



APRIL 3, 2009

Congress adjourns today for a two-week Spring recess. One of its final actions was the approval of the House and Senate [FY'10 Budget Resolutions](#). No Republicans voted in support of either Resolution. The two bodies still need to resolve the differences in the two versions of the Resolution, but Presidential approval is not required. The annual, non-binding Budget Resolution lays out the broad framework for government spending for the next fiscal year. Once the Resolution has been finalized, the various appropriations subcommittees will begin to draft and mark-up their FY'10 federal agency funding bills.

Neither the House nor the Senate Budget Resolution includes the Administration's proposal to eliminate contract authority for the highway, transit and airport programs by "scoring" these programs as discretionary funding. The transportation industry joined with key congressional leaders to strongly oppose such a change which would have severely undermined the "firewalls" and funding guarantees critical to long-term planning. The Resolution does not provide specific program funding levels, but does assume small increases in the highway, transit and airport programs even though the Highway Trust Fund is predicted to run short of funds again this summer.

Stimulus/Recovery Act (ARRA):

The bulk of the activity on the American Recovery & Reinvestment Act has moved to implementation efforts at the state and local level. [FHWA](#), [FTA](#), [FAA](#) and [FRA](#) continue to post information, guidance and updated Q and As on their ARRA websites. US DOT has not yet released guidance on the criteria for distribution of the \$8B in high-speed and passenger rail funds, the \$1.5B in the new multi-modal Surface Transportation Discretionary program or the \$750M in discretionary funds for transit New Start projects. However, this week US DOT Secretary LaHood announced the release of \$36M of ARRA New Start funds for the Phoenix East Valley Light Rail project. On March 24, FTA published a [Federal Register](#) notice soliciting proposals for the \$100M ARRA transit discretionary grant program for projects that reduce energy consumption or greenhouse gas emissions (TIGGER). Proposals are due by [May 22](#).

On April 2, the House T&I Committee released a 48-page [ARRA Implementation Status Report](#) on the infrastructure-related provisions in the bill, including transportation programs, the Clean Water State Revolving Loan Fund, US Army Corps of Engineers, GSA Federal Buildings, etc. While the report is primarily a review of the bill's provisions, it does include some information on new grants and projects that have received ARRA funds.

Surface Transportation (SAFETEA-LU) Authorization Project Earmark Requests:

House T&I Committee Chairman Jim Oberstar (D-MN) has indicated that he plans to introduce a draft six-year surface transportation reauthorization bill before the Memorial Day recess. He hopes to pass the approximately \$500B bill out of committee in June and then go to the House floor this summer in anticipation of the September 30 expiration of the current SAFETEA-LU authorization. However, without a source of additional revenues identified to fund any growth in the program, most industry sources feel it is highly unlikely that a final bill will pass the Senate, or potentially even get to the House floor, this year.



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However, in anticipation of releasing a draft House bill in late May, the Committee is asking members of Congress to submit requests for “High Priority Projects” (HPPs), otherwise known as earmarks, to the committee by May 8. Attached to this email is a copy of the [letter sent to House members](#) with information about the request process. Also attached is the [questionnaire form](#).

Although earmarked projects in previous authorization bills, such as the infamous Bridge to Nowhere, have generated tremendous controversy and criticism, the Committee believes that a combination of tight eligibility criteria, mandatory certifications and extensive public disclosure will help to avoid those problems in the future. Funding can be requested for highway, bridge, tunnel, bike/pedestrian, ITS, ferry boat, intermodal freight, public transit vehicles/facilities/ROW/equipment, New Start/Small Start, intercity passenger rail, freight rail and research projects.

Projects must meet all statutory requirements, sponsors must identify the source of 80% of the funding for the project phase or segment, the state or local government must provide a letter of support, and Members must certify that neither they nor their spouse have a financial interest in the project. All project requests and financial certifications must be posted on the member’s website and US DOT will have 20 days to review project eligibility. The Committee will hold a hearing on April 28 for those members who want to testify in support of their requests.

The questionnaire requests information about project description, current status, expected date of completion, total estimated cost of phase/segment and total project cost, amount of funding requested, verification that the project is in the STIP and TIP or state rail plan, the safety/economic development/mobility/environmental benefits, and previous Federal funding.

The Committee plans to repeal prior ISTEA and TEA 21 project designations that have not proceeded to construction or still have unused funds.

US DOT Personnel:

The White House has recently named a number of US DOT nominees. The nominee for US DOT General Counsel is Bob Rivkin, current Deputy Counsel at Aon and former General Counsel of Chicago’s CTA transit agency and a member of the DOT transition team. Victor Mendez has been nominated to be the FHWA Administrator. Mendez is the former director of Arizona DOT, past president of AASHTO and also a member of the DOT transition team. Randy Babbitt has been nominated to be FAA Administrator. Babbitt is a former president of the Air Line Pilots Association (ALPA), a former Eastern Airlines pilot and a prominent labor union leader. If confirmed he will serve a fixed five-year term.

At the recently created Research & Innovative Technology Administration (RITA), Peter Appel has been nominated to be Administrator. Appel is currently a principal with A. T. Kearney, a global management consulting firm, and was formerly a Special Assistant at FAA during the Clinton Administration.

Karen Rae has been named to be FRA Deputy Administrator following the previously announced nomination of Joe Szabo, Illinois Director of the UTU, to be FRA Administrator. Karen is currently with New York State DOT and has also served as the head of the Virginia Department of Rail and Public Transportation and with Capital Metro in Austin, TX, among other positions. No official word yet on the FTA Administrator, however, Peter Rogoff, currently a long time senior staffer with the Senate DOT Appropriations Subcommittee is widely rumored to be under serious consideration for the position.

All nominees except for Rae require Senate approval before they can take office.



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Other News:

- On March 24, FHWA and FTA published a notice in the [Federal Register](#) of the final rule on Environmental Impact and Related Procedures which makes regulatory changes mandated by SAFETEA-LU. The rule amends the agencies' joint regulations implementing NEPA procedures for road and transit projects as they relate to the Section 6002 environmental review process and the Section 6010 categorical exclusion provision (including the creation of new types of exclusions). The rule takes effect on April 23.
- In the March 30 [Federal Register](#) FRA withdrew last year's proposed changes to the RRIF loan program.