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House Subcommittee Releases FY12 THUD Appropriations Bill

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Earlier this week, the House Subcommittee on Transportation, Housing and Urban Development and Related Agencies approved the FY 12 THUD appropriations bill, which will provide funding for the Department of Transportation, the Department of Housing and Urban Development and other related agencies.

In total, the bill includes \$55.15 billion in discretionary spending. This is a reduction of \$19.8 billion below the President's request and \$217 million below last year's level. The funding level in this bill reflects the overall fiscal year 2012 discretionary spending total of \$1.043 billion to which the House, Senate, and White House agreed in the recent debt ceiling legislation.

Below you will find a breakdown of some of the important points that may affect you when this bill goes to the full House floor for consideration.

Transportation

The bill includes \$16.7 billion for the Department of Transportation for fiscal year 2012, which is \$3 billion above last year's level and \$15.8 billion below the President's request.

Highways - The bill provides \$27.7 billion for the Federal Highway program - the highest amount supportable by the Highway Trust Fund for fiscal year 2012. In addition, the President's 2012 budget request seeks to make all highway spending mandatory, much like Social Security and Medicaid, which would remove all meaningful fiscal constraints on and annual oversight over highway spending. However, the Committee declined to create new mandatory spending which accounts already for two-thirds of national spending.

Federal Aviation Administration (FAA) - \$12.6 billion for the FAA, an increase of \$233 million over last year and \$485 million below the President's request. The bill fully funds the FAA's Next Generation Air Transportation System (NextGen), allowing the FAA to move forward with the next step in modernizing the nation's air control and airport system, which will help ease congestion and reduce delays for travelers in U.S. airspace.

Rail - The Federal Railroad Administration is funded at \$1.3 billion, which is \$7 billion below the President's request and \$36 million above last year's level. Of this amount, \$1.1 billion is targeted to Amtrak, primarily for capital improvements to the nation's rail lines. The bill also includes policy reforms for Amtrak, such as requiring overtime limits on Amtrak employees to reduce unnecessary costs, and reinstates a provision that prohibits federal funding for routes where Amtrak offers a discount of 50% or more off normal, peak fares. In addition, the bill does not include funding for High Speed Rail or Intercity Passenger Rail Services

Transit - The bill contains a total of \$1.8 billion for the Federal Transit Administration (FTA), which is \$1.9 billion below the President's request and an increase of \$169 million over last year. The legislation also provides \$5.2 billion in state and local bus grants - the amount estimated to be available from the Mass Transit Account (trust fund) for fiscal year 2012. Like the highway program, In addition, the legislation also limits transit capital investments - only funding "Small Starts" projects and those projects that have signed Full-Funding Grant Agreements with the FTA prior to November 1, 2011. The legislation also includes language that prohibits new Full-Funding Grant Agreements if the project is more than 50% federally funded.

Safety - The legislation contains funding for the various transportation safety programs and agencies within the Department of Transportation. This includes \$731.1 million in both mandatory and discretionary funding for the National Highway Traffic Safety Administration (NHTSA) - a decrease of \$65.4 million below last year; \$529.7 million for the Federal Motor Carrier Safety Administration - a decrease of \$25.4 million below last year; and \$182.9 million for the Pipeline and Hazardous Materials Safety Administration - a decrease of \$13.2 million below last year.

National Infrastructure Investment

The National Infrastructure Investment program was created in the American Recovery and Reinvestment Act (ARRA) to provide grants to state and local governments to improve the Nation's transportation infrastructure. The infrastructure investment program awards funds on a competitive basis to grantees selected because of the significant impact they will have on the Nation, a metropolitan area, or region.

The Committee does not recommend additional funds for the national infrastructure investment program as proposed by the budget request. The Congress appropriated \$526,944,000 for this purpose in fiscal year 2011. While the Committee agrees that the Nation is in desperate need for infrastructure investment and improvements, the Administration has yet to demonstrate or define the process, priority or criteria for how these grants are awarded. Further, for fiscal year 2012, the Committee awaits action by the various authorizing committees before awarding new funds.

National Infrastructure Innovation and Finance Fund

For the second year, the President's budget includes a legislative proposal to create a national infrastructure fund to invest in large capital infrastructure projects that promise significant national or regional economic benefits. Through the National Infrastructure Innovation and Finance Fund (I Fund), federal funds would be

delivered through a variety of credit and grant mechanisms designed to not only provide federal resources but also attract and coordinate state, local, and private co-investment. The Committee provides no funding for this fund as it is not authorized, and the budget proposal did not include a method for financing such a fund.

Federal Highway Administration (FHWA)

The FHWA provides financial assistance to the states to construct and improve roads and highways. It also provides technical assistance to other agencies and organizations involved in road building activities. Funding is provided by contract authority, while program levels are established by annual limitations on obligations, as set forth in appropriations Acts. The Committee recommends a total program level of \$27,739,000,000 for the activities of the FHWA in fiscal year 2012, which is \$10,977,000,000 below fiscal year 2011 and \$42,045,000,000 below the budget request. Included within this recommended level is an obligation limitation of \$27,000,000,000 and \$739,000,000 in contract authority that is exempt from the obligation limitation.

Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA -LU)

The most recent multi-year surface transportation authorization Act, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) expired on September 30, 2009. Since that time, the Congress has enacted several short-term extensions that continued to provide contract authority for the FHWA and other surface transportation agencies under the same structure as SAFETEA-LU. However, the current SAFETEA-LU extension will expire at the end of fiscal year 2011. It is unclear what authorization law (or laws) will be effective during fiscal year 2012. Committees in the House and Senate are working on surface transportation authorization legislation, but no bill has been released, as of September 1, 2011. Additionally, neither the House nor the Senate has passed another short-term extension of SAFETEA-LU. The Administration also is working on a legislative proposal for surface transportation re-authorization, but it has not published a proposal.

Highway Trust Fund

The Trust Fund was designed to be a self-sustaining, self-financing funding source for highway construction, so that yearly shifts in budget priorities would not diminish its dedicated resources.

The Congressional Budget Office (CBO) estimates the highway account will have a balance of only \$14.8 billion at the end of fiscal year 2011. If highway spending continued at the fiscal year 2011 level of \$41.1 billion per year, the highway account of the Highway Trust Fund would be unable to meet obligations in a timely manner sometime during fiscal year 2012. CBO estimates that \$27 billion is the highest level of highway spending that can occur in fiscal year 2012, while maintaining solvency of the Highway Trust Fund over the ten-year budget window. This is the only sustainable and responsible spending level, and the Committee has no choice but to view it as a ceiling. The Committee cannot, in good conscience, bankrupt the Trust Fund for (barely) one more year of spending. The Committee notes there is no clear near-term solution to funding shortages in the Highway Trust Fund. Neither the House nor Senate has proposed a solution to the

problem. And the Obama Administration offers no solutions-only proposals to dramatically increase highway spending (to nearly \$70.5 billion in fiscal year 2012), with no way to pay for sustained highway spending, much less increased spending.

Highway Traffic and Safety Grants

The highway traffic safety state grant programs authorized in fiscal year 2011 included: highway safety programs, occupant protection incentive grants, alcohol-impaired driving countermeasures incentive grants, safety belt performance grants, state traffic safety information systems improvement grants, high visibility enforcement program, child safety and child booster seat safety incentive grants, and motorcyclist safety grants. These grant programs provide resources to states for highway safety programs that are data-driven and that meet states' most pressing highway safety problems. They are a critical asset in reducing highway traffic fatalities and injuries. The Committee recommends \$495,000,000 in liquidating cash from the Highway Trust Fund to pay outstanding obligations of the highway safety grant programs at the levels provided in this Act and prior appropriations Acts. The Committee also recommends limiting the obligations from the highway trust fund in fiscal year 2012 for the highway traffic safety grants programs to \$495,000,000. These levels are \$124,500,000 below fiscal year 2011 and \$61,100,000 below the budget request. A list of grants for which the Committee recommending funding for in FY 12 include:

- Highway safety grants
- Occupant protection incentive grants
- State traffic safety information systems improvements
- Alcohol-impaired driving countermeasure incentive grants
- Grants administrative expenses
- High visibility enforcement grants
- Child safety and child booster seat safety incentive grants
- Motorcyclist safety

Housing and Urban Development (HUD)

The legislation includes a total of \$38.1 billion for the Department of Housing and Urban Development, a decrease of \$3 billion below last year's level and \$4 billion below the President's request. The bill does not contain funding for any new sustainable, livable, or green community development programs.

Section 8 and Public Housing

Included in the bill is \$24.5 billion for Public and Indian housing. This is a decrease of \$1.3 billion below last year and \$2.3 billion below the President's request. In addition, within the total funding, several critical housing programs are increased, including:

- \$75 million (\$25 million more than last year) for new vouchers for homeless veterans;
- \$600 million (\$200 million more than last year) for Housing for the Elderly;
- \$196 million (\$46 million more than last year) for Housing for Persons with Disabilities.

Community Planning and Development

The bill contains almost \$7 billion for Community Planning and Development programs. This is a decrease of \$438.4 million below last year's level and \$1.2 billion below the President's request. The Community Development Block Grant account is funded at \$3.5 billion which is the same as last year's funding level and \$280.4 million below the President's request.

The bill also includes several provisions to ensure that tax dollars used for community development programs are well-spent and have the most benefit for the American people. For example, the legislation requires oversight reports on eliminating waste, fraud and abuse; reduces funding for the mismanaged HOME Investment Partnerships Program; and caps the portion of Community Development Block Grant funds that may be used for administrative expenses at 10% (down from 20%). In addition, the bill does not contain funding for any new "sustainable," "livable," or "green" community development programs.

Minority Business Outreach

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

The Committee recommends \$3,068,000 for minority business outreach, which is the same as the fiscal year 2011 enacted level and \$32,000 below the level proposed in the fiscal year 2012 budget.

For more information, email legislation@marloweco.com