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 **APTA Legislative Update**

August 28, 2009

August Recess – Wrap up and Upcoming Congressional Agenda

On August 7, the U.S. Senate adjourned for four weeks, marking the beginning of Congress' annual August recess. The U.S. House of Representatives adjourned for the recess the prior week. Both chambers are scheduled to return for remaining legislative business on September 8. While health care reform is expected to dominate the remainder of the legislative session, Congress must tackle several outstanding issues important to public transportation. These issues include completion of the Fiscal Year (FY) 2010 Appropriations bills, the passage of a long-term surface transportation authorization bill or an extension of current transportation programs, and climate change legislation. APTA members should contact their members of Congress in the weeks ahead to make transit's case on all these legislative issues.

Fiscal Year 2010 Transportation Appropriations Bill

Among the top priorities for Congress when it returns in September will be completion of the annual appropriations bills, which will fund all federal agencies and programs for FY 2010. The House of Representatives has completed all of its bills, while the Senate has completed five of the twelve bills.

The full House of Representatives passed its version of the Transportation, Housing and Urban Development, and Related Agencies (THUD) Appropriations bill on July 23. The Senate Appropriations Committee completed its work on the FY 2010 THUD Appropriations bill on July 30, and it awaits floor consideration in September. Once the full Senate passes its version of the bill, House and Senate Appropriations Committee members will meet in conference committee to develop a compromise version of the legislation for final passage and the President's signature. If the THUD bill is not completed by the end of the fiscal year on September 30, a continuing resolution may be required for programs funded by that bill.

The House-passed THUD Appropriations bill contains \$10.484 billion for public transportation programs for FY 2010. This includes \$10.334 billion for current Federal Transit Administration (FTA) programs, a 1.5 percent increase over last year's levels. It also includes an additional \$150 million for capital grants for Washington Metropolitan Area Transportation Authority (WMATA), as authorized last year in the Passenger Rail Investment and Improvement Act of 2008 (PRIIA). The Senate bill provides \$10.915 billion for the current FTA program, and like the House bill it includes an additional \$150 million authorized under PRIIA for WMATA. This is a 6.7 percent increase over FY 2009 levels. The most significant funding difference in the FTA program under the Senate bill, compared to the House level and the Administration request, is an increase in funding for the Capital Investment Program for New Starts and Small Starts. The Senate bill provides \$480 million more for the FTA New Starts program than the House bill and Administration request.

The following table summarizes the Senate Appropriations Committee's recommendations compared to the fiscal year 2009 enacted level and the administration's request, excluding rescissions and funding provided through the American Recovery and Reinvestment Act (ARRA):

Program	FY 2009 Enacted (Millions)	FY 2010 House (Millions)	FY 2010 Senate (Millions)
Total New Budget Authority All Programs	10,231.2	10,483.7	11,065.6
Formula Programs Total	8,260.6	8,343.2	8,343.2
§ 5307 Urbanized Area (a)[1]	4,552.2	4,757.1	4,757.1
§ 5311 Rural Area (b)1	538.2	607.0	607.0
§ 5310 Elderly and Disabled	133.5	140.7	140.7
§ 5317 New Freedom	92.5	92.5	92.5
§ 5308 Clean Fuels Formula	51.5	61.5	61.5
§ 3038 Over-the Road Bus	8.8	10.8	10.8
§ 5309 Fixed-Guideway Modernization	1,666.5	1,756.1	1,756.1
§ 5309 Bus and Bus Facilities	884.0	584.02	584.0
§ 5305 Planning	113.5	113.5	113.5
§ 5316 Job Access and Reverse Commute	164.5	164.5	164.5
§ 5320 Alternative Transportation in Parks	26.9	26.9	26.9
§ 5335 National Transit Database	3.5	3.5	3.5
§ 5339 Alternatives Analysis	25.0	25.0	25.0
§ 5309 Capital Investment Programs Total	1,809.3	1,827.3	2,307.3
Research and University Centers	67.0	65.7	65.7
FTA Operations	94.4	97.5	97.5
WMATA Preventative Maintenance and Capital3	0.0	150.0	150.0
TIGGER Grants	0.0	0.0	100.0

Formula and Bus Programs

The Senate and House bills set funding for the Formula and Bus Programs at slightly over \$8.343 billion, the level requested by the Administration. Funding for individual programs under this category is identical in both versions. Like the House bill, the Senate bill provides \$584 million for the Bus and Bus Facilities program, which is \$300 million below FY 2009 for that account. The House committee report says that the "Committee believes that the funding level included for the bus program provides adequate discretionary resources since the projects designated in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) are not continued in fiscal year 2010." The \$300 million reduction in Bus and Bus facilities funds were used to increase funding levels for the urbanized and rural area formula programs.

Of the \$584 million provided for the account, the House Committee Report included 182 earmarks for a total of \$109.5 million dollars. The Senate Report included 64 earmarks for a total of \$94.2 million. The

House Committee Report directs the FTA to distribute half of the discretionary bus and bus facilities funds which are not earmarked to projects which meet the criteria of the Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) program that was created under ARRA. Funds that are not earmarked under the Bus and Bus Facilities program, and which are not used for TIGGER grants under the House bill, would be available for allocation by the FTA.

While each of the House and Senate versions of the bill reduce funding for the Bus and Bus Facilities account by \$300 million, those funds are redistributed under the Urbanized Area Formula, Non-urbanized area formula, Clean Fuels Bus, elderly and disabled, and Fixed Guideway Modernization programs. APTA's Authorization recommendations propose that Bus and Bus Facilities funds be 50 percent discretionary and 50 percent formula, but APTA's proposal would distribute the formula portion of these funds be distributed only under the bus portion of the urban formula program and the Non-urbanized area formulas. The Senate bill provides a separate \$100 million in new funding for the TIGGER grant program.

New Starts/Small Starts

One major difference between the House and Senate bills is the \$480 million increase that the Senate Appropriations Committee bill provides for Capital Investment Grants (New Starts). It sets funding for New Start and Small Start projects at \$2.307 billion, while the House-passed bill provides \$1.827 billion for this program.

Additionally, a number of general provisions making statutory changes to the federal transit program that are included in the Senate committee-approved bill have raised objections from the Senate Banking Committee and will likely be points for debate when the bill reaches the Senate floor. Among them is a provision dealing with contingent commitment authority which would add an additional two years to the existing calculation aimed at increasing the total amount of commitment authority available to the FTA. The Senate Banking Committee Leadership has expressed opposition to the inclusion of this provision in the Appropriations bill.

Separately, the House-passed bill includes language that would provide a 90 percent federal match for the capital costs of a biodiesel bus or a factory installed or retrofitted hybrid-electric system or equipment.

Federal Railroad Administration (FRA) - High Speed and Intercity Passenger Rail

The Senate Committee bill also chose a different direction than the House by providing \$1.2 billion to high-speed and intercity rail, as opposed to the House proposal to fund the program at \$4 billion. The Administration had requested \$1 billion for high-speed passenger rail.

The Senate bill provides full funding of \$50 million for the authorization included in Sec. 105 of the Rail Safety Improvement Act of 2008 [RSIA] for deployment of Passenger Train Control (PTC) systems. This is in addition to a provision that allows the FRA to retain \$50 million of the intercity and high-speed rail funding for research and demonstration activities that will support the development of high-speed rail, including the engineering and development of high-speed rail locomotives.

With regard to Amtrak, the Senate bill provides \$553.3 million for operating grants, the same as the House level and \$19 million less than the budget request. The bill also provides just over \$1 billion for capital and debt service grants for Amtrak – exceeding the House passed level by \$72 million.

Research

The Senate Appropriations Committee has provided \$67.7 million for research and university research centers, an amount equal to the budget request, and \$2 million more than the House passed level.

Multimodal Infrastructure Investment

The final major difference between the House and Senate bills is \$1.1 billion allocated in the Senate bill for a multimodal competitive grant program, whereas the House provided no such allocation.

Outlook

Once the Senate completes its bill, the House-Senate negotiations will begin and these will affect the fate of both the increase in funding for New Starts (Senate) and for high-speed and intercity rail (House). Transportation industry advocates will possibly be looking at a continuing resolution for at least the beginning of October, as Senate floor consideration and conference committee negotiations will likely

go beyond the September 30 fiscal year end date.

ACTION ALERT

Contact your members of Congress and urge them to pass the THUD Appropriations bill prior to the end of the fiscal year on September 30.

- Urge your elected representatives in the U.S. House and Senate to support the higher levels of funding for public transportation in the Senate bill.
- Ask them to support \$4 billion for High-Speed and Intercity Passenger Rail as included in the House version of the bill.

Surface Transportation Authorization Outlook Unclear

Upon its return from August recess, Congress will also be faced with enacting a long term surface transportation authorization bill, or an extension of current programs, prior to the expiration of SAFETEA-LU on September 30. Considering the short time remaining prior to the expiration of SAFETEA-LU, it is likely that an extension will be required.

House Transportation & Infrastructure Committee Chairman James L. Oberstar (D-MN) is still working on gaining broader support for the six-year legislation that sets federal transportation policy and spending ceilings for public transportation, rail, highway, and bridge programs. This draft bill, jointly introduced by Chairman Oberstar and Ranking Member John Mica (R-FL), would increase public transit funding by 90 percent over current levels over the six-year authorization period. The Federal Transit Administration (FTA) would receive \$99.8 billion for public transportation funding. The legislation also authorizes \$50 billion for the creation of a High Speed Rail network. Chairman Oberstar has indicated that if the bill is not completed prior to the September 30 deadline, he would favor a short, 3 to 6 month extension of SAFETEA-LU, to keep pressure on the Congress to pass a long-term bill as quickly as possible.

Due to the crowded legislative agenda and limited time remaining before SAFETEA-LU expires, the Obama Administration is backing an 18-month extension of the current programs. In the Senate, the Banking, Housing and Urban Affairs Committee and the Environment and Public Works Committee have separately approved bills extending the current program for 18 months, but the exact length of any extension is expected to be a major topic of discussion in September. Putting aside questions over the bill's timeline for passage, the most challenging aspect of the legislation is reaching consensus on how to finance the increased investment in transit, high-speed intercity passenger rail and highway programs that authorizing committees in both the House and Senate are considering.

In addition, even a short-term extension must also include new revenues to ensure that the Highway Trust Fund (HTF) remains solvent into the future, since current revenues will not cover the costs of even the current program funding through the upcoming fiscal year. On August 7, President Barack Obama signed H.R. 3357 into law, which provides funding to cover an anticipated shortfall in the HTF through September 30. Funding for the Mass Transit Account of the HTF was not included, because projections indicate that there will be sufficient funds to cover spending for transit programs through FY 2010. However, if an 18-month extension is approved, it may be necessary to add funding for both the highway and mass transit accounts of the HTF to ensure that there are sufficient resources to fund all programs for the duration of that period.

ACTION ALERT

APTA supports the immediate passage of a well funded long term surface authorization bill, prior to the expiration of SAFETEA-LU. We urge all members to contact their members of Congress and encourage them to support passage of a full, 6-year authorization bill that includes significant funding increases and program improvements as outlined in APTA's authorization recommendations for public transportation.

- Explain the importance of a long term bill with increased investment for transit for your systems

or businesses.

Action on Senate Climate Change Bill

The Senate Environment and Public Works Committee is expected to take up climate change legislation in September. APTA has been urging Senators to dedicate a portion of cap and trade allocations to transportation investments that reduce carbon emissions which contribute to climate change, including formula funding for investment in public transportation and high-speed intercity passenger rail. As part of that effort, APTA has supported the Clean Low-Emissions Affordable New Transportation Equity Act, or CLEAN-TEA bill (S.575), sponsored by Senators Tom Carper (D-DE), Ben Cardin (D-MD), Kirsten Gillibrand (D-NY), Frank Lautenberg (D-NJ), and Jeff Merkley (D-OR) that would in fact dedicate 10 percent of cap and trade allowance revenue to public transportation and other transportation improvements. A separate Legislative Alert will be published on this issue next week.

[1] Includes funds for Growing States and High Density States under 49 USC §5340

2 50% of funds in House bill remaining after earmarks are subtracted must be used for Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) grants

3 Funds separately authorized under the Passenger Rail Investment and Improvement Act of 2008

	
	

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