



**Legislative Bulletin.....April 18, 2012**

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**H.R. 4348 - Surface Transportation Extension Act, Part II**

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**H.R. 4348 - Surface Transportation Extension Act,  
Part II (Mica, R-FL)**

**Order of Business:** H.R. 4348 is scheduled to be considered on Wednesday, April 18, 2012, under a structured rule making three amendments in order (The RSC will summarize the amendments in a subsequent legislative bulletin). The rule provides for one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Transportation and Infrastructure. The rule also provides one motion to recommit with or without instructions

**Summary:** H.R. 4348 extends programs under the Highway Trust Fund by three months (through September 30, 2012). Specifically, the legislation does not make any substantial changes to the current transportation program. The legislation provides contract authority for the covered programs, and extends the authority to spend money from the Highway Trust Fund from June 30<sup>th</sup> through the end of September 2012. The bill authorizes continued funding for the various programs at close to the same levels as provided in FY 2011. The legislation also includes some domestic energy production provisions such as the approval of the Keystone XL pipeline, which enables synthetic crude oil to be shipped from northeastern Alberta, Canada to the United States. 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 bill authorizes appropriations to be distributed in the same amounts as provided in FY 2011 authorized for federal-aid highway programs, research, and planning under SAFETEA-LU for the period starting Oct. 1, 2011 and ending September 30, 2012. The following are some examples of specific authorization for programs in the Highway Trust Fund FY 2011:

- The legislation authorizes appropriations for federal-aid highway programs equal to the FY 2011 amount authorized for federal-aid highway programs, research and planning under SAFETEA-LU for the three-month period from June 30, 2012 through September 30, 2012.
- The bill authorizes specified amounts for highway-safety programs for the period of Oct. 1, 2011, through Sept. 30, 2012, for highway-safety programs administered by the National Highway Traffic Safety Administration, and for truck-safety activities of the Federal Motor Carrier Safety Administration.
- 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.
- The bill allows for the obligation of up to \$10.5 billion for transit programs administered by the Federal Transit Administration.
- The legislation extends the allocation amounts for certain capital investment grants, formula grants, and research and technology programs.

### **Keystone XL Pipeline**

**Keystone XL Pipeline** - The legislation directs the Federal Energy Regulatory Commission (FERC) to, within 30 days, issue a permit for the construction of the Keystone XL Pipeline Project. If FERC does not issue this permit within 30 days then the permit is deemed to have been issued.

The permit holder is allowed to re-route the pipeline, so long as it is approved by FERC. Within 30 days of enactment, FERC shall enter into a memorandum of understanding with the state of Nebraska for a review under the National Environmental Policy Act regarding the rerouting of the pipeline. FERC shall complete this review within 30 days of receiving notification from the Governor of Nebraska. IF FERC fails to act within 30 days then the proposed rerouting of the pipeline shall be deemed to be approved.

### **Restore Act**

**Gulf Coast Restoration Trust Fund:** The legislation establishes the Gulf Coast Restoration Trust Fund within the Treasury. The Secretary of the Treasury is required to deposit into the Trust Fund 80% of civil penalties paid as a result of the Deepwater Horizon oil spill, pursuant to a court order, or negotiated settlement.

Amounts in the Trust Fund are to be spent to restore the Gulf Coast region from the Deepwater Horizon oil spill, and are solely to be used by Gulf Coast states and coastal political subdivision to restore the ecosystems and economy of the Gulf Coast region.

Amounts in the Trust Fund are to be invested in accordance with section 9702 of title 31, United States Code. The legislation states that any interest on, and proceeds from, any investments of the funds will be available for expenditure under the same guidelines as the other funding.

**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. James Lankford (H.R. 1585), Rep. Tom Graves (H.R. 3264), and Rep. Scott Garrett (H.R. 1737).

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

**Background:** The last long-term authorization for highway, transit and safety programs was passed in 2005 and is known as the 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 June 30, 2012 and were last extended in September 2011.

**Committee Action:** H.R. 4348 was introduced by Rep. John Mica (R-FL) on 4/16/2012. The legislation was referred to the Committees on Transportation and Infrastructure; Ways and Means; Natural Resources; Science, Space, and Technology; and Energy and Commerce.

**Administration Position:** According to the Statement of Administration Policy (SAP),

“The Administration strongly opposes H.R. 4348. By simply extending current authority through the end of the fiscal year, this legislation would miss a critical opportunity to provide more certainty to States and localities as they undertake the long-term planning and execution of projects and programs that are essential to creating and keeping American workers in good paying jobs, improving the Nation’s surface transportation infrastructure, and ensuring roadway safety.

Further, the Administration is strongly opposed to this bill because it seeks to circumvent a longstanding and proven process for determining whether cross-

border pipelines are in the national interest and for assessing the environmental impacts by mandating the permitting of the Keystone XL pipeline project, despite the fact that the pipeline route has yet to be identified and there is no complete assessment of its potential impacts, including impacts on health and safety, the economy, foreign policy, energy security, and the environment.”

**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 to Rep. Mica, “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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