COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
H.R. 2847, THE "JOBS FOR MAIN STREET ACT, 2010"

December 16, 2009

TITLE I – INFRASTRUCTURE AND JOBS

SURFACE TRANSPORTATION: $ 35.9 BILLION

HIGHWAYS: $27.5 BILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 6 of H.R. 2847 provides $27.5 billion for Federal-aid highway investments. Of this total, $26.66 billion is distributed by formula among the States for activities eligible under the Surface Transportation Program, and for certain passenger rail, freight rail, and port projects. Of this subtotal, 30 percent ($8 billion) is distributed by formula to areas within the State based on population, three percent ($800 million) is set aside for transportation enhancement activities, and 67 percent ($17.86 billion) is available for use anywhere in the State. The remaining $840 million is set aside for several Federal-aid highway programs and administrative expenses, including $5 million for a newly-established Office of Expedited Project Delivery within the Federal Highway Administration (FHWA).

The Federal share for these projects shall be up to 100 percent at the option of the recipient, and priority shall be given to projects that are projected for completion within a three-year timeframe and that are located in economically distressed areas. In addition, States are required to maintain an equitable geographic distribution of projects within the State, and to ensure an appropriate balance between rural and urban areas.

States are required to have at least 50 percent of funds (including funds suballocated within the State) under contract within 90 days of receiving such funds. Any such funds not under contract at that point will be redistributed among States that have met this performance goal. A similar redistribution will occur after one year with any remaining funds not yet under contract.

Recovery Act Implementation: The Recovery Act provided $34.3 billion for highway and transit formula programs. As a result of this funding, work is underway on 7,886 Recovery Act projects across the nation, worth $18.6 billion. This amount represents 54 percent of the total available formula funds. To date, Recovery Act highway and transit formula funds have created or retained 210,000 direct jobs, and an estimated total of 630,000 direct, indirect, or induced jobs.

TRANSIT: $8.4 BILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 6 of H.R. 2847 provides $8.4 billion for Federal transit programs. Of this total, $6.15 billion is available for transit capital assistance, including $4.84 billion that is distributed through urban formula grants; $605 million distributed through rural formula grants; $605 million distributed using State density and growth formula factors; and $100 million that is distributed as discretionary energy efficiency grants to transit agencies.

The Federal share for these projects shall be up to 100 percent at the option of the recipient, and priority shall be given to projects that are located in economically distressed areas. In addition, States are required to maintain an equitable geographic distribution of projects within the State, and to ensure an appropriate balance between rural and urban areas.

Grant recipients are required to have at least 50 percent of funds under contract within 90 days of receiving such funds, with any such funds not under contract at that point to be redistributed among States and urban areas that have met this performance goal. A similar redistribution will occur after one year with any remaining funds not yet under contract.

In addition, H.R. 2847 provides $1.75 billion for fixed guideway modernization grants. The Federal share for these projects shall be up to 100 percent at the option of the recipient. These grants are subject to the same requirements related to redistribution as transit capital assistance grants.

Finally, H.R. 2847 provides $500 million for New Starts capital investment grants, of which $1.5 million shall be set aside for a newly-established Office of Expedited Project Delivery within the Federal Transit Administration (FTA). Priority shall be given to projects that can be under contract within 90 days.

Recovery Act Implementation: The Recovery Act provided $34.3 billion for highway and transit formula programs. As a result of this funding, work is underway on 7,886 Recovery Act projects across the nation, worth $18.6 billion. This amount represents 54 percent of the total available formula funds. To date, Recovery Act highway and transit formula funds have created or retained 210,000 direct jobs, and an estimated total of 630,000 direct, indirect, or induced jobs.

AMTRAK: $800 MILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 6 of H.R. 2847 provides $800 million to Amtrak for fleet modernization, including rehabilitation of existing equipment and acquisition of new equipment such as fuel-efficient locomotives. It also strengthens Amtrak's Buy America requirement to encourage domestic manufacturing and rehabilitation of the equipment.

Amtrak's equipment is aging; it is a major factor in delays. Some of Amtrak's vehicles are more than 50 years old. The average life of a passenger rail car, depending on its usage, is 25 to 30 years. The lifespan of a locomotive is 20 to 25 years. Currently, Amtrak has 92 Heritage cars in service (which are 53 to 61 years old), 17 Metroliners (which are 42 years old), 412 Amfleet I cars (which are 32 to 35 years old), 122 Amfleet II cars (which are 28 to 29 years old), 249 Superliner I cars (which are 28 to 30 years old); 184 Superliner II cars (which are 13 to 15 years old), 97 Horizon cars (which are 19 to 20 years old), 50 Viewliners (which are 13 to 14 years old), 29 Talgo cars (which are 10 years old), 120 Acela cars (which are nine to 10 years old), and 41 Surfliners (which are seven to nine years old).

With respect to locomotives, Amtrak has 49 AEM-7 locomotives (which are 21 to 29 years old), 18 P32's (which are 18 years old), 18 P32DM's (which are 11 to 14 years old), 21 F59PHI's (which are 11 years old), 15 HHP-8's (which are eight to 10 years old), and 207 P42's (which are eight to 13 years old).

Over the next five years and given adequate resources, Amtrak plans to purchase 396 new single-level vehicles for corridor service, which will replace about 95 percent of the Amfleet I vehicles; purchase 275 new single-level vehicles for long-haul service in an effort to remove all of the Heritage single-level cars and about 95 percent of the Amfleet II vehicles from service; purchase 160 new bi-level vehicles to replace 65 percent of the Superliner I cars; and purchase 100 new electric locomotives to replace the entire electric locomotive fleet. Amtrak also plans to acquire 54 new diesel locomotives, replacing 20 percent of its diesel fleet; and purchase five additional Acela trainsets and 41 new switch engines to replace the entire switcher fleet. Amtrak estimates that the effort requires capital funding of approximately $4.57 billion.

Recovery Act Implementation: The Recovery Act provided Amtrak with $1.3 billion for capital improvements. Of the $1.3 billion, Amtrak has awarded $623 million in contracts for 350 projects. This amount represents 48 percent of the total apportionment. Other major initiatives are planned, including infrastructure improvements (such as major bridges); and improvements to rights-of-way, facilities and other structures, information management systems, and communications and signal systems. Amtrak is also making capital improvements to stations and other facilities to meet requirements under the Americans with Disabilities Act; various safety and security improvements, including purchasing police equipment; and replacing concrete ties.

AVIATION: $500 MILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 6 of H.R. 2847 provides $500 million for the Airport Improvement Program. Funds shall be distributed as discretionary grants to airports using the criteria established under chapters 471 and 473 of title 49, United States Code, but with priority given to those projects that can be completed within two years. The Secretary of Transportation shall have 100 percent of the projects under grant within 120 days of enactment. The Federal share for these projects shall be up to 100 percent at the option of the recipient. Based on the Federal Aviation Administration's (FAA) past success implementing the Recovery Act, it is expected that the FAA will award grants for an estimated 150 projects, totaling $500 million, within 120 days of the date of enactment of H.R. 2847.

Recovery Act Implementation: The Recovery Act provided $1.1 billion for the Airport Improvement Program. As a result of this funding, work is underway on 355 Recovery Act projects across the nation, worth nearly $1.1 billion. This amount represents almost 100 percent of the total apportionment. The FAA expects 180 Airport Improvement Projects (50 percent) to be completed before December 31, 2009. To date, an estimated 3,070 jobs have been created or retained due to FAA-issued Recovery Act grants.

MARITIME GUARANTEED LOANS: $100 MILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 6 of H.R. 2847 provides $100 million for the Maritime Administration's Maritime Guaranteed Loan (Title XI) Program. This appropriation of $100 million will provide $2 billion in Federal loan guarantees. The Maritime Guaranteed Loan Program provides Federal loan guarantees for the construction of ships built in U.S. shipyards pursuant to chapter 537 of title 46, United States Code. Under this program: the full faith and credit of the government is pledged by the guarantee; the guarantee can be up to 87.5 percent of the construction price of the vessel; financing can be provided for 25-year mortgages; and ship owners can obtain lower interest rates from private financial institutions due to the Federal guarantee. The amount appropriated covers the risk of default, which is historically five percent of the guarantee amount. The Maritime Administration currently has more than $2.5 billion in pending loan guarantee applications to build vessels worth more than $2.9 billion in U.S. shipyards.

Recovery Act Implementation: This program received no additional funding under the Recovery Act.

ENVIRONMENTAL PROTECTION AGENCY
CLEAN WATER STATE REVOLVING FUND: $ 1 BILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 4 of H.R. 2847 provides $1 billion in funding for the Environmental Protection Agency (EPA) Clean Water State Revolving Fund (Clean Water SRF) to construct, rehabilitate, and modernize the nation's wastewater infrastructure. Funds are distributed to individual States for the Clean Water SRF pursuant to the existing Clean Water Act distribution formula. Under H.R. 2847, State infrastructure financing authorities are required to utilize 50 percent of the capitalization grant for additional subsidizations in the form of negative interest loans, principal forgiveness, or grants to increase the overall affordability of wastewater infrastructure projects. In addition, H.R. 2847 requires State infrastructure financing authorities to utilize 20 percent of the capitalization grant for investment in green infrastructure projects, water or energy efficiency improvements, or environmentally innovative activities. Both of these requirements were included as part of the initial Recovery Act funding.

Individual State financing authorities shall have 100 percent of the projects funded by the Clean Water SRF capitalization grant provided by H.R. 2847 under contract award within eight months of the date of enactment, or funds will be reallocated to the remaining States. H.R. 2847 requires States to give priority to projects that are ready to proceed to construction within one year of the date of enactment. In addition, Davis-Bacon prevailing wage protections and Buy America provisions continue to apply to projects constructed with funds under this authority.

Recovery Act Implementation: The Recovery Act provided $4 billion to construct, rehabilitate, and modernize the nation's wastewater infrastructure through the Clean Water SRF program. Of the $4 billion in Recovery Act funding, EPA has awarded $3.98 billion in capitalization grants to States, representing almost 100 percent of the total apportionment. According to submissions received by the Committee from States, as of October 31, 2009, work has begun on 588 Recovery Act projects across the nation, totaling $1.2 billion. This amount represents 32 percent of the total amount of Recovery Act funds allocated to the Clean Water SRF. According to EPA and the States, individual State infrastructure financing authorities expect to award contracts for all Recovery Act funds by the statutory deadline of February 17, 2010. To date, an estimated 10,000 direct jobs have been created or retained due to Recovery Act funding for the Clean Water SRF.

U.S. ARMY CORPS OF ENGINEERS: $715 MILLION

H.R. 2847, the Jobs for Main Street Act, 2010: Title I, Chapter 2 of H.R. 2847 provides $715 million in funding for the U.S. Army Corps of Engineers (Corps) for construction-related activities on water resources development projects, which include projects for navigation; flood damage reduction; hurricane and storm damage reduction; shoreline protection; hydroelectric power; recreation; environmental infrastructure; environmental protection, restoration, and enhancement; and fish and wildlife mitigation. This entire amount is for the Corps Construction program and includes $30 million for environmental infrastructure projects, and $30 million that may be transferred to the Corps Mississippi River and Tributaries program. Funds are distributed to the Corps, which determines the distribution of funds within each program account through its existing project selection process, and may only be used for a project that has received prior appropriations (i.e., no "new starts"), and are to be prioritized for projects that can be commenced quickly, create immediate employment, or are located in a State with high unemployment. The Secretary of the Army (Civil Works) shall have 100 percent of the projects allocated to individual projects within 45 days of the date of enactment. The Federal share of the cost of a project is based on the statutory cost share for the type of project being carried out by the Corps.

Recovery Act Implementation: The Recovery Act provided $4.6 billion for the Corps to carry out water resources development projects. Work is underway on 758 Recovery Act projects across the nation, worth nearly $2.5 billion. This amount represents 54 percent of the total amount of Recovery Act funds allocated to the Corps.

TITLE II, THE "SURFACE TRANSPORTATION EXTENSION ACT OF 2009"

Background

The most recent long-term authorization of Federal highway, highway safety, 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. On September 23, 2009, the House, by a vote of 335-85, passed H.R. 3617, the "Surface Transportation Extension Act of 2009". The Senate has not completed action on an extension of surface transportation programs.

Since the expiration of SAFETEA–LU, surface transportation programs have been extended on a short-term basis under a Continuing Resolution, at an annualized funding level that is almost $12 billion less than the fiscal year 2009 authorized levels.

The Committee on Transportation and Infrastructure has undertaken a multi-year effort to develop comprehensive surface transportation authorization legislation: H.R. ___, the "Surface Transportation Authorization Act of 2009". This legislation is designed to transform the current surface transportation programs to develop the 21st Century transportation network that the nation deserves. On June 24, 2009, the Subcommittee on Highways and Transit marked up this legislation and reported it favorably to the Committee on Transportation and Infrastructure. The Committee has been working with the Committee on Ways and Means to develop the revenue package necessary to finance the $450 billion level of investment provided for by H.R. ___, the "Surface Transportation Authorization Act of 2009".

The Surface Transportation Extension Act of 2009

Title II, the "Surface Transportation Extension Act of 2009" (STEA), of H.R. 2847, provides an extension of surface transportation programs authorized under SAFETEA-LU through September 30, 2010. This legislation is intended to extend all the provisions of SAFETEA-LU or any amendment made by that Act that would otherwise expire on, or cease to apply after, September 30, 2009, unless otherwise provided for in this bill.

STEA provides a total of $53.333 billion in investments for highway, highway safety, public transportation, and motor carrier safety programs for fiscal year 2010. This funding level is consistent with the fiscal year 2010 Budget Resolution. STEA provides: $41.546 billion for Federal-aid highway programs; $10.508 billion for public transit programs; $729 million for highway safety programs; and $550 million for motor carrier safety programs. STEA will allow States and local governments to carry out important capital and operational programs, projects, and activities, pending enactment of a multi-year law reauthorizing the surface transportation programs.

STEA does not continue highway and transit program earmarks contained in SAFETEA–LU. Instead, STEA provides each State with an additional amount of formula funding for the core highway programs that is equivalent to the amount that the State received in fiscal year 2009 to carry out the High Priority Projects program, Transportation Improvements, the Maglev program, and Highway Bridge Program set-asides. These funds are to be administered in the same manner and with the same period of availability as funding provided under the core programs for which the State will be receiving the funding.

STEA continues the Projects of National and Regional Significance and the National Corridor Infrastructure Improvement programs and the FTA's Bus and Bus Facility program as discretionary programs. Funds made available for these programs are available to the Secretary of Transportation to provide grants to qualified projects on a competitive basis using criteria established in SAFETEA–LU.

The Federal share of the costs of projects obligated during the period of this Act may be, at the option of the grant recipient, up to 100 percent. Given the difficult budget situation facing many States, this provision will speed the delivery of projects by allowing recipients of Federal-aid highway, highway safety, and public transit funds to proceed with projects that have been, or may have been, delayed due to the inability to provide a non-Federal cost share.

Highway Trust Fund Revenue Provisions

STEA also restores to the Highway Trust Fund an estimated $19.5 billion in interest payments foregone on the Trust Fund's previous cash balances. This would result in the restoration of $14.7 billion to the Highway Account of the Highway Trust Fund, and of $4.8 billion to the Mass Transit Account of the Trust Fund. STEA also allows the Highway Trust Fund to accrue interest on all balances going forward, resulting in an estimated annual increase in the near-term for the Highway Trust Fund of between $500 million and $1 billion. Currently, the Highway Trust Fund is the only Federal trust fund that does not accrue interest. STEA also includes a provision to restructure the current fuel tax exemptions and refunds provided to State and local governments to be supported by the General Fund rather than the Highway Trust Fund. This adjustment will result in approximately $1.7 billion in additional revenues coming into the Trust Fund each year.

Buy America

Finally, section 2013 of H.R. 2847 strengthens the Buy America requirements for Federal-aid highway and public transit programs. Both the Federal-aid Highway and public transit programs have statutory Buy America requirements as a condition for State and local governments, including public transit authorities, receiving grants under these programs.

The Buy America provisions are designed to require the use of domestically-produced materials, products, and components in Federally-assisted highway and public transit projects, except under narrowly defined circumstances. Under current law, waivers for highway and public transit projects may be granted for one of three reasons: "public interest"; goods that are not available in the United States; or when the use of domestic goods raises the cost of the overall project at least 25 percent. Transit rolling stock may also obtain a Buy America waiver if more than 60 percent of the components are made in the United States and final assembly of the rolling stock occurs in the United States. Concerns have been raised with FHWA's and FTA's interpretation and implementation of the statutory provisions, as well as the lack of transparency in the issuance of waivers from the Buy America requirements.

A specific area of concern has been raised regarding the application of Buy America requirements to highway bridge projects, particularly with the test to determine if the contract cost of using domestic steel to build a bridge exceeds the contract cost of using foreign steel by more than 25 percent. Under current law, FHWA interprets the Buy America provisions as allowing project sponsors to divide highway bridge projects into several smaller segments and then evaluate the costs of domestic versus foreign steel separately for each individual segment, rather than for the overall project cost.

This issue was one of the primary concerns raised regarding Buy America implementation at a hearing held by the Subcommittee on Highways and Transit of the Committee on Transportation and Infrastructure in April of 2007.

To address this concern, section 2013 prohibits the segmentation of highway bridge projects to avoid Buy America. Specifically, the provision requires that if Federal funds are used for any aspect of a highway bridge construction project, then any contracts that are part of that larger project are subject to Buy America. This provision ensures that Buy America requirements apply to all segments of a bridge project.

Another concern that has been raised regarding current Buy America requirements relates to the development of transit rolling stock prototypes. Current FTA rules do not require prototype development to be performed in the United States. Section 2013 excludes rolling stock prototype vehicles from the existing rolling stock waiver. Prototype vehicles, however, will remain eligible for public interest, non-availability, or cost differential waivers under other provisions of current transit law.

Section 2013 also strengthens the conditions the Secretary must apply before approving a Buy America waiver for either a highway or transit project. Specifically, the provision requires that, prior to issuing a public interest waiver, the Secretary must consider the potential impacts of the waiver on domestic manufacturing employment. This provision ensures that the impacts to U.S. employment are considered as an aspect of the public interest. The provision further states that, before providing any waiver based on goods being unavailable in the United States, the Secretary must first post proposed waivers on the Internet for at least five business days. The waiver can only be approved if no domestic source of the material or product identifies itself during this period. This requirement will give domestic manufacturers and producers an opportunity to respond to a proposed waiver prior to the waiver being issued.

Section 2013 also improves the transparency and accountability in the issuance of Buy America waivers. The provision requires the Secretary to take the following steps before issuing a Buy America waiver: publish on the Internet all requests for waivers within five business days after receiving the request; publish on the Internet, within 30 days after issuing a waiver, a detailed written justification as to why the waiver was necessary, including an identification of the amount of Federal funds associated with the waiver; and include a written employment impact statement estimating short- and long-term effects of the decision on domestic employment when approving a waiver under the "public interest" criterion.

Section 2013 requires the Government Accountability Office to issue semiannual reports to Congress on the number of Buy America waivers issued, the reasons relied upon for issuing the waivers, and the amount of Federal funds associated with each waiver and in total.

Finally, to ensure that the Buy America changes included in section 2013 do not delay the release and use of any highway and transit investment included in H.R. 2847, the provisions do not take effect until the Secretary of Transportation issues guidance on the new requirements (within 120 days of the date of enactment).