



Legislative BulletinSeptember 13, 2011

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H.R. 2887- Surface and Air Transportation Programs Extension Act of 2011

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Extension Act of 2011 (Mica, R-FL)**

Order of Business: H.R. 2887 is scheduled that may be considered under unanimous consent on Tuesday, September 13, 2011. The bill shall be considered as read and the bill shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

Summary: H.R. 2887 extends programs under the Highway Trust Fund by six months (through March 31, 2012) and extends for four and a half months certain programs of the Federal Aviation Administration (FAA) (through January 31, 2012). The bill authorizes continued funding for the various programs at close to the same levels as provided in FY 2011. The legislation does not make any substantial changes to the current transportation and aviation programs. The legislation provides contract authority for the covered programs, and extends the authority to spend money from the Highway Trust Fund, through the end of March 2012. Highlights are listed below.

Surface Transportation Extension

The amounts authorized to be appropriated would be calculated by accounting for any rescission or cancellation of funds or contract authority in FY 2011, including in the Full-Year Continuing Appropriations Act. The following are some examples of specific authorization amounts for programs in the Highway Trust Fund FY 2011:

Highway Programs

- The legislation sets an obligation limit of \$42.5 billion for federal-aid highway programs.

- The legislation extends authorizations for surface transportation research, education and statistics programs for the first half of FY 2012 at half the amount provided in FY 2011.
- The bill exempts from the obligation limit \$319.5 million for the equity bonus programs. The equity bonus programs ensure that states receive a certain portion of the gasoline taxes they contribute to the federal highway funds. The legislation requires that the distribution of a state's "bonus" funds is appropriated through the highway formula programs. The legislation stipulates that the distribution of a state's "bonus" funds through highway formula programs would be determined by half the amount made available for all equity bonus programs in FY 2011 and in the same proportion for each such equity bonus program that the amount apportioned to the state for FY 2011 for that program bears to the amount apportioned to the state for FY 2011 for all the equity bonus programs.
- The measure authorizes \$196 million from the Highway Trust Fund for the administrative costs of the federal highway program for the first half of FY 2012.

Highway Safety Programs

- The bill authorizes \$335 million for highway-safety programs administered by the National Highway Traffic Safety Administration.
 - **Chapter 4 Highway Safety Programs**, \$117.5 million.
 - **Highway Safety Research and Development**, \$54.122 million.
 - **Occupant Protection Incentive Grants**, \$12.5 million.
 - **Safety Belt Performance Grants**, \$24.25 million.
 - **State Traffic Safety Information System Improvements**, \$17.25 million.
 - **Alcohol-Impaired Driving Counter-Measures Incentive Grant Program**, \$69.5 million.
 - **National Driver Register**, \$2.05 million.
 - **High Visibility Enforcement Program**, \$14.5 million.
 - **Motorcyclist Safety**, \$3.5 million.
 - **Child Safety and Child Booster Seat Safety Incentive Program**, \$3.5 million.
 - **SAFETEA-LU Administrative Expenses**, \$12.66 million.
- The bill authorizes \$299 million for the period beginning October 1, 2011, and ending on March 31, 2012, for truck-safety activities of the Federal Motor Carrier Safety Administration.
 - **Motor Carrier Safety Grants**, \$106 million.
 - **Motor Carrier Safety Administration Expenses**, \$122.07 million.
- The bill extends the authorization for hazardous-materials research projects under the Pipeline and Hazardous Materials Safety Administration.
- The bill extends authorization for sport fish conservation and management programs under the Dingell-Johnson Sport Fish Restoration Act.

Transit Programs

- The bill allows for the obligation of up to \$5.1 billion for transit programs administered by the Federal Transit Administration.
- The measure authorizes \$4.18 billion for formula and bus grants.
- The bill authorizes \$800 million for capital investment grants.
- The bill authorizes \$29.5 million for research and university centers.
- The bill authorizes \$49.45 million for Federal Transit Administration administrative costs.
- The bill extends the allocation requirements for funds that go to transportation planning programs. The legislation stipulates that 83% of the funds will be available for the metropolitan planning programs, and 17% will be available for state planning programs.
- The legislation extends the allocation amounts for certain capital investment grants, formula grants, and research and technology programs.
- The bill extends the authorizations for fixed guide-way capital projects in dozens of designated cities.
- The legislation extends pilot programs related to contracted paratransit pilots, public-private partnerships, and elderly and disabled individuals.
- The bill extends a special rule for urbanized area formula grants that allows the Transportation Department to finance the operating cost of equipment and facilities for use in public transportation in an urbanized area with a population of at least 200,000.

FAA Extension

H.R. 2887 will extend through January 31, 2012, certain authorities of the Federal Aviation Administration (FAA), which will expire on September 16, 2011, under current law. Aviation-related taxes that are used to finance the Airport and Airway Trust Fund currently expire on September 16th. The bill extends the taxes that are used to finance the Airport and Airway Trust Fund, including taxes on aviation fuel, domestic and international ticket taxes, and taxes on cargo shipped by air. The bill also extends the authority to use money from the Airport and Airway Trust Fund, into which revenue from those taxes are deposited for FAA programs for that same period. The bill provides no back pay for furloughed workers.

H.R. 2887 will authorize \$3.5 billion in contract authority for the Airport Improvement Program. The bill authorizes \$1.2 billion for a four and a half month period beginning on Oct. 1, 2011 through January 31, 2012. The bill allows for FY 2012 amounts to be available for obligation at any time up to September 30, 2012, and shall remain available until expended. The bill requires the FAA to extend, through January 31, 2012, the termination date of certain insurance policies under its aviation war-risk insurance program. The department also would be permitted to extend the termination date of such policies through April 30, 2012. It also extends, through April 30th, air carrier liability protection for third party claims arising out of acts of terrorism that exceed \$100 million. The legislation also extends the authority to make grants from the Airport and Airway Trust Fund and the federal government's 95% share of Airport Improvement Program project costs through January 31, 2011.

Lastly, H.R. 2887 extends a passenger facility fee pilot program at non-hub airports compatible land use planning and projects by state and local governments, funding for the Midway Island Airport, and grant eligibility for the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. It allows the FAA to approve airport development project grants for large or medium hub airports, and for the Metropolitan Washington Airports Authority, which oversees the Washington D.C. area airports, for an additional eight weeks.

Provisions Impacting Essential Air Service

H.R. 2887 changes the Essential Air Service (EAS) and specifies that part of the appropriations for the program come out of the Airport and Airway Trust Fund. The legislation authorizes \$150 million from the trust fund for the first four months of FY 2012. The legislation authorizes the Essential Air Service program to receive \$50 million each fiscal year from administration accounts through over flight fees. The bill also authorizes \$2 million for the first four months of FY 2012 for the Small Community Air Service Development program. The Small Community Air Service Development program allows the Transportation Department to provide grants to small communities not receiving sufficient air carrier service. The legislation extends the ability of the Transportation Secretary, through Jan. 31, 2012, to review and issue final orders on eligibility for Essential Air Service subsidies based on mileage from the nearest medium- or large-hub airport, for areas that have lost Essential Air Service subsidies and have requested review. This authority is set to expire Sept. 30, 2011. **Members may be concerned that the Essential Air Service program provides subsidies to airlines that serve rural and smaller communities where demand for airline service is often weak. This program pays up to 93% of the cost of flights that are in many cases nearly empty. The RSC Spending Reduction Act would eliminate the Essential Air Service Program.**

Potential Conservative Concerns: For years, conservatives have asserted that the Highway Trust Fund is on an unsustainable path. Many conservatives believe that the solution to this problem is to reprioritize spending on actual highways, instead of relying on either tax increases or deficit spending to maintain funding for non-highway, non-federal items. Some of the programs that are extended by this legislation are, in the view of some conservatives, examples of programs that should not be funded by the Highway Trust Fund. Many conservatives also argue that the states should be given more flexibility in spending transportation dollars. Many conservatives believe that most (if not all) of the highways program should be devolved to the states. See, for example, legislation by Rep. Lankford (H.R. 1585) and Rep. Scott Garrett (H.R. 1737).

Furthermore, as noted above, conservatives have for years expressed concerns about the wastefulness and unfairness of the Essential Air Service and have proposed its elimination through many RSC Budget Resolutions and amendments.

Additionally, many conservatives may be concerned that this bill, while not increasing spending, also does not cut spending.

Lastly, some conservatives may also be concerned at the length of the extensions, particularly highways, which would further delay the reauthorization bills where many of the policy preferences just noted could be addressed and force politically challenging issues into a presidential election year, where a willingness to make groundbreaking changes in federal transportation policy may be much lower.

Background: The last long-term authorization for highway, transit and safety programs was passed in 2005 and is known as Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). The legislation expired Sept. 30, 2009. The federal highway programs and certain transit programs are directly funded through contract authority provided in authorizing legislation unlike other federal programs, to which new federal funding can be provided through appropriations measures without prior authorization. The current surface transportation authorities expire Sept. 30, and were last extended in March.

The last multi-year FAA reauthorization law, Vision 100--Century of Aviation Reauthorization Act (P.L. 108-176), was enacted in 2003. It was a four-year reauthorization, covering fiscal years 2004-2007. Since September 30, 2007, the FAA has been operating under a series of short-term extensions. This will be the twenty-second extension to date.

Committee Action: H.R. 2887 was introduced by Rep. John Mica (R-FL) on 9/12/2011 and the legislation was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Ways and Mean.

Administration Position: No Statement of Administration Policy (SAP) is available.

Cost to Taxpayers: No Congressional Budget Office cost estimate is available.

Does the Bill Expand the Size and Scope of the Federal Government?: No

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: A committee report citing compliance with rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available.

Constitutional Authority: According the author, "Congress has the power to enact this legislation pursuant to the following: Article I, Section 8 of the United States Constitution, specifically Clause 1, Clause 3, and Clause 18."

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