

## Senate passes stimulus legislation, 61-37

On Feb. 10, the U.S. Senate passed an \$838 billion economic recovery bill (H.R.1), The American Recovery and Reinvestment Act of 2009, by a 61-37 vote. The Senate approved the legislation after adopting a crucial compromise amendment crafted by the only Republicans to vote in favor of the stimulus bill, Senators Susan Collins (R-ME), Olympia Snowe (R-ME) and Arlen Specter (R-PA). The amendment slashed \$108 billion from the legislation which had at one point ballooned to over \$900 billion.

Funding levels for transportation, infrastructure and water resources remained largely unchanged in the reworked legislation. The House passed its own \$819 billion version on Jan. 28, by a 244-188 vote. The following are funding highlights for key infrastructure programs:

### HOUSE

- \$30 billion for highways
- \$12 billion for transit
- \$6 billion for Clean Water State Revolving Fund
- \$2 billion for Drinking Water State Revolving Fund

### SENATE

- \$27 billion for highways
- \$8.4 billion for transit
- \$4 billion for Clean Water State Revolving Fund
- \$2 billion for Drinking Water State Revolving Fund

The next step in the process will be for House and Senate negotiators to meet and reconcile the differences between the two bills. At press time it was still unclear whether a formal conference committee would take place.

With a self-imposed deadline of February 16, for sending a final bill to be signed by the President, House and Senate negotiators have a lot of work ahead of them to reach an agreement. The negotiation process must ensure that any changes maintain the support of at least 60 Senate votes for final approval before the bill can be cleared for the President's signature.

APWA will continue to monitor this legislation. For more information and updates visit [www.apwa.net/Advocacy/resources.asp](http://www.apwa.net/Advocacy/resources.asp) and look under *Economic Recovery Information*.



*The U.S. House and Senate passed versions of economic recovery bill H.R. 1. Negotiators will reconcile the bills before sending a final version to the President for signing.*

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# Members announced for key congressional committees

Congressional leaders announced committee rosters for the 111th Congress. The Transportation and Infrastructure (T&I) Committee, the House's largest committee, will seat 13 new Democrats and six new Republicans. Under new party ratios, Democrats will hold a 45-30 margin, up from the 41-34 advantage in the 110th Congress. Representative James Oberstar (D-MN) will return as Chairman, and John Mica (R-FL) will return as the Ranking Member.

The T&I Subcommittee on Highways and Transit welcomed 12 new Democratic members, seven of which are freshmen, while the Republicans welcomed six new members, three of which are freshmen. Democrats will hold a 29-22 margin compared to 28-23 in the 110th Congress. The Subcommittee on Water Resources and Environment welcomed seven new Democratic members, six of which are freshmen. The Republicans welcomed five new members, two of which are freshmen. The Democratic margin will be a 23-15 ratio compared to 21-17 in the 110th.

The Senate Committee on Environment and Public Works will seat three new Democrats and three new Republicans. Democrats will hold an 11-8 ratio, compared to the 10-9 margin in the 110th Congress. Senator Barbara Boxer (D-CA) will return as Chairwoman and Senator James Inhofe (R-OK) will return as Ranking Member. Subcommittee membership was pending at press time.

## House Transportation and Infrastructure Committee

### Majority

#### James L. Oberstar (D-MN) Chairman

Nick Rahall (D-WV) Vice Chairman  
Peter A. DeFazio (D-OR)  
Jerry F. Costello (D-IL)  
Eleanor Holmes Norton (D-DC)  
Jerrold Nadler (D-NY)  
Corrine Brown (D-FL)  
Bob Filner (D-CA)  
Eddie Bernice Johnson (D-TX)  
Gene Taylor (D-MS)  
Elijah E. Cummings (D-MD)  
Ellen O. Tauscher (D-CA)  
Leonard Boswell (D-IA)  
Tim Holden (D-PA)  
Brian Baird (D-WA)  
Rick Larsen (D-WA)  
Michael E. Capuano (D-MA)  
Tim Bishop (D-NY)  
Mike Michaud (D-ME)  
Russ Carnahan (D-MO)  
Grace Flores Napolitano (D-CA)  
Daniel Lipinski (D-IL)  
Mazie Hirono (D-HI)  
Jason Altmire (D-PA)  
Timothy J. Walz (D-FL-MN)  
Heath Shuler (D-NC)  
Michael Arcuri (D-NY)  
Henry E. Mitchell (D-AZ)  
Christopher P. Carney (D-PA)  
John Joseph Hall (D-NY)  
Steve Kagen (D-WI)  
Steve Cohen (D-TN)  
Laura Richardson (D-CA)  
Albio Sires (D-NJ)  
Donna F. Edwards (D-MD)  
Solomon P. Ortiz (D-TX)  
Phil G. Hare (D-IL)  
John A. Boccieri (D-OH)  
Mark H. Schauer (D-MI)  
Elizabeth Helen Markey (D-CO)  
R. Parker Griffith (D-AL)  
Michael E. McMahon (D-NY)  
Thomas Stuart Price Perriello (D-VA)  
Dina Titus (D-NV)  
Harry Teague (D-NM)

### Minority

#### John L. Mica (R-FL) Ranking Member

Don Young (R-AK)  
Thomas E. Petri (R-WI)  
Howard Coble (R-NC)

John J. Duncan (R-TN)  
Vernon J. Ehlers (R-MI)  
Frank A. LoBiondo (R-NJ)  
Jerry Moran (R-KS)  
Gary G. Miller (R-CA)  
Henry E. Brown (R-SC)  
Timothy V. Johnson (R-IL)  
Todd Russell Platts (R-PA)  
Sam Graves (R-MO)  
Bill Shuster (R-PA)  
John Boozman (R-AR)  
Shelley Moore Capito (R-WV)  
Jim Gerlach (R-PA)  
Mario Diaz-Balart (R-FL)  
Charles W. Dent (R-PA)  
Connie Mack (R-FL)  
Lynn A. Westmoreland (R-GA)  
Jean Schmidt (R-OH)  
Candice S. Miller (R-MI)  
Mary Fallin (R-OK)  
Vern Buchanan (R-FL)  
Robert E. Latta (R-OH)  
Steven B. Guthrie (R-KY)  
Anh Quang Cao (R-LA)  
Aaron Schock (R-IL)  
Peter G. Olson (R-TX)

## Senate Environment and Public Works Committee

### Majority

#### Barbara Boxer (D-CA) Chairwoman

Max Baucus (D-MT)  
Thomas R. Carper (D-DE)  
Frank R. Lautenberg (D-NJ)  
Ben Cardin (D-MD)  
Bernard Sanders (I-VT)  
Amy Klobuchar (D-FL-MN)  
Sheldon Whitehouse (D-RI)  
Tom Udall (D-NM)  
Jeff Alan Merkley (D-OR)  
Kristen Elizabeth Gillibrand (D-NY)

### Minority

#### James Inhofe (R-OK) Ranking Member

George V. Voinovich (R-OH)  
David Vitter (R-LA)  
John A. Barrasso (R-WY)  
Arlen Specter (R-PA)  
Michael D. Crapo (R-ID)  
Christopher Bond (R-MO)  
Lamar Alexander (R-TN)

## Stimulus package includes significant environmental funding

The American Recovery and Reinvestment Act of 2009 (H.R. 1) includes significant funding for several environmental programs including state revolving funds and diesel retrofit grants.

Both the House and Senate packages contain provisions waiving local match requirements under the State Revolving Fund (SRF) programs and the package provides authority for states to offer negative interest loans and principal forgiveness for up to 100 percent of the cost of projects. The bill also allocates \$1.5 billion to help fund \$3.8 billion in grants and loans for rural communities that need to install or upgrade water

and wastewater treatment systems. Included in the package is significant funding for brownfields (\$100 million) programs, diesel emission reduction act programs (\$300 million) and Energy Efficiency and Conservation Block Grants (\$18.5 billion).

## ASCE report card gives infrastructure a near-failing grade

On Jan. 28 the American Society for Civil Engineers (ASCE) released preliminary information on their 2009 Report Card for America's Infrastructure. Assessing all of the nation's tangible infrastructure systems, the report card found little change in infrastructure conditions during the past four years despite improvement costs that jumped from \$1.6 trillion to \$2.2 trillion. The report card awarded the same overall grade as in 2005 – "D."

The report card assessed conditions in 15 categories:

Aviation	D
Bridges	C
Dams	D
Drinking Water	D-
Energy	D+
Hazardous Waste	D
Inland Waterways	D-
Levees	D-
Public Parks & Recreation	C-
Rail	C-
Roads	D-
School	D
Solid Waste	C+
Transit	D
Wastewater	D-

According to APWA President Noel Thompson, "We are falling behind because investment has not kept pace with growing population and the repair and replacement of aging and deteriorating systems. Little significant action has been taken in the past four years. An overall grade of 'D' means the time to invest, improve and enhance our critical infrastructure is now."

Thompson issued a press statement calling on lawmakers to carefully review the report card findings and recommit to funding and supporting infrastructure. For more information on the findings, visit [www.asce.org/reportcard](http://www.asce.org/reportcard).

## **Obama's environment & energy team confirmed**

President Obama's environment and energy team has been confirmed by the Senate and is settling into new offices, preparing to implement the new Administration's priorities. On January 22, Lisa Jackson and Nancy Sutley were confirmed as Environmental Protection Agency (EPA) Administrator and head of the White House Council on Environmental Quality, respectively.

Several other agency heads were confirmed shortly after President Obama's swearing in ceremony on January 20. Steven Chu was confirmed as Energy Secretary, Ken Salazar as Interior Secretary and Tom Vilsack as Agriculture Secretary. Appointments for environment and energy sub-cabinet positions are expected to follow over the coming months.

## **EPA creates stimulus task force**

The Environmental Protection Agency (EPA) has begun working with states and other stakeholders to establish a task force to prepare for dispersing billions of stimulus dollars. The task force will focus on how the agency can quickly disperse the funds within 20 days of the legislation's enactment.

As the debate over the recovery package continues, several parties have raised concerns over potential spending delays that could undermine the timely creation of jobs. To address these concerns, the House bill includes language

requiring grants dispersed by formula to be awarded "not later than 30 days after the date of enactment" of the bill. The language requires states to enter binding commitments with contractors to spend 50 percent of the funds in the first year and 50 percent in the second year. This is a much more rapid pace than the agency typically disperses funds.

The 30 day deadline for the agency to disperse grants to states will apply to the proposed \$9 billion for State Revolving Funds, diesel retro-fit funds and others EPA programs. The process is further complicated because states will have to apply for the funding, including information about how the money will be spent, but the full set of requirements for the application cannot yet be known by the agencies or stakeholders because the legislation is a moving target.

## **EPA seeks comment on solid waste definition; impacts for biosolids incineration**

On Jan. 2, the Environmental Protection Agency (EPA) announced that it is seeking comment on the meaning of "solid waste" under the Resource Conservation and Recovery Act (RCRA) as it applies to non-hazardous wastes. The definition will assist the Agency's Air Office in developing standards under Sections 112 and 129 of the Clean Air Act (CAA) for incinerators and boilers.

A series of regulatory determinations regarding commercial and industrial solid waste incinerators that have also impacted biosolids or sewage sludge incinerators (SSIs) are under review. A decision issued June

8, 2007, by the D.C. Circuit Court of Appeals in *Natural Resources Defense Council v. EPA* resulted in the remand of two key regulations back to the Agency for more consideration. At issue in the case were EPA's past determinations regarding which incineration units should be handled under Section 112 versus 129. The court determined that any incinerator burning solid waste (whether for energy recovery or not), must be regulated under Section 129.

Included in this litigation was a rule in which the Agency had determined that SSIs should be covered under the less onerous Section 112 of the CAA. The Jan. 2 Notice is seeking comment on whether a long list of secondary materials, including biosolids, should be considered solid waste for the purposes of CAA regulation.

## **EPA solicits smart growth implementation assistance applications**

The Environmental Protection Agency (EPA) is seeking applications from states, regions and communities that want to develop in ways that reflect the principles of smart growth to meet environmental or other community goals. The annual competitive solicitation is open to state, local, regional and tribal governments, as well as non-profits that have partnered with a governmental entity, that want to incorporate smart growth techniques into future development.

Selected communities receive direct technical assistance from a multi-disciplinary team of national

experts in one of two areas – policy analysis (e.g. reviewing state and local codes, school sitting guidelines, transportation policies, etc.) or public participatory processes (e.g. visioning, design workshops, alternative analysis, build out analysis, etc.). The assistance is tailored to the needs of the community.

EPA assistance is provided through a contractor team, not a grant, that will provide information to help the community achieve its goals of encouraging growth that fosters economic progress and environmental protection. Additional information is available at [www.epa.gov/smartgrowth/sgia.htm](http://www.epa.gov/smartgrowth/sgia.htm).

## **Final revisions to CWA definition of discharge of dredge material released**

The Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers are promulgating a final rule to amend the Clean Water Act (CWA) section 404 regulations that defines the term “discharge of dredged material.” This final rule responds to a 2001 court decree invalidating the Tulloch II rule. Persons or entities engaged in discharging dredged materials to waters of the U.S. will be affected by this rule.

This rule returns to the 1999 rule definition of “discharge of dredged materials” to mean any addition of dredged material into waters of the U.S., including redeposit of dredged material other than incidental fallback material. The final rule outlines several examples where a discharge results in a “redeposit” subject to regulation, but

it specifically excludes “incidental fallback,” without defining the term. Deciding whether a particular redeposit of dredged material is subject to CWA jurisdiction will entail a case-by-case evaluation.

To view the rule visit, [www.epa.gov/fedrgstr/EPA-WATER/2008/December/Day-30/w30984.htm](http://www.epa.gov/fedrgstr/EPA-WATER/2008/December/Day-30/w30984.htm).

## **DHS announces revised NIMS**

According to the Department of Homeland Security (DHS), a revised version of the National Incident Management System (NIMS) was released on December 12, 2008.

NIMS expands on the original version released in March 2004 by clarifying existing concepts, better incorporating preparedness and planning, and improving the overall readability of the document. For example, with the oversight of the Federal Emergency Management Agency (FEMA), the importance of private sector partners and non-governmental organizations during incident response are more fully integrated throughout the document. The 2008 version also differentiates between the purposes of NIMS and the National Response Framework (NRF) by identifying how NIMS provides the action template for the management of incidents, while the NRF provides the policy structure and mechanisms for national-level incident management policy.

Homeland Security Presidential Directive (HSPD)-5, Management of Domestic Incidents, directed the development and administration of NIMS. Originally issued on March 1, 2004, by DHS, NIMS establishes standardized incident management processes, protocols and procedures

that all federal, state, tribal and local responders use to coordinate and conduct response actions.



*Janet Napolitano was confirmed as the third U.S. Secretary of Homeland Security.*

## **Napolitano confirmed as Homeland Security Secretary**

Hours after President Barak Obama was sworn into office, the Senate confirmed Arizona Governor Janet Napolitano as the third Secretary of Homeland Security by a voice vote.

Obama’s nomination of Napolitano received bipartisan support from Congress. Chairman of the Senate Homeland Security Committee, Senator Joe Lieberman (I-CT) hailed Napolitano as knowing “how to work with officials and first responders at all levels of government—a crucial qualification for this job where success is impossible without cooperation across the nation at the federal, state and local levels.”

Napolitano was accompanied to her confirmation hearing on Jan. 15 by Arizona’s two Republican Senators John McCain and Jon Kyl – who also testified before the committee. Throughout the confirmation

hearing, Governor Napolitano expressed her views on a broad range of issues including border security, communications interoperability and rail and transit security.

Napolitano has extensive experience and understanding of the federal-state-local government relationship. She was re-elected to a second four-year term as governor in 2006, and earlier served as Arizona's attorney general from 1998-2002. As Secretary of Homeland Security, Napolitano is responsible for overseeing a department that is limited to a \$50.5 billion budget. The future Homeland Security Secretary is not charged with an easy task – she is accountable for customs and border protection, transportation and cyber security, immigration enforcement, the U.S. Coast Guard and Secret Service, as well as disaster preparedness and recovery efforts.

## **Secretary Napolitano issues action directives**

According to the Department of Homeland Security (DHS), Janet Napolitano spent her first week as Homeland Security Secretary issuing seven action directives on DHS and the Federal Emergency Management Agency (FEMA).

Napolitano's DHS action directives are focused on critical infrastructure protection, risk analysis, state and local intelligence sharing, transportation security, and state, local and tribal integration.

FEMA's action directives concentrate on state and local integration, and national planning. According to FEMA, the assessments should include, but are not limited to the following:

- Post-Katrina Emergency Management Reform Act
- Target Capabilities List – Integrated Planning System
- State Preparedness Reports
- Federal Preparedness Reports
- Nationwide Plan Reviews
- Planning requirements for emergency management grants
- National Response Framework

The action directives instruct specific offices and agencies to gather information, review existing strategies and programs for inconsistencies, and to provide oral and written reports due between late January and throughout February.

Secretary Napolitano stated, "One of my top priorities is to unify this department . . . these action directives are designed to begin a review, evaluation and dialogue between the various functions of this department and me . . . I look forward to . . . making DHS a more effective and a more efficient department."

## **House and Senate Homeland Security Committees appoint leadership, determine priorities**

The start of the 111th Congress indicates that the House and Senate Homeland Security Committees' leadership and members face several legislative priorities flooding their already busy agendas.

Legislative priorities for the House and Senate Homeland Security Committees include reauthorizing the Pre-Disaster Mitigation Program, the National Flood Insurance and the National Windstorm Impact Reduction Programs. Without

the passage of the Department of Homeland Security Appropriations Act of 2008 last year, funding for these three programs was scheduled to sunset on September 30, 2008. Lawmakers will seek to reauthorize and allocate funds to these programs as soon as possible before funding runs out on March 6, 2009.

Key Homeland Security Committee leadership is to remain the same for the 111th Congress. In the House Homeland Security Committee, Congressman Bennie Thompson (D-MS, 2) will remain chairman, accompanied by Rep. Peter King (R-NY, 3) as the ranking member.

In the Senate Homeland Security Committee, Senator Joe Lieberman (CT-I) will keep his leadership position, as will Senator Susan Collins (ME-R), serving as the ranking member. Among the new faces appearing on the committee, is the 2008 GOP presidential candidate Senator John McCain (R-AZ) and Senator Roland Burris (D-IL), the replacement for President Obama.

APWA will continue working with committee leadership to further public works legislative priorities.

## **FEMA announces National Disaster Housing Strategy**

On Jan. 16, the Department of Homeland Security's Federal Emergency Management Agency (FEMA) released the National Disaster Housing Strategy.

The Strategy describes disaster housing in its three elements of sheltering, interim and permanent housing, and draws on the lessons learned from Hurricane Katrina and other disasters to identify specific actions that can be taken

to improve disaster housing assistance. Federal, state and local government are charged with respective responsibilities that depend on their emergency response capabilities. Individual, non-governmental organizations and private sector duties are also outlined. The Strategy includes a renewed focus on planning, building baseline capabilities for all levels of government and stakeholders, and advocates a broader range of disaster housing options.

The Post-Katrina Emergency Management Reform Act of 2006 called for FEMA, in coordination with key stakeholders, to develop and maintain the National Disaster Housing Strategy. However the Strategy is a living document, and as such, FEMA has worked jointly with the U.S. Department of Housing and Urban Development and the National American Red Cross, as well as included experts from all levels of government and various stakeholders to establish the National Disaster Housing Task Force. The Task Force will focus full-time attention on disaster housing, developing operational plans, building disaster housing capabilities, and achieving the vision and goals of the Strategy.

## ***LaHood confirmed as Transportation Secretary***

Former Illinois Congressman Ray H. LaHood was sworn in as the 16th U.S. Transportation Secretary after the Senate confirmed his nomination by voice vote on January 22. LaHood will lead the U.S. Department of Transportation, an agency with a \$70 billion annual budget. He will be the Administration's lead voice and

chief negotiator on the 2009 surface transportation authorization.

Prior to his nomination, LaHood served 14 years as a Republican Congressman representing the 18th district of Illinois, which includes Peoria and Springfield. He served on the House Transportation and Infrastructure Committee from 1995 to 2000.



*Ray LaHood is the new U.S. Secretary of Transportation.*

## ***Voluntary Private Sector Accreditation and Certification Preparedness Program***

On Dec. 24, 2008, the Department of Homeland Security (DHS) published a notice in the Federal Register that announced the Voluntary Private Sector Accreditation and Certification Preparedness Program (PS-PREP). The notice sought recommendations from private sector stakeholders and the public at large regarding the private sector standards that DHS should adopt, both initially and over time.

The Federal Emergency Management Agency (FEMA) held the first of two public meetings at the U.S. Chamber of Commerce on January 13, 2009. During the

open forum, participants were able to discuss issues of interest pertaining to the PS-PREP Program. In particular, forum participants offered recommendations for adoption of currently existing private sector preparedness standards.

The second public meeting is scheduled to occur in February 2009, however an exact date has not been determined.

Under the authority of Title IX of the 9/11 Commission Act of 2007, Congress authorized DHS to establish the PS-PREP Program – a voluntary private sector preparedness accreditation and certification program. The program's intent is to raise the level of private sector preparedness through a number of means including: 1) Establishing a system for DHS to adopt private sector preparedness standards; 2) Encouraging creation of those standards; 3) Developing a method for a private sector entity to obtain a certification of conformity with a particular DHS-adopted private sector standard, and encouraging such certification; and 4) Making preparedness standards adopted by DHS more widely available.

## ***FHWA seeks comments on TIFIA rule amendments***

The Federal Highway Administration (FHWA) issued a notice of proposed rulemaking regarding credit assistance for surface transportation projects and is requesting comments.

Recent changes to the Transportation Infrastructure Finance and Innovation Act (TIFIA) statute require changes in the TIFIA rule. TIFIA was enacted in 1998 as part

of the TEA-21, which established a new federal credit program under which the U.S. Department of Transportation (DOT) may provide credit assistance to surface transportation investments of regional or national significance. To be selected for TIFIA assistance, projects must meet a number of statutorily specified criteria. As funding for this program is limited, projects obtaining assistance under the TIFIA program may be selected on a competitive basis.

In 1999, DOT promulgated a rule implementing TIFIA and in 2000 amended the rule. In 2005, Congress enacted SAFETEA-LU, which made a number of amendments to TIFIA.

DOT proposes to amend the TIFIA rule to implement the changes required by the SAFETEA-LU amendments and to incorporate a number of programmatic features that DOT considers, based on experience gained administering the program since the rule was last amended, would improve TIFIA.

Comments must be received on or before March 23, 2009. The FHWA notice appears in the January 21 issue of the Federal Register. More information is posted under Federal Highway Administration at [http://www.access.gpo.gov/su\\_docs/fedreg/a090121c.html](http://www.access.gpo.gov/su_docs/fedreg/a090121c.html).

## ***FHWA seeks comments on traffic monitoring program***

The Federal Highway Administration (FHWA) has issued a proposed rule regarding the Real-Time System Management Information Program and is seeking comments. The program, established under SAFETEA-LU, provides states the

capability to monitor, in real-time, the traffic and travel conditions of major highways of the United States and to share that data with state and local governments, and the traveling public.

The rule would establish minimum parameters and requirements for states to make available and share traffic and travel conditions information via real-time information programs. FHWA proposes to require that each state establish a real-time information program that would provide traffic and travel conditions reporting and support other efforts related to congestion relief. The provision of traffic and travel conditions reporting to other agencies and to travelers would enable agencies to communicate the operational characteristics within their state or metropolitan area. Such information would disclose the presence and severity of congestion and other travel impedances that limit traveler mobility and the efficient movement of goods.

Comments must be received on or before April 14, 2009. More information is published in the January 14 Federal Register under Federal Highway Administration: [http://www.access.gpo.gov/su\\_docs/fedreg/a090114c.html](http://www.access.gpo.gov/su_docs/fedreg/a090114c.html).

## ***FHWA creates economic recovery Web page***

The Federal Highway Administration (FHWA) has established an economic recovery Web page to assist state and local agencies in preparation for economic stimulus legislation working its way through Congress. The page, [www.fhwa.dot.gov/economicrecovery/](http://www.fhwa.dot.gov/economicrecovery/), will provide all stakeholders with the latest information and includes a series of updated question and answers. In addition, the page has a list of actions that can be taken to expedite the economic recovery delivery.

FHWA is encouraging all potential recipients of highway-related economic recovery funding to review and move forward on those items that are applicable.

*Contributors include Julia Anastasio, Laura Berkey, Jim Fahey and Maggie Oldham. Becky Wickstrom is editor.*