



City of Phoenix

To: Mayor and Council
Executive Team

Date: September 18, 2009

From: Karen Peters
Government Relations Director

Subject: FEDERAL UPDATE: AUGUST 15 – SEPTEMBER 17, 2009

This memorandum provides an update of recent 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.

AUGUST 15 – SEPTEMBER 17, 2009

Congress Returns from District Work Period

Congress returned from a month-long summer recess on Tuesday, September 8. While many unresolved issues face the Congress, health care is the top priority for Congressional Democrats and the White House. In addition, Congress aims to pass a climate change bill, finish the FY 10 appropriations process, resolve surface transportation authorization, and address financial regulation legislation.

FY 10 Appropriations

Given the number of outstanding issues, Congressman Steny Hoyer (D-MD), House Majority Leader, has conceded that a continuing resolution is necessary because all twelve appropriations bills will not be completed by September 30, the end of the federal fiscal year. Majority Leader Hoyer says that the goal is to get all twelve bills finished by the end of October, depending on the health care issue.

Based on discussions with Congressional appropriations staff, we expect that the five bills – Agriculture, Homeland Security, Energy and Water, Legislative Branch, and Transportation/Housing and Urban Development (THUD) – completed by both the House and Senate will be conferenced by the end of September or first week of October.

Senate FY 10 THUD Appropriations

On Thursday, the Senate passed bill H.R. 3288, making annual appropriations for the Department of Transportation and the Housing and Urban Development Department (HUD) for fiscal year 2010. The next step is for the House of Representatives to agree to a conference with the Senate and appoint conferees, which could happen as early as next week, and then to get the bill through a House-Senate conference committee and to the White House by the last week of September or the first week of October.

The Senate bill includes \$61,249,903 for the Central Phoenix Light Rail. Other highlights of the bill include:

\$4 billion for the Community Development Block Grant program
\$18.1 million for Section 8 Tenant based program
\$8.1 billion for Section 8 Project based program
\$1.875 for Homeless Assistance
\$1.825 for the HOME program
\$1.2 billion for High Speed Rail grants
\$41.1 billion for Federal Aid in Highway Program
\$3.5 billion for the FAA AIP program

Additionally, the bill includes, "SEC. 231". This section allows the Secretary to consider industry standard appraisal practices, including the cost of repairs when determining market value." This provision would allow HUD to sell the City the Park Lee property and other properties at a reduced rate.

Senators filed more than 50 amendments to the \$122 billion bill, many of which were authored by Senator John McCain (R-AZ) to strike earmarks from the measure. Senator McCain targeted a series of transit projects in the bill, including \$85 million requested by Senators Jim Webb (D-VA) and Mark Warner (D-VA) to help fund an extension of the Washington Metro system to Washington Dulles International Airport. Senator McCain also wanted to strike \$30 million for the Honolulu High Capacity Transit Corridor Project, sought by Senate Appropriations Chairman Daniel Inouye (D-HI) and Senator Daniel Akaka (D-HI). Also targeted was \$75 million for the Houston North Corridor Light Rail Transit, requested by Sen. Kay Bailey Hutchison (R-TX).

The amendments ultimately failed.

FY 11 Appropriations

Congressional staffs from several state delegations are saying that they will start the FY 11 appropriations process in the fall. Starting early will give staff more time to become familiar with the projects and evaluate the requests in the October to December timeframe rather than the normal February through April timeframe. The City will continue to use the March National League of Cities meeting or other early in the year visits as opportunities to follow up on our appropriations requests with the Arizona Congressional delegation.

Federal Aviation Administration (FAA) Reauthorization

The House and the Senate are moving towards a three-month extension of existing FAA programs. Senate passage of the bill still hinges on the Finance Committee passing its funding title which remains mired in the Committee until the healthcare debate moves out. The Senate bill still could see floor action in October or November but there must be a convergence of events for that to happen.

Aviation Safety Hearings

This week, the Senate Commerce Committee resumed its litany of safety-focused hearings. On Tuesday, September 15, the Committee addressed the Hudson River midair collision that occurred during the August recess and the safety of air operations in congested space. The House Transportation and Infrastructure Committee also held a hearing regarding this issue on Wednesday, September 16th. According to FAA Vice President of Operations Rick Day's testimony, the implementation of automatic dependent surveillance broadcast (ADS-B, part of NextGen) will greatly improve safety in the Hudson

River exclusion area and other similar areas by providing pilots with greater situational awareness and providing air traffic control coverage of areas where radar cannot currently reach. The House will hold a hearing on *FAA Call to Action on Airline Safety and Pilot Training* on September 23.

Passenger Bill of Rights

Nearly two weeks after a Continental Airlines flight left 47 people stranded on a Rochester tarmac for six hours, a Sun Country Airlines flight spent the same amount of time awaiting takeoff on Friday, August 21. These recent tarmac stories have prompted lawmakers to again assert the need for a “Passenger Bill of Rights” – requiring passengers to be let off the plane after a delay on the tarmac exceeding three hours – to be incorporated in the Federal Aviation Administration (FAA) reauthorization bill.

On August 21st, the Department of Transportation (DOT) released preliminary findings regarding the Continental flight delay; the DOT’s findings will be used to help formulate a final rule that will provide better protection for airline passengers. The DOT’s FAA Administrator Randy Babbitt asserts that additional Congressional legislation is unnecessary to improve safety and that standards can be addressed through FAA rulemakings.

Aviation Improvement Grants

The FAA has responded to an advisory regarding Airport Improvement Program (AIP) grants under the American Recovery and Reinvestment Act (ARRA) issued by DOT Inspector General (IG) Calvin Scovel. The report concluded that FAA has funded more than 50 projects falling below its National Priority Rating threshold of 62, raising concerns about the agency’s funding process. At least four ARRA grant recipients had multi-year histories of grant management problems. The IG’s office recommended the FAA alter its evaluation process going forward. In response, Deputy Transportation Secretary John Porcari sent a letter to the IG explaining that funding projects low on the Department’s priority list was necessary to bring airports up to national safety standards. The FAA has also posted supplemental information about the grant processes and project selection on its website at www.faa.gov/recovery.

Surface Transportation

With the SAFETEA-LU reauthorization deadline fast approaching, House transportation leadership has begun to soften to the idea of an extension, including Transportation and Infrastructure (T&I) Committee Chairman Oberstar (D-MN). The Chairman, who is the architect of a \$500 billion, six-year plan to overhaul federal transportation policy, has conceded that a reauthorization bill may not be ready by September 30, but he has assured members that the Committee will continue to make progress on the legislation.

Over the August recess, Chairman Oberstar met with interest groups trying to find revenue sources for his bill. In the end, he said, it became clear that raising the federal gasoline tax would be the only way to pay for his bill. But with the economy just beginning to climb out of recession, a tax increase is a political non-starter with the Obama administration and most lawmakers.

Oberstar’s willingness to extend the current authorization through December still puts him at odds with the Senate, which is putting the finishing touches on a \$51.5 billion draft measure that would consolidate three separate bills. The measure would keep the current law (PL 109-59) governing highway, transit and transportation safety programs going until

March 31, 2011. The Senate legislation would transfer \$7.3 billion from the general fund to repay the Highway Trust Fund for money taken out over the years for emergency spending. The bill also would reimburse the trust fund for interest it has not been paid since 1999. To make up for the lost interest payments, the Senate bill would take \$7.7 billion from the general fund for the highway account and \$4.8 billion for the mass transit account.

Opponents argue that offsets should be included to cover the loss to the general fund, but supporters say that money is owed to the trust fund. Congress had a similar debate before the August recess when it was forced to pass a \$7 billion transfer to the highway trust in order to keep promised transportation money flowing to states. The President signed the bill (PL 111-46) on Aug. 7.

The Senate extension bill would be the third time in a little over a year that Congress has taken money from the general fund to prop up the Highway Trust Fund, because revenue from gasoline taxes is not keeping up with authorized spending.

Distracted Driving Summit

On Tuesday, Transportation Secretary LaHood announced the agenda for the Distracted Driving Summit on September 30 and October 1. The Summit will begin by examining the scope of the issue and various distractions that exist, followed by a panel that will review available research. Day one wraps up with an examination of distractions caused by technology and efforts made to assess and reduce negative effects caused by current and planned devices. Panelists will also consider technology that can prevent the consequences of driver distraction.

Day two will feature a review of legislative and regulatory approaches for dealing with distracted driving, evaluations of the impact of such measures and enforcement issues. Members of Congress and their staff will also have the opportunity to contribute to the discussion. The day will conclude with a discussion with teens about their experiences with distracted driving.

Transportation and ARRA

Five Administration heads and Vice President Biden showcased recovery-funded projects in six different states across the nation in an effort to demonstrate the tangible benefits of ARRA. In Chicago, Illinois, Transportation Secretary LaHood's stimulus-focused speech concluded with his department's policymaking priorities, expressing the importance of the federal government to set national priorities and empower counties and cities to work together to develop regional plans that will make these priorities a reality.

Positive ARRA outcomes also were highlighted by a report released by the House Transportation and Infrastructure Committee on Tuesday showing that jobs created or sustained by stimulus-funded infrastructure projects had increased by about 50 percent from June to July this year. Specifically, the report says that by the end of July, 77,470 jobs had been created or saved by water, highway and public transportation projects; up from 50,000 jobs in June. The report did not calculate the number of indirect jobs these projects also created or sustained, such as manufacturing, it did project that these numbers could be in the tens of thousands.

According to the report, 6,831 highway and transit projects have been put out to bid, totaling \$20.1 billion of the \$34.3 billion provided for highway and transit projects. The

Committee also reported that transit money is being used on the state level just as quickly as highway money. Sixty percent of stimulus dollars for roads has started to move through the contracting process and 57 percent of transit stimulus money is already out to bid.

To access this report go to:

<http://transportation.house.gov/singlepages/singlepages.aspx?NewsID=852>

Energy and Climate Change News

On Tuesday, Senate Majority Leader Harry Reid (D-NV) stated that the Senate may not act on energy and climate change legislation until 2010, and suggested that Congress should move the energy piece of its legislation in lieu of a comprehensive energy and climate change bill. Regardless, Senate committees with jurisdiction over climate change legislation (Senate Agriculture, Foreign Relations, Environment and Public Works) will continue to conduct business in the form of legislative hearings and stakeholder meetings to keep the ball rolling on what remains a top tier issue for the Administration and congressional Democrats. In the meantime, there is increasing pressure from environmental groups, stakeholders and members of Congress supportive of a cap and trade bill for the President to personally engage and make it his top priority.

As previously reported, the House narrowly passed HR 2454, "American Clean Energy and Security Act" on June 26. The bill includes a provision that allows states to use up to 1% of allowances to fund the non-federal share of up to 1% of State Energy and Environment Development (SEED) accounts for transit projects, car pool and van pool projects and CMAQ eligible projects. The American Association of Public Transportation Association (APTA) estimates that 1% of total funding is valued at approximately \$1 billion annually. While this is an improvement over the original bill, which did not include any allowance for transportation, APTA will be working with Members of the Senate Environment and Public Works (EPW) Committee to strengthen HR 2454.

EPW is scheduled to hear climate change legislation this month with a goal of reporting out a bill before October 15, with the rest of October being used to reconcile the different bills. Congress has set a goal of having a bill passed and signed by the President prior to the United Nations climate summit in Denmark in early December. Making this goal will depend on how much can be worked out in the committees and how close the Senate bill is to the House bill. The question of using budget reconciliation [50 votes] or regular order [60 votes] to pass any proposed bill will be controversial and time consuming.

EPA and DOT Auto Standards

This week, the Environmental Protection Agency (EPA) and the DOT released a national auto standards plan to impose greenhouse gas standards and mandate increased fuel economy on vehicles in the US. The standards would go into effect with model year 2012 through 2016, allowing automobile manufacturers to build a light-duty national fleet that satisfies all federal requirements, as well as the standards of California and other states. The proposed program includes miles per gallon requirements under National Highway Traffic Safety Administration's Corporate Average Fuel Economy Standards (CAFE) program and the first national emissions standards under EPA's greenhouse gas program. The standards are projected to create an average of 35.5 miles per gallon per vehicle and carbon dioxide would be limited to 250 grams per mile vehicle by 2016.

Specifically, the program would:

Increase fuel economy by approximately five percent every year

Reduce greenhouse gas emissions by nearly 950 million metric tons
Save the average car buyer more than \$3000 in fuel costs
Conserve 1.8 billion barrels of oil

Phoenix Meets with Assistant Secretary on EECBG

This week Mayor Gordon, Rob Melnick, Arizona State University Executive Dean and Chief Operating Officer of the Global Institute of Sustainability, and Phoenix Assistant Public Works Director Dimitrios Laloudakis met with Department of Energy Assistant Secretary Catherine Zoi to discuss Green Phoenix and competitive funding opportunities in the discretionary Energy Efficiency and Conservation Block Grant (EECBG) Program. The timing of the meeting was good since, just this week, the Department of Energy released a request for public comment for competitive grants administered through the EECBG Program. Funding for local governments will be awarded on the basis of a project's energy reduction and efficiency. Grants can be used for energy efficiency and conservation programs and projects community-wide, and renewable energy installations in or on government buildings.

Hotel Occupancy Taxes/Online Travel Companies (OTC)

OTC's like Expedia, Travelocity and others contract with hotels to control and sell hotel rooms. OTCs typically pay discounted rate for the rooms and charge consumers a full, marked-up retail rate. OTCs also collect hotel occupancy taxes from consumers based on the retail rate. What many OTCs do is pay the hotel taxes based on the discounted rate they receive from the hotel and not the rate they are charging the consumer.

OTCs and other industry groups want to include language in the pending Travel Promotion Act of 2009 to preempt state and local hotel tax revenue. The City's lobbyists are working with the US Conference of Mayors and the Ad Hoc Coalition for Fair Hotel Tax Collection (Federal Tax Administrators, American Federation of State County and Municipal Employees, American Federation of Teachers, National Education Association, International Association of Firefighters and others) to ensure that state and local tax laws are not preempted. Last week the bill moved through the Senate without the OTC amendment. Staff will be watching to see what happens in the House.

FY 10 LIHEAP Funding

As previously reported, both the House and Senate FY10 Labor-Health and Human Service (HHS) appropriations bills fully fund the Low Income Home Energy Assistance Program (LIHEAP) program at \$5.1 billion. This amount is \$1.9 billion more than the President's FY 10 request. This is the same amount funded last year, with \$4.5 billion distributed as regular funds and \$590 million as contingency funds. Both bills maintain the FY 09 distribution of regular funds, when approximately \$840 million was allocated according to the "new" LIHEAP formula and the remainder—approximately \$3.67 billion—was distributed according to the proportions of the "old" formula.

Since Congress allocated funding under the new formula HHS is required to readjust the formula. According to staff at HHS, the updates will affect the state-level data elements of the new formula database – which include factors such as weather (heating degree days/cooling degree days), total and low income fuel consumption, population, and prices. Because of these changes, Arizona's base allocation for FY 10, assuming the appropriations figures hold, will be approximately \$33.7 million, which is \$4.7 million more than the State received last year (\$29 million).