111TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
111–218

DEPARTMENTS OF TRANSPORTATION, AND HOUSING AND URBAN DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, 2010

JULY 22, 2009.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OLVER, from the Committee on Appropriations, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 3288]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Departments of Transportation, and Housing and Urban Development, and related agencies for the fiscal year ending September 30, 2010.

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MAJOR THEMES AND INITIATIVES

SUSTAINABLE TRANSPORTATION AND HOUSING INITIATIVES

The Committee is extremely concerned about the negative impact of transportation and housing on the environment. Roughly fifty percent of energy consumption and ensuing greenhouse gas emissions is attributable to the transportation and residential housing sectors. In the absence of policy intervention, rising greenhouse gas emissions are estimated by the UN's Intergovernmental Panel on Climate Change to cause a 2–4 degree Celsius increase in earth's average temperature by 2100, with more extreme increases in higher latitudes. Beyond general warming, climate change is expected to cause major shifts in precipitation patterns, displace large populations vulnerable to rising sea level, increase water shortages, and impact agricultural crop yields, among a host of other problems.

In addition to its effects on climate, increased fossil fuel usage is linked to reliance on unstable foreign political regimes, air quality and human health issues, and rising utility and fuel costs for the American citizen. Moreover, heavy dependence on rapidly depleting energy sources is unsustainable for current and future generations. Given the large influence transportation and housing has on energy consumption, the Committee is committed to funding initiatives that support sustainability.

The Committee is also dedicated to integrating both environmental and social priorities into community development for overall sustainable, livable communities. On average Americans spend fifty-two percent of their income on housing and transportation. The average American family spends roughly eighteen percent of its annual income on transportation alone, while lower income families spend as much as thirty-three percent. By encouraging transit-oriented development, families will have greater access to affordable public transportation and simultaneously decrease their environmental footprint, and urban areas can be revitalized. To further enhance transit-oriented benefits, green, affordable, mixed-income housing should be developed to make cities and towns more vibrant, energy-efficient, and sustainable while preserving the land around them. The Committee recommendation has included the following initiatives in an effort to advance the goals of building more sustainable communities and reducing the impact of transportation and housing on the environment:

—*Efficient airport approaches*—Provides $32,300,000 to develop additional aviation route procedures with the goal of reducing carbon emissions caused by aircraft.

—*Alternative aviation fuel*—Provides nearly $48,000,000 for overall aviation environmental research, including an increase of $13,000,000 to accelerate the development of viable alternative fuels.

—*Green design and construction standards for airports*—Directs the Federal Aviation Administration to work with airports and research institutions to develop green design and construction standards for airport facilities and airfields.

—*Clean fuel buses*—Provides $61,500,000, an increase of $10,000,000 above fiscal year 2009, for clean fuel buses.

—*Green transit facilities and vehicles*—Designates at least $182,000,000 for projects that meet the criteria developed under the transit investment in greenhouse gas and energy reduction (TIGGER) grants.

—*Sustainability standards*—Requires the Federal Transit Administration to incorporate green building and livable community principles into future legislative proposals.

—*Corporate average fuel economy (CAFE) standards*—Provides $8,900,000 for the National Highway Traffic Safety Administration to continue implementing the requirements of the Energy Independence and Security Act of 2007 by issuing a CAFE rule impacting model years 2012–2016 vehicles and a rule requiring manufacturers to label additional fuel economy information on new vehicles.

—*Hydrogen fuel cell and alternative fuel vehicles*—Provides $1,000,000, a 667 percent increase above fiscal year 2009, for the National Highway Traffic Safety Administration to develop test procedures to assess the safety of hydrogen, fuel cell, and other alternative fuel vehicles.

—*Amtrak*—Provides up to $1,500,000,000 for Amtrak. Amtrak uses 17 percent less energy per passenger mile than airplanes and 21.4 percent less than automobiles. Rail also emits significantly less CO_2 per passenger miles than airplanes.

—*High Speed and Intercity Passenger Rail*—Provides up to $4,000,000,000 for passenger rail grants to support a more energy efficient and environmentally friendly transportation option.

—*Reducing maritime transportation environmental impacts*—Provides $3,875,000 for initiatives to advance energy efficiency and reduce air emissions from ships and ports and to research and develop effective means of ballast water treatment systems.

—*Sustainable Communities Initiative*—Provides $150,000,000 for a new initiative between HUD and DOT to catalyze regional planning efforts to better coordinate housing, transportation and energy policies.

—*Brownfields Redevelopment*—Provides $25,000,000 to revitalize vacant, formerly contaminated brownfield sites into productive use.

—*Energy Innovation Fund*—Provides $50,000,000 to expand the use of energy efficient mortgages and increase the penetration of energy efficient technologies and practices in single- and multi-family housing units.

ADDRESSING TRANSPORTATION AND HOUSING NEEDS OF RURAL AMERICA

Rural transportation needs are often overshadowed by the transportation and mobility challenges in metropolitan areas, yet rural areas face their own unique transportation and mobility challenges. According to the Census Bureau, 21 percent of the U.S. population, almost 60 million people, live in the 97 percent of land areas categorized as rural. Between 2000 and 2007, more than 60 percent of these rural communities lost population. At the same time, certain demographics, seniors and veterans in particular, disproportionately live in rural areas and require specialized transportation and/or housing assistance. Just like in metropolitan areas, many of these populations rely on public transportation in order to access jobs or basic health care services. These transit services are expected to become increasingly important as discussions on health care reform often include increased reliance on outpatient medicine which must be supported by strong transportation opportunities.

Even more often overlooked but equally important within rural areas are public housing needs. Unfortunately, rural areas have historically received a disproportionately smaller share of public housing resources. This is especially poignant within Native American communities where the 2000 Census data found that more than 1 in 4 households experience severe housing needs and lack basic plumbing or kitchen facilities.

Moving forward, the Committee is committed to addressing the increasing challenge of providing adequate transportation and housing opportunities for rural communities. To that end, the Committee puts forth the following initiatives:

—*Essential Air Service*—Provides $175,000,000 to help ensure rural communities have access to air service.

—*Grants to Small Airports*—Provides $1,180,030,413 for critical safety, capacity and maintenance improvements at small airports that predominately serve rural areas.

—*Rural Highway Formula Funds*—Provides approximately $600,000,000 for highway projects in areas with a population of less than 5,000.

—*High Risk Rural Roads*—Provides $90,000,000 for the construction of and operational improvements to high risk rural roads.

—*Rural Transit Formula Grants*—Provides $607,025,922, an increase of nearly $69,000,000, to support public transportation in areas fewer than 50,000 people. In many rural communities, public transit options are essential for getting residents to the store, medical appointments, and work.

—*Amtrak*—Provides $1,500,000,000 for Amtrak capital, operating grants and the Office of the Inspector General to provide a national passenger railroad, which provides transportation options between rural and metropolitan communities.

—*Rail Line Relocation and Improvement Program*—Provides $40,000,000 to rehabilitate or relocate freight or passenger rail lines. In particular, this program can move tracks that run through the middle of small towns and upgrade tracks to improve freight rail commerce.

—*Native American Housing Block Grants*—Provides $750,000,000 to address affordable housing needs on reservations. Improved housing opportunities can provide a stable base to improve local economies and reduce the staggering unemployment rates in these communities.

—*Rural Innovation Fund*—Provides $25,000,000 to develop new innovative approaches for solving rural public housing needs.

HOUSING AND MOBILITY FOR SPECIAL POPULATIONS

Livable communities with ample access to affordable transportation and housing are essential elements of long-term health, wellness and quality of life for older adults and people with disabilities. The Committee recognizes that investments are needed now to accommodate a rapidly aging population. Mobility management is needed to assure that the transportation and mobility needs of people with disabilities and older adults are met, and to fully integrate these special populations into their livable communities. This effort must include ensuring proper access to current infrastructure, building accessible design elements into livable communities planning, and providing training to the affected populations.

In addition to mobility needs, housing initiatives for the elderly and disabled have been severely underfunded in recent years. As the population ages, adequate and affordable housing for this growing sector will be an increasing concern. The Committee strongly believes that an investment in public housing needs to be made now to accommodate these special populations. To that end, the Committee puts forth the following initiatives:

—*Public transportation for the elderly and individuals with disabilities*—Provides over $140,000,000, an increase of $7,000,000, in formula funds to address the transit needs of the elderly and individuals with disabilities.

—*Mobility management*—Encourages continued research and support for programs such as Project Action and the National Center on Senior Transportation to demonstrate innovative mobility solutions for special populations.

—*New Freedom program*—Provides $92,500,000 to expand transit options for people with disabilities.

—*Over-the-Road bus accessibility*—Provides $10,800,000 for grants to improve accessibility on buses and motor coaches.

—*Expediting design standards to improve accessibility*—Provides $200,000 for expedited rulemaking and issuance of guidelines for access to public transportation, housing, and infrastructure

—*Housing for the elderly*—Provides $1,000,000,000 for renovation, construction and conversion of affordable housing units for the elderly. It is estimated that 10 seniors are on a waiting list for every one unit of housing, and this funding will help to ease the affordable housing shortage for this population.

—*Housing for persons with disabilities*—Provides $350,000,000 for construction of affordable housing units for persons with disabilities, recognizing that this program is a cost-effective supportive housing alternative to expensive institutional settings.

—*Housing for persons with AIDS*—Provides $350,000,000 to sustain and expand supportive housing opportunities for persons with AIDS, many of whom have no other housing resource and might otherwise become homeless.

—*Homeless Assistance Grants*—Provides $1,850,000,000 to fund permanent and transitional housing opportunities for families and individuals who are homeless, which is especially crucial in this time of economic recession.

EXPIRING AUTHORIZATIONS FOR SURFACE TRANSPORTATION PROGRAMS

The current surface transportation authorization act, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), expires on September 30, 2009. This legislation provides contract authority authorizations from the highway trust fund for most Federal highway, highway safety, transit, and motor carrier safety programs. The role of the appropriations process with respect to these contract authority programs generally is to set obligation limitations so that overall Federal spending stays within legislated targets and to appropriate liquidating cash to cover the outlays associated with obligations that have been made.

SAFETEA–LU authorized the Federal surface transportation programs through the end of fiscal year 2009 and Congress must reauthorize these programs in order to create new contract authority for fiscal year 2010 and later years. While there has been some preliminary subcommittee action in the House, there has been no action on the part of the House financing committee of jurisdiction nor has there been any movement in the committees of jurisdiction in the Senate. Until such reauthorization legislation is enacted, there will not be new contract authority to fund the Federal surface transportation programs beyond the end of fiscal year 2009. Much of the inaction and delay by Congress is the result of the cloud of uncertainty looming over the future solvency of the highway trust fund as the fund lacks a revenue stream capable of supporting even the current program funding levels.

In addition, the Administration is still developing its reauthorization proposal for surface transportation programs and, consequently, the President's budget that was submitted to the Committee contains no policy or funding recommendations for programs subject to reauthorization. The President's budget instead provides only baseline funding levels for all highway, highway safety, transit, and motor carrier safety programs, including increases mostly for only pay raises and other non-pay inflation adjustments. However, in recognition of the fact that the highway trust fund cannot support even a baseline program level with current highway user fees, the budget proposes to fund highway and transit programs mostly through appropriations of discretionary budget authority from the general fund. For highways, the budget proposes providing $36,107,000,000 from the general fund and only $5,000,000 from the highway trust fund. Similarly, the budget proposes to fund transit with $5,000,000,000 coming from the highway trust fund and $3,343,171,000 coming from the general fund. The President's budget notes that this funding presentation does not represent the Administration's recommended funding level or a budget approach for the upcoming reauthorization but is instead intended to accurately depict the condition of the highway trust fund and recognize that, under current law, maintaining even baseline spending would require support from the general fund. In addition, the Administration has recently stated its desire to see an eighteen month extension of the program rather than the much needed multi-year legislation that is needed to finance, maintain and improve our nation's infrastructure.

The Committee expects the authorizing committees of jurisdiction to act before the end of the fiscal year to either extend or fully reauthorize all of the surface transportation programs. Therefore, in the absence of a long-term surface transportation reauthorization and any specific guidance from the Administration, the Committee has generally assumed the continuation of the program structure and funding levels in current law as if extended through fiscal year 2010 even though the actual future structure of these programs is unknown at this time. Furthermore, continuing to set an overall program level for these surface transportation programs by placing an obligation limitation on future contract authority made available from the highway trust fund is consistent with the concurrent resolution on the budget for fiscal year 2010, S. Con.

Res. 13, which was passed by both the House and the Senate on April 29, 2009.

SOLVENCY OF THE HIGHWAY TRUST FUND

The precarious status of the highway trust fund has concerned the Committee for the last several years. It has been well-documented that expenditures have exceeded receipts into the highway trust fund for each of the last eight years, as shown in the following table:

HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND

[In millions of dollars]

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	8-Year Total
Revenue	26,917	27,983	28,964	29,785	32,909	33,702	34,310	31,344	245,913
Outlays	-29,098	-32,219	-32,109	-31,971	-33,121	-35,280	-35,214	-37,440	-266,452
Net	-2,182	-4,236	-3,145	-2,186	-213	-1,578	-904	-6,095	-20,539

NOTE: Amounts may not add due to rounding.

Accordingly, both the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO) estimate the highway account of the highway trust fund will have a negative cash balance between $3,900,000,000 and $8,600,000,000 in fiscal year 2010. The mass transit account is not faring much better and is also projected to become insolvent by fiscal year 2011 according to OMB, but not until fiscal year 2012 according to CBO. The Committee believes strongly that financing the current and future needs of the nation's surface transportation systems is the single most urgent transportation challenge we face.

Of more imminent concern to the Committee is the projection by the Administration that the highway account will experience cash flow problems as early as this summer as the surface transportation programs continue to outlay at a greater pace than receipts are coming in. As a result, the cash balance in the highway account of the highway trust fund has dropped by several billion dollars since the beginning of the fiscal year. Assuming that the current economic situation stays as projected, the Federal Highway Administration is estimating that in August there will be insufficient funds in the highway account to cover the bills from the states when they are presented to the agency for payment. This would be similar to the problems the highway program experienced last summer, which prompted Congress to transfer $8,017,000,000 from the general fund to the highway account of the highway trust fund. The Administration estimates that approximately five to seven billion dollars will ultimately be needed to address this funding shortfall in fiscal year 2009, assuming a prudent balance of $4,000,000,000 in cash is needed in the highway account in order to pay all bills and manage the cash flow. Similarly, the Administration has stated that the highway account will need an additional eight to ten billion dollars in order to support a program level of $41,107,000,000 and keep the account solvent in fiscal year 2010, assuming the current economic situation stays as projected.

This has put the Committee in the difficult position of recommending funding levels for the highway, highway safety, and motor carrier programs without any assurances that sufficient balances will be available in the highway trust fund to support these programs at even the funding level enacted for fiscal year 2009. Absent any other action by Congress that would replenish the balances of the highway trust fund, this Committee would be required to cut Federal investments in highway infrastructure to roughly one-eighth the size of the current program, which is all the highway account can support in fiscal year 2010 given current revenue and outlay projections. The Committee believes that such a severe reduction to the highway, highway safety, and motor carrier safety programs would impose unreasonable hardships on state budgets and the national economy, and it would threaten the safety of our transportation system. The Committee fully expects the authorizing committees of jurisdiction to take prompt action to restore the solvency of the highway trust fund to ensure that much needed transportation investments can continue to occur in the years ahead and believes that there must be sufficient resources in the highway trust fund to meet at least the baseline highway, highway safety, transit, and motor carrier safety funding levels in fiscal year 2010. Accordingly, the Committee will continue to carefully monitor the balances in the highway trust fund to determine whether these funding levels are sustainable.

THE EFFECT OF GUARANTEED SPENDING

Over a decade ago, in 1998, the Transportation Equity Act for the 21st Century (TEA–21) amended the Balanced Budget and Emergency Deficit Control Act and created, over the objections of the Appropriations and Budget Committees, two new additional discretionary spending categories or "firewalls"—the highway category and the mass transit category. By writing these transportation categories into law, the funding for highways and transit was essentially "guaranteed" for the life of the authorizing legislation and fundamentally removed all funding decisions related to these programs from the annual appropriations process.

The establishment of the highway funding category was based upon the principle that the highway program would be funded solely from a dedicated revenue source financed by transportation excise taxes and, since Congress imposed these taxes with the assurance that the collected funds would be spent on infrastructure improvements, the funds needed to be spent for their intended purpose rather than sitting idle in "bank accounts", masking the real size of budget deficits. Based on this argument, highway funding, in terms of obligations, was set by TEA–21 to equal to the projected receipts into the highway account of the highway trust fund for the prior year, meaning that fiscal year 2002 funding was set equal to the estimated fiscal year 2001 receipts. TEA–21 was successful in guaranteeing that almost all of the receipts that were to be collected over the five-year period, fiscal years 1998 through 2002, would be available for obligation in fiscal years 1999 through 2003, falling $962,000,000 below its ultimate goal of linking spending to estimated receipts, dollar for dollar.

	Estimated Highway Account Tax Receipts (Sec. 8101(d) of TEA-21)	Highway Category Guarantees (Sec. 8003(a) of TEA-21)	Mandatory Highway Funding (Contract Authority)	Total Highway Funding	Comparison: Guarantee vs. Prior Year Receipts
FY 1998	22,164,000,000	---	---	---	---
FY 1999	32,619,000,000	25,883,000,000	739,000,000	26,622,000,000	+4,458,000,000
FY 2000	28,066,000,000	26,629,000,000	739,000,000	27,368,000,000	-5,251,000,000
FY 2001	28,506,000,000	27,158,000,000	739,000,000	27,897,000,000	-169,000,000
FY 2002	28,972,000,000	27,767,000,000	739,000,000	28,506,000,000	---
FY 2003	29,471,000,000	28,233,000,000	739,000,000	28,972,000,000	---
....	....	....	....	....	-962,000,000

As the Committee noted during deliberations on this bill, TEA–21 effectively established mandatory spending programs within the discretionary budget caps. This undermines Congressional flexibility to fund other equally important programs within the Committee's jurisdiction not protected by funding guarantees and limits the Committee's ability to address emerging priorities. These funding guarantees also skew transportation priorities inappropriately by mandating increases to highways and transit spending, while leaving safety operations related to aviation, highways, motor carriers, pipelines, and railroads to scramble for the remaining resources.

Yet, over the continued objections of the Committee, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU), which was enacted on August 10, 2005, to reauthorize surface transportation programs, extended the highway and mass transit budgetary firewalls and the point of order under House rules enforcing the firewalls through fiscal year 2009. However, SAFETEA–LU abandoned the fiscal discipline of its predecessor legislation and broke the linkage between spending and receipts by setting a spending level almost $27,600,000,000 higher than the total projected receipts over a four year period.

	Estimated Highway Account Tax Receipts (Sec. 8002 of SAFETEA–LU)	Highway Category Guarantees (Sec. 8003(a) of SAFETEA–LU)	Mandatory Highway Funding (Contract Authority)	Total Highway Funding	Comparison: Total Funding Guarantee vs. Prior Year Receipts
FY 2005	31,262,000,000	35,164,292,000	739,000,000	35,903,292,000	---
FY 2006	33,712,000,000	37,220,843,903	739,000,000	37,959,843,903	+6,397,843,903
FY 2007	34,623,000,000	39,460,710,516	739,000,000	40,199,710,516	+6,487,710,516
FY 2008	35,449,000,000	40,824,075,404	739,000,000	41,563,075,404	+6,940,075,404
FY 2009	36,220,000,000	42,469,970,178	739,000,000	43,208,970,178	+7,759,970,178
					+27,585,600,001

The resulting overspending has, not surprisingly, led the highway account that serves as the sole funding source for the highway program on a downward spiral to insolvency. Although several Congressional committees and transportation advocacy groups have tried to blame the looming insolvency of the highway trust fund on emergency highway funding appropriations or the loss of interest payments since 1998, most of the current problems within the highway trust fund are due to the fact that the highway program's funding source was overcommitted by the SAFETEA–LU authorizing legislation—undermining the "user pays" principle underlying the guarantees—while also amending the existing statutory controls on highway overspending ("revenue aligned budget authority" and the "Byrd test") so that they would not do their job of preventing highway spending from outpacing eventual tax receipts. Now that the highway trust fund is in desperate need of a financial transfusion, it warrants a reevaluation of whether or not these guarantees should be continued and how statutory safeguards against overspending the highway trust fund can be strengthened.

As in past years, the Committee has done all in its power, considering this environment, to produce a balanced bill providing adequately for all modes of transportation as well as all non-transportation programs under the jurisdiction of this bill. This year the Committee is in the unique situation of recommending funding levels for the highway, highway safety, and motor carrier programs for fiscal year 2010 that even at a baseline level with minimal increases cannot currently be supported by the highway trust fund. However, the Committee has moved forward with its part of the process fully expecting the authorizing committees of jurisdiction to take prompt action to restore the solvency of the highway trust fund to ensure that sufficient resources will be in the highway trust fund to meet at least the baseline highway, highway safety, transit, and motor carrier safety funding levels in fiscal year 2010 and beyond.

OPERATING PLAN AND REPROGRAMMING PROCEDURES

The Committee continues to have a particular interest in being informed of reprogrammings which, although they may not change either the total amount available in an account or any of the purposes for which the appropriation is legally available, represent a significant departure from budget plans presented to the Committee in an agency's budget justifications and supporting documents, the basis of this appropriations Act.

The Committee directs the departments, agencies, corporations and offices funded within this bill, to notify the Committee prior to increasing any program, activity, object classification or element in excess of $5,000,000 or 10 percent, whichever is less. Likewise, the Committee directs the same entities noted above to not decrease any program, activity, object classification or element by $5,000,000 or 10 percent, whichever is less. Additionally, the Committee expects to be promptly notified of all reprogramming actions which involve less than the above-mentioned amounts. If such actions would have the effect of significantly changing an agency's funding requirements in future years, or if programs or projects specifically cited in the Committee's reports are affected by the reprogramming, the reprogramming must be approved by the Committee regardless of the amount proposed to be moved. Furthermore, the Committee must be consulted regarding reorganizations of offices, programs, and activities prior to the planned implementation of such reorganizations.

The Committee also directs that the Department of Transportation and the Department of Housing and Urban Development shall submit operating plans, signed by the respective secretary for the Committee's review within 60 days of the bill's enactment.

RELATIONSHIP WITH BUDGET OFFICES

Through the years, the Committee has channeled most of its inquiries and requests for information and assistance through the budget offices of the various departments, agencies, and commissions. The Committee has often pointed to the natural affinity and relationship between these organizations and the Committee which makes such a relationship workable. The Committee reiterates its longstanding position that while the Committee reserves the right to call upon all offices in the departments, agencies, and commissions, the primary conjunction between the Committee and these entities must normally be through the budget offices. The Committee appreciates all the assistance received from each of the departments, agencies, and commissions during the past year. The workload generated by the budget process is large and growing, and therefore, a positive, responsive relationship between the Committee and the budget offices is absolutely essential to the appropriations process.

TABULAR SUMMARY

A table summarizing the amounts provided for fiscal year 2009 and the amounts recommended in the bill for fiscal year 2010 compared with the budget estimates is included at the end of this report.

COMMITTEE HEARINGS

In addition to the hearings noted above, the Committee also conducted extensive hearings on the programs and projects provided for in this bill. Pursuant to House rules, each of these hearings was open to the public. The Committee received testimony from cabinet officers, agency heads, inspectors general, and other officials of the executive branch in areas under the bill's jurisdiction. In addition, the Committee has considered written material submitted for the hearing record by Members of Congress, private citizens, local government entities, and private organizations. The bill recommendations for fiscal year 2010 have been developed after careful consideration of all the information available to the Committee.

TERMINATIONS, REDUCTIONS AND OTHER SAVINGS

In order to invest in the important programs funded in this bill and to use the resources available to it wisely, the Committee has proposed a number of program terminations, reductions, and other savings from the fiscal year 2009 level totaling over $1.5 billion and $3.7 billion in other program terminations, reductions, and other savings from the budget request. These adjustments, no matter their size, are important to setting the right priorities within the spending allocation, for getting the deficit under control, and creating a government that is as efficient as it is effective.

PROGRAM, PROJECT, AND ACTIVITY

During fiscal year 2010, for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177), as amended, with respect to appropriations contained in the accompanying bill, the terms "program, project, and activity" shall mean any item for which a dollar amount is contained in an appropriations Act (including joint resolutions providing continuing appropriations) or accompanying reports of the House and Senate Committees on Appropriations, or accompanying conference reports and joint explanatory statements of the committee of conference. This definition shall apply to all programs for which new budget (obligational) authority is provided, as well as to capital investment grants within the Federal Transit Administration. In addition, the percentage reductions made pursuant to a sequestration order to funds appropriated for facilities and equipment within the Federal Aviation Administration shall be applied equally to each budget item that is listed under said accounts in the budget justifications submitted to the House and Senate Committees on Appropriations as modified by subsequent appropriations Acts and accompanying committee reports, conference reports, or joint explanatory statements of the committee of conference.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Appropriation, fiscal year 2009	$98,248,000
Budget request, fiscal year 2010	103,184,000
Recommended in the bill	102,556,000
Bill compared with:	
Appropriation, fiscal year 2009	+4,936,000
Budget request, fiscal year 2010	-628,000

COMMITTEE RECOMMENDATION

The bill provides $102,556,000 for the salaries and expenses of the offices comprising the Office of The Secretary of Transportation (OST). The Committee's recommendation includes individual funding for each of these offices as has been done in prior years. The following table compares the fiscal year 2009 enacted level to the fiscal year 2010 budget assumption and the Committee's recommendation by office:

	Fiscal year 2009 enacted	Fiscal year 2010 assumption	House Recommended
Immediate office of the secretary	$2,400,00	$2,631,000	$2,631,000
Office of the deputy secretary	759,000	986,000	986,000
Office of the executive secretariat	1,595,000	1,711,000	1,658,000
Office of the under secretary of transportation for policy	10,107,000	11,100,000	11,100,000
Official of small and disadvantaged business utilization	1,369,000	1,499,000	1,433,000
Office of the chief information officer	12,885,000	13,263,000	13,215,000
Office of the assistant secretary for governmental affairs	2,400,000	2,504,000	2,440,000
Office of the general counsel	19,838,000	20,359,000	20,359,000
Office of the assistant secretary for budget and programs	10,200,000	10,559,000	10,559,000
Office of the assistant secretary for administration	26,000,000	25,520,000	25,520,000
Office of public affairs	2,020,000	2,123,000	2,055,000
Office of intelligence and security and emergency response	8,675,000	10,929,000	10,600,000
Total	98,248,000	103,184,000	102,556,000

[1] Numbers may not add due to rounding.

Immediate office of the secretary.—The immediate Office of the Secretary has primary responsibility to provide overall planning, direction, and control of departmental affairs. The Committee recommends an appropriation of $2,631,000 for the expenses of the immediate Office of the Secretary, an increase of $231,000 above the fiscal year 2009 enacted level and the same as the level proposed in the fiscal year 2010 budget request.

Immediate office of the deputy secretary.—The Office of the Deputy Secretary has the primary responsibility to assist the Secretary in the overall planning, direction, and control of departmental affairs. The Deputy Secretary serves as the chief operating officer of the Department of Transportation. The Committee recommends $986,000 for expenses of the Office of the Deputy Secretary, an increase of $227,000 above the fiscal year 2009 enacted level and the same as the level proposed in the fiscal year 2010 budget.

Executive secretariat.—The executive secretariat assists the Secretary and Deputy Secretary in carrying out their responsibilities by controlling and coordinating internal and external documents. The Committee recommends an appropriation of $1,658,000 for the expenses of the executive secretariat, which is $63,000 greater than the fiscal year 2009 enacted level and $53,000 less than the level proposed in the fiscal year 2010 budget.

Office of the under secretary of transportation for policy.—The Office of the Under Secretary of Transportation for Policy serves as the Department's chief policy officer and is responsible for the coordination and development of departmental policy and legislative initiatives; international standards development and harmonization; aviation and other transportation-related trade negotiations; the performance of policy and economic analysis; and the execution of the Essential Air Service Program. The Committee recommends $11,100,000 for the Office of the Under Secretary of Transportation for Policy which is an increase of $993,000 above the fiscal year 2009 enacted level and the same as the level proposed in the fiscal year 2010 budget.

Office of small and disadvantaged business utilization.—The Office of Small and Disadvantaged Business Utilization is responsible for promoting small and disadvantaged business participation in the Department's procurement and grants programs. The Committee recommends an appropriation of $1,433,000 for this office, an increase of $64,000 above the fiscal year 2009 enacted level and $66,000 below the level proposed in the fiscal year 2010 budget.

Office of the chief information officer.—The Office of the Chief Information Officer serves as the principal advisor to the Secretary on information resources and information systems management. The Committee recommends an appropriation of $13,215,000 for the Office of the Chief Information Officer, which is $330,000 above the fiscal year 2009 enacted level and $48,000 below the fiscal year 2010 budget request.

Office of the assistant secretary for governmental affairs.—The Office of the Assistant Secretary for Governmental Affairs is responsible for coordinating all Congressional, intergovernmental, and consumer activities of the Department. The Committee recommends $2,440,000 for the Office of the Assistant Secretary for Governmental Affairs, an increase of $40,000 above the fiscal year 2009 enacted level and $64,000 below the fiscal year 2010 budget request.

In addition, the bill continues a provision (sec. 188) that requires the Department to notify the Committees on Appropriations not less than three business days before any discretionary grant award, letter of intent, or full funding grant agreement in excess of $500,000 is announced by the Department or its modal administrations from: (1) any discretionary program of the Federal Highway Administration other than the emergency relief program; (2) the airport improvement program of the Federal Aviation Administration; (3) any grant from the Federal Railroad Administration; and (4) any program of the Federal Transit Administration program other than the formula grants and fixed guideway modernization programs. Such notification shall include the date on which the official announcement of the grant is to be made and no such announcement shall involve funds that are not available for obligation.

Office of the general counsel.—The Office of the General Counsel provides legal services to the Office of the Secretary and coordinates and reviews the legal work of the chief counsels' offices of the operating administrations. The Committee recommends $20,359,000 for the Office of General Counsel, an increase of $521,000 above the fiscal year 2009 enacted level, and the same as the fiscal year 2010 budget request.

Office of the assistant secretary for budget and programs.—The Assistant Secretary for Budget and Programs is responsible for developing, reviewing, and presenting budget resource requirements for the Department to the Secretary, Congress, and the Office of Management and Budget. The Committee recommends an appropriation of $10,559,000 for the Office of the Assistant Secretary for Budget and Programs, an increase of $359,000 over the fiscal year 2009 enacted level and the same as the level proposed in the fiscal year 2010 budget.

Office of the assistant secretary for administration.—The Office of the Assistant Secretary for Administration serves as the principal advisor to the Secretary on department-wide administrative matters, responsibilities include leadership in acquisition reform and human capital. The Committee recommends an appropriation of $25,520,000 for the expenses of this office, which is $480,000 below the fiscal year 2009 enacted level and the same as the level proposed in the 2010 fiscal year budget.

Office of public affairs.—The Office of Public Affairs is responsible for the Department's press releases, articles, briefing materials, publications, and audio-visual materials. The Committee recommends an appropriation of $2,055,000 for the expenses of the Office of Public Affairs, an increase of $35,000 above the fiscal year 2009 enacted level and $68,000 below the level proposed in the fiscal year 2010 budget.

Office of intelligence, security, and emergency response.—The Office of Intelligence, Security, and Emergency Response was established in fiscal year 2005 by merging the Secretary's Office of Intelligence and Security with the Research and Special Program Administration's Office of Emergency Transportation. The office is responsible for intelligence, security policy, preparedness, training and exercises, national security, and operations. The Committee recommendation includes $10,600,000 for the Office of Intelligence, Security, and Emergency Response which is $1,925,000 above the fiscal year 2009 enacted level and $329,000 below the level proposed in the fiscal year 2010 budget. The Committee approves the

Departments' request to transfer the Executive Protection Program to this office.

Congressional budget justifications.—The Committee directs the Department to include the same level of detail that was provided in the congressional budget justifications submitted in fiscal year 2009. Further, the Department is directed to include in the budget justification funding levels for the prior year, current year, and budget year for all programs, activities, initiatives, and program elements. Each budget submitted by the Department must also include a detailed justification for the incremental funding increases and additional FTEs being requested above the enacted level, by program, activity, or program element.

OST currently includes a helpful discussion in its justification of changes from the current year to the request. To ensure that each adjustment is identified, the Committee directs OST in future congressional justifications to include detailed information in tabular format which identifies specific changes in funding from the current year to the budget year for each office, including each office within the Office of the Secretary.

Operating plan.—The Committee directs the Department to submit an operating plan for fiscal year 2010 signed by the Secretary for review by the Committees on Appropriations within 60 days of the bill's enactment. The operating plan should include funding levels for the various offices, programs, and initiatives detailed down to the object class or program element covered in the budget justification and supporting documents, documents referenced in the House and Senate appropriations reports, and the statement of the managers.

Headquarters space.—The Committee is cognizant of the Federal Railroad Administration's (FRA) expanding mission requirements and its need for additional headquarters' staff. The Committee appreciates the Office of The Secretary's continued efforts to assist FRA in finding viable solutions to its office space needs. The Committee expects that the Secretary and FRA will develop a plan outlining the immediate accommodations that can be made to appropriately address FRA's growing workforce.

General provisions.—The Committee notes that in the past many general provisions included in the President's budget request were not justified, addressed, nor presented in any DOT justification. Therefore, the Committee continues to direct DOT to justify each general provision proposed either in its relevant modal congressional justification or in the OST congressional justification.

Bill language.—The bill continues language that permits up to $2,500,000 of fees to be credited to the Office of the Secretary for salaries and expenses.

OFFICE OF CIVIL RIGHTS

Appropriation, fiscal year 2009	$9,384,000
Budget request, fiscal year 2010	9,667,000
Recommended in the bill	9,667,000
Bill compared with:	
Appropriation, fiscal year 2009	+283,000
Budget request, fiscal year 2010	---

The Office of Civil Rights is responsible for advising the Secretary on civil rights and equal opportunity issues and ensuring the full implementation of the civil rights laws and departmental civil rights policies in all official actions and programs. This office is responsible for enforcing laws and regulations that prohibit discrimination in federally operated and federally assisted transportation programs and enabling access to transportation providers. It also handles all civil rights cases affecting Department of Transportation employees.

COMMITTEE RECOMMENDATION

The Committee recommends $9,667,000 for the office of civil rights, an increase of $283,000 above the fiscal year 2009 enacted level and the same as the level proposed in the fiscal year 2010 budget.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

Appropriation, fiscal year 2009	$18,300,000
Budget request, fiscal year 2010	10,233,000
Recommended in the bill	14,733,000
Bill compared with:	
Appropriation, fiscal year 2009	-3,567,000
Budget request, fiscal year 2010	+4,500,000

This appropriation finances research activities and studies related to the planning, analysis, and information development used in the formulation of national transportation policies and plans. It also finances the staff necessary to conduct these efforts. The overall program is carried out primarily through contracts with other federal agencies, educational institutions, nonprofit research organizations, and private firms.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of $14,733,000 for transportation planning, research and development, a decrease of $3,567,000 below the fiscal year 2009 enacted level and an increase of $4,500,000 above the level proposed in the fiscal year 2010 budget.

The Committee directs funding to be allocated to the following projects:

Advanced Power Train Systems Integration Research Facility in the National Transportation Research Center, TN	$250,000
Earthworks Engineering Research Center, Iowa State University, IA	500,000
Great Lakes Maritime Research Institute, MN/WI	450,000
Jet Engine Technology Inspection to Support Continued Airworthiness, Iowa State University, IA	700,000
Mobility 1st Service, MI	750,000
Northern Lights Express, MN	500,000
Positive Train Control System, Caltrain, CA	1,000,000
University of Kansas Engine Test Cell Upgrade, KS	350,000

WORKING CAPITAL FUND

Limitation, fiscal year 2009	($128,094,000)
Budget request, fiscal year 2010	without limitation
Recommended in the bill	(147,596,000)
Bill compared with:	
Limitation, fiscal year 2009	(– – –)
Budget request, fiscal year 2010	(– – –)

The working capital fund was created to provide common administrative services to the operating administrations and outside entities that contract for the fund's services. The working capital fund operates on a fee-for-service basis and receives no direct appropriations—it is fully self-sustaining and must achieve full cost recovery.

COMMITTEE RECOMMENDATION

The Committee recommends a limitation of $147,596,000 on the working capital fund. The Committee recommends raising the limitation $19,502,000 over the fiscal year 2009 enacted level to allow for the increased exclusion for commuter and transit benefits provided for in the American Recovery and Reinvestment Act of 2009, Pub. L. 111–05.

Operating administrations' usage of working capital fund.—The Committee directs the Department in its fiscal year 2011 congressional justifications for each of the modal administrations to account for increases or decreases in working capital fund billings based on planned usage requested or anticipated by the modes rather than anticipated by the working capital managers.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

	Appropriation	Limitation on guaranteed loans
Appropriation, fiscal year 2009	$912,000	($18,367,000)
Budget request, fiscal year 2010	912,000	(18,367,000)
Recommended in the bill	912,000	(18,367,000)
Bill compared to:		
Appropriation, fiscal year 2009	- - -	(- - -)
Budget request, fiscal year 2010	- - -	(- - -)

Through the Short Term Lending Program, the minority business resource center assists disadvantaged, minority, and women-owned businesses with obtaining short-term working capital for DOT and DOT-funded transportation-related contracts. The program enables qualified businesses to obtain loans at two percentage points above the prime interest rate and DOT guarantees up to 75 percent of the loan.

COMMITTEE RECOMMENDATION

The Committee recommends $912,000 for the minority business resource center which is the same as the fiscal year 2009 enacted level and the fiscal year 2010 budget request. The Committee recommendation includes $342,000 to cover the subsidy costs for the loans and $570,000 for the program's administrative expenses. In addition, the Committee recommends a limitation on guaranteed loans of $18,367,000, the same as the budget request and the fiscal year 2009 enacted level.

MINORITY BUSINESS OUTREACH

Appropriation, fiscal year 2009	$3,056,000
Budget request, fiscal year 2010	3,074,000
Recommended in the bill	3,074,000
Bill compared with:	
Appropriation, fiscal year 2009	+18,000
Budget request, fiscal year 2010	- - -

The Minority Business outreach program provides contractual support to small and disadvantaged businesses by providing information dissemination and technical and financial assistance to empower them to compete for contracting opportunities with DOT and DOT-funded contracts or grants for transportation related projects.

COMMITTEE RECOMMENDATION

The Committee recommends $3,074,000 for minority business outreach, an increase of $18,000 above the fiscal year 2009 enacted level and the same as the level proposed in the fiscal year 2010 budget.

FINANCIAL MANAGEMENT CAPITAL

Appropriation, fiscal year 2009	$5,000,000
Budget request, fiscal year 2010	5,000,000
Recommended in the bill	5,000,000
Bill compared with:	
Appropriation, fiscal year 2009	---
Budget request, fiscal year 2010	---

The Financial Management Capital program continues funding for a multi-year project to upgrade DOT's financial systems and processes. The project will implement Treasury Department and Office of Management and Budget requirements.

COMMITTEE RECOMMENDATION

This Committee recommends $5,000,000 for financial management capital program which is the same as the fiscal year 2009 enacted level and the fiscal year 2010 budget request.

PAYMENTS TO AIR CARRIERS

(AIRPORT AND AIRWAY TRUST FUND)

Appropriation, fiscal year 2009	$73,013,000
Budget request, fiscal year 2010	125,000,000
Recommended in the bill	125,000,000
Bill compared with:	
Appropriation, fiscal year 2009	+51,987,000
Budget request, fiscal year 2010	---

The Essential Air Service program (EAS) was created by the Airline Deregulation Act of 1978 (49 U.S.C. §§41731–41744 (2006)) as a ten-year measure to continue air service to communities that had received air service prior to deregulation. The program currently provides subsidies to air carriers serving small communities that meet certain criteria.

The Federal Aviation Administration Reauthorization Act of 1996 (49 U.S.C. §41742 (2006)) authorized the collection of "overflight fees." Overflight fees are a type of user fee collected by the Federal Aviation Administration (FAA) from aircraft that neither take off from, nor land in, the United States. The Act permanently appropriated these fees for authorized expenses of the FAA and stipulated that the first $50,000,000 of annual fee collections must be used to finance the EAS program. If there is a shortfall in fees, the law requires the FAA to make up the difference from other available funds.

The fiscal year 2010 budget proposes to fund the EAS program at a total of $175,000,000, $50,000,000 from overflight fee collections and $125,000,000 from a direct appropriation.

COMMITTEE RECOMMENDATION

For fiscal year 2010 the Committee recommends a total EAS program funding level of $175,000,000. This consists of a general fund appropriation of $125,000,000 and $50,000,000 to be derived from overflight fee collections. The Committee's recommendation is $51,987,000 above the fiscal year 2009 enacted level and the same as the fiscal year 2010 request.

Based on current DOT estimates, the Committee believes that the recommended funding level is sufficient to maintain air service to all communities currently being served by the EAS program. However, if there is a shortfall, the bill continues language allowing the Secretary to transfer such sums as necessary from any available amounts appropriated to or directly administered by the Office of the Secretary.

The Committee continues language to ensure the prompt availability of funds for obligation to air carriers providing service under the EAS program. The Committee has also continued language that allows the Secretary to take into consideration the subsidy requirements of carriers when selecting between carriers competing to provide service to a community.

The bill includes a provision (sec. 102) prohibiting the use of funds to implement an essential air service program that requires local participation.

ADMINISTRATIVE PROVISIONS—OFFICE OF THE SECRETARY OF TRANSPORTATION

Section 101. The Committee continues the provision prohibiting the Office of the Secretary of Transportation from approving assessments or reimbursable agreements pertaining to funds appropriated to the operating administrations in this Act, unless such assessments or agreements have completed the normal reprogramming process for Congressional notification.

Section 102. The Committee continues the provision prohibiting the use of funds to implement an essential air service local cost share participation program.

Section 103. Allows the Secretary or his designee to work with States and State legislators to consider proposals related to the reduction of motorcycle fatalities.

FEDERAL AVIATION ADMINISTRATION

The Federal Aviation Administration (FAA) is responsible for the safety and development of civil aviation and the evolution of a national system of airports. The Federal Government's regulatory role in civil aviation began with the creation of an Aeronautics Branch within the Department of Commerce pursuant to the Air Commerce Act of 1926. This Act instructed the Secretary of Commerce to foster air commerce; designate and establish airways; establish, operate, and maintain aids to navigation; arrange for research and development to improve such aids; issue airworthiness certificates for aircraft and major aircraft components; and investigate civil aviation accidents. In the Civil Aeronautics Act of 1938, these activities were subsumed into a new, independent agency named the Civil Aeronautics Authority.

After further administrative reorganizations, Congress streamlined regulatory oversight in 1957 with the creation of two separate agencies, the Federal Aviation Agency and the Civil Aeronautics Board. When the Department of Transportation began its operations on April 1, 1967, the Federal Aviation Agency was renamed the Federal Aviation Administration (FAA) and became one of several modal administrations within the department. The Civil Aeronautics Board was later phased out with enactment of the Airline Deregulation Act of 1978, and ceased to exist at the end of 1984. FAA's mission expanded in 1995 with the transfer of the Office of Commercial Space Transportation from the Office of the Secretary, and decreased in December 2001 with the transfer of civil aviation security activities to the new Transportation Security Administration.

OPERATIONS

(AIRPORT AND AIRWAY TRUST FUND)

Appropriation, fiscal year 2009	$9,042,467,000
Budget request, fiscal year 2010	9,335,798,000
Recommended in the bill	9,347,168,000
Bill compared with:	
Appropriation, fiscal year 2009	+304,701,000
Budget request, fiscal year 2010	+11,370,000

This appropriation provides funds for the operation, maintenance, communications, and logistical support of the air traffic control and air navigation systems. It also covers administrative and managerial costs for the FAA's regulatory, international, medical, engineering and development programs as well as policy oversight and overall management functions.

The operations appropriation includes the following major activities: (1) operation on a 24-hour daily basis of a national air traffic system; (2) establishment and maintenance of a national system of aids to navigation; (3) establishment and surveillance of civil air regulations to assure safety in aviation; (4) development of standards, rules and regulations governing the physical fitness of airmen as well as the administration of an aviation medical research program; (5) administration of the acquisition, research and development programs; (6) headquarters, administration and other staff offices; and (7) development, printing, and distribution of aeronautical charts used by the flying public.

COMMITTEE RECOMMENDATION

The Committee recommends $9,347,168,000 for FAA operations, an increase of $304,701,000 above the level provided in fiscal year 2009, and $11,370,000 above the budget request.

A comparison of the fiscal year 2010 budget request to the Committee recommendation by budget activity is as follows:

Budget activity	Fiscal year 2009 enacted	Fiscal year 2010 request	Committee recommendation
Air traffic organization	$7,098,322,000	$7,302,739,000	$7,300,739,000
Aviation safety	1,164,597,000	1,216,395,000	1,231,765,000
Commercial space transportation	14,094,000	14,737,000	14,737,000
Financial services	111,004,000	113,681,000	113,681,000
Human resources	96,091,000	100,428,000	100,428,000
Region and center operations	331,000,000	341,977,000	341,977,000