

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUMMARY OF SECTION 10 OF H.R. 4851, THE “CONTINUING EXTENSION ACT OF 2010”

March 17, 2010

BACKGROUND

The most recent long-term authorization of Federal highway, highway and motor carrier safety, and public transit programs, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59) (SAFETEA-LU), expired on September 30, 2009. Since that date, these programs have operated under a series of extensions, including the recently-enacted Temporary Extension Act of 2010 (P.L. 111-144), which extends the programs until March 28, 2010.

Immediately prior to the enactment of the Temporary Extension Act of 2010, the authority for the Federal highway, highway and motor carrier safety, and public transit programs lapsed for three days (including two business days) because Senator Jim Bunning (R-KY) refused to allow the Senate to act on the bill prior to the February 28, 2010 expiration of the previous extension. On February 28, the authority to reimburse States, metropolitan regions, and public transit agencies for Federally-approved Highway Trust Fund expenditures lapsed. On March 1, the authority to pay administrative expenses for Federal employees from the Highway Trust Fund lapsed. These authorities were restored only on the evening of March 2, 2010, when Senator Bunning assented to allowing the Senate to consider the bill. The Senate passed the bill and the President signed it into law later that same evening.

Due to the lapse in authority to pay administrative expenses from the Highway Trust Fund, the Department of Transportation (DOT) was required to immediately furlough 1,913 employees:

- 1,307 employees of the Federal Highway Administration;
- 425 employees of the Federal Motor Carrier Safety Administration;
- 143 employees of the National Highway Traffic Safety Administration; and
- 38 employees of the Research and Innovative Technology Administration.

DOT currently lacks the legal authority to compensate the furloughed employees for the two days on which they were sent home. On March 10, 2010, the House passed H.R. 4786, which authorized the Secretary of Transportation to pay the furloughed employees their standard rate of compensation for these two days. The bill passed by voice vote and no Member of the House expressed any opposition to the bill. In the Senate, Senator Tom Coburn (R-OK) has placed a hold on that bill, prohibiting the Senate from voting on its passage. Due to this hold, the 1,913 furloughed public servants will – on short notice and due to no fault of their own – suffer an approximately 20 percent cut in their bi-weekly paychecks.

H.R. 4851, THE “CONTINUING EXTENSION ACT OF 2010”

Section 10 of H.R.4851 provides the basis for payment of salaries and related benefits of those Federal employees who are paid from the Highway Trust Fund for the two-day period (March 1 and 2, 2010) when the authority to make expenditures from the Highway Trust Fund to pay their salaries lapsed and they were furloughed. These provisions are modeled on section 116 of the Balanced Budget Downpayment Act, I (P.L. 104-99), in which Congress addressed a prior funding lapse.

The compensation of furloughed workers will be financed from the DOT’s existing administrative expenses. The Congressional Budget Office has determined that no costs are associated with the bill and, therefore, it does not require offsets.

Section-by-Section

Subsection (a) of section 10 of H.R. 4851 provides that furloughed DOT Federal employees shall be compensated at their standard rates of compensation for the two-day period in which authority to pay administrative expenses for Federal employees from the Highway Trust Fund lapsed.

Subsection (b) ratifies and approves any actions taken by Federal employees, contractors, and grantees for the purposes of maintaining essential Government operations to protect life and property and to bring about an orderly termination of Government functions during the two-day lapse in expenditure authority for payment of Federal employees’ administrative expenses.

Subsection (c) clarifies that the furloughed employees will be compensated from funds previously authorized out of the Highway Trust Fund and made available or limited to the DOT by the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2010 (division A of P.L. 111-117). It also provides that these funds shall be subject to the obligation limitations provided in that Act.

Subsection (d) ensures that the payment of compensation to furloughed workers, as authorized by this bill, is an authorized use of the Highway Trust Fund.