



City of Phoenix

To: Mayor and Council
Executive Team

Date: July 24, 2009

From: Karen Peters
Government Relations Director

Subject: FEDERAL UPDATE: JULY 14 – JULY 23, 2009

This memorandum provides an update of the past week's federal activities – Congressional action, lobbying and national meetings. Please let me or Tom Remes know if you have any questions or need further information on specific legislation or issues.

JULY 14 – JULY 23, 2009

FAA Reauthorization

The Senate Commerce Committee leaders introduced a \$35 billion bill to reauthorize Federal Aviation Administration (FAA) programs through fiscal year 2011 last week and on Tuesday the full committee held the mark-up. Importantly for Phoenix, the Committee included assurance language for reuse of airport land that was important to Sky Harbor. In addition, language that was opposed by the airport regarding Aircraft Rescue and Firefighting personnel was not included in the Senate's version. The bill did not contain an increase in passenger facility charges (PFCs); however, an increase is widely expected in the final bill.

Notably, the Senate bill does not contain any user-fee language, even though Sen. Jay Rockefeller (D-WV) pushed for a nominal per-flight fee during the reauthorization debate last year. He made it clear last week that he "still feels strongly" that more of the air traffic control (ATC) cost should be spread to general aviation. The House bill also contains no user-fee provision, but the Obama administration has signaled it wants to introduce such a fee from Fiscal 2011 onward.

The bill accelerates implementation of Next Generation Air Transportation System (NextGen) components. Provisions to improve aviation safety include creation of a national database of pilot records and requiring the FAA to use the latest research on pilot fatigue in updating its rules on flight time limits and rest requirements for flight crews.

Like the House bill, passed in May, the Senate Commerce bill would increase FAA inspections of foreign repair stations from once a year to twice. But it does not contain controversial House bill language that would make it easier for FedEx workers to unionize. Nor does it include provisions that would make it harder for airlines to form international alliances with other carriers. However, it does contain "passenger bill of rights" requirements that passengers be allowed to deplane after tarmac delays of more than three hours.

Surface Transportation Update

Last week, the Senate Environment and Public Works (EPW) Committee passed an 18-month Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) extension with an 18 to 1 vote. The amendment was drafted as a continuing resolution for all programs and projects of SAFETEA-LU. In addition, the resolution authorized about \$41 billion for 2010 and another \$20.5 billion in 2011.

EPW's resolution will merge with the Commerce Committee's legislation that was marked up this week and is now headed to the floor, as well as a provision from the Senate Finance Committee introduced by Sen. Max Baucus (D-MT) yesterday (S. 1474) to address the highway trust fund's shortfall by transferring approximately \$28 billion from general revenue; in addition, the Senate Banking Committee is still working on legislation to extend the portions of SAFETEA-LU that are within its jurisdiction.

Sen. Barbara Boxer (D-CA) stated that while EPW would like to address policy reformations through the extension they are going to "keep it clean" for the sake of ensuring it will make it to the floor – where agreed upon provisions will then be considered. Sen. Boxer supports Transportation Secretary LaHood and the Administration's position that this extension will provide Congress with the time necessary to create a transformational transportation bill named "MAP-21, Moving Ahead for Progress in the 21st Century."

Meanwhile the House has produced a \$450 billion transportation authorization bill and reported to the full committee in late June.

The simultaneous actions in Congress involving the future of transportation – Senate toeing the administration's line of maintaining the status quo versus Speaker of the House Nancy Pelosi (D-CA) and Rep. James Oberstar's (D-MN) push for complete policy overhaul – have been the subject of numerous hearings. Those hearings continued last week when the House Transportation and Infrastructure Subcommittee on Highways and Transit heard from transportation thought-leaders including Roy Kienitz, DOT Under Secretary of Policy – who reiterated Secretary LaHood and the Administration's position that an 18-month extension will provide Congress time to create complex policies and also solve where this \$450 billion will be generated.

The Administration and Transportation (Re)authorization

The Administration also released two white papers that outline its 18 month extension proposal and the creation of a National Infrastructure Bank. The 18 month extension being proposed by the White House is not a clean extension but would serve as Phase I of its reauthorization policy. Included in its 18 month proposal are the following reform provisions:

Improving state and Metropolitan Planning Organizations (MPO) project evaluation capacity (Cost: \$300 million). The Administration proposes funding to help states and localities build capacity for collection and analysis of data on transportation goals. States and MPOs that choose to participate would be given funding to establish project evaluation infrastructure, including information on usage or ridership, accidents and fatalities, average speeds and travel times, and environmental impacts. This voluntary program would provide participating entities

the opportunity to integrate analysis into investment decisions and prepare for improved accountability standards and merit criteria in the long-term reauthorization.

Improving project assessment tools (Cost: \$10 million). As states and localities build informational and analytic capacity, the federal government must work to refine assessment tools and develop standards for cross-modal comparisons of projects. The Administration proposes funding for U.S. Department of Transportation (USDOT) to develop performance goals and establish guidelines for states and localities on project evaluation.

Increasing transparency in state and local public reporting (Cost: Low). The Administration also proposes stronger requirements for tracking and reporting on the projected and actual outcomes of transportation investments that use federal dollars. These requirements would include information on project costs, timelines, and selection process as well as expected and actual outcomes of individual projects. Improved reporting requirements would increase the transparency of transportation spending and improve state and local decision-making. These requirements would also lay the groundwork for further accountability reforms in the long-term reauthorization.

The Administration's Infrastructure Bank would fund relatively large and transformative projects currently under-funded by the allocation process, including:

Projects that cross state and local jurisdictions, such as freight and passenger rail;
Projects that integrate sectors and policy goals, such as highway projects that consider land use and economic development; and
Projects that cross transportation silos, such as bridge construction that includes a rail line and harbor dredging.

The FY 2010 budget resolution adopted by Congress includes \$2 billion this year and \$5 billion next year for a national Infrastructure Bank. President Obama has outlined the following design principles of the Infrastructure Bank:

Sectors for investment: Transportation and transportation-affiliated projects.

The Infrastructure Bank should target transportation and transportation-affiliated projects that emphasize smart land use, economic development, intermodalism, energy conservation, and other priorities of our modern infrastructure system. Focusing on cross-modal transportation projects with special attention to broader economic and environmental impacts would allow for effective targeting of Infrastructure Bank dollars. It would also direct funds to high-value projects that are difficult to finance in the existing system. As the Infrastructure Bank grows over time, its scope could expand to more sectors.

Project size: Low minimum threshold. The Administration proposes a \$25 million minimum threshold on project size. This relatively low project threshold is consistent with the fundamental principle of merit-based selection and would allow the Bank to choose the most valuable of a broad array of projects. The low threshold would also help make Bank funding accessible to all potential applicants, whether large or small, urban or rural.

Governance and structure: Independent entity within DOT. Political independence is critical to the success of an Infrastructure Bank. For this reason, the Administration proposes that the Bank be housed as an independent entity within USDOT, consistent with the proposed Bank focus on transportation and transportation-affiliated projects. The Bank would be governed by a board of non-governmental advisors with proven expertise in infrastructure, appointed by the President and confirmed by the Senate. Similar to the role of the Internal Revenue Service (IRS) Oversight Board, the Bank board would lend expertise and insight to project selection, approve final selection decisions, and protect the Bank from internal and external political pressures.

Financing mechanisms: Combination of grants and credit products. A flexible set of financing tools would allow the Bank to provide the most appropriate form of financing to a given project. The Administration would allow the Bank to offer a combination of grants and credit products like direct loans and loan guarantees. The Administration does not support Bank authority to borrow independently from private capital markets, since Treasury is the sole entity that borrows on behalf of the federal government and can do so more cheaply and efficiently than any other entity.

Climate Change Legislation

The House's American Clean Energy and Security Act of 2009 (HR 2454) includes a comprehensive cap-and-trade program, crafted under several Committees, aimed at reducing greenhouse gas emissions. Negotiations within the House Agriculture Committee delayed the legislation through much of June, but compromises worked out with rural Democrats on the Committee enabled the bill to pass on the House floor on June 26th.

Prospects remain slim for a successful Senate vote before December. The conditions in the House – including months of legislative choreography and shuttle diplomacy orchestrated by Chairman Henry Waxman (D-CA) and key moderate Rep. Rick Boucher (D-VA) – do not exist in the Senate, where factors as diverse as Committee jurisdictions, regional equities that differ from those of the House, personality politics and the uncertainty around health care reform make a near-term climate deal highly improbable.

Nevertheless, Environment and Public Works Committee Chairman Barbara Boxer (D-CA) announced plans to mark-up cap-and-trade legislation at the beginning of September. Meanwhile, Majority Leader Harry Reid (D-NV) has set a deadline of September 28 for other Senate committees of interest (Energy, Agriculture, Commerce, Foreign Relations and Finance, in particular) to complete action on their components of any such bill – with floor action targeted for later in the fall. At present, Senate Democrats may be as many as 15 votes short of the requisite 60 needed to pass this domestic cap-and-trade legislation.

The legislation includes some key provisions that will help increase efficiency and reduce greenhouse gas emissions from the transportation sector. These provisions, included in the transportation efficiency section of the bill:

- Amend the federal transportation planning process.

- Require states and metropolitan planning organizations to develop goals and strategies to reduce emissions from the transportation sector.

- Includes a process for developing a national transportation GHG reduction goal.

The bill will allow states to use up to 10 percent of funding they will receive through the State Energy & Environment Development (SEED) accounts for public transportation, van pooling, bicycle and pedestrian projects, which represents a total of one percent of the overall funding in the bill. Representatives James Oberstar (D-MN), Peter DeFazio (D-OR), Doris Matsui (D-CA), Earl Blumenauer (D-OR), and Anthony Weiner (D-NY) were instrumental in initially making these policies and funding advances for the transportation sector in the House climate bill.

Now, special interest groups, the Members mentioned above and Sen. Tom Carper (D-DE) and his supporting EPW Committee cast – Sen. Arlen Specter (D-PA), Sen. Ben Cardin (D-MD), Sen. Frank Lautenberg (D-NJ) and Jeff Merkley (D-OR) – are working towards increasing this one percent to 10 percent of the overall funding allocated to transportation. The EPW Committee is expected to consider this legislation predicated on the adoption of the climate change bill named Clean, Low-Emission, Affordable, New Transportation Efficiency Act (“CLEAN-TEA”/S. 575/H.R. 1329) before August recess.

In order to be eligible for the funding authorized by this legislation, cities and state departments of transportation would have to review their transportation plans and determine how they could reduce greenhouse gas emissions. The bill then provides federal funding for projects in those transportation plans to be distributed to states and localities based on the expected reductions in greenhouse gas emissions in each plan. States and cities with more ambitious plans would receive greater funding.

Delivering his climate change message to Congress last week, Transportation Secretary Ray LaHood warned that fuel-efficiency advances secured by the Obama Administration would not be enough to reduce emissions from transportation – not without encouraging Americans to drive less.

When asked about the "CLEAN-TEA" plan, Secretary LaHood said the Administration would wait until the House and Senate began merging their climate bills before expressing a view. With the absence of reformation in the extension of SAFETEA-LU, Senate is more likely to consider CLEAN-TEA as part a solution to the surface transportation funding reform Oberstar and House Transportation and Infrastructure was looking to pass this year.

Deputy Assistant Secretary of the Army Visit

On Thursday, Water Services, Parks and Government Relations staff coordinated a noteworthy visit from Assistant Secretary of the Army for Civil Works Terrence “Rock” Salt. Assistant Secretary Salt is toured the Tres Rios and Rio Salado projects and will participated in project briefings with Councilmen Mattox and Nowakowski and City officials. It was a highly productive visit.

Phoenix Officials in Washington

Mayor Gordon’s was in Washington D.C. this week for a number of meetings on Phoenix American Recovery and Reinvestment Act (ARRA) projects and other City programs.

One meeting included a visit with Ms. Sara Hospodor Pallone, Deputy Associate Administrator for the Environmental Protection Agency (EPA). The Mayor discussed the EPA Climate Showcase Communities Grant Program and the City’s grant application to

place solar panels on their Green Learning Campus as well as on low-income housing units.

Another meeting was with Congressman Chaka Fattah (D-PA), who is a member of the House Appropriations Committee and Chair of the Urban Caucus. In the meeting, the Mayor highlighted the importance of the Energy Efficiency and Conservation Block Grant program and thanked the Congressman for his leadership on the issue.

The Mayor also met with Mr. Victor Mendez, Administrator for the Federal Highway Administration. Mayor Gordon congratulated the Administrator on his new position and to discuss the challenges associated with the current flow of highway funds.

Another meeting the Mayor secured was with Mr. Mark Seifert, Senior Advisor in charge of the Broadband Technology Opportunities Program (BTOP) at the Department of Commerce. This was beneficial since the City has prioritized three broadband technology projects for Recovery Act funding.

Section Eight Voucher Reform Act of 2009

The House Financial Services Committee has begun markup of the "Section 8 Voucher Reform Act of 2009" (HR 3045). The bill re-authorizes, reforms and expands the Section Eight Housing Voucher Program. The bill, in its current form, adds 150,000 vouchers to the existing program through FY 2014.

The bill also requires housing authorities to inspect Section 8 properties biennially rather than annually; makes it easier for Section 8 recipients to move; simplifies the rent setting process and changes it so that it encourages Section 8 recipients to increase their income; changes the formula for setting fair market rent and changes the formula for distributing Section 8 funds to housing authorities.

HR 3045 would rename and reform the Moving to Work program to Housing Innovation Program (HIP) and allow housing authorities to apply to participate. Unlike the current program, HIP allows the Secretary to determine new HIP participants.

The House Financial Services Committee will finish marking up the bill on Friday, July 17. We will provide a summary of the bill to GR and City staff when details become available.

FY 10 Appropriations

House

Last Friday, the House Appropriations Committee marked up the FY 10 Labor/ Health and Human Services (HHS)/Education and Transportation-Housing and Urban Development (HUD) Appropriations bills. The Labor/HHS bill includes \$5.1 billion (\$4.5 b for formula and \$600m for contingency) for the Low Income Home Energy Assistance Program (LIHEAP). This is \$1.9 billion more than the Administration's request and the same level as FY 2009. Depending on the final language in the bill, could provide as much as \$31 million for Arizona. This is similar to the amount the State received last year. Typically, Arizona receives approximately \$8 million in LIHEAP funds.

In addition, the Labor/HHS bill includes \$300,000 for the Translational Genomics Institute and funding for the following programs:

\$1.7 billion – Social Services Block Grants

\$746 million – Community Services Block Grant
\$7.2 billion – Head Start
\$861.5 million – Adult Training
\$924 million – Youth Training
\$1.4 billion – Dislocated Worker Training (combines the WIA Dislocated Worker funding stream and Dislocated Worker National Reserve)
\$100 million – Youthbuild
\$108 million – Reintegration of Ex-Offenders
\$50 million for Green Jobs Career Pathways Innovation (formerly Community Based Job Training)
\$1.7 billion – JobCorps

The House Appropriations Committee also passed the FY 10 Transportation- HUD (THUD) Appropriations bill. The Community Development Block Grant (CDBG) program received \$4.166 billion, an increase of \$500 million from last year. When the federal lobbying team met with Congressman Pastor last week, he mentioned that the Committee was not going to include new authorizing language (i.e. CDBG formula change) without direction from the Financial Services Committee and the White House.

According to contacts at HUD, part of the delay has been due to the slow process of confirming key Presidential appointees. Ms. Mercedes Marquez, the new Assistant Secretary that oversees the CDBG program, was only recently confirmed by the Senate. Because of this and other delays, the Administration has not released any legislative text for formula change. This has delayed any action by the Appropriations Committee. The federal lobbying team is following up with HUD to determine if their timeline for releasing language will provide the Appropriators and the Financial Services Committee with enough time to act this year. HUD Secretary Donovan, in responding to Congressman Pastor's questions which were provided to him by the City, stated that he would consult with the Appropriations Committee as to the language coming out of HUD.

The increase in the overall funding for CDBG should provide the City with more funding than it received in the last fiscal year. So while the formula change language is not included in the House bill there is an increase in CDBG funding.

In addition, the THUD bill included the following transportation projects and program funding:

City Projects

Central Phoenix Light Rail – \$61,249,903
Taxiway Alpha – \$2 million
I-10 West Corridor Alternative Analysis – \$1 million
S. Central Ave Light Rail Feasibility – \$400,000
Language that redistributes funding from FY 08 and FY 05 for the Heavy Maintenance Facility to the East Baseline Park and Ride.

Program funding

CDBG – \$4.6 billion
Highspeed Intercity Passenger Rail – \$4 billion
National Infrastructure Bank – \$2 billion
Tenant Based Rental Assistance – \$18 billion

Project Based Rental Assistance – \$8.1 billion
Public Housing Capital Fund – \$2.5 billion
Public Housing Operating Fund – \$2 billion
HOPE VI – \$250 million
Brownfields Development – \$25 million
HOME – \$2 billion
\$1.85 billion – Homeless Assistance Grants

Senate

On the other side of the Capitol, the full Senate Appropriations Committee has completed work on 10 of the 12 FY 10 Appropriations bills. The Senate plans to markup the Transportation-HUD and Labor HHS Appropriations bills next week.

Thus far only two (Homeland Security and Legislative Branch) have passed the Senate. It is expected that the Senate Appropriations Committee will continue to pass FY 10 bills but will probably not pass all twelve before the August recess.

Defense Authorization

The Senate passed its version of the FY10 Defense Authorization bill late Thursday night, nearly two weeks after the Chamber began consideration of the bill. After debating numerous amendments to the measure, it passed by a final vote of 87 to 7. Several key differences between the House and Senate bills are sure to cause trouble during the conference. One such provision approved by the Senate would extend federal hate crimes laws to cover issues of gender identity, sexual orientation, and disability. Other central differences surround the Senate's passage of an amendment to remove further F-22 funding from the bill, and end the House's inclusion of funding for the development of an alternate engine for the F-35. The House, which approved its version of the bill on June 25th by a vote of 389 to 22, included funding for both the F-22 and F-35 alternate engine program. President Obama has threatened to veto any bill authorizing more production of the F-22, and is also opposed the alternative F-35 engine.

Health Care Reform

In the House, Republicans took over the floor on Tuesday, with more than 100 members making 1-minute speeches in opposition to President Obama's health reform, and what they cite as fiscal irresponsibility that will drag the country into further debt. The last committee that needs to consider the legislation before it goes to the House Floor is the Energy and Commerce Committee, which began consideration of the bill last Friday. Committee meetings were cancelled Tuesday through Friday of this week due to concerns raised by the Blue Dogs, who have seven members on the committee and have threatened to oppose the legislation if their concerns are not addressed. Democrats on the committee attended a meeting at the White House on Tuesday at the President's request. The President spent close to an hour discussing ways to reduce the cost of the bill. Blue Dog member, Rep. Mike Ross (D-AR), stated that a number of "cost-containment" options were discussed, but "no final decisions" have been made. Energy and Commerce Committee Chairman Henry Waxman and Speaker Pelosi are considering bypassing the committee in order to bring the bill to the floor.

In the Senate, discussions continued in the Finance Committee over finding \$320 billion in revenue to offset the \$1 trillion cost of reform. Disagreement over how to pay for the reform has repeatedly forced Chairman Max Baucus (D-MT) to delay writing the bill. The

Administration has made clear that Baucus' preferred method, placing a tax on employer provided health benefits, is not an acceptable option. The committee is still considering other options including rescinding the nonprofit tax status of hospitals that operate like for-profit entities, a surcharge on those individuals earning more than \$200,000 a year or couples earning over \$250,000, a tax on sugary soda and alcohol, and a tax on healthcare benefits exceeding an aggregate actuarial value of \$25,000. Senate leaders announced Thursday that they would not be able to bring the legislation to a vote before the August recess, but are pressing Baucus to markup the bill in his committee in the remaining two weeks of session.

Legislation Introduced By Arizona Delegation

Government Relations and the federal lobbying team continue to track federal legislation that may impact the City. As part of this effort, legislation introduced by the Arizona delegation is also monitored. Below is a list of recent legislation introduced by Congressman Shadegg and Congresswoman Kilpatrick.

HR 3217 – Health Care Choice Act of 2009

Sponsor: Rep. John Shadegg (R-AZ)

Official Title: A bill to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce.

Cosponsors: 2 Total (2 Republicans)

Last Major Action: July 14, 2009 – Read twice and referred to: House Energy and Commerce. Congressional Record p. H8099

Referred to Committee: July 14, 2009 – Read twice and referred to: House Energy and Commerce. Congressional Record p. H8099

HR 3218 – Improving Health Care for All Americans Act

Sponsor: Rep. John Shadegg (R-AZ)

Official Title: A bill to provide a refundable tax credit for medical costs, to expand access to health insurance coverage through individual membership associations (IMAs) and to assist in the establishment of high risk pools.

Cosponsors: 9 Total (9 Republicans)

Last Major Action: July 14, 2009 – Read twice and referred to: House Energy and Commerce, House Ways and Means. Congressional Record p. H8100

Referred to Committee: July 14, 2009 – Read twice and referred to: House Energy and Commerce, House Ways and Means. Congressional Record p. H8100

HR 3239

Sponsor: Rep. Ann Kirkpatrick (D-AZ)

Official Title: A bill to require the secretary of Homeland Security, in consultation with the secretary of State, to submit a report on the effects of the Merida Initiative on the border security of the United States, and for other purposes.

Cosponsors: 1 Total (1 Democrat)

Last Major Action: July 16, 2009 – Read twice and referred to: House Foreign Affairs, House Homeland Security. Congressional Record p. H8302

Referred to Committee: July 16, 2009 – Read twice and referred to: House Foreign Affairs, House Homeland Security. Congressional Record p. H8302