

THE LEGISLATIVE SERVICES GROUP'S

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Tuesday, September 15, 2009

Legislative Schedules

Week of September 14, 2009

House

Tuesday — meets at noon — 16 measures under suspension of the rules plus a resolution relating to Rep. Joe Wilson.

Wednesday and Thursday— meets at 10 a.m. — H.R. 3246, advanced vehicle technology, and H.R. 3221, student loan reform.

Senate

The Senate convened at 10 a.m. today and resumed consideration of H.R. 3288, Transportation-HUD appropriations for FY 2010.

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Senate Begins Debating USDOT Appropriations Bill \$77 Billion For USDOT Is On Fast Track For Senate Passage By End Of This Week (Hopefully) and Signature By the President By September 30

The U.S. Senate is currently considering the annual Department of Transportation Appropriations bill. Under the Senate version of the bill, DOT would have a \$77.0 billion budget for fiscal year 2010.

The legislation came to the Senate floor last Thursday, though substantive action on the legislation has been slow, as there were no votes on the Senate floor last Friday, or before 5:30 p.m. yesterday, or after 3:00 p.m. today.

Today, Senate Transportation-Housing Appropriations chairman Patty Murray (D-WA) said she fully intends to finish

action on the legislation and pass the House bill (H.R. 3288) with the Senate version as an amendment by the end of tomorrow.

However, Murray alone cannot guarantee this — to get the bill to final passage tomorrow would require the unanimous consent of all 100 Senators.

Murray could conceivably get the bill passed by the end of the week or early next week via the cloture process with its 60-vote threshold, but it would be far easier to accommodate the requests of bill opponents for up-or-down votes on their selected amendments.

House and Senate appropriators intend to get the “THUD” bill, and the other four FY 2010 general appropriations bills already passed by the Senate (Agriculture, Energy and Water, Homeland Security, and Legislative Branch) through their individual House-Senate conference committees and to the President’s desk for signature by September 30, meaning that the agencies funded by those bills (which includes virtually all federal transportation and public works funding) would not be dependent on the year-end stopgap continuing resolution.

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Senate May Soon Take Up 18-Month Highway Bill

The Senate hopes to take up legislation late this week or early next week extending funding authorizations for federal surface transportation programs for eighteen months and appropriating an extra \$19.8 billion from the general fund of the Treasury to the Highway Trust Fund in order to pay for spending out of the Trust Fund through March 31, 2011.

The legislation was reported out of three different Senate committees and consists of four different bills (S. 1496, S. 1498, S. 1533, and S. 1474). However, those four pieces have been consolidated into one substitute which is expected to be offered as a floor amendment to a House-passed bill (see below).

The House Transportation and Infrastructure

and Ways and Means Committees are now working on their own extension legislation to be considered on the House floor in the next two weeks.

The Senate legislation would extend the status quo of fiscal 2009 funding provided by the 2005 SAFETEA-LU law which expires on September 30, 2009.

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However, the Senate bill would not fund any special earmarked projects in 2009 — rather, the amount of earmarked money allocated each state in 2009 pursuant to SAFETEA-LU would be given to that state in FY 2010 in a lump sum to use as the state uses its STP formula money.

It should be noted that the funding levels authorized for FY 2010 by the Senate extension are the same as the FY 2009 levels authorized by SAFETEA-LU (save some small increases in salary accounts to allow for annual pay raises). But these levels are not necessarily the same as those appropriated by the Appropriations Committees in 2009, or in the pending FY 2010 appropriations bills.

For example, the level of obligation limitation on the federal-aid highway program was written into SAFETEA-LU as \$41,199,970,178 for FY 2009. But the Appropriations Committees only provided \$40,700,000,000 for 2009, and for FY 2010, both the House and Senate versions of the Transportation-HUD appropriations bill provide \$41,107,000,000 (the amount requested by the President). This means that if the House accepts the Senate funding level in the extension, and if the House and Senate appropriations conferees obey the longstanding rules about not changing items which are identical in both House-passed and Senate-passed version of a bill, then the authorizers and appropriators are in a race to finish last. If the extension bill gets signed into law after the Transportation-HUD bill, then highway spending will be \$93 million higher in FY 2010; if THUD crosses the President's desk second, highway spending will be \$93 million lower.

The same situation applies to Federal Transit Administration formula and bus grants — the extension would provide a 2010 funding

FUNDING OBLIGATIONS UNDER THE SENATE EXTENSION

The draft Senate extension bill assumes or provides for the following amounts of obligation authority for fiscal year 2010 and one-half of the following levels for fiscal 2011.

FY 2010 Highway Obligation Limitation	\$41.200 billion
FY 2011 Assumed 12-Month Level	\$41.200 billion
FY 2010 Exempt Highway Obligations	\$739 million
FY 2011 Assumed 12-Month Level	\$739 million
FY 2010 FTA Obligations from HTF	\$8.361 billion
FY 2011 Assumed 12-Month Level	\$8.361 billion
FY 2010 NHTSA Obligations from HTF	\$737.5 million
FY 2011 Assumed 12-Month Level	\$738.7 million
FY 2010 FMCSA Obligations	\$546.8 million
FY 2011 Assumed 12-Month Level	\$549.2 million
TOTAL FY 2010 HTF OBLIGATIONS	\$51.584 billion
TOTAL ASSUMED FY 2011 HTF OBS.	\$51.587 billion

HIGHWAY TRUST FUND BAILOUTS IN THE SENATE BILL

Transfer to Highway Account	\$15.0 billion
Transfer to Mass Transit Account	\$4.8 billion

In addition, the bill would allow HTF balances to again earn interest, effective on the date of enactment.

level \$17.4 million higher than either the House or Senate Appropriations Committee intends to provide.

The situation is reversed for highway safety programs, as there are a lot of salaries in those accounts. The levels provided from the Highway Trust Fund for the National Highway Traffic Safety Administration for 2010 in the extension are \$8.5 million than in the Senate appropriations bill (though both the House and Senate THUD bills beef up NHTSA with extra general fund appropriations). However, Federal Motor Carrier Safety Administration funding from the Trust Fund under the Senate extension is about \$3 million below the House THUD bill and \$1.7 million below the Senate THUD bill.

The Senate is currently waiting to

complete consideration of (as fate would have it) the Transportation-HUD bill (H.R. 3288) before attempting to move to the surface transportation extension. The majority leadership expressed their intention to finish the THUD bill by the close of business tomorrow; however, that may slip to Thursday (there are no votes in the Senate scheduled for this Friday).

This makes floor action on the extension more likely next week, after the draft bill is "hotlined" (made available to all 100 Senate offices in an attempt to get a unanimous consent agreement for consideration or, failing that, to figure out who the objectors are going to be so negotiations can begin in hopes of smoothing things out) later this week or early next week.

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Four problem areas with the extension legislation exist, described here in no particular order.

Duration. The Senate leadership has acquiesced to the White House's request for an eighteen-month extension (though both the chairman and ranking member of the highway subcommittee, Max Baucus (D-MT) and George Voinovich (R-OH), prefer a shorter duration). After many months of saying that he will not accept any extension at all, House Transportation and Infrastructure chairman James Oberstar (D-MN) had leadership meetings last week, after which sources indicate it was tentatively decided to move forward with an extension of three months.

Three months would give Oberstar more time to report his draft \$450 billion, six-year transportation out of committee and work with Ways and Means to find a way to raise the \$100+ billion in new taxes or fees necessary to pay for the bill.

Oberstar's best argument against an eighteen-month extension is this: there is no way that a new Congress, freshly sworn in on January 3, 2011, and not really showing up for work until after the State of the Union address in late January, can draft, vet, reconcile, and finalize a bill of this size anew by March 31, 2011. Which would necessitate another extension (or two, or more) and you wind up wasting another fiscal year. (Also, the chance that the GOP might actually take back the House in the 2010 midterm elections is still very small but is no longer at zero.)

Oberstar will fight for as short an extension as possible. One area of middle ground would be the spring or summer of 2010. This is because the extension is not just about extending funding — title IV of the Senate legislation also adds additional general fund moneys to the Trust Fund (the third time this has happened in the last year).

The \$7 billion bailout of the Trust Fund approved by Congress before the August recess is currently projected to support the highway program until June 2010, at which the Highway Account of the Trust Fund (which now spends \$10 billion more than it takes in during each fiscal year — truly unsustainable cash flow in a \$42 billion per year program) will need another bailout.

Any extension lasting longer than June 2010 would need another bailout in order to be complete. A shorter extension could dispense with the GF-to-HTF transfers.

Transfer amounts. The Senate bill adds money to the Trust Fund in three ways:

1. Section 403 of the bill transfers \$7.3 billion from the general fund to the Highway Account of the HTF to reimburse the Trust Fund for appropriations taken from the HTF for emergency relief highway spending over a period of years (even though the real number is actually a bit smaller and despite the fact that those appropriations were authorized by law).
2. Section 402 of the bill transfers \$7.7 billion from the general fund to the Highway Account and \$4.8 billion to the Mass Transit Account to reimburse the Trust Fund for interest not paid on balances starting in FY 1999 under the provisions of the TEA21 law, which wrote down balances and stopped interest in exchange for the extra RABA highway spending which set the program on its unsustainable path. A calculation from DOT gave an admittedly uncertain estimate of \$14.7 billion for the HTF-HA and \$4.8 billion for the HA; apparently the last \$7 billion bailout was deducted from this.
3. Section 401 of the bill allows Trust Fund balances to earn interest once again prospectively. (There is no scoring available to estimate how much this provision will raise, as it depends on the size of future balances, which are

unknowable, and the interest rates that the Chinese are willing to pay for U.S. T-bills several years down the road, which is also unknowable.)

These transfers may prove politically problematic, as "bailout fatigue" has already begun to set in for legislators, and a shorter extension means fewer, if any, bailout dollars have to be passed at this time.

Legislative vehicle. The Senate extension is drafted as an amendment in the nature of a substitute to an unnumbered and unnamed House bill. This is because there is the possibility that someone in the House could raise a "blue slip" concern.

The Constitution says that "All Bills for raising revenue" must originate in the House of Representatives, and the House jealously guards this prerogative and often asserts that it applies not just to bills increasing or lowering taxes or tariffs but also to legislation touching on the tax code less materially. Which is why the possibility exists that someone opposed to the Senate extension could raise an objection on the House floor, since the authorizing law for the Highway Trust Fund is located in the Internal Revenue Code.

(Ed. Note: We don't think that any court would overturn title IV of the Senate extension on Origination Clause grounds. But the privileges of the House are not what the Supreme Court says they are — they are whatever 218 members of the House say they are. For example, there is nothing in the Constitution that gives the House the sole right to originate appropriations bills. But James Madison got the House to assert that right very early on and never back down, and it became tradition.)

And House members are free to assert the privilege on a bill even if they have let an identical bill slide in the past (see the pre-TEA21 extension of surface transportation

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programs (S. 1519, 105th Congress) which the House passed unanimously even though section 9 of that bill also extended the Highway Trust Fund provisions of the tax code).

In order to prevent any possible blue slip problems, Senate leaders have been seeking to find an unrelated bill bearing a H.R. bill number which has already passed the House and which amends the tax code in some form. The surface transportation extension will then be substituted for that legislation.

(Ed. Note: The dirty little secret is, if party leaders are united, blue slipping is no longer a big problem in the House. Changes made to rule IX in 1993 require all resolutions presenting a question of privilege — including Origination Clause blue slips — to sit two legislative days before coming up for debate, unless the Majority Leader or Minority Leader offers the resolution. If a Senate bill that arguably violates the Origination Clause is received and passed by the House during those two days, it then becomes too late to raise a blue slip issue. So the Speaker, Majority Leader and Minority Leader acting jointly are now able to prevent any of the other 432 members of the House from asserting this privilege in a timely manner.)

Rescission/PAYGO. Potentially the biggest problem facing the Senate extension is section 103 of the draft bill, which repeals section 10212 of the SAFETEA-LU law. Section 10212 is scheduled to repeal \$8.708 billion in highway contract authority apportioned to states on September 30, 2009. At the time, it was thought that this provision would not affect actual outlays from the Treasury (only the “play money” that is contract authority above and beyond the annual obligation limitation.

But as the Appropriations Committee made a habit of using large

rescissions of “CA” to meet the budget authority side of their spending ceilings in recent years, states often took disproportionate shares of this money from programs they did not like or which were difficult to spend — like CMAQ air quality funding and transportation enhancements for bike paths, roadside beautification, etc., which are some of the big priorities of Chairman Oberstar.

Oberstar forced through a change in law in 2007 designed to make states take future rescissions more or less proportionately from all formula highway programs. But the unintended consequence of this is that states stand to lose real money when the rescission is implemented on September 30, because \$2.639 billion per year of total highway formula apportionments are special “no-year” equity bonus funding that states can use at any time, forever, with indefinite flexibility. Rescinding that money actually cuts state budgets and (presumably) results in layoffs or reductions in future hiring.

A notice from FHWA dated August 31 indicated that states had about \$656 million in total “real money” subject to this rescission. States are trying to spend this money as fast as possible, but the Congressional Budget Office estimate recently estimated that about \$490 million would remain unobligated and be rescinded on September 30 — real money, with a real economic impact on the highway program of certain states. The burden is not distributed

evenly, as some states are more dependent on equity bonus than others.

A list of the amount of the rescission of non-expiring equity bonus funds, as estimated by FHWA on August 31, by state, is on the following page.

Senators on the Environment and Public Works Committee, in particular, have been eager to get the rescission repealed, and the state

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CONTRACT AUTHORITY PROVIDED BY THE SENATE BILL

Step 1: How Much Gross Contract Authority Was Provided By SAFETEA-LU (Pre-Rescissions) In FY 2009?

FHWA CA*	\$ 42,943,445,059
FTA CA	\$ 8,360,565,000
NHTSA CA	\$ 729,000,000
FMCSA CA	\$ 541,000,000
Total FY 2009 SAFETEA-LU CA (Gross)	\$ 52,574,010,059

Step 2: How Does the Senate Bill Increase Spending For Salary-Paying Administrative Accounts in 2010-2011?

Minus FY 2009 FHWA Admin. Expenses:	\$ (423,717,460)
Plus Senate FY 2010 FHWA Admin:	\$ 422,425,000
Plus Senate FY 2011 FHWA Admin:	\$ 217,023,500
Minus FY 2009 NHTSA Hwy Safety R&D:	\$ (105,500,000)
Plus Senate FY 2010 NHTSA HS R&D:	\$ 107,329,000
Plus Senate FY 2011 NHTSA HS R&D:	\$ 54,122,201
Minus FY 2009 NHTSA Nat'l Driver Reg.:	\$ (4,000,000)
Plus Senate FY 2010 NHTSA NDR:	\$ 4,078,000
Plus Senate FY 2011 NHTSA NDR:	\$ 2,058,537
Minus FY 2009 NHTSA Administration:	\$ (18,500,000)
Plus Senate FY 2010 NHTSA Admin:	\$ 25,047,000
Plus Senate FY 2011 NHTSA Admin:	\$ 12,664,206
Minus FY 2009 FMCSA Admin. Expenses:	\$ (234,000,000)
Plus Senate FY 2010 FMCSA Admin:	\$ 239,828,000
Plus Senate FY 2011 FMCSA Admin:	\$ 121,076,000

Step 3: Add Up the Total Contract Authority Created by the Senate 18-Month Extension Bill:

FY 2009 CA total**	\$ 8,708,000,000
FY 2010 CA total	\$ 52,586,999,599
10/1/2010 - 3/31/2011 CA total	\$ 26,301,090,744
Total CA Created by the Senate Bill	\$ 87,596,090,343

*The FY 2009 FHWA numbers do not include \$100 million in mandatory emergency relief contract authority, which will be provided under 23 USC 125 even if the rest of the highway program shuts down and is never renewed, nor does it include the \$143 million in CA created by the FY 2009 omnibus appropriations bill for the TCSP program, even though this funding is continued in the CBO baseline, because the Senate bill specifically only extends funds "authorized" by SAFETEA-LU or other authorization laws.

**Sec. 103 of the draft Senate bill repeals sec. 10212 of SAFETEA-LU. Sec. 10212 is currently set to repeal \$8.708 billion of highway contract authority on 9/30/09. By repealing the rescission, the Senate bill then is scored as creating \$8.708 billion in new contract authority in FY 2009.

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DOTs are also eager to get the provision repealed as fast as possible (in addition to the real dollars lost, the proportional application of the rescission is proving to be a real nightmare for program implementation, as it removes the ability to transfer funds back and forth between highway programs that states have long enjoyed).

Rescinding the rescission would seem to be an easy enough fix, except for this unavoidable fact: if a budgetary event is scheduled to take place under existing law, then any proposal to change that law is held responsible for the cost of the changes to that budgetary event. In this instance, repealing section 10212 has been scored by the Congressional Budget Office as adding \$490 million to the federal deficit

over ten years. This violates the House and Senate's internal PAYGO budget rules. (The whole bill is also a gigantic violation of section 302(f) of the Budget Act by adding \$12.1 billion in contract authority per year above the spending baseline, but that is not scored as altering the deficit.)

Under the PAYGO rules, the bill must either contain a tax or fee increase sufficient to raise \$490 million over ten years or else contain offsetting spending cuts from mandatory (not discretionary) programs that would reduce outlays by \$490 million over ten years.

In the Senate, there is a widely used procedure whereby any Senator can make a motion from the floor to waive this and other budget rules, which requires 60 votes. With bipartisan leadership support on the Public Works Committee and the support of the Majority Leader, this will not be a problem.

But in the House, PAYGO is a big deal, particularly for "Blue Dog" Democrats. (If you care, or claim to care, about the federal deficit, and your leadership has forced you to swallow a \$700 billion Wall Street bailout, a \$400 billion mortgage bailout, a \$787 billion stimulus bill, three AMT patches, and a pending \$1 trillion health care bill, you fight even harder on the small PAYGO fights you can win.)

House aides indicate that no waiver of the PAYGO rule is likely to be forthcoming, which would require an offset (except that the only sizeable program within T&I jurisdiction on the mandatory side of the scorecard are railroad retiree pensions, which are unlikely to be cut).

For these reasons, it will be very interesting to see how Oberstar's forthcoming three-month extension addresses the rescission issue, if the bill addresses it at all.

TOTAL NON-LAPSING EQUITY BONUS MONEY SUBJECT TO RESCISSION ON SEPTEMBER 30, 2009 - AS OF FHWA NOTICE N4510.711 DATED AUGUST 31, 2009

Alabama	\$12,597,379	Louisiana	\$8,121,477	Oklahoma	\$8,121,883
Alaska	\$14,035,759	Maine	\$0	Oregon	\$3,850,855
Arizona	\$17,637,753	Maryland	\$6,111,906	Pennsylvania	\$19,732,583
Arkansas	\$8,521,174	Massachusetts	\$3,089,256	Rhode Island	\$0
California	\$44,783,684	Michigan	\$17,022,218	South Carolina	\$13,892,828
Colorado	\$6,234,160	Minnesota	\$9,720,239	South Dakota	\$4,001,141
Connecticut	\$9,511,473	Mississippi	\$5,616,271	Tennessee	\$16,473,097
Delaware	\$1,812,650	Missouri	\$16,740,308	Texas	\$80,289,563
Dist. of Col.	\$232,603	Montana	\$9,124,972	Utah	\$4,421,573
Florida	\$53,985,123	Nebraska	\$2,362,116	Vermont	\$132,587
Georgia	\$35,168,194	Nevada	\$5,092,602	Virginia	\$19,491,627
Hawaii	\$810,891	New Hampshire	\$2,132,874	Washington	\$3,462,815
Idaho	\$6,543,258	New Jersey	\$18,106,027	West Virginia	\$8,417,746
Illinois	\$22,521,333	New Mexico	\$6,205,099	Wisconsin	\$19,141,976
Indiana	\$25,081,523	New York	\$17,275,189	Wyoming	\$3,144,520
Iowa	\$4,051,266	North Carolina	\$21,732,512	Total E.B.	\$656,316,271
Kansas	\$1,601,083	North Dakota	\$2,055,854		
Kentucky	\$11,373,854	Ohio	\$24,729,397		

Note: states are trying to "spend down" this money as fast as possible. Once the books close on September 25, the amounts will be recalculated. CBO may also change its scoring of the outlays associated with the rescission at that time.

Summary of Draft Senate Surface Transportation Extension

Sec. 1. Short title; table of contents. Cites the Act as the Surface Transportation Extension Act of 2008. Provides a table of contents.

TITLE I—FEDERAL-AID HIGHWAYS

Sec. 101. In general. (a) Provides an elastic clause generally extending all “requirements, authorities, conditions, eligibilities, limitations, and other provisions” under the highway titles of SAFETEA-LU, other authorization laws, and title 23 U.S.C. through March 31, 2011. (b) Authorizes the appropriation of money from the Highway Account of the Highway Trust Fund equal to the gross FY 2009 SAFETEA-LU level for FY 2010 and one-half of the FY 2009 level for the first half of FY 2011. (c) Provides an elastic clause saying that the newly authorized funds “shall be distributed, administered, limited, and made available for obligation in the same manner and at the same level” as those exiting in FY 2009. Provides that such authorizations shall be calculated without regard to rescissions of contract authority in FY 2009 under SAFETEEA-LU or any other law. Provides that such authorizations shall be contract authority and shall be subject to the obligation limitation of \$41.2 billion per year in sec. 1102(a)(5) of SAFETEA-LU. (d) Provides that instead of adding funding to earmarks under secs. 1301, 1302, 1307, 1702 and 1934 of SAFETEA-LU and 23 U.S.C. 144(f), identical sums shall be apportioned each state as under the STP program. Provides an elastic clause allowing the Secretary to discontinue funding for any specific project or program funded by SAFETEA-LU that has been completed or has served its purpose, with money saved to be redistributed to states. (e) Extends authorizations under title V (research) of SAFETEA-LU.

Sec. 102. Administrative expenses. Authorizes contract authority for FHWA administrative expenses for FY 2010 and the first half of FY 2011 at rates that will allow standard federal pay raises.

Sec. 103. Rescission of unobligated balances. Repeals sec. 10212 of SAFETEA-LU (the \$8.708 billion rescission of highway contract authority scheduled to take effect on September 30, 2009).

TITLE II—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, AND ADDITIONAL PROGRAMS

Sec. 201. Extension of National Highway Traffic Safety Administration highway safety programs. Provides new contract authority for all NHTSA programs funded out of the Highway Trust Fund for FY 2010 at the FY 2009 level and for FY 2011 at one-half of the FY 2009 level except that accounts that pay NHTSA salaries get small increases to allow for annual pay increases.

Sec. 202. Extension of Federal Motor Carrier Safety Administration programs. Provides new contract authority for all FMCSA programs for FY 2010 at the FY 2009 level and for FY 2011 at one-half of the FY 2009 level except that accounts that pay NHTSA salaries get small increases to allow for annual pay increases.

Sec. 203. Additional programs. Extends authorizations for hazardous materials research projects and the Dingell-Johnson Sports Fish Restoration Act.

TITLE III—PUBLIC TRANSPORTATION PROGRAMS

Sec. 301. Allocation of funds for planning programs. Extends the allocation of planning funding (82.72 percent for metropolitan planning and 17.28 percent for state planning) through March 31, 2011.

Sec. 302. Special rule for urbanized formula grants. Extends the special rule in 49 USC 5307(b)(2) relating to areas that dipped below 200,000 in population between the 1990 Census and the 2000 Census until March 31, 2011.

Sec. 303. Allocating amounts for capital investment grants. Extends the \$200 million per year set-aside for small starts and the \$15 million per year Alaska-Hawaii ferry, and Denali Commission set-asides within the Capital Investment Program and the other ferry, fuel cell bus, intermodal terminal and bus testing set-asides within the bus and bus facility programs for FY 2010 and (at half the funding levels) for the first six months of FY 2011.

Sec. 304. Apportionment of formula grants to other than urbanized areas. Extends the Indian reservation set-aside from the non-urbanized formula program at FY 2009 levels through March 31, 2011.

Sec. 305. Apportionment based on fixed guideway factors. Extends the formula for fixed guideway modernization apportionment in 49 USC 5337 through March 31, 2011.

Sec. 306. Authorizations for public transportation. Authorizes \$8.361 billion in contract authority from the Mass Transit Account for the Formula and Bus Grant program for FY 2010 and half that amount for the first six months of FY 2011 and extends all sub-allocations in 49 U.S.C. 5338(b) at the same rates. Extends the authorizations for general fund appropriations for other FTA programs at the FY 2009 levels

Sec. 307. Amendments to SAFETEA-LU. Extends all expiring pilot programs authorized by the SAFETEA-LU law through March 31, 2011. Extends the obligation ceiling for all FTA programs through March 31, 2011 at the FY 2009 annualized levels.

TITLE IV—REVENUE PROVISIONS RELATING TO HIGHWAY TRUST FUND

Sec. 401. Repeal of provision prohibiting the crediting of interest to the Highway Trust Fund. Amends 26 U.S.C. 9503(f) to allow the balances of the Highway Trust Fund to once again earn interest on balances invested in Treasury securities, effective immediately.

Sec. 402. Restoration of certain foregone interest to the Highway Trust Fund. Appropriates \$7.7 billion from the general fund to the Highway Account of the Highway Trust Fund and appropriates \$4.8 billion from the general fund to the Mass Transit Account of the Highway Trust Fund.

Sec. 403. Replenishment of emergency spending from Highway Trust Fund. Appropriates \$7.3 billion from the general fund to the Highway Account of the Highway Trust Fund.

Sec. 404. Treatment of certain amounts appropriated to Highway Trust Fund. Provides that sums appropriated from the general fund to the Trust Fund under this Act or prior bailout statutes shall be available indefinitely.

Sec. 405. Extension of authority for expenditures from Highway Trust Fund. Extends expenditure authority from the Highway Trust Fund through April 1, 2011 and allows funds to be expended from the Trust Fund to pay for obligations incurred under this Act.

DOT Appropriations

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Under this plan, a “CR” would still be needed for agencies funded under the other seven appropriations bills that the Senate has not yet begun to consider. And if the Senate actually takes up health care and cap-and-trade this fall, there is a high probability that several, if not all, of those remaining seven bills will not be considered separately by the Senate and will have to be consolidated into some kind of omnibus appropriations measure.

As of press time (5 p.m. EDT on Tuesday, September 15) the Senate had only disposed of two amendments to the Transportation-HUD bill:

- A McCain (R-AZ) amendment (#2375) to transfer all earmarked funds in the bill to the FAA for Next Generation air traffic control purposes, which was tabled (killed) by a vote of 68 to 26, and
- A Johanns (R-NE) amendment (#2355) to prevent any funds in the bill from going to the community organizing group ACORN or its subsidiaries, which was agreed to by a wide and bipartisan vote of 83 to 7.

The Johanns vote was particularly amusing. Democrats in the Senate were able to fend off identical amendments offered earlier this year to the stimulus bill and the national service bill by votes of 45 to 51 and 43 to 53, but once the “yea” votes on Johanns approached 50, Democrats started switching sides, and both Murray and Majority Leader Reid voted “yea” which gave other Democrats cover.

The camel-vertebrae-fracturing point was a series incidents in the last seven days: indictments of Florida ACORN workers for voter registration fraud, the Census Bureau disinviting ACORN from participating in outreach for the 2010 Census, and several hilarious hidden camera videos taken by conservative activists dressed in outland-

ish pimp-and-”ho” costumes showing ACORN mortgage advisors in several different offices telling them how to fib on their mortgage applications to set up a brothel for underage Central American prostitutes.

(*Ed. Note:* Vitter, who started the crusade against ACORN, deferred to Johanns and was not present for the debate and vote on the amendment, perhaps because the subject matter of the hidden camera videos made him an inapt point man on this issue at this time.)

Speaker Pelosi through the Rules Committee has prevented the House from voting on similar amendments in the past, but the wide vote margin in the Senate, and the very real possibility that rejecting the Johanns amendment in conference could cause problems for an eventual conference report on a motion to recommit, might cause the House to recede to the Senate. (*Ed. Note:* if the House manages to keep ACORN funding eligibility in the conference report, the photographic blowups used as visual aids on the House floor will be among the most amusing in history.)

The fact that a wide Senate roll call vote in favor of an amendment makes it more difficult for the Senate to simply give up on that amendment in conference is why where was one fewer amendment adopted today: Vitter offered an amendment restating current law requiring a minimum public service requirement for public housing residents (contra the House), which Murray was willing to accept by voice vote — but Vitter indicated that he wanted a wide bipartisan roll call vote in favor of his amendment to make it harder for the House to prevail in conference.

Indeed, much of the staff-level conference negotiations on this bill have already taken place, on the grounds that, year after year, the House and Senate amend a minutely small percentage of the funding numbers in an appropriations bill via floor amendment.

However, the major differences between the House and Senate bills will have to wait for input from the members of the conference committee and cannot take place until conferees are named, which requires the Senate actually passing a bill that differs from the House version.

To this point, here are the amendments that had been filed and printed in the Record by the close of business yesterday:

- McCain 2307-2325 and 2330-2354 canceling individual earmarks.
- Klobuchar 2328, 2329 and 2369 correcting individual earmarks.
- Johanns 2355 and 2356 relating to ACORN.
- Nelson (NE) 2357 correcting an earmark.
- Vitter 2368 relating to ACORN.
- Vitter 2359 preventing wife-beaters from getting housing subsidies in New Orleans.
- Vitter 2360 maintaining the HUD community service requirement.
- Gregg 2361 preventing federal funds from paying for signs or plaques announcing stimulus funding use.
- Landrieu 2362-2365 related to HUD activities in New Orleans .
- Wicker 2366 requiring Amtrak to use the same policies on firearms in checked baggage as used by airlines.
- Shelby 2367 correcting an earmark.
- Shaheen 2369 correcting an earmark.

Of these, the only ones formally offered by press time today were the aforementioned Johanns and Vitter amendments, the McCain amendment that was not filed until today, and the Wicker amendment on Amtrak baggage policies relating to firearms (still pending).

Also, Sen. Tom Coburn (R-OK) offered four DOT amendments today:

- #2370, to prevent funding under the bill from being used for roadkill prevention, museums, highway beautification or bike or pedestrian paths until the Treasury Secretary certifies that enough money will flow into the Highway Trust Fund to pay for unfunded authorizations under the Byrd Test;
- #2371, to suspend the 10 percent STP set-aside for enhancements under 23 U.S.C. 133(d)(2);
- #2372, to prevent funding under the bill from being used to construct museums; and
- #2373 to prevent funding under the bill from being used to pay for roadkill prevention projects.

COMPARISON OF U.S. DEPT. OF TRANSPORTATION APPROPRIATIONS

Dollar amounts in thousands — page 1 of 3

	FY 2009 Enacted	FY 2010 Request	FY 2010 House	FY 2010 Senate	Senate vs. 2009		Senate vs. Request	
					,000 Dollars	Percent	,000 Dollars	Percent
Office of the Secretary								
Salaries and Expenses	98,248	103,184	102,306	100,975	2,727	2.8%	(2,209)	-2.1%
Financial Management Capital	5,000	5,000	2,000	5,000	-	0.0%	-	0.0%
Office of Civil Rights	9,384	9,667	9,667	9,667	283	3.0%	-	0.0%
Rescission of 9/11 airline bailout cash	(848)	-	-	-	848	-100.0%	-	n/a
Transportation Planning, Research & Dev.	18,300	10,233	14,733	8,233	(10,067)	-55.0%	(2,000)	-19.5%
Minority Business Resource Center	912	912	912	923	11	1.2%	11	1.2%
Minority Business Outreach	3,056	3,074	3,074	3,074	18	0.6%	-	0.0%
Essential Air Service (discretionary)	73,013	125,000	125,000	125,000	51,987	71.2%	-	0.0%
Essential Air Service (supplemental - emergency)	13,200	-	-	-	(13,200)	-100.0%	-	n/a
Essential Air Service (mandatory/from overflight fees)	50,000	50,000	50,000	50,000	-	0.0%	-	0.0%
Discretionary Intermodal Projects (GF stimulus)	1,500,000	-	-	-	(1,500,000)	-100.0%	-	n/a
National Infrastructure Investments	-	-	-	1,100,000	1,100,000	n/a	1,100,000	n/a
Sec. 195 General Provision - Missouri water project study	-	-	-	2,000	2,000	n/a	2,000	n/a
Total, OST (Gross new budgetary resources)	1,771,113	307,070	307,692	1,404,872	(366,241)	-20.7%	1,097,802	357.5%
Total, OST (Gross NBR without stimulus funds)	271,113	307,070	307,692	1,404,872	1,133,759	418.2%	1,097,802	357.5%
Total, OST (Net after rescissions & offsets)	1,770,265	307,070	307,692	1,404,872	(365,393)	-20.6%	1,097,802	357.5%
Federal Aviation Administration								
Operations (General Fund)	3,804,462	3,128,000	4,156,370	4,081,483	277,021	7.3%	953,483	30.5%
Operations (Airport & Airway Trust Fund)	5,238,005	6,207,798	5,190,798	5,277,648	39,643	0.8%	(930,150)	-15.0%
Operations - Total	9,042,467	9,335,798	9,347,168	9,359,131	316,664	3.5%	23,333	0.2%
Facilities & Equipment (Trust Fund)	2,742,095	2,925,202	2,925,202	2,942,352	200,257	7.3%	17,150	0.6%
Facilities & Equipment (GF Stimulus)	200,000	-	-	-	(200,000)	-	-	n/a
Research, Engineering & Development (Trust Fund)	171,000	180,000	195,000	175,000	4,000	2.3%	(5,000)	-2.8%
Airport Improvement Program (Ob Limit)	3,514,500	3,515,000	3,515,000	3,515,000	500	0.0%	-	0.0%
Airport Improvement Program (GF Stimulus)	1,100,000	-	-	-	(1,100,000)	-100.0%	-	n/a
Rescission of AIP C.A. (P.L.s 111-8 and 111-32)	(93,200)	-	-	(392,960)	(299,760)	321.6%	(392,960)	n/a
Total, FAA (Gross new budgetary resources)	16,770,062	15,956,000	15,982,370	15,991,483	(778,579)	-4.6%	35,483	0.2%
Total, FAA (Gross NBR without stimulus funds)	15,470,062	15,956,000	15,982,370	15,991,483	521,421	3.4%	35,483	0.2%
Total, FAA (Net after rescissions and offsets)	16,676,862	15,956,000	15,982,370	15,598,523	(1,078,339)	-6.5%	(357,477)	-2.2%
Federal Highway Administration								
Sub-limitation on administrative expenses (non-add)	390,000	415,396	413,533	415,396	25,396	6.5%	-	0.0%
Sub-limitation on research (non-add)	429,800	429,800	429,800	429,800	-	0.0%	-	0.0%
Federal-aid Highways (Ob Limit)	40,700,000	5,000,000	41,107,000	41,107,000	407,000	1.0%	36,107,000	722.1%
Federal-aid Highways (GF Stimulus)	27,500,000	-	-	-	(27,500,000)	-100.0%	-	n/a
Federal-aid Highways (GF share if no new HTF \$)	-	36,107,000	-	-	-	-	(36,107,000)	-100.0%
Federal-aid Highways (additional GF appropriation)	-	-	-	1,400,000	1,400,000	-	1,400,000	-
Subtotal, Federal-aid Highways (discretionary)	68,200,000	41,107,000	41,107,000	42,507,000	(25,693,000)	-37.7%	1,400,000	3.4%
Exempt Obligations (mandatory)	739,000	739,000	739,000	739,000	-	0.0%	-	0.0%
Appalachian Highways	9,500	-	-	-	(9,500)	-100.0%	-	n/a
Denali Access System Program	5,700	-	-	-	(5,700)	-100.0%	-	n/a
Surface Transportation Priorities	161,327	-	125,700	165,000	3,673	2.3%	165,000	n/a
Additional Funding for TCSP	143,031	-	-	-	(143,031)	-100.0%	-	n/a
Rescission of Contract Authority (THUD bill)	(3,150,000)	-	-	-	3,150,000	-100.0%	-	n/a
Rescission of Misc. Allocated Contract Authority	(45,158)	-	-	-	45,158	-100.0%	-	n/a
Total, FHWA (Gross new budgetary resources)	69,258,558	41,846,000	41,971,700	43,411,000	(25,847,558)	-37.3%	1,565,000	3.7%
Total, FHWA (Gross NBR without stimulus funds)	41,758,558	41,846,000	41,971,700	43,411,000	1,652,442	4.0%	1,565,000	3.7%
Total, FHWA (Net after rescissions & offsets)	66,063,400	41,846,000	41,971,700	43,411,000	(22,652,400)	-34.3%	1,565,000	3.7%
Federal Motor Carrier Safety Administration								
Operations and Programs (Ob Limit)	234,000	239,828	239,828	238,500	4,500	1.9%	(1,328)	-0.6%
Operations and Programs (GF Appropriation)	-	-	-	1,328	1,328	n/a	1,328	n/a
Motor Carrier Safety Grants (Ob Limit)	307,000	310,070	310,070	310,070	3,070	1.0%	-	0.0%
Rescissions of Contract Authority	(33,145)	-	-	(5,330)	27,815	-83.9%	(5,330)	n/a
Total, FMCSA (Gross new budgetary resources)	541,000	549,898	549,898	549,898	8,898	1.6%	-	0.0%
Total, FMCSA (Net after rescissions & offsets)	507,855	549,898	549,898	544,568	36,713	7.2%	(5,330)	-1.0%
National Highway Traffic Safety Administration								
Operations and Research (general fund)	127,000	129,774	131,986	135,803	8,803	6.9%	6,029	4.6%
Operations and Research (HTF) (Ob Limit)	105,500	107,329	108,642	105,500	-	0.0%	(1,829)	-1.7%
Operations and Research - Total	232,500	237,103	240,628	241,303	8,803	3.8%	4,200	1.8%
National Driver Register (Ob Limit)	4,000	4,078	4,000	4,000	-	0.0%	(78)	-1.9%
National Driver Register (general fund)	-	-	3,350	3,350	3,350	n/a	3,350	n/a
Highway Traffic Safety Grants (Ob Limit)	619,500	626,047	619,500	619,500	-	0.0%	(6,547)	-1.0%
Rescissions of Contract Authority	(71,644)	-	-	(16,303)	55,341	-77.2%	(16,303)	n/a
CARS Program (cash for clunkers) (emergency)	3,000,000	-	-	-	(3,000,000)	-100.0%	-	n/a
Total, NHTSA (Gross new budgetary resources)	3,856,000	867,228	867,478	868,153	(2,987,847)	-77.5%	925	0.1%
Total, NHTSA (Gross NBR excluding CARS)	856,000	867,228	867,478	868,153	12,153	1.4%	925	0.1%
Total, NHTSA (Net after rescissions & offsets)	3,784,356	867,228	867,478	851,850	(2,932,506)	-77.5%	(15,378)	-1.8%

COMPARISON OF U.S. DEPT. OF TRANSPORTATION APPROPRIATIONS

Dollar amounts in thousands — page 2 of 3

	FY 2009 Enacted	FY 2010 Request	FY 2010 House	FY 2010 Senate	Senate vs. 2009		Senate vs. Request	
					,000 Dollars	Percent	,000 Dollars	Percent
Federal Railroad Administration								
Safety and Operations	159,445	168,770	172,533	171,770	12,325	7.7%	3,000	1.8%
Railroad Research & Development	33,950	34,145	37,145	34,145	195	0.6%	-	0.0%
Rail Line Relocation and Improvement	25,000	-	40,000	25,000	-	0.0%	25,000	n/a
Railroad Safety Technology Program	-	-	-	50,000	50,000	n/a	50,000	-
<i>Amtrak Operating Subsidy Grants</i>	550,000	572,348	553,348	553,348	3,348	0.6%	(19,000)	-3.3%
<i>Amtrak Capital Grants</i>	940,000	929,625	929,625	1,001,625	61,625	6.6%	72,000	7.7%
<i>Amtrak Inspector General</i>	-	-	19,000	-	-	n/a	-	n/a
Grants to Amtrak - Total	1,490,000	1,501,973	1,501,973	1,554,973	64,973	4.4%	53,000	3.5%
Grants to Amtrak (GF Stimulus)	1,300,000	-	-	-	(1,300,000)	-100.0%	-	n/a
Intercity Passenger Rail Grant Program	90,000	-	-	-	(90,000)	-100.0%	-	n/a
High-Speed and Intercity Passenger Rail	-	1,000,000	4,000,000	1,200,000	1,200,000	n/a	200,000	20.0%
High-Speed and Intercity Passenger Rail (GF Stimulus)	8,000,000	-	-	-	(8,000,000)	-100.0%	-	n/a
Rescission of Prior-Year Amtrak Efficiency Grants	(36,834)	-	-	-	36,834	-100.0%	-	n/a
Total, FRA (Gross new budgetary resources)	11,098,395	2,704,888	5,751,651	3,035,888	(8,062,507)	-72.6%	331,000	12.2%
Total, FRA (Gross NBR without stimulus funds)	1,798,395	2,704,888	5,751,651	3,035,888	1,237,493	68.8%	331,000	12.2%
Total, FRA (Net after rescissions & offsets)	11,061,561	2,704,888	5,751,651	3,035,888	(8,025,673)	-72.6%	331,000	12.2%
Federal Transit Administration								
Administrative Expenses	94,413	97,478	97,478	97,478	3,065	3.2%	-	0.0%
Formula and Bus Grants (Ob Limit)	8,260,565	5,000,000	8,343,171	8,343,171	82,606	1.0%	3,343,171	66.9%
Formula and Bus Grants (GF Share if no new HTF \$)	-	3,343,171	-	-	-	-	(3,343,171)	-100.0%
Formula Grants (GF Stimulus)	6,900,000	-	-	-	(6,900,000)	-100.0%	-	n/a
Fixed Guideway Modernization Grants (GF Stimulus)	750,000	-	-	-	(750,000)	-100.0%	-	n/a
Research and University Research Centers	67,000	67,670	65,670	67,670	670	1.0%	-	0.0%
Capital Investment Grants	1,809,250	1,827,343	1,827,343	2,307,343	498,093	27.5%	480,000	26.3%
Capital Investment Grants (GF Stimulus)	750,000	-	-	-	(750,000)	-100.0%	-	n/a
WMATA	-	-	150,000	150,000	150,000	n/a	150,000	n/a
Energy Efficiency/Greenhouse Gas Reduction Grants	-	-	-	100,000	100,000	-	100,000	-
Rescission of Contract Authority	(100,000)	-	-	-	100,000	-100.0%	-	n/a
Total, FTA (Gross new budgetary resources)	18,631,228	10,335,662	10,483,755	11,065,662	(7,565,566)	-40.6%	730,000	7.1%
Total, FTA (Gross NBR without stimulus funds)	10,231,228	10,335,662	10,483,755	11,065,662	834,434	8.2%	730,000	7.1%
Total, FTA (Net after rescissions & offsets)	18,531,228	10,335,662	10,483,662	11,065,662	(7,465,566)	-40.3%	730,000	7.1%
St. Lawrence Seaway Development Corporation								
Operations and Maintenance	31,842	32,324	32,324	32,324	482	1.5%	-	0.0%
Total, StLSDC	31,842	32,324	32,324	32,324	482	1.5%	-	0.0%
Maritime Administration								
Maritime Security Program	174,000	174,000	174,000	174,000	-	0.0%	-	0.0%
Operations and Training	123,360	152,900	140,900	154,900	31,540	25.6%	2,000	1.3%
Ship Disposal	15,000	15,000	15,000	15,000	-	0.0%	-	0.0%
Assistance for Small Shipyards	17,500	-	-	17,500	-	0.0%	17,500	n/a
Assistance for Small Shipyards (GF Stimulus)	100,000	-	-	-	(100,000)	-100.0%	-	n/a
Title XI Shipbuilding Loan Program (admin expenses)	3,531	3,630	3,630	4,000	469	13.3%	370	10.2%
Title XI Shipbuilding Loan Program	-	-	-	10,000	10,000	n/a	10,000	-
Rescission of Ship Construction funds	(1,383)	-	-	-	1,383	-100.0%	-	n/a
Total, MARAD (Gross new budgetary resources)	433,391	345,530	333,530	375,400	(57,991)	-13.4%	29,870	8.6%
Total, MARAD (Gross NBR without stimulus funds)	333,391	345,530	333,530	375,400	42,009	12.6%	29,870	8.6%
Total, MARAD (Net after rescissions & offsets)	432,008	345,530	333,530	375,400	(56,608)	-13.1%	29,870	8.6%
Pipeline and Hazardous Materials Administration								
Hazardous Materials Safety	32,000	35,500	36,500	35,500	3,500	10.9%	-	0.0%
<i>Administrative Expenses (General Fund)</i>	18,491	18,329	19,329	19,329	838	4.5%	1,000	5.5%
<i>Administrative Expenses (Pipeline Safety Fund)</i>	639	639	639	639	-	0.0%	-	0.0%
Administrative Expenses - Total	19,130	18,968	19,968	19,968	838	4.4%	1,000	5.3%
<i>Pipeline Safety (Pipeline Safety Fund)</i>	74,481	86,334	86,334	86,334	11,853	15.9%	-	0.0%
<i>Pipeline Safety (Oil Spill Liability Trust Fund)</i>	18,810	18,905	18,905	18,905	95	0.5%	-	0.0%
Pipeline Safety - Total	93,291	105,239	105,239	105,239	11,948	12.8%	-	0.0%
Emergency Preparedness Fund (discr. appropriation)	188	188	188	188	-	0.0%	-	0.0%
Emergency Preparedness Fund (mandatory BA)	28,318	28,318	28,318	28,318	-	0.0%	-	0.0%
Total, PHMSA	172,927	188,213	190,213	189,213	16,286	9.4%	1,000	0.5%
Research and Innovative Technology Administration								
Research and Development	12,900	13,179	12,834	13,179	279	2.2%	-	0.0%
Total, RITA	12,900	13,179	12,834	13,179	279	2.2%	-	0.0%
Office of Inspector General								
Salaries and Expenses	71,400	74,839	74,839	75,389	3,989	5.6%	550	0.7%
Salaries and Expenses (GF Stimulus)	20,000	-	-	-	(20,000)	-100.0%	-	n/a
Total, OIG	91,400	74,839	74,839	75,389	(16,011)	-17.5%	550	0.7%
Total, OIG without stimulus funds	71,400	74,839	74,839	75,389	3,989	5.6%	550	0.7%
Surface Transportation Board								
Salaries and Expenses	26,847	27,032	29,800	28,332	1,485	5.5%	1,300	4.8%
Offsetting collections	(1,250)	(1,250)	(1,250)	(1,250)	-	0.0%	-	0.0%
Total, STB	25,597	25,782	28,550	27,082	1,485	5.8%	1,300	5.0%

COMPARISON OF U.S. DEPT. OF TRANSPORTATION APPROPRIATIONS

Dollar amounts in thousands — page 3 of 3

	FY 2009 Enacted	FY 2010 Request	FY 2010 House	FY 2010 Senate	Senate vs. 2009		Senate vs. Request	
					,000 Dollars	Percent	,000 Dollars	Percent
TOTALS FOR TITLE I (USDOT):								
<i>Discretionary Budgetary Resources</i>								
New Discretionary Budget Authority - Non-Emergency	17,012,030	57,626,943	21,522,212	21,979,484	4,967,454	29.2%	(35,647,459)	-61.9%
New Discretionary Budget Authority - Emergency	51,120,000	-	-	-	(51,120,000)	-100.0%	-	n/a
New Transportation Obligation Limitations	53,745,065	14,802,352	54,247,211	54,242,741	497,676	0.9%	39,440,389	266.4%
GROSS DISCRETIONARY BUDGETARY RESOURCES	121,877,095	72,429,295	75,769,423	76,222,225	(45,654,870)	-37.5%	3,792,930	5.2%
<i>Mandatory Budgetary Resources</i>								
Contract Authority Exempt From Obligation Limit	739,000	739,000	739,000	739,000	-	0.0%	-	0.0%
Mandatory Budget Authority for Essential Air Service	50,000	50,000	50,000	50,000	-	0.0%	-	0.0%
Mandatory Budget Authority for PHMSA EPF	28,318	28,318	28,318	28,318	-	0.0%	-	0.0%
GROSS MANDATORY BUDGETARY RESOURCES	817,318	817,318	817,318	817,318	-	0.0%	-	0.0%
TOTAL GROSS BUDGETARY RESOURCES, USDOT	122,694,413	73,246,613	76,586,741	77,039,543	(45,654,870)	-37.2%	3,792,930	5.2%
<i>Rescissions and Budgetary Offsets:</i>								
Rescissions of Appropriated Budget Authority	-39,065	0	0	0	39,065	-100.0%	-	n/a
Rescissions of Contract Authority	-3,493,147	0	0	-414,593	3,078,554	-88.1%	(414,593)	n/a
Offsetting Receipts from Pipeline Safety User Fees	-75,120	-86,973	-86,973	-86,973	(11,853)	15.8%	-	0.0%
Subtotal: Rescissions and Offsets	-3,607,332	-86,973	-86,973	-501,566	3,105,766	-86.1%	(414,593)	n/a
TOTAL NET BUDGETARY RESOURCES, USDOT	119,087,081	73,159,640	76,499,768	76,537,977	(42,549,104)	-35.7%	3,378,337	4.6%
Total Subject to 302(b) BA Ceiling (Disc. BA - Offsets)	13,404,698	57,539,970	21,435,239	21,477,918	8,073,220	60.2%	(36,062,052)	-62.7%
Gross Discretionary Resources By Type and Source:								
New Appropriations (Airport & Airway Trust Fund)	8,224,113	9,438,000	8,436,000	8,520,000	295,887	3.6%	(918,000)	-9.7%
New Appropriations (General/Other Funds)-Non-Emerg.	8,787,917	48,188,943	13,086,212	13,459,484	4,671,567	53.2%	(34,729,459)	-72.1%
New Appropriations (General/Other Funds)-Emergency	51,120,000	-	-	-	(51,120,000)	-100.0%	-	n/a
Obligation Limitations (Highway Account - HTF)	41,970,000	6,287,352	42,389,040	42,384,570	414,570	1.0%	36,097,218	574.1%
Obligation Limitations (Mass Transit Account - HTF)	8,260,565	5,000,000	8,343,171	8,343,171	82,606	1.0%	3,343,171	66.9%
Obligation Limitation (Airport & Airway Trust Fund)	3,514,500	3,515,000	3,515,000	3,515,000	500	0.0%	-	0.0%
Gross Discretionary Budget Resources, USDOT	121,877,095	72,429,295	75,769,423	76,222,225	(45,654,870)	-37.5%	3,792,930	5.2%
Independent Agencies (excerpt)								
National Transportation Safety Board								
Salaries and Expenses	91,000	95,400	99,200	96,900	5,900	6.5%	1,500	1.6%
Rescission of unobligated balances	(671)	-	-	-	671	-100.0%	-	n/a
Net Total, NTSB	90,329	95,400	99,200	96,900	6,571	7.3%	1,500	1.6%
Federal Maritime Commission								
Salaries and Expenses	22,800	24,558	23,712	24,558	1,758	7.7%	-	0.0%
Total, FMC	22,800	24,558	23,712	24,558	1,758	7.7%	-	0.0%
National Infrastructure Bank								
	-	5,000,000	-	-	-	n/a	(5,000,000)	-100.0%

TOTALS FOR THE ENTIRE TRANSPORTATION-HUD BILL

	FY 2009 Enacted	FY 2010 Request	FY 2010 House	FY 2010 Senate
Totals Excluding Emergencies:				
USDOT Net Discretionary Budget Authority Total	13,479,818	57,626,943	21,522,212	21,564,891
HUD Net Discretionary Budget Authority Total	41,535,290	45,482,659	47,047,751	45,828,144
Other Agencies Discretionary Budget Auth. Total	303,012	5,296,438	329,312	393,538
Scorekeeping Adjustments	-318,120	-86,973	-78,645	-86,973
Total Net Discretionary Budget Authority (302(b))	55,000,000	108,319,067	68,820,630	67,699,600
Plus: Transportation Obligation Limitations	53,745,065	14,802,325	54,247,211	54,242,741
Equals: Total THUD Discr. Budgetary Resources	108,745,065	123,121,392	123,067,841	121,942,341
Plus Emergencies:				
Plus: USDOT Emergency Appropriations (net)	51,120,000	-	-	-
Plus: HUD Emergency Appropriations	13,692,000	-	-	-
Equals: Total THUD Discr. Budg. Res. w/ Emerg.	173,557,065	123,121,392	123,067,841	121,942,341

STATEMENT OF ADMINISTRATION POLICY

H.R. 3288 — Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010

(Sen. Inouye, D-Hawaii)

September 10, 2009

The Administration strongly supports Senate passage of H.R. 3288, with the Senate Committee-reported bill, making appropriations for Transportation, Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010.

The President believes that America's economic success in the 21st Century depends significantly on a modernized infrastructure, from roads and highways to high-speed rail, inland waterways, and housing. These infrastructure investments will help build a new foundation for long-term economic growth to benefit the American people for years to come.

The President requested, and the Committee approved, significant new resources for the Nation's road, rail, and air transportation systems. The legislation takes an important step toward modernizing what has become an outdated and over-stressed transportation network. Importantly, the legislation not only invests in new systems, but also works to improve the safety of those systems already in place. Increased funding for transit and air travel safety will result in fewer accidents and more lives saved.

Additionally, the funding included in the legislation for housing and community development programs can serve as important anchors for locally-driven innovations. With a strengthened safety net for Americans facing significant hardship in these challenging economic times together with funds dedicated to revitalizing local communities and expanding opportunities, this legislation will help the Nation's urban and rural areas alike. As part of this important agenda, the Administration will work with the Congress to secure the funding needed to launch the Housing Trust Fund, which would expand the rental housing supply available for very low-income families.

The Administration would like to take this opportunity to share additional views regarding the Committee's version of the bill.

Administration Priorities

National Infrastructure Bank. The Administration encourages the Congress to support the creation of a National Infrastructure Bank and not substitute in its place a national infrastructure grant program in conjunction with increases for transportation infrastructure credit. Once established, a Bank will help forge a new path forward in infrastructure sponsorship and cross-jurisdictional partnership. The Administration looks forward to working with the Congress as soon as possible to authorize a National Infrastructure Bank, which could blend grant and credit financing. The Bank will play a key role in supporting regionally and nationally significant, high-value, multi-modal projects selected on the basis of merit.

High-Speed Rail. The Administration thanks the Committee for its support for capital grants that would help sustain high-speed and inter-city passenger rail corridor expansion.

Combat Mortgage Fraud. The Administration appreciates that the Committee fully funds the Department of Housing and Urban Development's Combat Mortgage Fraud initiative, which will support a strong response to abusive practices that have taken advantage of home loan borrowers and contributed to financial market turmoil.

Choice Neighborhoods. The Administration appreciates that the Committee provides the requested \$250 million for Choice Neighborhoods, which will support the Administration's broader effort to fight concentrated poverty and revitalize highly distressed neighborhoods.

Community Development Block Grant (CDBG). While the Administration appreciates the Committee's support for the President's pledge to fully fund CDBG, the Administration strongly urges the Congress to consider reforms to the program, particularly modernizing the outdated funding formula to target funds to economically distressed communities more effectively, resulting in increased accountability.

Efficiencies and Cost-Saving Proposals. The Administration urges the Congress to support the President's initiatives to terminate or reduce programs that have outlived their usefulness, fund narrowly focused activities, or duplicate existing programs, including programs not allocated based on cost-benefit analysis.

Department of Transportation

The Administration is pleased that the Committee supports the request for the Department of Transportation. The Administration appreciates the provision of capital funding for the Washington Metropolitan Area Transit Authority (WMATA), which will help WMATA to address safety shortfalls within its rail system. The Administration also appreciates the Committee's support for the funding provided to the Federal Aviation Administration's Next Generation Air Transportation System.

Department of Housing and Urban Development (HUD)

The Administration appreciates the Committee's support for Tenant-Based Rental Assistance, Project-Based Rental Assistance, and Public Housing programs. This funding is especially important in light of the current economic environment.

The Administration appreciates \$75 million provided by the Committee for the Energy Innovation Fund, but urges the Congress to include the full \$100 million request to support local initiatives that remove barriers to efficiency and leverage private sector funds. The Fund will allow for the identification of the most effective practices for replication across the Nation, increasing the dividends of energy efficiency investments in housing.

The Administration appreciates the Committee's support for HUD's new Transformation Initiative, which sets aside funds for HUD to become a more innovative and accountable agency. However, the Administration urges the Congress to provide the full \$434 million in transfer authority for HUD programs. These funds would support efforts to significantly improve program performance through demonstrations, evaluation, technical assistance, and more effective information technology.

NEW AND NOTABLE ON THE INTERNET

Federal Transit Administration

FTA has issued a Notice of Proposed Rulemaking to redraft its rule relating to Project Management Oversight of capital projects. Comments are due by November 9, 2009. The *Federal Register* notice is here:

<http://edocket.access.gpo.gov/2009/pdf/E9-21849.pdf>

U.S. Government Accountability Office

GAO has issued a new report entitled *Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses* which is available here:

<http://www.gao.gov/new.items/d09908t.pdf>

GAO has issued a new report entitled *Aviation Weather: FAA and the National Weather Service Are Considering Plans to Consolidate Weather Service Offices, but Face Significant Challenges* which is available here:

<http://www.gao.gov/new.items/d09761.pdf>

GAO has issued a new report entitled *Metropolitan Planning Organizations: Options Exist to Enhance Transportation Planning Capacity and Federal Oversight* which is available here:

<http://www.gao.gov/new.items/d09868.pdf>

GAO has issued a new report entitled *United States Merchant Marine Academy: Internal Control Weaknesses Resulted in Improper Sources and Uses of Funds; Some Corrective Actions Are Under Way* which is available here:

<http://www.gao.gov/new.items/d09635.pdf>

STATUS OF PENDING TRANSPORTATION-RELATED NOMINATIONS

Agency	Nominee	Position	Senate Committee	Latest Action
Department of Transportation	Chris Bertram	Assistant Secretary for Budget and Programs	Commerce, Science and Transportation	Nomination confirmed 8/7/09
Department of Transportation	Susan Kurland	Assistant Secretary for Aviation and Int'l Affairs	Commerce, Science and Transportation	Nomination confirmed 8/7/09
DOT-Federal Motor Carrier Safety Admin.	Anne Ferro	Administrator	Commerce, Science and Transportation	Nomination transmitted 7/16/09
DOT-National Highway Traffic Safety Admin.	Charles Hurley	Administrator	Commerce, Science and Transportation	Nomination reportedly will be withdrawn
National Transport. Safety Board	Christopher Hart	Member for a term expiring 12/31/2012	Commerce, Science and Transportation	Nomination confirmed 8/7/09
Surface Transportation Board	Daniel Elliott	Chairman	Commerce, Science and Transportation	Nomination confirmed 8/7/09
Department of the Army	Jo-Ellen Darcy	Assistant Secretary for Civil Works	Armed Services <i>and</i> Enviro. & Public Works	Nomination confirmed 8/7/09

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THIS WEEK IN COMMITTEE

Tuesday, September 15, 2009 — House Transportation and Infrastructure — Subcommittee on Aviation — subcommittee hearing on management of the Hudson River Airspace Corridor — *10:00 a.m., 2167 Rayburn.*

Senate Commerce, Science and Transportation — Subcommittee on Aviation Operations, Safety, and Security — subcommittee hearing on management of the Hudson River Airspace Corridor — *2:30 p.m., SR-253 Russell.*

Thursday, September 17, 2009 — House Transportation and Infrastructure — Subcommittee on Economic Development, Public Buildings, and Emergency Management — subcommittee hearing on small, minority and disadvantaged businesses doing business with the government — *1:30 p.m., 2167 Rayburn.*

STATUS OF MAJOR TRANSPORTATION BILLS — 111th CONGRESS

BILL	HOUSE ACTION	SENATE ACTION	RESOLUTION
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	H.R. 3288 passed House 7/23/09 by a vote of 256-168	H.R. 3288 reported 8/5/09 S. Rept. 111-69	
FY 2010 Energy and Water Appropriations	H.R. 3183 passed House 7/17/09 by a vote of 320-97	H.R. 3183 passed Senate 7/29/09 by a vote of 85-9	
FY 2010 Homeland Security Appropriations	H.R. 2892 passed House 6/24/09 by a vote of 389-37	H.R. 2892 passed Senate amended 7/9/09 by a vote of 84-6	
Federal Aviation Admin. Reauthorization Bill	H.R. 915 passed House 5/22/09 by a vote of 277-136	S. 1451 ordered reported 7/21/09 by Senate Commerce Committee	
Surface Transportation Reauthorization Bill	Subcommittee marked up draft bill on 6/24/09		
Short-Term Extension of Surface Transportation Laws		S. 1498 reported 7/22/09 S. Rept. 111-59	
Water Resources Development Act			
FY 2010 Coast Guard Authorization		S. 1194 ordered reported 7/8/09 by Senate Commerce Committee	
Transportation Security Admin. Reauthorization	H.R. 2200 passed House 6/4/09 by a vote of 397-25		