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## LEGISLATIVE Alert

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



July 23, 2010

### U.S. House of Representatives and Senate Advance Fiscal Year (FY) 2011 Appropriations Bills

This week, both the U.S. House of Representatives and Senate Committees on Appropriations approved their versions of the FY 2011 Transportation, Housing and Urban Development (THUD) Appropriations bill. While both chambers are working under similar budgetary constraints, the two bills take a slightly different approach to funding transportation programs in the coming year.

#### Fiscal Year 2011 Transportation Appropriations Levels

Program	FY 2010 Enacted (Millions)	FY 2011 Administration Request (Millions)	FY 2011 House Appropriations Bill (Millions)	FY 2011 Senate Appropriations Bill (Millions)
Total New Budget Authority All FTA Programs	10,730.8	10,799.5	11,307.4	10,792.3
Formula Programs Total[1]	8,343.2	8,271.7	8,961.4	8,361.0
Livable Communities Initiative[2]	0.0	306.9	[306.9]	[306.9]
Energy Efficiency/Greenhouse Gas Reduction (TIGGER)	0.0	52.7	0.0	100.0
New Starts/Small Starts	1,998.0	1,822.1	2,000.0	2,000.0
National Research and Technology / Research and University Research Centers	65.7	29.7	65.4	69.8
Technical Assistance and Workforce Development	0.0	28.6	0.0	0.0
FTA Operations	98.9	113.6	130.7	107.0
Rail Transit Safety Oversight	0.0	24.1	0.0[3]	5.0
WMATA Preventive Maintenance and Capital[4]	150.0	150.0	150.0	150.0
<b>Federal Railroad Administration</b>				
High Speed and Intercity Passenger Rail	2,500.0	1,000.0	1,400.0	1,000.0

Amtrak Operating Grants	563.0	563.0	563.0	563.0
Amtrak Capital and Debt Service	1,001.6	1,005.2	1,203.5	1,400.0
Positive Train Control	50.0	0.0	75.0	150.0
<b>Office of the Secretary of Transportation</b>				
National Infrastructure Innovation and Finance Fund	0.0	4,000.0	0.0	0.0
Livable Communities	0.0	20.0	20.0	0.0
National Infrastructure Investments (TIGER) [5]	600.0	0.0	400.0	800.0

[1] A program-by-program breakdown is not yet available

[2] Includes Jobs Access and Reverse Commute, Alternatives Analysis, and Planning Activities

[3] Funding for Rail Transit Safety Oversight is included in the amount provided for FTA operations, contingent on enactment of rail safety authorizing legislation

[4] Funds separately authorized under the Passenger Rail Investment and Improvement Act of 2008

[5] Funds provided for Transportation Investments Generating Economic Recovery (TIGER) program eligible for public transportation, highway, ports and freight infrastructure projects.

### House of Representatives

The THUD Appropriations bill was reported favorably by the full Appropriations Committee on Tuesday, July 20. This follows the approval of the legislation by the Transportation, HUD and Related Agencies Subcommittee on July 1. For a summary of the subcommittee action, [click here](#).

#### Federal Transit Administration Programs

The House bill provides \$11.31 billion for Federal Transit Administration (FTA) programs, an increase of \$574.89 million over FY 2010 funding levels. Within this amount, \$8.96 billion is provided for Formula and Bus programs, an increase of \$576.67 million over last year's amount. Despite the significant growth in the trust fund programs, the committee acknowledged that it currently lacks sufficient budget authority to provide the increased amounts. Future authorizing legislation will need to be enacted to expand the contract authority for FTA programs (which currently only allows roughly the same level as provided in the FY 2010 bill) to allow for the higher amounts to be allocated. Spending is also contingent on program authorizing language for the full year, since current authorizing law only extends programs through the first three months of FY 2011, ending December 31, 2010.

The bill also includes \$2 billion for the Capital Investments Program (New Starts), and \$150 million for capital grants for the Washington Area Metropolitan Transportation Authority - the same levels provided last year.

The committee did not provide funds for the Transportation Investments for Greenhouse Gas and Energy Reduction (TIGGER) program. Instead, the committee recommends that the FTA use unallocated Bus and Bus Facilities program funds (those not earmarked) to provide grants that meet the criteria set forth in the TIGGER program.

#### Federal Railroad Administration Programs

For Federal Railroad Administration (FRA) programs, the committee provides \$1.4 billion for high speed and intercity passenger rail - \$400 million more than the President's budget request for FY 2011, but \$1.1 billion less than last year's level. The bill also appropriates \$75 million for Positive Train Control (PTC, the Railroad Safety Technology Program), a \$25 million increase over the FY 2010 amount. In providing the increased amount, the committee report acknowledges the challenges that commuter rail operators face in implementing PTC, but notes that it believes that implementation will offer significant

safety benefits for rail passengers. The House bill also contains \$1.79 billion for grants to Amtrak, for operating subsidies, capital improvements and debt service.

#### Transportation Investment Generating Economic Recovery (TIGER) Grants

Separate from FTA funding, the committee provides \$400 million for the Department of Transportation's National Infrastructure Investments Program (TIGER grants), \$200 million less than the amount provided in FY 2010. Of these grants, \$100 million must be used for projects in rural areas. Under the first round of TIGER grants, approximately one-third of funds were allocated to transit related projects, so if this trend continues, a significant amount of additional funds could be available to successful applicants, above the amounts provided for FTA programs.

#### Safety Oversight Program

The House THUD Appropriations bill provides \$24 million within the FTA Administration account for the implementation of a transit safety oversight program. These funds will only become available if Congress passes a safety oversight bill by September 30, 2011.

#### Operating Assistance

During the full committee mark-up, Representative Steve LaTourette (R-OH) offered an amendment to the bill that would alter the definition of capital expenditures under the Section 5307 Urbanized Area Formula Program to include the cost of fuel and electricity used to operate transit vehicles. The purpose of this amendment is to provide operating relief to struggling transit systems by allowing them to count fuel costs as capital expense, rather than an operating expense. THUD Subcommittee Chairman John Olver (D-MA) objected to the measure, noting that it would have a negative impact on the budget and cause the overall bill to exceed its agreed upon limit on outlays, because under federal budget rules, fuel costs would still be counted as operating expenditures, and funds used for these purposes would draw down resources from the trust fund at a much faster rate than traditional capital projects. In recognizing the need to provide operating assistance to transit agencies, however, Chairman Olver then offered to amend LaTourette's amendment to make \$250 million of Bus and Formula Grants available for general operating costs. The amendment does not identify the specific accounts that the funds would come from, or how they would be distributed. In addition, the Olver amendment only allows this exception to take effect if legislation authorizing the change is enacted prior to September 30, 2011. The committee adopted the LaTourette amendment with the changes recommended by Chairman Olver.

### **Senate**

The U.S. Senate THUD Appropriations Subcommittee marked-up and reported its version of the FY 2011 THUD Appropriations bill on Wednesday, July 21. The full Appropriations Committee then approved the bill on Thursday, July 22.

#### FTA Programs

The legislation provides \$10.8 billion for transit programs, including \$8.36 billion for Bus and Formula programs. The amount is \$600 million less than the House bill and roughly the same as the President's recommendation. This amount falls within the limitations for budget authority and contract authority available for trust fund expenditures.

In addition, the Senate bill includes \$2 billion for the Capital Investments Program (New Starts), and \$150 million for capital grants for the Washington Area Metropolitan Transportation Authority - the same levels provided last year, and in the House bill. The Senate bill also provides an additional \$100 million for Transit Investments for Greenhouse Gas and Energy Reduction (TIGGER) grants.

#### FRA Programs

The Senate bill includes \$1 billion for High Speed Rail- \$400 million less than the House bill, but the same amount that the President requested in his annual budget. For PTC, the bill provides \$150 million, which doubles the House amount, and is \$100 million more than last year's level and the amount authorized by Congress. The Senate provides \$1.98 billion for Amtrak capital and operating grants, \$194 million less than the House level.

#### TIGER Grants

The Senate THUD bill provides \$800 million for the TIGER program, which also doubles the amount

provided by the House, and is a \$200 million increase over last year's amount.

#### Safety Oversight Program

Within the amounts provided for FTA programs, the Senate bill provides \$5 million for the implementation of a transit safety oversight program. Unlike the House bill, this appropriation is provided outside the FTA Administrative account. Like the House bill, however, the funds will only be made available in the event that the Congress enacts a safety oversight bill.

#### **Appropriations Bills vs. President's Budget**

Earlier this year, the President's budget request for the Department of Transportation included a number of recommendations to reorganize Federal Transit Administrations programs and create new funding categories. Both the House and Senate Appropriations Committees refused to accept these changes, noting that it was not within the jurisdiction of their committees and that the recommendations should be considered as part of the authorization debate.

#### **Outlook**

With both the House and Senate THUD Appropriations Committees completing their work on the FY 2011 bills, they are now set for consideration on the House and Senate floor. The House is scheduled to bring its bill to the floor late next week, in attempt to gain final passage prior to the August recess. The Senate will likely wait until after the recess for floor consideration sometime in the fall. At this point, it is unclear whether there will be sufficient time on the schedule for both bills to gain final passage before adjournment in October for the fall elections. If time runs out before the bills can be considered on the floor and by a House-Senate conference to work out the differences in the legislation, it is likely that the THUD bill will be wrapped up into a larger omnibus appropriations package that includes multiple spending bills, either prior to adjournment, or during a lame-duck session after the elections.

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