staffing. Directs DOT to increase the total number of FTE positions for hazmat safety inspectors at PHMSA by a fixed number per year (but the numbers are left blank).

Subtitle D—Miscellaneous

Sec. 7030. Hazardous material research and development program. Authorizes DOT to conduct research and development to reduce risks associated with hazmat transport and to identify new technologies. Authorizes blank dollar amounts for the program.

Sec. 7031. Uniform hazardous material State registration and permit program. Amends 49 U.S.C. 5119 to require DOT to "establish and carry out a program to develop uniform forms and procedures for States to register, and issue permits to, persons who transport, or cause to be transported, hazardous material by motor vehicle" in accordance with federal law. However, it gives DOT up to six years to implement the regulations to carry out the program..

Sec. 7032. Implementation of the Hazardous Material Safety Permit Program. Requires a GAO report on the implementation of the hazmat safety permit program under 49 U.S.C. 5109.

Sec. 7033. Authorization of appropriations. Dollar amounts left blank.

TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

Left blank – reserved for later.

TITLE IX—MISCELLANEOUS

Sec. 9001. Denali Commission. Left blank – reserved for later.

Senate Appropriations Approves Its Own 302(b) Allocations

On June 18, the Senate Appropriations Committee agreed to divide up the $1.09 trillion in new discretionary spending provided by the budget resolution for fiscal year 2010 between the panel's twelve subcommittees.

The table at the bottom of this page shows the initial Senate allocations of budget authority compared with the actual 2009 levels (excluding off-budget emergency spending like the stimulus bill), the President's request, and the House Appropriations Committee's set of allocations.

For some subcommittees, the Senate plan closely resembles the plan approved by the House panel the week before. However, there are a few discrepancies, the biggest of which comes in the "302(b)" allocation for the Transportation-HUD subcommittee.

The Senate panel assigned its THUD subcommittee an even $67.7 billion in new discretionary budget authority for FY 2010, which is $1.12 billion less than the $68.821 billion that their House counterparts gave their THUD panel.

No other Senate 302(b) varied from its House counterpart by more than $486 million. (The Defense subcommittee, by far the largest, is only $5 million different than the House version — a negligible difference based in a $508 billion subcommittee.)

The Senate THUD 302(b) is 1.6 percent below the House allocation, also the biggest percentage discrepancy this year. The Senate's Energy and Water allocation is 1.35 percent above the House 302(b).

The Senate THUD allocation is also $1.17 billion below the President's budget request (as re-estimated by the Congressional Budget Office). The discrepancy with the budget request is the largest of all the subcommittees in percentage terms (the State-Foreign Operations discrepancy looks larger but that is because part of the IMF bailout was transferred to the supplemental appropriations bill).

$1.17 billion is a sizeable amount to cut the request (the House subcommittee only has to shave about $49 million from the request). There are three ways the Senate THUD committee can meet the budget authority cap: they can cut existing programs, they can cut the big new program, or they can cheat.

If the subcommittee meets the $1.17 billion reduction target by cutting back on spending increases for existing programs, most of the cuts would probably have to come out of the HUD budget. The table on the following page breaks down the request versus last year's budget.

Gross discretionary spending at DOT would go from $17.00 billion to $18.18 billion under the request. However, $910 million of that increase goes towards the very popular high-speed rail program, which is unlikely to be cut. So even if every other account at DOT were frozen at the 2009 level, that only yields a $268 million reduction in the request — far less than the $1.17 billion required by the 302(b).

At HUD, meanwhile, the budget proposes to take gross discretionary spending from $38.66 billion to $41.98 billion — an increase of $3.32 billion. Much of the $1.17 billion in required savings could be found there, but at the expense of some of the Obama Administration's priorities in housing, including increases for Section 8 housing vouchers and community development block grants.

If the Senate appropriators don't want to come up with $1.17 billion in cuts to existing programs, they can reduce funding for the big new

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Initial Senate 302(b) Allocations - Budget Authority Only (Excludes Emergencies)

	FY 2009 Enacted	FY 2010 Request	FY 2010 House	FY 2010 Senate	Senate is Above/ Below Request By:	
Agriculture	20,456	22,980	22,900	23,050	+70	0.3%
Commerce-Justice-Science	57,652	64,511	64,314	64,800	+289	0.4%
Defense	487,737	511,540	508,040	508,045	-3,495	-0.7%
Energy and Water	33,261	34,393	33,300	33,750	-643	-1.9%
Financial Services	22,697	24,228	24,150	24,400	+172	0.7%
Homeland Security	42,164	42,838	42,384	42,685	-153	-0.4%
Interior and Environment	27,579	32,325	32,300	32,100	-225	-0.7%
Labor-HHS-Education	152,255	163,452	163,400	163,100	-352	-0.2%
Legislative Branch	4,402	5,154	4,700	4,622	-532	-10.3%
Military Construction-VA	72,863	76,260	76,500	76,700	+440	0.6%
State-Foreign Operations	36,620	52,043	48,843	48,700	-3,343	-6.4%
Transportation-HUD	55,000	68,870	68,821	67,700	-1,170	-1.7%
Total Discretionary BA	**1,012,686**	**1,098,594**	**1,089,652**	**1,089,652**	**-8,942**	**-0.8%**

302(b) Allocations

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program, the National Infrastructure Bank. The NIB would be given $5.0 billion under the Obama Administration's budget request, even though the Administration has not yet submitted any plan for how the NIB would be structured or what specific kinds of projects it would fund.

Indeed, at a budget hearing last week, Senate THUD chairman Patty Murray (D-WA) expressed skepticism about moving forward to fully fund the NIB in the absence of a detailed plan from the Administration.

Or, instead of making $1.17 billion in real reductions to the Administration's THUD budget request, the Senate appropriators could simply cheat the way that appropriators in both chambers have cheated on the THUD bill for the past several years — by including large, fiscally meaningless rescissions of transportation contract authority to offset new budget authority. The FY 2009 THUD bill was made to appear $3.5 billion smaller through this process, which the Obama Administration proposes to end.

(Although it will be harder to write a really large highway rescission this year due to dwindling balances, highway CA rescissions remain a tempting option, and there is a $305 million rescission of FY 2009 Airport Improvement Program CA possible if the FAA authorization bill is not enacted before the appropriations bill.)

In the final House-Senate conference on the THUD bill, the spending allocation could well rise to closer to the House level.

The table directly at right shows how the Senate THUD subcommittee has a worse outlay problem than the House subcommittee's $408 million, though if the Senate meets its BA reduction through cuts in real, existing programs, the outlay reduction will take care of itself.

Transportation-HUD Subcommittee Budget Authority (Millions of $)

	FY 2009 Enacted	FY 2010 Request
Title I: Department of Transportation		
USDOT Non-Emergency Appropriations (Regular)	16,999	18,177
New General Fund Appropriation for Highways	-	36,107
New General Fund Appropriation for Transit Formulas	-	3,343
USDOT Rescissions of Appropriations	(39)	-
USDOT Rescissions of Contract Authority	(3,480)	-
Equals: USDOT Net Total for 302(b)	**13,480**	**57,627**
Title II: Housing and Urban Development		
HUD Non-Emergency Appropriations	38,662	41,977
HUD Rescissions of Appropriations	(793)	(28)
HUD Advance Appropriations	4,400	4,400
HUD Offsetting Receipts and Collections	(735)	(867)
Equals: HUD Net Total for 302(b)	**41,535**	**45,483**
Title III: Other Independent Agencies		
National Infrastructure Bank	-	5,000
Other Agencies Non-Emergency Appropriations	304	296
Other Agencies Rescissions of Appropriations	(1)	-
Equals: Other Agencies Net Total for 302(b)	**303**	**5,296**
Scorekeeping Adjustments		
Adjustment for Pipeline Safety User Fees	(75)	(87)
Less HUD Advance Appropriations	(4,400)	(4,400)
Plus Prior Year HUD Advance Appropriations	4,158	4,400
Other Scorekeeping Adjustments	(1)	-
Total Scorekeeping Adjustments	**(318)**	**(87)**
Total THUD Subject to 302(b) Ceiling	**55,000**	**108,319**
Minus: General Fund Appropriation for Highways	-	(36,107)
Minus: General Fund Appropriation for Transit Formulas	-	(3,343)
Total General Fund Proposals for HTF Solvency	***-***	***(39,450)***
Total THUD Subject to 302(b) Ceiling if General Fund Proposals for HTF Solvency Are Ignored	**55,000**	**68,869**
FY 2010 Senate THUD 302(b) Ceiling (BA)		**67,700**
Amount Requested Budget Authority Must Be Cut:		**(1,169)**

OUTLAYS FROM THE U.S. TREASURY UNDER THE THUD SUBCOMMITTEE AGENCIES - 2010 REQUEST

Dollar amounts in millions.	**FY 2010 Request**
USDOT Outlays from Previously Enacted Authority	53,634
Other THUD Outlays from Previously Enacted Authority	29,035
Total, "Uncontrollable" Outlays Occuring in FY2010	***82,669***
USDOT New FY 2010 Outlays from New Authority	26,424
Other THUD New FY 2010 Outlays from New Authority	25,997
Total, Controllable FY2010 Outlays From New Authority	***52,421***
Scorekeeping Adjustment	-87
Total THUD Outlays Subject to 302(b) Ceiling	**135,003**
FY 2010 Senate THUD 302(b) Outlay Ceiling	**134,469**
Amount that Requested Outlays Must Be Reduced	**-534**

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SELECTED FY 2010 SPENDING LEVELS (GROSS)

Transportation Security Administration

	FY 2009	Request	Senate
Aviation Security	$5.755 billion	$5.311 billion	$5.238 billion
Surface Security	$50 million	$128 million	$143 million
Threats/Credentialing	$156 million	$220 million	$172 million
Support	$948 million	$1.005 billion	$1.000 billion
Federal Air Marshals	$819 million	$860 million	$860 million

United States Coast Guard

	FY 2009	Request	House
Operating Expenses	$6.195 billion	$6.798 billion	$6.838 billion
AC&I (procurement)	$1.495 billion	$1.384 billion	$1.598 billion
Reserve Training	$131 million	$134 million	$134 million
R&D, T&E	$18 million	$20 million	$30 million
Environmental C&R	$13 million	$13 million	$13 million
Alteration of Bridges	$16 million	zero	$4 million

FEMA (Transportation Grants Only)

	FY 2009	Request	House
Port security grants	$400 million	$250 million	$350 million
Rail/transit security gr.	$400 million	$250 million	$356 million
Bus security grants	$12 million	zero	zero
Trucking security gr.	$8 million	zero	zero

The big increases over FY 2009 come in the Aviation Security account (by far the biggest within TSA). Specifically, the Senate bill, like the House bill, goes a long way towards meeting the huge increases for explosive detection system and explosive trace detection (EDS/ETD) systems In FY 2009, these activities received $621 million. The budget requested to almost double the spending, to $1.205 billion. The Senate bill provides $1.155 billion, an 86 percent increase over FY 2009. (There was also $1 billion in the stimulus bill for these activities, not reflected here.)

The Senate bill defers to the authorizing committees and ignores the Administration's request to amend the federal share of EDS inline deployment projects.

Otherwise, within Aviation Security, the Senate bill makes few changes to the budget request. The bill shaves $30 million (1.1 percent) from the budget for screener pay and benefits. The committee report says that $16 million of the reduction is due to the fact that TSA routinely carries over balances in the account.

The Senate bill provides $115 million for air cargo security, 6.4 percent below both FY 2009 and the request. Carryover is also a problem in this account. The committee report says that:

> No later than 60 days after the date of enactment of this act, TSA shall submit an expenditure plan to the Committee on the allocation of air cargo funds, including carryover. Because a similar plan for fiscal year 2009 has not been submitted, $20,000,000 is withheld from obligation for headquarters administration until the fiscal year 2010 plan is submitted.

Elsewhere in Aviation Security, the Senate bill approves the Administration's request for four new fee-funded programs for certified cargo screening, large aircraft security, secure identification display checks, and "other security threat assessments". But the Senate bill does it in the way proposed by the Administration (with the Aviation Security account) while the House bill does it within the Transportation Threat Assessment and Credentialing account).

Within the Surface Transportation Security account, the Senate bill increases the rail security inspectors and canines activity by $14.2 million above the budget request, which the report says should hire 100 new surface transportation inspectors to bring the total workforce to 325.

The Senate bill also meets the budget request's $50 million increase for 338 new positions for 15 new Visible Intermodal Prevention and Response teams.

Within the Transportation Threat Assessment and Credentialing account, there were no changes to the budget request.

Transportation Security Support is funded at $5 million below the request, which is entirely taken from the IT budget.

The Senate bill meets the budget request for the Federal Air Marshals account, as does the House bill.

The gross totals for TSA are then partially offset by the receipts of the various 9/11 security fees (an estimated $2.1 billion), the various discretionary fee collections (an estimated $19.6 million), other fee-funded accounts ($28 million), and the mandatory fee-funded Aviation Security Capital Fund (which is still $250 million).

After that, the net Transportation Security Administration discretionary total counted against the bill's budget allocation is $5.312 billion, which is an increase of 21.6 percent over last year and which is 1.6 percent below the budget request.

Coast Guard. The Senate bill would increase the total spending for the United States Coast Guard from $9.361 billion in FY 2009 to $10.239 billion in 2010, an increase of $878 million (9.4 percent). This is a 2.7 percent increase above the budget request.

Once the $1.361 billion in pay for Coast Guard retirees is deducted (it is a mandatory expense and is not counted against the discretionary

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spending cap), the discretionary total for the Coast Guard is $8.877 billion in the Senate bill, a 9.3 percent increase over 2009 and a 3.1 percent increase over the budget request.

Within Operating Expenses the biggest account, the Senate bill gives a 10.4 percent increase over last year, to $6.838 billion. These amounts are basically identical to the budget request, including the big increase — a $242 million payment for Iraq/Afghanistan activities that is designated as an off-budget contingent emergency, as also contained in the House bill. This is the same amount provided in FY 2009 in the two supplemental bills, one of which was under the Navy's budget. The committee report says that "The Committee urges the administration to budget for Coast Guard overseas contingency operations under the Department of Homeland Security in future budget requests."

The only other major deviation from the budget request within Operating Expenses was an extra $20 million for depot-level maintenance "to address the Coast Guard's significant backlog for critical depot level maintenance for aging surface, air, and shore assets."

The biggest divergence from the budget request comes in the Acquisition, Construction and Improvements account (procurement).

The Senate bill gives AC&I a total of $1.598 billion, which is $103 million over FY 2009, $214 million over the budget request, and $250 million more than the House bill.

The biggest discrepancy comes within the Integrated Deepwater System activity — the gradual replacement of all of the Coast Guard's oceangoing assets. The Senate bill is $147 million above the budget request for Deepwater. Most of that discrepancy is explained as follows in the Appropriations committee report:

> The recommendation includes $389,480,000 for the National Security Cutter [NSC] acquisition, $108,000,000 above the budget request. The Committee disagrees with the administration's decision to delay funding for the 5th NSC. The NSC program, which is already 2 years behind schedule, will be further delayed without additional funds. The 12 legacy cutters the NSC will replace are frequently out of service due to unscheduled maintenance requirements. These 12 cutters lose an average of 250 operational days per year due to unplanned maintenance, which is directly impacting the Coast Guard's ability to perform its many missions. Funds are provided to complete production of NSC #4 and for long-lead time materials for NSC #5, which ensures the Coast Guard is properly positioned to negotiate a best-value, fixed-price contract for NSC #4 and avoids additional project costs and recapitalization delays associated with a break in NSC production.
>
> The Committee strongly supports the procurement of one National Security Cutter per year until all eight planned ships are procured. The continuation of production without a break will ensure that these ships, which are vital to the Coast Guard's mission, are procured at the lowest cost, and that they enter the Coast Guard fleet as soon as possible.

Elsewhere within Deepwater, the Senate bill recommends $32.5 million above the budget request to complete the reactivation and service life extension of Coast Guard Cutter *Polar Star*. The Senate bill also boosts spending for High-Endurance Cutter Sustainment by $8 million above the budget request for survey and design to determine the requirements for a maintenance effectiveness project.

Outside Deepwater but within AC&I, the Senate bill increases spending for the Response Boat-Medium by $20 million over the budget request, to purchase 40 RB-M's in 2010 instead of the requested 30. And the Senate bill increases by $28 million the budget "to enhance port security and interagency cooperation at the Federal, State, and local level through the development of Interagency Operations Centers, which are authorized by the SAFE Port Act."

The Senate bill meets the budget request for the Reserve Training ($134 million) and Environmental Compliance and Restoration ($13 million) accounts. The bill increases the Research, Development, Test and Evaluation account from $18 million in 2009 and $20 million in the request to $30 million. The $10 million above the request for RDT&E is for "continued land and cutter-based Unmanned Aerial System [UAS] priority research."

The Senate bill includes the $261 million contribution to health care that is really beyond the control of the Appropriations Committees but which is somehow classified as discretionary anyway.

The President's budget request, following the previous President's budget request, proposed to eliminate the Alteration of Bridges account, which received $16 million in 2009 (plus a ridiculous $142 million in the stimulus bill). The Senate bill disagrees and provides $4 million, which is entirely for an earmarked project for Sen. Tom Harkin (D-IA).

FEMA. Unlike the House bill, the Senate bill makes major changes in the budget request for transportation-related security grants. The committee report summarizes the issue so:

> The President proposes to reduce port security, transit security and fire grants by $485,000,000 based on the assertion that funds were provided for these programs in the Stimulus Act. The Committee does not accept the notion that these cuts are justified by the availability of Stimulus Act funds, which were provided for different purposes and to create jobs. The Stimulus Act funds were not provided to prefund fiscal year 2010 activities. The Committee has restored these cuts to the extent possible.

The budget request proposed to fund both port security grants and rail/transit security grants at $250 million apiece, which was down from $400 million apiece provided

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in FY 2009 The Senate bill gives $350 million for port security grants and $356 million for rail/ transit security grants.

With regard to the rail/transit security grants, the committee report says that "Of the recommended amount, no less than $25,000,000 is provided for Amtrak security needs and no less than $6,000,000 is for Over-The-Road Bus Security Assistance."

This puts the lie to the elimination of the stand-alone PPA item of $12 million for over-the-road bus security grants, which program was proposed to be zeroed out in the request. The House bill maintained the bus program at 2009's level of $12 million.

The Senate bill does agree to the elimination of a stand-alone appropriation for trucking security grants, which received $8 million in FY 2009.

In other news, the Homeland Security bill may be on both the House floor and the Senate floor this week.

The House Rules Committee is scheduled to meet today at 5 p.m. to consider a special rule for the House version of the bill (H.R. 2892). The rule is likely to be restrictive, and the committee asked any member wishing to offer amendments to the bill to file those amendments with Rules by 3 p.m. yesterday.

The restrictive rule comes after the House had a breakdown in bipartisan comity on the first 2010 appropriations bill through the system (Commerce-Justice-Science) last week. Appropriations chairman Obey lost patience with open amendment under the five-minute rule after just one hour and 22 minutes and got the Rules Committee to issue a rule limiting further amendment. In retaliation, Republicans forced roll call votes on every amendment and amendment-related procedural vote, leading to a record 53 recorded votes in the House last Thursday.

The Senate Homeland bill may come to the floor this week after the travel promotion bill is disposed of.

U.S. COAST GUARD FUNDING IN THE SENATE APPROPRIATIONS BILL

(Dollar amounts in thousands — excludes emergency funding from the FY 2009 stimulus act)

United States Coast Guard	FY 2009	FY 2010	FY 2010	FY 2010	Senate vs. 2009		Senate vs. Request	
Operating Expenses	Enacted	Request	House	Senate	K $$$	Pct.	K $$$	Pct.
Military pay and allowances	3,061,663	3,244,861	3,270,978	3,255,955	194,292	6.3%	11,094	0.3%
Civilian pay and benefits	645,350	699,594	700,490	700,042	54,692	8.5%	448	0.1%
Training and recruiting	195,919	205,970	206,776	206,429	10,510	5.4%	459	0.2%
Operating funds and unit-level maintenance	1,177,406	1,149,513	1,159,562	1,154,569	(22,837)	-1.9%	5,056	0.4%
Centrally managed accounts	262,294	353,071	331,058	354,874	92,580	35.3%	1,803	0.5%
Intermediate and depot-level maintenance	823,793	903,179	911,659	924,919	101,126	12.3%	21,740	2.4%
Port/vessel security and environmental response	23,500	-	-	-	(23,500)	-100.0%	-	n/a
Aviation mission hour gap	5,000	-	-	-	(5,000)	-100.0%	-	n/a
Overseas contingency operations		241,503	241,503	241,503	241,503	n/a	-	0.0%
Total, Operating Expenses	**6,194,925**	**6,797,691**	**6,822,026**	**6,838,291**	**643,366**	**10.4%**	**40,600**	**0.6%**
Environmental Compliance & Restoration	**13,000**	**13,198**	**13,198**	**13,198**	**198**	**1.5%**	**-**	**0.0%**
Reserve Training	**130,501**	**133,632**	**133,632**	**133,632**	**3,131**	**2.4%**	**-**	**0.0%**
Acquisition, Construction & Improvements					-		-	n/a
Vessels	113,000	103,000	103,000	123,000	10,000	8.8%	20,000	19.4%
Other equipment	89,174	119,500	119,500	147,500	58,326	65.4%	28,000	23.4%
Personnel compensation and benefits	92,830	100,000	100,000	105,200	12,370	13.3%	5,200	5.2%
Integrated Deepwater System	1,033,994	1,047,621	1,014,980	1,194,780	160,786	15.5%	147,159	14.0%
New Coast Guard headquarters facility	97,578	-	-	-	(97,578)	-100.0%	-	n/a
Shore facilities and aids to navigation	68,000	10,000	10,000	27,100	(40,900)	-60.1%	17,100	171.0%
Total, AC&I	**1,494,576**	**1,383,980**	**1,347,480**	**1,597,580**	**103,004**	**6.9%**	**213,600**	**15.4%**
Alteration of Bridges	**16,000**	**-**	**10,000**	**4,000**	**(12,000)**	**-75.0%**	**4,000**	**n/a**
Research, Development, Test & Evaluation	**18,000**	**19,745**	**19,745**	**29,745**	**11,745**	**65.3%**	**10,000**	**50.6%**
Health Care Fund Contribution	**257,305**	**261,000**	**261,000**	**261,000**	**3,695**	**1.4%**	**-**	**0.0%**
Subtotal, USCG Discretionary	**8,124,307**	**8,609,246**	**8,607,081**	**8,877,446**	**753,139**	**9.3%**	**268,200**	**3.1%**
Retired Pay (mandatory)	**1,236,745**	**1,361,245**	**1,361,245**	**1,361,245**	**124,500**	**10.1%**	**-**	**0.0%**
Total, United States Coast Guard	**9,361,052**	**9,970,491**	**9,968,326**	**10,238,691**	**877,639**	**9.4%**	**268,200**	**2.7%**

FEMA TRANSPORTATION GRANTS IN THE SENATE APPROPRIATIONS BILL

(Dollar amounts in thousands — excludes emergency funding from the FY 2009 stimulus act)

Federal Emergency Management Agency (excerpt)								
State and Local Programs (excerpt)	FY 2009	FY 2010	FY 2010	FY 2010	Senate vs. 2009		Senate vs. Request	
Discretionary Grants (excerpt)	Enacted	Request	House	Senate	K $$$	Pct.	K $$$	Pct.
Port security grants	400,000	250,000	250,000	350,000	(50,000)	-12.5%	100,000	40.0%
Rail and transit security grants	400,000	250,000	250,000	356,000	(44,000)	-11.0%	106,000	42.4%
Trucking security grants	8,000	-	-	-	(8,000)	-100.0%	-	n/a
Over-the-road bus security grants	12,000	-	12,000	-	(12,000)	-100.0%	-	n/a
Subtotal, Transportation Security Grants	**820,000**	**500,000**	**512,000**	**706,000**	**(114,000)**	**-13.9%**	**206,000**	**41.2%**

TRANSPORTATION SECURITY ADMINISTRATION FUNDING IN THE SENATE BILL

(Dollar amounts in thousands — excludes emergency funding from the FY 2009 stimulus act)

	FY 2009 Enacted	FY 2010 Request	FY 2010 House	FY 2010 Senate	Senate vs. 2009 K $$$	Senate vs. 2009 Pct.	Senate vs. Request K $$$	Senate vs. Request Pct.
Transportation Security Administration								
Aviation Security								
Screening Operations								
Screener workforce - Privatized Screening	*151,272*	*149,643*	*149,643*	*149,643*	*(1,629)*	*-1.1%*	*-*	*0.0%*
Screener workforce- PC&B	*2,716,014*	*2,788,575*	*2,788,575*	*2,758,575*	*42,561*	*1.6%*	*(30,000)*	*-1.1%*
Screener workforce - Total	2,867,286	2,938,218	2,938,218	2,908,218	40,932	1.4%	(30,000)	-1.0%
Screener training and other	197,318	203,463	204,713	203,463	6,145	3.1%	-	0.0%
Checkpoint support	250,000	128,739	128,739	128,739	(121,261)	-48.5%	-	0.0%
EDS/ETD procurement and installation	*294,000*	*856,591*	*800,000*	*806,669*	*512,669*	*174.4%*	*(49,922)*	*-5.8%*
EDS/ETD maintenance and other equipment	*305,625*	*326,625*	*316,625*	*326,625*	*21,000*	*6.9%*	*-*	*0.0%*
Operation integration	*21,481*	*21,481*	*21,481*	*21,481*	*-*	*0.0%*	*-*	*0.0%*
EDS/ETD systems - Total	621,106	1,204,697	1,138,106	1,154,775	533,669	85.9%	(49,922)	-4.1%
Subtotal, Screening Operations	3,935,710	4,475,117	4,409,776	4,395,195	459,485	11.7%	(79,922)	-1.8%
Aviation Security Direction and Enforcement					-		-	
Aviation regulation/other enforcement	245,268	254,064	254,064	254,064	8,796	3.6%	-	0.0%
Airport management, IT and support	401,666	448,424	453,924	448,424	46,758	11.6%	-	0.0%
FFDO and flight crew training	25,025	25,127	25,127	25,127	102	0.4%	-	0.0%
Air cargo security	122,849	108,118	122,849	115,018	(7,831)	-6.4%	6,900	6.4%
Airport perimeter security	4,000	-	-	-	(4,000)	-100.0%	-	n/a
Subtotal, Aviation Security Direction and Enforcement	798,808	835,733	855,964	842,633	43,825	5.5%	6,900	0.8%
Discretionary Fee Programs:					-		-	
General aviation at DCA	75	100	100	100	25	33.3%	-	0.0%
Indirect air cargo	200	2,600	2,600	2,600	2,400	1200.0%	-	0.0%
Certified cargo screening	-	5,200	-	5,200	5,200	n/a	-	0.0%
Large aircraft security program	-	1,600	-	1,600	1,600	n/a	-	0.0%
Secure identification display checks	-	10,000	-	10,000	10,000	n/a	-	0.0%
Other security threat assessments	-	100	-	100	100	n/a	-	0.0%
Subtotal, Discretionary Fee Programs	275	19,600	2,700	19,600	19,325	7027.3%	-	0.0%
9/11 Act Implementation	20,000	-	-	-	(20,000)		-	n/a
Aviation Security Capital Fund (mandatory)	250,000	250,000	250,000	250,000	-	0.0%	-	0.0%
Total, Aviation Security (gross)	**5,004,793**	**5,580,450**	**5,518,440**	**5,507,428**	**502,635**	**10.0%**	**(73,022)**	**-1.3%**
Discretionary Fee Collections:					-		-	
Discretionary Aviation Security Fees	(2,320,000)	(2,100,000)	(2,100,000)	(2,100,000)	220,000	-9.5%	-	0.0%
Other fees	(275)	(19,600)	(2,700)	(19,600)	(19,325)	7027.3%	-	0.0%
Mandatory Fee Collections:					-		-	
Aviation Security Capital Fund	(250,000)	(250,000)	(250,000)	(250,000)	-	0.0%	-	0.0%
Total, Aviation Security (net discretionary)	**2,434,518**	**3,210,850**	**3,165,740**	**3,137,828**	**703,310**	**28.9%**	**(73,022)**	**-2.3%**
Surface Transportation Security					-		-	
Staffing and operations	24,885	42,293	42,293	42,293	17,408	70.0%	-	0.0%
Rail security inspectors and canines	24,721	86,123	61,123	100,323	75,602	305.8%	14,200	16.5%
Total, Surface Transportation Security	**49,606**	**128,416**	**103,416**	**142,616**	**93,010**	**187.5%**	**14,200**	**11.1%**
Transportation Threat Assessment and Credentialing					-		-	
Secure Flight	82,211	84,363	84,363	84,363	2,152	2.6%	-	0.0%
Crew and other vetting (FY 09)	33,807	107,636	87,636	87,636	53,829	159.2%	(20,000)	-18.6%
Registered Traveler program fees	10,000	-	-	-	(10,000)	-100.0%	-	n/a
TWIC fees	9,000	9,000	9,000	9,000	-	0.0%	-	0.0%
Hazardous materials fees	18,000	15,000	15,000	15,000	(3,000)	-16.7%	-	0.0%
Alien flight school fees	3,000	4,000	4,000	4,000	1,000	33.3%	-	0.0%
Certified cargo screening	-	-	5,200	-	-	n/a	-	n/a
Large aircraft security program	-	-	1,600	-	-	n/a	-	n/a
Secure identification display checks	-	-	10,000	-	-	n/a	-	n/a
Other security threat assessments	-	-	100	-	-	n/a	-	n/a
Total, TTAC (gross)	**156,018**	**219,999**	**216,899**	**199,999**	**43,981**	**28.2%**	**(20,000)**	**-9.1%**
Offsetting fees for fee-funded programs	(40,000)	(28,000)	(44,900)	(28,000)	12,000	-30.0%	-	0.0%
Total, TTAC (net)	**116,018**	**191,999**	**171,999**	**171,999**	**55,981**	**48.3%**	**(20,000)**	**-10.4%**
Transportation Security Support					-		-	
Administration	234,870	248,929	248,929	248,929	14,059	6.0%	-	0.0%
Human Capital Services	218,105	226,338	226,338	226,338	8,233	3.8%	-	0.0%
Information Technology	472,799	501,110	489,510	496,110	23,311	4.9%	(5,000)	-1.0%
Intelligence (net)	21,961	28,203	28,203	28,203	6,242	28.4%	-	0.0%
Total, Transportation Security Support	**947,735**	**1,004,580**	**992,980**	**999,580**	**51,845**	**5.5%**	**(5,000)**	**-0.5%**
Federal Air Marshals					-		-	
Management and administration	725,081	762,569	762,569	762,569	37,488	5.2%	-	0.0%
Travel and training	94,400	97,542	97,542	97,542	3,142	3.3%	-	0.0%
Total, Federal Air Marshals	**819,481**	**860,111**	**860,111**	**860,111**	**40,630**	**5.0%**	**-**	**0.0%**
Total, Transportation Security Administration (gross)	**6,977,633**	**7,793,556**	**7,691,846**	**7,709,734**	**732,101**	**10.5%**	**(83,822)**	**-1.1%**
Mandatory fee collections:	**(250,000)**	**(250,000)**	**(250,000)**	**(250,000)**	**-**	**0.0%**	**-**	**0.0%**
Discretionary fee collections:	**(2,320,275)**	**(2,119,600)**	**(2,102,700)**	**(2,119,600)**	**200,675**	**-8.6%**	**-**	**0.0%**
Fee-funded accounts	**(40,000)**	**(28,000)**	**(44,900)**	**(28,000)**	**12,000**	**-30.0%**	**-**	**0.0%**
Total, Transportation Security Administration (net disc.)	**4,367,358**	**5,395,956**	**5,294,246**	**5,312,134**	**944,776**	**21.6%**	**(83,822)**	**-1.6%**

Administration Faces Pushback On Policy Changes In HTF Extension

Transportation Secretary Ray LaHood faced some pushback on and off Capitol Hill last week after his unexpected June 17 announcement that the Obama Administration will seek an 18-month extension of federal surface transportation programs, to include both a $17-18 billion influx of new money into the Highway Trust Fund and certain policy changes.

The public announcement was, made last Wednesday afternoon after a private meeting with House Transportation and Infrastructure chairman James Oberstar (D-MN) that, by all accounts, went spectacularly poorly.

At the annual DOT budget hearing before the Senate Appropriations Committee on June 18, the Administration's approach came in for bipartisan criticism.

Transportation-HUD ranking member Kit Bond (R-MO) didn't like how the announcement was handled, telling LaHood that:

> There appears to be a troublesome communication gap between the Administration, the Department of Transportation, OMB, and the Senate. We're hearing about major policy initiatives after they've been reported, without a heads-up from the Office of Governmental Affairs, Policy, or Public Affairs, in fact, the general public had access to the information before many of us did. In most cases, however, we're not hearing anything substantive regarding the transportation budget from the Administration.

LaHood told the panel that:

> We are proposing an immediate 18-month highway reauthorization that will replenish the Highway Trust Fund. Critical reforms are needed as a part of this process to help us make better investment decisions, including focusing on smarter investments in metropolitan areas, promoting the concept of livability to more closely link home and work. I urge Congress to pass this measure before the August recess so states do not risk losing the vital transportation funding they need and expect.

Transportation-HUD chairman Patty Murray (D-WA) had the following exchange with LaHood:

> Murray: Why is it necessary to reform the transportation programs in order to save the Highway Trust Fund over the short term?
>
> LaHood: Our feeling is that we at least need to have a discussion about this. Our number one priority is to work with OMB and the Congress to find the money to plug the Highway Trust Fund for the next eighteen months. During our discussions, we should at least talk about the way forward and begin discussions about some reforms. Whether we all can agree on what those are, and whether they can be enacted, but our number one priority will be to work with all of you to plug the Highway Trust Fund, to find the money to do this, and to pay for it. But we'd like for part of our discussion to be about reforms.
>
> Murray: Those are major reforms to our transportation system that you're asking us to define in a few short weeks of Congress and pass by August in order to get the Highway Trust Fund fixed. So, I mean, do you think Congress can enact major reforms in the five weeks we have before the August recess?
>
> LaHood: ...I believe that we can have discussions. Whether we can get to the point where we include these as a part of our fix for the Highway Trust Fund, we'll have to see, but let's throw it out there and have a discussion.
>
> Murray: I think discussions about how we reform our transportation system are important, but as a realist...I'm very concerned that the Highway Trust Fund being put into the mix of some major policy discussions won't see the light of day and what we'll end up with is that our states who are waiting for this money will get caught in that
>
> LaHood: Our number one priority is to fix the HTF, to pay for it, to find the money, and along the way here, if we can have discussions about these other things, I think we should.
>
> Murray: Conversations are great. Passing legislation is hard.

But the most biting criticism of the Administration's plan came from House Highways and Transit Subcommittee chairman Pete DeFazio (D-OR), who said "The administration of change has said the status quo is just fine."

The Administration's plan also got some interesting criticism from the association of state DOT's (AASHTO) last Friday. The short statement itself is printed below. But AASHTO was trying to walk a fine line — trying to express that the top priority is to keep funds flowing to states, whether through a short-term extension or through a multi-year bill, while at the same time staying on Oberstar's good side, since Oberstar is going to ignore the Administration's plan for as long as possible and push ahead with his six-year bill.

The AASHTO statement does not actually say it opposes an 18-month extension, and notes approvingly that the Obama Administration has acknowledged the need to fix the Trust Fund financing problem immediately.

But the statement also says that the Administration's idea to include program reform in an 18-month extension is a non-starter:, in the last paragraph (below).

AASHTO Statement on the Obama Administration's Plan to Address the Highway Trust Fund Default

The American Association of State Highway and Transportation Officials credits the Obama Administration for its recognition of the need to stabilize the funding for the nation's highway and transit programs. This will assure that we can continue to support jobs at this critical time, and hold on to the economic benefits from the investment being made by the American Recovery and Reinvestment Act, in transportation infrastructure. Additionally, for program stability and continuity, it is essential that the needed infusion of cash, flow directly through the existing Highway Trust Fund mechanism.

However, reforms are not appropriate to be considered as part of legislation to provide interim funding to stabilize the Highway Trust Fund. Major shifts in transportation policy should be considered in the comprehensive legislation currently under development in the House and Senate authorizing committees and not in legislative measures to provide interim funding.

FRA Issues High-Speed/Intercity Rail Project Selection Criteria

The Federal Railroad Administration issued its long-awaited selection rules for the $8 billion in high-speed and intercity passenger rail funding provided in the economic stimulus law last week.

On June 17, FRA released a 68-page notice (later to be published in the *Federal Register*) detailing the deadlines for applications for funding, the evaluation criteria to be used in project selection, and the types of projects to be funded.

The new program consolidates several existing and new programs: an appropriator-driven program for capital assistance to states for intercity passenger rail projects given $30 million in FY 2008 and $90 million in FY 2009; the $8 billion in high-speed and intercity passenger rail funding in the stimulus act; and the three programs established in the 2008 Amtrak authorization bill but not yet given any regular appropriated funding (intercity passenger rail capital assistance, high-speed rail corridor development, and congestion grants).

The FRA plan consolidates all of those programs and then divides projects into four "tracks" based on the intent and timing of their funding. Track #1 is intended to address the economic recovery aspect of the stimulus bill through (a) final design/construction of "ready-to-go" projects which have completed site-specific NEPA documentation, and (b) completion of project-level NEPA and preliminary engineering to prepare projects for final design/construction grants that may be available under future solicitations. Track 1 projects should be completed within two years of award.

Track 2 is more long-term and is expected to fund development of a set of inter-related projects that constitute the entirety or a distinct phase (or geographic section) of a long-range service development plan – projects which collectively produce benefits greater than the sum of each individual project. Not all projects need to be ready-to-go, and the groups of projects will be covered under letters of intent promising multi-year funding. These awards are contingent on a corridor-wide (not site-specific) NEPA process completion.

Track 3 uses previous appropriations for grants for advancing planning activities through FRA entering into cooperative agreements for preparation of planning and environmental documents.

Track 4 provides an alternative for projects that would otherwise fit under Track 1, but for state applicants offering at least a 50 percent non-Federal share of financing.

The table at the bottom of this page outlines the basic rules and available funds for the four tracks of rail grant application processes.

Once the applications are received (by the varying dates listed below), FRA must then evaluate all applications. The notice lays out a series of evaluation criteria (which are described in detail in the table on the following page) which are prioritized differently depending on which track the project is applying for (see the various priorities in the bottom half of the table on this page).

Using the evaluation criteria listed on the following page, FRA will give a numerical score from one to five for each application in each of the six evaluation criteria. (prioritized by track in the order listed in the chart below).

CONTINUED ON NEXT PAGE

RAIL PROJECTS UNDER FOUR "TRACKS"

	Track 1 Intercity Passenger Rail Projects funded under ARRA	Track 2 High-Speed/Intercity Rail Service Development Programs	Track 3 Planning Activities Funded by FY 2008-2009 Appropriations Acts	Track 4 FY 2009 Appropriations-Funded Projects
Fed. Cost share	Up to 100 percent	Up to 100 percent	50 percent	50 percent
Funded through	Grant or cooperative agreement	Letter of Intent or cooperative agreement	Cooperative agreement	Grant
Total Funding:	Portion of $8 billion	Portion of $8 billion	$9.54 million	At least $82.3 million
Preapplications due:	Midnight, July 10, 2009	Midnight, July 10, 2009	Midnight, July 10, 2009	Midnight, July 10, 2009
Full applications due:	Midnight, August 24, 2009	Midnight, October 2, 2009	Midnight, August 24, 2009	Midnight, August 24, 2009
Funds obligated by:	September 30, 2010	September 30, 2011	ASAP after selection	ASAP after selection
Project completion:	Within 2 years of obligation	September 30, 2017	Within 2 years of obligation	Within 5 years of obligation
Priority of Evaluation Criteria (see next page):				
Transportation Benefits	2	1	1	1
Econ. Recovery	1	5	n/a	n/a
Other Public Benefits	6	2	n/a	5
Project Management	3	3	2	2
Sustainability	5	4	n/a	3
Timeliness	4	6	3	4

Rail Projects

CONTINUED FROM PAGE 20

After that, once each application has its numerical score, FRA will use a set of new "selection criteria" to select projects. There are four such selection criteria:

- **Region/location.** The goal is to ensure regional balance, balance amongst large and small population centers, integration into the nationwide transportation network, and focus stimulus money on economically distressed areas.
- **Innovation.** The goals are to new technology and innovation where the public return on investment is favorable, while ensuring delivery of near-term transportation, public and recovery benefits, promote domestic industry, and develop the technical capacity needed for sustainable high-speed rail development.
- **Partnerships.** The goal is to emphasize corridors with multi-state partnerships and to ensure diversity and DBE participation.
- **Preservation of funding for the future.** This involves limiting the amount of the $8 billion released for Track 1 stand-alone projects to ensure that plenty of money is left for the Track 2 corridors later on.

These selection criteria give FRA license to disregard the results of the numerical scores on the evaluation criteria if need be.

The notice states that "FRA anticipates making multiple awards under each of the four Tracks. While the entire $9,540,500 under Track 3 and at least $82,352,573 under Track 4 may be awarded, FRA may choose not to award through this solicitation the full amount available for Tracks 1 and 2, to allow for potential future rounds of solicitations and awards which occur after 2009. There is no predetermined allocation between Tracks 1 and 2 or between this and any future solicitations; all such distributions will cumulatively reflect the nature and timing of the selected applications…"

Persons or interests who don't like how FRA has structured the competition in the notice have until July 10 to submit public comments on the notice.

Public Return on Investment

Evaluation Criteria	Example Factors	Key Documentation
1. Transportation Benefits	*Improved Intercity Passenger Rail service *Transportation network integration (including intermodal connections) *Transportation safety benefits	*Service Development Plan (including business case; assessment of benefits and public investment)
2. Economic Recovery	*Preserving and creating jobs - particularly in economically-distressed areas	*Quantitaive output measures (service - reliability, schedule, capacity; and transportation -passenger-miles, including sources - aviation, highway, induced)
3. Other Public Benefits	*Environmental quality *Energy efficiency *Livable communities	

Project Success Factors

Evaluation Criteria	Example Factors	Key Documentation
1. Project Management Approach	*Organizational Capacity *Track record of comparable projects *Adequacy of Engineering *Reasonableness of schedule *Progress towards NEPA compliance *Thoroughness of management plan	*Project management plan
2. Sustainability of Benefits	*Sufficiency of safety and security planning *Sufficiency of stakeholder agreements *Reasonableness of financial estimates *Availability of operating financial support *Quality of planning process	*Financial Plan (capital and operating) *Stakeholder agreements

Other Attributes

Evaluation Criteria	Example Factors	Key Documentation
1. Timeliness of Project Completion	*Project readiness *Reasonableness of completion schedule	*Project schedule

NEW AND NOTABLE ON THE INTERNET

House T&I Surface Transportation Bill

The text of chairman Oberstar's proposed bill is available here:
http://transportation.house.gov/Media/file/Highways/HPP/OBERST_044_xml.pdf

The 90-page "blueprint" summarizing the bill is here:
http://transportation.house.gov/Media/file/Highways/HPP/Surface%20Transportation%20Blueprint.pdf

And the video of the abbreviated June 18 press conference announcing the bill is here:
http://transportation.edgeboss.net/wmedia/transportation/20090618pr.wvx

Federal Railroad Administration

The FRA Notice requesting high-speed and intercity passenger rail applications is here:
http://www.fra.dot.gov/Downloads/RRDev/HSIPR_Guidance_6-16-09-WEB.pdf

Homeland Security Appropriations

The text of the Senate Homeland appropriations bill (S. 1298) is online here:
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s1298pcs.txt.pdf

And the text of the accompanying committee report is here:
http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:sr031.111.pdf

Senate Appropriations Committee

Both archived video of Secretary LaHood's hearing before the THUD subcommittee last week, and the Senate 302(b) allocations, can be viewed through links on this page:
http://appropriations.senate.gov/

STATUS OF PENDING TRANSPORTATION-RELATED NOMINATIONS

Agency	Nominee	Position	Senate Committee	Latest Action
Department of Transportation	Polly Trottenberg	Assistant Secretary for Transportation Policy	Commerce, Science and Transportation	Nomination transmitted 6/8/09
DOT-Federal Highway Administration	Victor Mendez	Administrator	Environment and Public Works	Nomination placed on the calendar 6/10/09
DOT-Federal Motor Carrier Safety Admin.	Anne Ferro	Administrator	Commerce, Science and Transportation	Nomination announced 6/4/09
DOT-National Highway Traffic Safety Admin.	Charles Hurley	Administrator	Commerce, Science and Transportation	Nomination reportedly will be withdrawn
Federal Maritime Commission	Richard Lidinsky, Jr.	Commissioner	Commerce, Science and Transportation	Nomination transmitted 6/18/09
National Transport. Safety Board	Deborah Hersman	Chairman	Commerce, Science and Transportation	Nomination transmitted 6/18/09
Department of the Army	Jo-Ellen Darcy	Assistant Secretary for Civil Works	Armed Services *and* Enviro. & Public Works	Nomination placed on the calendar 6/16/09

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P. O. Box 661
Front Royal, VA 22630

Email: mail@transportationweekly.com

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Please send comments or corrections to: Mail@transportationweekly.com

THIS WEEK IN COMMITTEE

Tuesday, June 23, 2009 - Senate Commerce, Science and Transportation - Subcommittee on Surface Transportation and Merchant Marine - subcommittee hearing on high-speed passenger rail - *2:30 p.m., SR-253 Russell.*

House Rules - full committee hearing on a special rule for consideration of H.R. 2892, Department of Homeland Security appropriations act for FY 2010 - *5:00 p.m., H-313, The Capitol.*

Wednesday, June 24, 2009 - House Transportation and Infrastructure - Subcommittee on Highways and Transit - subcommittee markup of the "Surface Transportation Authorization Act of 2009" - *11:00 a.m., 2167 Rayburn.*

Thursday, June 25, 2009 - House Appropriations - Subcommittee on Energy and Water Development - subcommittee markup of the FY 2010 Energy and Water appropriations act - *9:00 a.m., 2362-B Rayburn.*

Senate Environment and Public Works - full committee hearing on the effects of Highway Trust Fund insolvency - *10:00 a.m., SD-406 Dirksen.*

House Ways and Means - Subcommittee on Oversight and Investigations and Subcommittee on Select Revenue Measures - joint subcommittee hearing on highway and transit investment needs - *10:30 a.m., 1100 Longworth.*

House Transportation and Infrastructure - full committee hearing on the 120-day progress report for transportation stimulus funding - *11:00 a.m., 2167 Rayburn.*

STATUS OF MAJOR TRANSPORTATION BILLS — 111th CONGRESS

BILL	HOUSE ACTION	SENATE ACTION	RESOLUTION
FY 2009 Omnibus Appropriations Act	H.R. 1105 passed House 2/25/09 by a vote of 245-178	H.R. 1105 passed Senate 3/10/09 by voice vote	Public Law 111-8 3/11/09
Economic Stimulus Appropriations & Tax Cuts	H.R. 1 conference report passed House 2/13/09 by 246-183-1	H.R. 1 conference report passed Senate 2/13/09 by a vote of 60-38	Public Law 111-5 2/17/09
FY 2010 Congressional budget resolution	H. Con. Res. 85 passed House 4/2/09 by vote of 233-196	S. Con. Res. 13 passed Senate 4/2/09 by vote of 55-43	Conference report (H. Rept. 111-89) agreed to 4/29/09
FY 2010 Transportation-HUD Appropriations	Subcommittee markup scheduled for 7/15/09		
FY 2010 Energy and Water Appropriations	Subcommittee markup scheduled for 6/25/09		
FY 2010 Homeland Security Appropriations	H.R. 2892 reported 6/16/09 H. Rept. 111-157	S. 1298 reported 6/18/09 S. Rept. 111-31	
Federal Aviation Admin. Reauthorization Bill	H.R. 915 passed House 5/22/09 by a vote of 277-136		
Surface Transportation Reauthorization Bill	Subcommittee markup of draft bill scheduled for 6/24/09		
Water Resources Development Act			
FY 2010 Coast Guard Authorization			
Transportation Security Admin. Reauthorization	H.R. 2200 passed House 6/4/09 by a vote of 397-25		