

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5935

Making supplemental appropriations for investments in transportation infrastructure, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2010

Mr. MICHAUD introduced the following bill; which was referred to the Committee on Appropriations

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## A BILL

Making supplemental appropriations for investments in transportation infrastructure, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the “Building and Upgrad-  
5        ing Infrastructure for Long-term Development Act of  
6        2010” or the “BUILD Act of 2010”.

7        **SEC. 2. SUPPLEMENTAL APPROPRIATIONS.**

8        The following sums are appropriated, out of any  
9        money in the Treasury not otherwise appropriated, for the

1 fiscal year ending September 30, 2010, and for other pur-  
2 poses, namely:

3 ENVIRONMENTAL PROTECTION AGENCY

4 STATE AND TRIBAL ASSISTANCE GRANTS

5 (INCLUDING TRANSFERS OF FUNDS)

6 For an additional amount for “State and Tribal As-  
7 sistance Grants”, \$2,000,000,000, of which  
8 \$1,000,000,000 shall be for capitalization grants for the  
9 Clean Water State Revolving Funds under title VI of the  
10 Federal Water Pollution Control Act and \$1,000,000,000  
11 shall be for capitalization grants under section 1452 of  
12 the Safe Drinking Water Act: *Provided*, That the Adminis-  
13 trator may retain up to 1 percent of the funds appro-  
14 priated herein for management and oversight purposes:  
15 *Provided further*, That funds appropriated herein shall not  
16 be subject to the matching or cost share requirements of  
17 sections 602(b)(2), 602(b)(3) or 202 of the Federal Water  
18 Pollution Control Act nor the matching requirements of  
19 section 1452(e) of the Safe Drinking Water Act: *Provided*  
20 *further*, That the Administrator shall reallocate funds ap-  
21 propriated herein for the Clean and Drinking Water State  
22 Revolving Funds (Revolving Funds) where projects are  
23 not under contract or construction within 8 months of the  
24 date of enactment of this Act: *Provided further*, That not-  
25 withstanding the priority rankings they would otherwise

1 receive under each program, priority for funds appro-  
2 priated herein shall be given to projects on a State priority  
3 list that are ready to proceed to construction within 12  
4 months of the date of enactment of this Act: *Provided fur-*  
5 *ther*, That notwithstanding the requirements of section  
6 603(d) of the Federal Water Pollution Control Act or sec-  
7 tion 1452(f) of the Safe Drinking Water Act, for the funds  
8 appropriated herein, each State shall use not less than 50  
9 percent of the amount of its capitalization grants to pro-  
10 vide additional subsidization to eligible recipients in the  
11 form of forgiveness of principal, negative interest loans or  
12 grants or any combination of these: *Provided further*,  
13 That, to the extent there are sufficient eligible project ap-  
14 plications, not less than 20 percent of the funds appro-  
15 priated herein for the Revolving Funds shall be for  
16 projects to address green infrastructure, water or energy  
17 efficiency improvements or other environmentally innova-  
18 tive activities: *Provided further*, That notwithstanding the  
19 limitation on amounts specified in section 518(c) of the  
20 Federal Water Pollution Control Act, up to 2.0 percent  
21 of the funds appropriated herein for the Clean Water  
22 State Revolving Funds may be reserved by the Adminis-  
23 trator for tribal grants under section 518(c) of such Act:  
24 *Provided further*, That up to 4 percent of the funds appro-  
25 priated herein for tribal set-asides under the Revolving

1 Funds may be transferred to the Indian Health Service  
2 to support management and oversight of tribal projects:  
3 *Provided further*, That none of the funds appropriated  
4 herein shall be available for the purchase of land or ease-  
5 ments as authorized by section 603(c) of the Federal  
6 Water Pollution Control Act or for activities authorized  
7 by section 1452(k) of the Safe Drinking Water Act: *Pro-*  
8 *vided further*, That notwithstanding section 603(d)(2) of  
9 the Federal Water Pollution Control Act and section  
10 1452(f)(2) of the Safe Drinking Water Act, funds may  
11 be used to buy, refinance, or restructure the debt obliga-  
12 tions of eligible recipients only where such debt was in-  
13 curred on or after October 1, 2009: *Provided further*, That  
14 section 1606 of title XVI of Public Law 111–5 shall apply  
15 to the use of the funds provided under this heading.

16 DEPARTMENT OF TRANSPORTATION

17 FEDERAL HIGHWAY ADMINISTRATION

18 HIGHWAY INFRASTRUCTURE INVESTMENT

19 For an additional amount for “Highway Infrastruc-  
20 ture Investment” for restoration, repair, construction and  
21 other activities eligible under paragraph (b) of section 133  
22 of title 23, United States Code, and for passenger and  
23 freight rail transportation and port infrastructure projects  
24 eligible for assistance under subsection 601(a)(8) of such  
25 title, \$47,300,000,000, to remain available for the 21-

1 month period beginning on the date of enactment of this  
2 Act: *Provided*, That, after making the set-asides required  
3 under this heading, 50 percent of the funds made available  
4 under this heading shall be apportioned to States using  
5 the formula set forth in section 104(b)(3) of title 23,  
6 United States Code, and the remaining funds shall be ap-  
7 portioned to States in the same ratio as the obligation lim-  
8 itation for fiscal year 2010 was distributed among the  
9 States in accordance with the formula specified in section  
10 120(a)(6) of title I of division A of Public Law 111–117:  
11 *Provided further*, That funds made available under this  
12 heading shall be apportioned not later than 21 days after  
13 the date of enactment of this Act: *Provided further*, That  
14 in selecting projects to be carried out with funds appor-  
15 tioned under this heading, priority shall be given to  
16 projects that are projected for completion within a 3-year  
17 time frame, and are located in economically distressed  
18 areas as defined by section 301 of the Public Works and  
19 Economic Development Act of 1965, as amended (42  
20 U.S.C. 3161): *Provided further*, That in selecting projects  
21 to be carried out with funds apportioned under this head-  
22 ing, States shall ensure an equitable geographic distribu-  
23 tion of funds and an appropriate balance in addressing  
24 the needs of urban and rural communities in the State:  
25 *Provided further*, That 120 days following the date of such

1 apportionment, the Secretary of Transportation shall  
2 withdraw from each State an amount equal to 50 percent  
3 of the funds awarded to that State less the amount of  
4 funding obligated, as determined by the Secretary, and the  
5 Secretary shall redistribute such amounts to other States  
6 that have had no funds withdrawn under this proviso in  
7 the manner described in section 120(e) of division K of  
8 Public Law 110–161: *Provided further*, That 1 year fol-  
9 lowing the date of such apportionment, the Secretary shall  
10 withdraw from each recipient of funds apportioned under  
11 this heading any funds that are not under contract, as  
12 determined by the Secretary, and the Secretary shall re-  
13 distribute such amounts to States that have had no funds  
14 withdrawn under this proviso in the manner described in  
15 section 120(c) of title I of division A of Public Law 111–  
16 117: *Provided further*, That at the request of a State, the  
17 Secretary of Transportation may provide an extension of  
18 such 1-year period only to the extent that he feels satisfied  
19 that the State has encountered extreme conditions that  
20 create an unworkable bidding environment or other ex-  
21 tenuating circumstances: *Provided further*, That before  
22 granting such an extension, the Secretary shall send a let-  
23 ter to the House and Senate Committees on Appropria-  
24 tions that provides a thorough justification for the exten-  
25 sion: *Provided further*, That 3 percent of the funds appor-

1 tioned to a State under this heading shall be set aside  
2 for the purposes described in subsection 133(d)(2) of title  
3 23, United States Code (without regard to the comparison  
4 to fiscal year 2005): *Provided further*, That 30 percent of  
5 the funds apportioned to a State under this heading shall  
6 be suballocated within the State in the manner and for  
7 the purposes described in the first sentence of subsection  
8 133(d)(3)(A), in subsection 133(d)(3)(B), and in sub-  
9 section 133(d)(3)(D): *Provided further*, That such sub-  
10 allocation shall be conducted in every State: *Provided fur-*  
11 *ther*, That of the funds provided under this heading,  
12 \$105,000,000 shall be for the Puerto Rico highway pro-  
13 gram authorized under section 165 of title 23, United  
14 States Code, and \$45,000,000 shall be for the territorial  
15 highway program authorized under section 215 of title 23,  
16 United States Code: *Provided further*, That of the funds  
17 provided under this heading, \$60,000,000 shall be for cap-  
18 ital expenditures eligible under section 147 of title 23,  
19 United States Code (without regard to subsection (d)):  
20 *Provided further*, That of the funds provided under this  
21 heading, \$550,000,000 shall be for investments in trans-  
22 portation at Indian reservations and Federal lands: *Pro-*  
23 *vided further*, That of the funds identified in the preceding  
24 proviso, \$310,000,000 shall be for the Indian Reservation  
25 Roads program, \$170,000,000 shall be for the Park Roads

1 and Parkways program, \$60,000,000 shall be for the For-  
2 est Highway Program, and \$10,000,000 shall be for the  
3 Refuge Roads program: *Provided further*, That for invest-  
4 ments at Indian reservations and Federal lands, priority  
5 shall be given to capital investments, and to projects and  
6 activities that can be completed within 2 years of enact-  
7 ment of this Act: *Provided further*, That 1 year following  
8 the enactment of this Act, to ensure the prompt use of  
9 the \$550,000,000 provided for investments at Indian res-  
10 ervations and Federal lands, the Secretary shall have the  
11 authority to redistribute unobligated funds within the re-  
12 spective program for which the funds were appropriated:  
13 *Provided further*, That up to 4 percent of the funding pro-  
14 vided for Indian Reservation Roads may be used by the  
15 Secretary of the Interior for program management and  
16 oversight and project-related administrative expenses: *Pro-*  
17 *vided further*, That section 134(f)(3)(C)(ii)(II) of title 23,  
18 United States Code, shall not apply to funds provided  
19 under this heading: *Provided further*, That of the funds  
20 made available under this heading, \$20,000,000 shall be  
21 for highway surface transportation and technology train-  
22 ing under section 140(b) of title 23, United States Code,  
23 and \$20,000,000, to remain available until expended, shall  
24 be for disadvantaged business enterprises bonding assist-  
25 ance under section 332(e) of title 49, United States Code:

1 *Provided further*, That funds made available under this  
2 heading shall be administered as if apportioned under  
3 chapter 1 of title 23, United States Code, except for funds  
4 made available for investments in transportation at Indian  
5 reservations and Federal lands, and for the territorial  
6 highway program, which shall be administered in accord-  
7 ance with chapter 2 of title 23, United States Code, and  
8 except for funds made available for disadvantaged busi-  
9 ness enterprises bonding assistance, which shall be admin-  
10 istered in accordance with chapter 3 of title 49, United  
11 States Code: *Provided further*, That the Federal share  
12 payable on account of any project or activity carried out  
13 with funds made available under this heading shall be, at  
14 the option of the recipient, up to 100 percent of the total  
15 cost thereof: *Provided further*, That funds made available  
16 by this paragraph shall not be obligated for the purposes  
17 authorized under section 115(b) of title 23, United States  
18 Code: *Provided further*, That funding provided under this  
19 heading shall be in addition to any and all funds provided  
20 for fiscal years 2010, 2011, and 2012 in any other Act  
21 for “Federal-aid Highways” and shall not affect the dis-  
22 tribution of funds provided for “Federal-aid Highways”  
23 in any other Act: *Provided further*, That the amount made  
24 available under this heading shall not be subject to any  
25 limitation on obligations for Federal-aid highways or high-

1 way safety construction programs set forth in any Act:  
2 *Provided further*, That section 1101(b) of Public Law  
3 109–59 shall apply to funds apportioned under this head-  
4 ing: *Provided further*, That the Administrator of the Fed-  
5 eral Highway Administration may retain up to  
6 \$45,000,000 of the funds provided under this heading to  
7 fund the oversight by the Administrator of projects and  
8 activities carried out with funds made available to the  
9 Federal Highway Administration in this Act, of which  
10 \$5,000,000 shall be for the Office of Expedited Project  
11 Delivery in the Office of the Administrator of the Federal  
12 Highway Administration, and such funds shall be available  
13 for the 45-month period beginning on the date of enact-  
14 ment of this Act.

15                   FEDERAL TRANSIT ADMINISTRATION

16                               TRANSIT CAPITAL ASSISTANCE

17       For an additional amount for “Transit Capital As-  
18 sistance” for transit capital assistance grants authorized  
19 under section 5302(a)(1) of title 49, United States Code,  
20 \$12,000,000,000: *Provided*, That the Secretary of Trans-  
21 portation shall provide 80 percent of the funds appro-  
22 priated under this heading for grants under section 5307  
23 of title 49, United States Code, and apportion such funds  
24 in accordance with section 5336 of such title: *Provided fur-*  
25 *ther*, That the Secretary shall apportion 10 percent of the

1 funds appropriated under this heading in accordance with  
2 section 5340 of such title: *Provided further*, That the Sec-  
3 retary shall provide 10 percent of the funds appropriated  
4 under this heading for grants under section 5311 of title  
5 49, United States Code, and apportion such funds in ac-  
6 cordance with such section: *Provided further*, That funds  
7 apportioned under this heading shall be apportioned not  
8 later than 21 days after the date of enactment of this Act:  
9 *Provided further*, That 120 days following the date of such  
10 apportionment, the Secretary shall withdraw from each  
11 urbanized area or State an amount equal to 50 percent  
12 of the funds apportioned to such urbanized areas or States  
13 less the amount of funding obligated, as determined by  
14 the Secretary, and the Secretary shall redistribute such  
15 amounts to other urbanized areas or States that have had  
16 no funds withdrawn under this proviso utilizing whatever  
17 method he deems appropriate to ensure that all funds re-  
18 distributed under this proviso shall be utilized promptly:  
19 *Provided further*, That 1 year following the date of such  
20 apportionment, the Secretary shall withdraw from each  
21 urbanized area or State any funds that are not under con-  
22 tract, as determined by the Secretary, and the Secretary  
23 shall redistribute such amounts to other urbanized areas  
24 or States that have had no funds withdrawn under this  
25 proviso utilizing whatever method he deems appropriate

1 to ensure that all funds redistributed under this proviso  
2 shall be utilized promptly: *Provided further*, That at the  
3 request of an urbanized area or State, the Secretary of  
4 Transportation may provide an extension of such 1-year  
5 period if he feels satisfied that the urbanized area or State  
6 has encountered an unworkable bidding environment or  
7 other extenuating circumstances: *Provided further*, That  
8 before granting such an extension, the Secretary shall  
9 send a letter to the House and Senate Committees on Ap-  
10 propriations that provides a thorough justification for the  
11 extension: *Provided further*, That of the funds provided for  
12 section 5311 of title 49, United States Code, 2.5 percent  
13 shall be made available for section 5311(c)(1): *Provided*  
14 *further*, That of the funding provided under this heading,  
15 \$100,000,000 shall be distributed as discretionary grants  
16 to public transit agencies for capital investments that will  
17 assist in reducing the energy consumption or greenhouse  
18 gas emissions of their public transportation systems: *Pro-*  
19 *vided further*, That for such grants on energy-related in-  
20 vestments, priority shall be given to projects based on the  
21 total energy savings that are projected to result from the  
22 investment, and projected energy savings as a percentage  
23 of the total energy usage of the public transit agency: *Pro-*  
24 *vided further*, That applicable chapter 53 requirements  
25 shall apply to funding provided under this heading, except

1 that the Federal share of the costs for which any grant  
2 is made under this heading shall be, at the option of the  
3 recipient, up to 100 percent: *Provided further*, That the  
4 amount made available under this heading shall not be  
5 subject to any limitation on obligations for transit pro-  
6 grams set forth in any Act: *Provided further*, That section  
7 1101(b) of Public Law 109–59 shall apply to funds appro-  
8 priated under this heading: *Provided further*, That the  
9 funds appropriated under this heading shall not be com-  
10 mingled with any prior year funds: *Provided further*, That  
11 a recipient and subrecipient of funds made available under  
12 this heading may use up to 10 percent of the amount ap-  
13 portioned to a State or urbanized area for the operating  
14 costs of equipment and facilities for use in public transpor-  
15 tation or for eligible activities under section 5311(f): *Pro-  
16 vided further*, That in selecting projects to be carried out  
17 with funds apportioned under this heading, priority shall  
18 be given to projects that are located in economically dis-  
19 tressed areas as defined by section 301 of the Public  
20 Works and Economic Development Act of 1965, as  
21 amended (42 U.S.C. 3161): *Provided further*, That in se-  
22 lecting projects to be carried out with funds apportioned  
23 under this heading, States shall ensure an equitable geo-  
24 graphic distribution of funds and an appropriate balance  
25 in addressing the needs of urban and rural communities

1 in the State: *Provided further*, That notwithstanding any  
2 other provision of law, three-quarters of 1 percent of the  
3 funds provided for grants under section 5307 and section  
4 5340, and one-half of 1 percent of the funds provided for  
5 grants under section 5311, shall be available for adminis-  
6 trative expenses and program management oversight, and  
7 such funds shall be available for the 45-month period be-  
8 ginning on the date of enactment of this Act.

9 OFFICE OF THE SECRETARY

10 SUPPLEMENTAL DISCRETIONARY GRANTS FOR A

11 NATIONAL SURFACE TRANSPORTATION SYSTEM

12 For an additional amount for capital investments in  
13 surface transportation infrastructure, \$3,500,000,000, to  
14 remain available for the 1-year period beginning on the  
15 date of enactment of this Act: *Provided*, That the Sec-  
16 retary of Transportation shall distribute funds provided  
17 under this heading as discretionary grants to be awarded  
18 to State and local governments or transit agencies on a  
19 competitive basis for projects that will have a significant  
20 impact on the Nation, a metropolitan area, or a region:  
21 *Provided further*, That projects eligible for funding pro-  
22 vided under this heading shall include, but not be limited  
23 to, highway or bridge projects eligible under title 23,  
24 United States Code, including interstate rehabilitation,  
25 improvements to the rural collector road system, the re-

1 construction of overpasses and interchanges, bridge re-  
2 placements, seismic retrofit projects for bridges, and road  
3 realignments; public transportation projects eligible under  
4 chapter 53 of title 49, United States Code, including in-  
5 vestments in projects participating in the New Starts or  
6 Small Starts programs that will expedite the completion  
7 of those projects and their entry into revenue service; pas-  
8 senger and freight rail transportation projects; and port  
9 infrastructure investments, including projects that connect  
10 ports to other modes of transportation and improve the  
11 efficiency of freight movement: *Provided further*, That of  
12 the amount made available under this paragraph, the Sec-  
13 retary may use an amount not to exceed \$450,000,000  
14 for the purpose of paying the subsidy and administrative  
15 costs of projects eligible for federal credit assistance under  
16 chapter 6 of title 23, United States Code, if the Secretary  
17 finds that such use of the funds would advance the pur-  
18 poses of this paragraph: *Provided further*, That in distrib-  
19 uting funds provided under this heading, the Secretary  
20 shall take such measures so as to ensure an equitable geo-  
21 graphic distribution of funds and an appropriate balance  
22 in addressing the needs of urban and rural communities:  
23 *Provided further*, That a grant funded under this heading  
24 shall be not less than \$20,000,000 and not greater than  
25 \$300,000,000: *Provided further*, That the Secretary may

1 waive the minimum grant size cited in the preceding pro-  
2 viso for the purpose of funding significant projects in  
3 smaller cities, regions, or States: *Provided further*, That  
4 not more than 20 percent of the funds made available  
5 under this paragraph may be awarded to projects in a sin-  
6 gle State: *Provided further*, That the Federal share of the  
7 costs for which an expenditure is made under this heading  
8 may be up to 100 percent: *Provided further*, That the Sec-  
9 retary shall give priority to projects that require a con-  
10 tribution of Federal funds in order to complete an overall  
11 financing package, and to projects that are expected to  
12 be completed within 3 years of enactment of this Act: *Pro-*  
13 *vided further*, That the Secretary shall publish criteria on  
14 which to base the competition for any grants awarded  
15 under this heading not later than 90 days after enactment  
16 of this Act: *Provided further*, That the Secretary shall re-  
17 quire applications for funding provided under this heading  
18 to be submitted not later than 180 days after the publica-  
19 tion of such criteria, and announce all projects selected  
20 to be funded from such funds not later than 1 year after  
21 enactment of this Act: *Provided further*, That projects con-  
22 ducted using funds provided under this heading must com-  
23 ply with the requirements of subchapter IV of chapter 31  
24 of title 40, United States Code: *Provided further*, That the  
25 Secretary may retain up to \$1,500,000 of the funds pro-

1 vided under this heading, and may transfer portions of  
2 those funds to the Administrators of the Federal Highway  
3 Administration, the Federal Transit Administration, the  
4 Federal Railroad Administration and the Maritime Ad-  
5 ministration, to fund the award and oversight of grants  
6 made under this heading.

7 **SEC. 3. BUY AMERICA.**

8 All funds provided under this Act shall be subject to  
9 the requirements of section 1605 of division A of the  
10 American Recovery and Reinvestment Act of 2009 (Public  
11 Law 111–5).

12 **SEC. 4. RECOVERY ACT REPORTING REQUIREMENTS.**

13 To the extent practicable, all funds provided under  
14 this Act shall be subject to the reporting, transparency,  
15 and oversight requirements established by section 1201  
16 and title XV of division A of the American Recovery and  
17 Reinvestment Act of 2009 (Public Law 111–5), on the  
18 same basis as funds made available in division A of that  
19 Act.

20 **SEC. 5. FUNDING.**

21 (a) IN GENERAL.—Effective August 1, 2010, of the  
22 unobligated balance of the discretionary appropriations  
23 made available by division A of the American Recovery  
24 and Reinvestment Act of 2009 (Public Law 111–5), there  
25 is rescinded the amount determined by the Director of the

1 Office of Management and Budget to be required to offset  
2 the appropriations under this Act.

3 (b) APPLICATION.—The rescission made by sub-  
4 section (a) shall be applied proportionately—

5 (1) to each discretionary account; and

6 (2) within each such account, to each program,  
7 project, and activity (with programs, projects, and  
8 activities as delineated in the appropriation Act or  
9 accompanying reports for the relevant fiscal year  
10 covering such account, or for accounts not included  
11 in an appropriation Act, as delineated in the most  
12 recently submitted President’s budget).

13 (c) OMB REPORT.—Not later than September 16,  
14 2010, the Director of the Office of Management and  
15 Budget shall submit to the House of Representatives and  
16 the Senate a report specifying the reductions made to each  
17 account, program, project, and activity pursuant to this  
18 section.

19 **SEC. 6. PERIOD OF AVAILABILITY.**

20 No part of any appropriation contained in this Act  
21 shall remain available for obligation beyond September 30,  
22 2010, unless expressly so provided herein.

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