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Legislative Schedules
Week of July 6, 2009

House

Wednesday and the balance of the week — meets at 10 a.m. (9 a.m. Friday) — H.R. 2965, small business R&D, H.R. 2701, intelligence authorization, H.R. 2997, FY 2010 agriculture appropriations, H.R.3081, State-Foreign Operations appropriations, and H.R. 3082, Military Construction-VA appropriations (all subject to rules).

Senate

The Senate will convene at 9:30 a.m. today for morning business and thereafter will resume consideration of H.R. 2892, FY 2010 Homeland Security appropriations.

Inside This Issue

July Will Be Pivotal Month For Surface Bill(s)

The next three-and-a-half weeks will be pivotal in determining how Congress proceeds with the twin tasks of bailing out the federal Highway Trust Fund (again) to ensure that it does not run out of cash in the short-term, and reauthorizing federal surface transportation programs so that funding does not lapse at the start of the next fiscal year on October 1.

There is a sharp divide between the way that the Obama Administration, Senate leaders and House leaders want to handle these interlinked situations, and this divide is centered around their differing approaches toward a multi-year surface transportation reauthorization bill.

To sum up: the White House and the Senate want to delay action on the multi-year bill by at least a year, while the House chairman wants to forge ahead with a bill as quickly as possible, with a markup of a bill by the Transportation and Infrastructure Committee late this month if possible.

In the interim, there are three different legislative components in play during the month of July, with differing deadlines and purposes, possibly leading to an end-of-the-month showdown between the House and Senate.

The three components are:

Bailout. The Department of Transportation has notified Congress that the Highway Account of the Highway Trust Fund will, in all likelihood, run out of cash around the third or fourth week of August.

If the Highway Account runs out of cash, the Federal Highway Administration will have to delay reimbursements of state DOTs for money that the states have already paid to contractors for federal-aid road projects.

The Obama Administration wants to handle this problem the same way the problem was handled in September 2008, the last time the Highway Account ran out of money — by bailing out the Trust Fund with a transfer of money from the general fund of the Treasury.

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Administration Releases Infrastructure Bank Plan

Last week, the Obama Administration released a two-page outline of its downsized plans for the creation of a National Infrastructure Bank (NIB).

The outline makes several changes from the NIB that was proposed in the Administration's budget several months ago. It lowers the amount of money requested for the NIB in fiscal year 2010 from $5 billion to $2 billion and proposes to focus the Bank on transportation-related infrastructure, at least at first, instead of on all kinds of infrastructure.

The House Appropriations Subcommittee on Transportation and HUD is scheduled to meet next Monday to unveil their version of the FY 2010 "THUD" appropriations bill, in which it will become clear if the NIB gets its $2 billion, or less money, or no money this year. And if they appropriators fund the NIB, they will also have to establish some sort of implementing legislation in their bill, as no NIB legal authority yet exists.

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July Agenda

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FHWA estimates that an immediate bailout of between $5 billion and $7 billion will be needed to give the Highway Account enough cash to get through the end of the fiscal year on September 30. Such a bailout cannot be done administratively—Congress has to pass a law transferring the funds.

Because Congress is scheduled to go on a five-week recess after its business is concluded on Friday, July 31, that date is considered to be the deadline for the House and Senate passing some kind of bailout to send to the President.

The Obama Administration wants the bailout to be larger, because just getting to September 30 is not enough — more money would be needed for subsequent months as fiscal year 2010 starts. The Administration has asked for $20 billion — $18 billion for the Highway Account and $2 billion for the Mass Transit Account — to get the Trust Fund through March 31, 2011 at present spending levels.

But only the first $7 billion has a true July 31 action deadline — the rest of the money could be provided in pieces, starting in September. (But politically, many in Congress feel that with "bailout fatigue" a factor in other areas, it would be easier to make one big transfer rather than several smaller ones.)

It is not quite clear whether or not a bailout has to originate in the House of Representatives and bear an H.R. bill number. It does not appear that a stand-alone bailout would be a "bill raising revenue" that would be required by the Constitution to originate in the House. But because a bailout bill appropriates money from the general fund to the Trust Fund, it could (arguably) be considered an appropriations measure, which the House has always insisted it alone has the right to originate. The precedents on this do not appear entirely clear.

THREE PIECES OF THE PUZZLE

These three items could move separately or be packaged together

Item	Origination	Deadline
Extension of program contract authority and Trust Fund expenditure authority	Can bear either H.R. or S. bill number	September 30
Bailout (transfer of funds from general fund to Trust Fund)	Unclear	July 31
Offset (revenue increase to offset cost of the Trust Fund bailout)	Must bear an H.R. bill number	Unclear

Offset. The September 2008 bailout of the Trust Fund was not offset by any reductions in other spending or revenue increases. But the White House wants the next bailout to be offset and says that "The Administration will work with Congress to identify revenue-raising measures that will reimburse the general fund for the transfer over ten years."

(*Ed. Note:* the fact that the Administration announced last week that they would allow an offset to take place over ten years, rather than during the time period that the money is to be spent, shows that the Administration is not as serious about paying for the bailout as they once seemed to be. Because allowing a ten-year repayment window means that the House Ways and Means and Senate Finance Committees now have it easy — they can report any number of ludicrous offsets that purport to raise an extra $20 billion in taxes starting in FY 2017, knowing that they will have four or five different opportunities between now and 2017 to repeal the offset if the federal fiscal situation improves between now and then.)

Any revenue raising offset would, under the Constitution, have to originate in the House and bear an H.R. bill number.

However, a revenue bill presents a problem in the Senate. In general , House and Senate leaders try to keep the number of House-originated revenue bills to a minimum and keep them off the Senate floor as much as possible because, under Senate rules, if any revenue bill comes to the floor (even one with a strictly limited $20 billion offset taking effect in 2017), then any other tax-related amendment can be offered and voted on.

This would open the door to a potentially limitless number of debates — extending or repealing the Bush tax cuts, payroll tax cuts for economic stimulus, taxing health care benefits, more taxes on the Bad Banking Executives — you name it. Debate on tax legislation in the Senate takes on a life of its own — which is why Senate leaders try to deal with revenue bills only through the budget reconciliation process whenever possible, which limits debate time and germane amendments.

Some in the Senate believe that once the White House realizes that including a revenue offset in the Trust Fund bailout package will attract other tax provisions that could threaten parts of the Administration's agenda, the White House will back off from its demand that the bailout be offset — or, at least, agree to decouple the bailout from the offset and allow an offset to be passed as part of a larger tax package down the road.

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July Agenda

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Extension. Even if the House were to move a multi-year surface transportation extension bill as fast as possible, everyone involved in the process will admit (privately, if not publicly) that it is impossible to get a bill that large through the Senate (where jurisdiction is split between three spending committees and one revenue committee) and negotiated with the White House by September 30, when the funding authorizations under the 2005 SAFETEA-LU law expire.

Some sort of extension will clearly be necessary, for two reasons. First of all, no new contract authority will be provided to states (or be available to pay salaries at DOT) starting on October 1 unless an extension or other authorization is signed into law by that point. Second, a provision in the Internal Revenue Code (sec. 9503(c)(1)) shuts down all payments out of the Trust Fund for any reason after September 30, 2009. So any extension has to (a.) provide new contract authority for any programs needing it that are to be continued into 2010, and (b.) need to amend the cutoff date on Trust Fund expenditures in the tax code.

The Trust Fund cutoff is a one-line fix, but the other parts of any extension are rather complicated — there are a lot of different programs that need individual line-items of money, or waiver extensions, or other items imply to keep all programs going the way they are right now.

The 2003 extension passed at the expiration of the TEA21 law was 53 pages of bill text. So far, the staff of the House Transportation and Infrastructure Committee has been focused on the panel's multi-year bill and has not given any attention to drafting an extension. Staffers on the Senate Environment and Public Works Committee have been trying to work on a draft bill for a possible committee markup as early as next week.

An extension as described above does not have to originate in the House — even though the Trust Fund cutoff is in the Internal Revenue Code, amending the date does not make a bill a "bill raising revenue." The short-term extension leading up to TEA21 in 1997-1998 was a Senate bill (S. 1519, 105th Congress). (If the taxes supporting the Trust Fund were about to expire, that would be a different matter, but those taxes aren't scheduled to expire until September 2011.

Although the deadline for passing extension legislation is not until September 30, the Obama Administration has expressed a strong preference for packaging all three items — the extension, the bailout, and the offset — together as one bill, which would move the passage deadline up to July 31, the date by which at least the first $7 billion of the bailout must be provided.

There is no magic duration of an extension — the Administration proposes eighteen months, through March 2011. House Transportation and Infrastructure chairman James Oberstar (D-MN), who desperately wants to move his multi-year bill through the House as soon as possible, naturally opposes a long extension. Eighteen months, in particular, would push the deadline for the next bill or extension back past the end of the current 111th Congress to the 112th Congress. So Oberstar's interests will be served by shortening the duration of the extension as much as possible.

State DOTs would prefer an minimum extension of at least six months so that they will have decent-sized apportionments of new contract authority, and they would prefer at least a year. A twelve-month extension would put the next expiration date shortly before the 2010 midterm elections. A fifteen-month extension would push the expiration date to December 31, 2010. (Many observers feel that the best opportunity to get the votes in Congress for the gas and diesel fuel tax increase necessary to pay for a "real" highway bill would be in a lame-duck session after the 2010 midterm elections, a la 1982.)

There is a long tradition in Congress of short-term surface transportation extensions being "clean" (meaning free of changes in current policy). But the White House has proposed several relatively minor changes in current policy and a few new programs costing over $300 million as part of its "Stage I Reauthorization" eighteen-month proposal (printed on the following page).

Some of the changes sought by the Administration are so minor that if they had been presented a few months ago, the issue could have been framed in such a way that they could have been worked into a supposedly "clean" extension. But at this late stage, every Administration policy proposal sticks out like a sore thumb and will require bipartisan, bicameral unanimity for inclusion.

So, the issues for an extension are duration, cleanliness, and whether or not the extension is combined with the other two floating items.

Oberstar's goals will be served if the bailout is handled separately from an extension. If the House Democratic leadership backs him on this (the Speaker has taken no public stand on that), the stage would be set for an end-of-the-month showdown.

This would be a version of a game played occasionally on Capitol Hill called "Who Leaves Town Last." If the House passes a bailout bill (with or without an offset) that does not contain a program extension, the Senate is free to add an extension to that bill — unless the House leaves for the August recess before the Senate can act, leaving the Senate with a take-it-or-leave-it situation. Likewise, if the Senate waits until July 30 or 31 to send the House a program extension with a bailout (but no offset) and then leaves town, the House could be forced to accept the Senate bill.

Obama Administration Principles For Surface Transportation Extension

ADMINSITRATION PROPOSAL FOR STAGE I REAUTHORIZATION

This document outlines the Administration's proposal for the first stage of surface transportation reauthorization, consisting of an 18-month plan to address the Highway Trust Fund shortfall and implement discrete, leading-edge capacity-building measures that a long-term reauthorization should expand upon. The following are the Administration's core principles for this proposed 18-month reauthorization, which should be considered "Stage I" of the broader reauthorization process:

- A general fund transfer to the Highway Trust Fund is necessary to maintain its solvency.
- The general fund transfer should be paid for. The Administration will work with Congress to identify revenue-raising measures that will reimburse the general fund for the transfer over ten years.
- Stage I reauthorization should include State and MPO capacity-building measures. These measures are a "downpayment" on longer-term improvements in data-driven decision making, transparency, and accountability.
- As appropriate, the Stage I reauthorization should include measures to improve regional mobility and access and enhance the livability of all communities.

HIGHWAY TRUST FUND SOLVENCY

Analysis by the Department of Transportation shows the Highway Trust Fund running short of cash in late August or early September of this year. To extend the program 18 months at the baseline funding level will require $18 billion for the highway account and $2 billion for the transit account. Legislation to address the HTF shortfall should pass before August recess to avoid disruptions to state cash management and further strain on state budgets.

The Administration believes this transfer should be repaid to the general fund over the next ten years. A revenue measure that repays the general fund contemporaneously (i.e., over the two year period) is not feasible given the economic situation and the pressing needs of the transportation system. Instead, the Administration would support a range of options, including international tax enforcement proposals the President included in his budget.

DOWNPAYMENT ON REFORM

Although an extension of the HTF is urgent, the Administration believes that this opportunity can be used to put in place a limited set of carefully thought-out reforms that can form the basis for further reforms in a full six-year reauthorization.

Investing for Performance

The Administration strongly supports improving investment decisions at the federal, state, and local levels of government. Establishing performance goals and basing project selection on merit criteria will increase returns to transportation investment, which have fallen precipitously in recent decades. The following are concrete reform proposals with 18-month costs:

Improving state and MPO project evaluation capacity (Cost: $300 million). The Administration proposes funding to help states and localities build capacity for collection and analysis of data on transportation goals. States and MPOs that choose to participate would be given funding to establish project evaluation infrastructure, including information on usage or ridership, accidents and fatalities, average speeds and travel times, and environmental impacts. This voluntary program would provide participating entities the opportunity to integrate analysis into investment decisions and prepare for improved accountability standards and merit criteria in the long-term reauthorization.

Improving project assessment tools (Cost: $10 million). As states and localities build informational and analytic capacity, the federal government must work to refine assessment tools and develop standards for cross-modal comparisons of projects. The Administration proposes funding for USDOT to develop performance goals and establish guidelines for states and localities on project evaluation.

Increasing transparency in state and local public reporting (Cost: Low). The Administration also proposes stronger requirements for tracking and reporting on the projected and actual outcomes of transportation investments that use federal dollars. These requirements would include information on project costs, timelines, and selection process as well as expected and actual outcomes of individual projects. Improved reporting requirements would increase the transparency of transportation spending and improve state and local decision-making. These requirements would also lay the groundwork for further accountability reforms in the long-term reauthorization.

Regional Access and Livability Initiatives

The Administration supports efforts to improve regional access and mobility and enhance the livability of communities. Possible reforms in Stage I reauthorization could include:

- Regional Access: developing guidelines for multimodal regional access plans, establishing local transportation governance standards and best practices, and funding approved multimodal access plans.
- Livability: developing guidelines for community plans and providing funding for approved projects with special emphasis on convenience of transportation options, reductions in travel times, smart growth, preservation of open space, and more integrated responses to land use and transportation needs.

Infrastructure Bank

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Dollar amount. The outline blames the Congressional budget resolution for the reduction in funding for the NIB from $5 billion to $2 billion. However, most appropriators make it a point of pride to ignore as many budget resolution recommendations as they possibly can, since only the top-line discretionary total ($1.09 trillion in FY 2010 budget authority) is binding on the appropriators, not the programmatic assumptions.

A better answer is that the spending in the stimulus act made the full $5 billion unnecessary this year.

Focus on transportation. The earlier proposal for the NIB was vague on what kinds of infrastructure projects would be funded. The new outline says that "The Infrastructure Bank should target transportation and transportation-affiliated projects that emphasize smart land use, economic development, intermodalism, energy conservation, and other priorities of our modern infrastructure system." However, it then says that in future years, the focus of the Bank could be expanded to include other types of infrastructure.

The only bill introduced in Congress so far this year is H.R. 2521, by Rep. Rosa DeLauro (D-CT) and 36 cosponsors. However, the Administration plan effectively torpedoes the DeLauro bill because H.R. 2521 emphasizes a NIB that funds environmental, energy and telecommunications infrastructure projects in addition to transportation infrastructure projects — to the point that the House Parliamentarian gave primary jurisdiction over the bill to the House Energy and Commerce Committee, not the Transportation and Infrastructure Committee.

Legislation to authorize a transportation and water infrastructure-focused NIB was introduced in the last Congress as S. 1926 (110th Congress) by Senate Banking chairman Chris Dodd (D-CT) and a companion measure was introduced in the House as H.R.3401 (110th Congress) by Rep. Keith Ellison (D-MN).

Organized within DOT. The budget proposed to create the NIB as an independent agency. But the new outline proposes that the Bank "be housed as an independent entity within DOT" to be headed by a board of finance experts nominated by the President and confirmed by the Senate.

But the decision to house the NIB within DOT will doubtless prejudice the Bank to keep its focus on transportation in future years, despite the Administration's stated willingness to expand future eligibility to non-transportation projects. And housing the Bank within DOT may force a functional reclassification of the Bank's appropriations — the budget originally proposed to place the bank in budget functional category 450 (community development). But focusing the Bank on transportation and housing it at DOT would probably make OMB and CBO reclassify the money under function 400 (transportation).

Types of assistance. The outline proposes that, in addition to the usual combination of direct loans and loan guarantees associated with an infrastructure bank, that the NIB be allowed to give away outright grants of funding as well (which does not sound very bank-like and which would, presumably, need to be coordinated closely with other DOT grant programs to prevent overlap). The outline also makes clear that "The Administration does not support Bank authority to borrow independently from private capital markets, since Treasury is the sole entity that borrows on behalf of the federal government and can do so more cheaply and efficiently than any other entity."

Project size. The outline proposes that the minimum project size for a project getting NIB assistance will be $25 million, saying that "This relatively low project threshold is consistent with the fundamental principle of merit-based selection and would allow the Bank to choose the most valuable of a broad array of projects. The low threshold would also help make Bank funding accessible to all potential applicants, whether large or small, urban or rural."

The following page reprints the full Obama Administration outline for the NIB.

Comparing the Proposed NIB With the Current TIFIA Program

	TIFIA	NIB (proposed)
Federal appropriation:	$122 million (FY09)	$2.0 billion (FY10)
Type of eligible project:	Highway, transit, inter-city bus or rail, some intermodal freight facilities	All of TIFIA plus multi-modal projects emphasizing land use planning
Minimum project size:	$50 million or 1/3 of annual state highway apportionment ($15m for ITS projects)	$25 million
Governance:	Within USDOT	Independent under USDOT
Types of assistance	Direct loans and loan guarantees	Direct loans, loan guarantees, and grants

Obama Administration Outline of National Infrastructure Bank

DESIGN OF THE NATIONAL INFRASTRUCTURE BANK

BACKGROUND

The current process for federal infrastructure investment stems from a time when construction of the national highway system was the nation's primary infrastructure objective. The highway system enabled the efficient movement of goods, people, and ideas across the nation. In the past half-century, however, our nation's infrastructure investment needs have changed significantly. Energy, water, and telecommunications have joined the list of pressing infrastructure priorities. Within transportation, greater demand for transportation options like transit, rail, and aviation has increased the need for projects that connect different modes. The growth of urban areas has been accompanied by increases in accident rates, congestion, freight delays, and pollution.

Several barriers hinder the ability of federal infrastructure programs to address these challenges:

- Cost effectiveness evaluations of projects are often done poorly or are limited to comparing projects of like kind.
- Federal programs fail to consider the impact of infrastructure decisions on other sectors or broader policy goals. For instance, highway construction is viewed solely as a transportation project, with little attention to the project's implications for economic development, land use and energy conservation.
- Regional projects that cross state lines are often neglected in the formula-driven allocation and decision model of infrastructure spending.
- Federal transportation funds in particular are siloed by mode, with separate programs for highways, bridges, rail, and transit. This stovepiping makes it difficult to fund intermodal transportation projects or compare projects of different modes.

BANK PURPOSE AND OBJECTIVES

Given the nation's diverse infrastructure needs—including energy, water, transportation, and telecommunications—the Administration proposes the establishment of a National Infrastructure Bank with an initial focus on transportation-related investments and flexibility to expand to other sectors over time. This approach will help target resources to the federal transportation funding system, which is particularly in need of bold reform at this time. In the meantime, the Recovery Act and other funding will help clarify the highest-value approaches to investing in other sectors.

The purpose of the Infrastructure Bank is to establish a new direction in federal infrastructure investment: one that supports regionally and nationally significant, high-value projects funded through a merit-based selection process. The Bank would fund relatively large and transformative projects currently underfunded by the allocation process, including:

- Projects that cross state and local jurisdictions, such as freight and passenger rail;
- Projects that integrate sectors and policy goals, such as highway projects that consider land use and economic development; and
- Projects that cross transportation silos, such as bridge construction that includes a rail line and harbor dredging.

Merit-based project selection would be a fundamental principle of the national Infrastructure Bank. The Bank would compare projects of different modes, incorporating cost effectiveness and equity considerations into its decisions.

BANK DESIGN PRINCIPLES

The budget resolution adopted by Congress includes $2 billion this year and $5 billion next year for a national Infrastructure Bank. President Obama has outlined broad design principles on the focus, governance structure, and financing mechanisms of the Infrastructure Bank. The Obama Administration will work with Congress to establish specific policies and practices for the Bank.

- **Sectors for investment: Transportation & transportation-affiliated projects.** The Infrastructure Bank should target transportation and transportation-affiliated projects that emphasize smart land use, economic development, intermodalism, energy conservation, and other priorities of our modern infrastructure system. Focusing on cross-modal transportation projects with special attention to broader economic and environmental impacts would allow for effective targeting of Infrastructure Bank dollars. It would also direct funds to high-value projects that are difficult to finance in the existing system. As the Infrastructure Bank grows over time, its scope could expand to more sectors.
- **Project size: Low minimum threshold.** The Administration proposes a $25 million minimum threshold on project size. This relatively low project threshold is consistent with the fundamental principle of merit-based selection and would allow the Bank to choose the most valuable of a broad array of projects. The low threshold would also help make Bank funding accessible to all potential applicants, whether large or small, urban or rural.
- **Governance and structure: Independent entity within DOT.** Political independence is critical to the success of an Infrastructure Bank. For this reason, the Administration proposes that the Bank be housed as an independent entity within DOT, consistent with the proposed Bank focus on transportation and transportation-affiliated projects. The Bank would be governed by a board of non-governmental advisors with proven expertise in infrastructure, appointed by the President and confirmed by the Senate. Similar to the role of the IRS Oversight Board, the Bank board would lend expertise and insight to project selection, approve final selection decisions, and protect the Bank from internal and external political pressures.
- **Financing mechanisms: Combination of grants and credit products.** A flexible set of financing tools would allow the Bank to provide the most appropriate form of financing to a given project. The Administration would allow the Bank to offer a combination of grants and credit products like direct loans and loan guarantees. The Administration does not support Bank authority to borrow independently from private capital markets, since Treasury is the sole entity that borrows on behalf of the federal government and can do so more cheaply and efficiently than any other entity.

Obama Nominates USDOT CFO, STB Chairman

On July 6, the White House announced that President Obama will make two more transportation-related nominations: Chris Bertram to be Assistant Secretary of Transportation for Budget and Programs (and CFO of the Department) and Daniel Elliott III to be Chairman of the Surface Transportation Board.

Longtime *TW* reader Bertram brings a diverse background to the post. On surface transportation issues, he helped coordinate the Bush (I) White House policy on the 1991 ISTEA law as the OMB budget examiner for federal highway and transit programs from 1989-1996. He was the House point man for the 1998 TEA21 law as the majority staff director for the House Highways and Transit Subcommittee from 1996-2000. And he was the principal GOP staffer on the Senate Commerce Committee for surface transportation issues during the forming of the 2005 SAFETEA-LU law (having held a variety of positions on that panel including staff director of the Surface Transportation Subcommittee from 2003-2007).

And on aviation issues, Bertram served as the Assistant FAA Administrator for Financial Services and CFO of the FAA from 2001-2003 and has served as the head GOP staff person on aviation issues for the Commerce Committee since 2007. He also served at DOT in 1988-1989 as a policy and budget analyst in the Office of the Secretary and oversaw the FAA as OMB budget examiner.

Bertram holds a bachelors degree from Trinity University in San Antonio, TX and a masters in public policy from Harvard University (where he also served as a Presidential Management Intern).

Elliott is an attorney who has served as associate general counsel of the United Transportation Union, the largest U.S. railroad operating union, since 1993, representing interests of the UTU and its members before the STB, the National Mediation Board, the National Labor Relations Board, the Department of Labor and federal courts.

Elliott has a bachelors degree from the University of Michigan and a law degree from Ohio State.

With the previous confirmation of Joe Szabo to head the Federal Railroad Administration, Elliott's confirmation will put all federal railroad regulation in the hands of UTU executives. (*Ed. Note:* we picture our friend, the late lamented UTU National Legislative Director Jim "Brokenrail" Brunkenhoefer, pulling strings from the Great Beyond, smiling.)

House DOT Appropriations Bill Set For Subcommittee Markup Next Monday

The House Subcommittee on Transportation-HUD Appropriations has moved up its tentative schedule for marking up its draft appropriations bill for those agencies for fiscal year 2010. The revised date is now next Monday, July 13, at 7 p.m.

The markup should reveal the broad outlines of the bill (though the details won't become clear until shortly before the full Appropriations Committee marks up the bill later in the month).

The big question, of course, is how the subcommittee chooses to divide up the $68.8 billion in budget authority given to it by the full committee. Although the Obama Administration's budget request (as scored by the Congressional Budget Office) adds up to $68.9 billion, the Administration has since downsized its request for a National Infrastructure Bank from $5 billion to $2 billion, which lowers the size of the budget request to $65.9 billion and allows opportunity to fully fund the budget request and to grow some programs above the request.

It will also be interesting to see how the subcommittee deals with its outlay allocation — the subpanel at present only has permission for outlays totaling $408 million less than the President's request. The full committee may increase the outlay allocation, and the subcommittee may shift funds from fast-spending operational programs to slower-spending capital programs in order to meet its outlay allocation (while hoping to switch back if the outlay allocation is increased in House-Senate conference).

Another open item is how the bill will treat federal highway, transit and highway and motor carrier safety programs. These programs are unique in that they are funded via contract authority (not regular appropriations) but the appropriators then set limitations on how much of that contract authority can be obligated in a given year. But since no extension of those programs has yet been enacted, there is no contract authority in place for FY 2010, and in many cases there will be nothing to limit.

The Obama Administration requested small (one percent) increases in these programs over the FY 2009 spending levels in its budget request, and if the appropriators want to do more, they would have to work with the authorizing committees to increase funding in whatever short-term extension winds up getting passed.

The Senate Transportation-HUD subcommittee is tentatively scheduled to mark up its draft bill on Tuesday, July 21, with the full committee markup to follow on Thursday, July 23.

FHWA Releases $201.5 Million in Emergency Relief Highway Funds

Transportation Secretary Ray LaHood announced on July 6 that the Federal Highway Administration was releasing $201.5 million in highway funding to states, territories and federal lands under the emergency relief highway and bridge repair program.

"Restoring transportation routes is vital for communities recovering from disaster," Secretary LaHood said. "It is the first step to getting peoples' daily lives back on track."

The funds will reimburse states to fix or replace highways, bridges and other roadway structures such as traffic signals and signs, guardrails and lighting damaged by natural or other disasters. Also eligible are costs associated with detours, debris removal and other immediate measures necessary to restore traffic flow in impacted areas.

The emergency relief program receives $100 million per year in mandatory funding outside the appropriations process (the amount has stayed the same since 1978, even as the cost of highway and bridge repairs has skyrocketed — Had the ER mandatory money been indexed to CPI inflation starting in 1978, the program would be at $328 million per year today, not $100 million, and if it had been indexed to the actual construction cost index, it would be even higher). Congress routinely has to supplement this money with additional appropriations, the last of which was $850 million in the first FY 2009 continuing appropriations resolution (P.L. 110-329).

The $201.5 million includes a few big-ticket items — $27.5 million for repairs following the bit January 2009 ice storm in Kentucky, $24.1 million after a January 2009 storm in Washington, $17 million more for Katrina repairs in Mississippi and $16 million for Louisiana for continuing Gustav fallout.

The list also includes $16.8 million to fix more problems at the Devil's Lake Basin in North Dakota (the supplemental appropriation bill passed last month included a provision allowing the state to spend more than $10 million of prior allocations in a given year on Devil's Lake.

July 2009 FHWA Emergency Relief Highways Allocations

Alabama	March 2009 Heavy Rainfall	300,000	
	May 2009 Heavy Rainfall	1,400,000	1,700,000
Alaska	May 2005 Flooding	2,477,025	
	September 2005 Storm Surge and Flooding	409,140	
	August 2006 Storms	1,152,605	
	May 2009 Spring Thaw, Ice-jams, and Severe Flooding	2,500,000	6,538,770
American Samoa	January 2004 Tropical Cyclone Heta	8,000,000	8,000,000
Arkansas	January 2009 Ice Storm	9,849,056	9,849,056
Illinois	September 2008 Storms and Flooding	1,086,599	1,086,599
Indiana	June 2008 Midwest Flooding	400,000	400,000
Iowa	May - June 2007 Storms and Flooding	526,442	
	June 2008 Midwest Flooding	2,870,218	3,396,660
Kentucky	January 2009 Ice Storm	27,513,433	
	May 2009 Flooding	2,832,858	30,346,291
Louisiana	September 2008 Hurricane Gustav	16,027,935	16,027,935
Mississippi	August 2005 Hurricane Katrina	17,000,000	
	March 2009 Popps Ferry Bridge Damage	3,000,000	20,000,000
New Hampshire	May 2006 Rainfall and Flooding	206,222	206,222
New York	July 2008 Severe Storms	3,378,737	
	December 2008 Ice Storm	3,781,548	7,160,285
North Carolina	November 2006 Storm	2,479,372	2,479,372
North Dakota	Spring 2009 Devils Lake Basin Flooding	16,800,000	
	Spring 2009 Statewide Flooding	4,000,000	
	Spring 2009 West James Basin Flooding	4,000,000	24,800,000
Tennessee	January 2009 Severe Winter Weather	1,023,183	1,023,183
Virgin Islands	October 2008 Hurricane Omar	730,591	730,591
Washington	December 2007 Rainfall and Flooding	4,798,000	
	May 2008 Flooding	7,500	
	July 2008 I-5/SR 11 Overpass Truck Crash	1,000	
	November 2008 Storm	300,000	
	January 2009 Storm	24,138,682	29,245,182
Federal Lands Agencies	Includes Arkansas March 2008 storms (Ouachita and Ozark-St. Francis National Forest); Colorado Winter 2007-2008 storms (San Juna National Forest); Maine July 2007 storms (White Mountain National Forest); Texas September 2008 Tropical Storm Lowell (Big Bend National Park); and numerous other storms causing damage to national parks and forests and Indian lands around the country.	38,500,000	38,500,000
Total		201,490,146	201,490,146

DOT Adds Vegas-to-SoCal Line To Eligible HSR Corridor List

The U.S. Department of Transportation announced on July 2 that DOT and the states of California and Nevada had agreed to extend the California High-Speed Rail Corridor to include a spur from the Los Angeles area to Las Vegas.

Making the Las Vegas spur a part of the California corridor (one of ten officially designated HSR corridors in the U.S.) will make Nevada HSR projects eligible for a much larger share of the $8 billion high-speed rail appropriation from the economic stimulus law.

An unknown (but large) percentage of that $8 billion will be reserved for projects, or programs of projects, on the ten official corridors.

Senate Majority Leader Harry Reid (D-NV) said that the action "will create jobs at a time when Nevada needs them the most, increase tourism and reduce our reliance on foreign oil."

NEW AND NOTABLE ON THE INTERNET

Bureau of Transportation Statistics

BTS recently issued a good report on the status of U.S. container ports:
http://www.bts.gov/publications/americas_container_ports/2009/pdf/entire.pdf

Federal Highway Administration

The Highway Trust Fund financial results for June should soon be put online, here:
http://www.fhwa.dot.gov/highwaytrustfund/index.htm

Federal Railroad Administration

FRA has already updated its snazzy high-speed rail corridor map to include the new addition of the Southern California to Las Vegas line:
http://www.fra.dot.gov/Downloads/RRdev/hsrmap-lv.pdf

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
Department of Transportation	Chris Bertram	Assistant Secretary for Budget and Programs	Commerce, Science and Transportation	Nomination announced 7/6/09
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
National Transport. Safety Board	Christopher Hart	Member for a term expiring 12/31/2012	Commerce, Science and Transportation	Nomination transmitted 6/25/09
Surface Transportation Board	Daniel Elliott	Chairman	Commerce, Science and Transportation	Nomination announced 7/6/09
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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Please send comments or corrections to: Mail@transportationweekly.com

THIS WEEK IN COMMITTEE

Tuesday, July 7, 2009 - Senate Banking, Housing, and Urban Affairs - Subcommittee on Housing, Transportation, and Community Development - subcommittee hearing on public transportation as a solution to climate change - *9:30 a.m., SD-538 Dirksen.*

Senate Commerce, Science and Transportation - Subcommittee on Oceans, Atmosphere and Coast Guard - subcommittee hearing on Coast Guard oversight - *10:00 a.m., SR-253 Russell.*

Senate Environment and Public Works - full committee business meeting to report pending nominations - *2:30 p.m., location immediately off the Senate floor TBD.*

House Appropriations - full committee markup of FY 2010 Energy and Water Development appropriations bill and Financial Services appropriations bill - *7:00 p.m., 2359 Rayburn.*

Wednesday, July 8, 2009 - Senate Appropriations - Subcommittee on Energy and Water Development - subcommittee markup of draft FY 2010 appropriations bill - *10:00 a.m., SD-124 Dirksen.*

House Transportation and Infrastructure - Subcommittee on Economic Development, Public Buildings, and Emergency Management - subcommittee hearing on GSA's Capital Leasing program - *2:00 p.m., 2167 Rayburn.*

Senate Commerce, Science and Transportation - full committee business meeting to mark up legislation including S. 1194, Coast Guard reauthorization, and S. 1308, MARAD reauthorization - *2:00 p.m., SR-253 Russell.*

Senate Commerce, Science and Transportation - full committee hearing on nominations, including those of Polly Trottenberg (Asst. SecDOT for Transportation Policy), Debbie Hersman (NTSB chairman), and Richard Lidinsky (FMC Commissioner) - *immediately following the full committee markup, SR-253 Russell.*

Thursday, July 9, 2009 - House Transportation and Infrastructure - Subcommittee on Coast Guard and Maritime Transportation - subcommittee hearing on the National Maritime Center and mariner credentials - *10:00 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 7/13/09	Subcommittee markup scheduled for 7/21/09	
FY 2010 Energy and Water Appropriations	Full committee ordered draft bill reported on 7/7/09	Subcommittee markup scheduled for 7/8/09	
FY 2010 Homeland Security Appropriations	H.R. 2892 passed House 6/24/09 by a vote of 389-37	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	Draft bill may be introduced in the Senate next week	
Surface Transportation Reauthorization Bill	Subcommittee marked up draft bill on 6/24/09		
Water Resources Development Act			
FY 2010 Coast Guard Authorization		Full committee markup scheduled for 7/8/09	
Transportation Security Admin. Reauthorization	H.R. 2200 passed House 6/4/09 by a vote of 397-25		