



THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

March 8, 2010

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

Dear Madam Speaker:

Enclosed for the consideration of Congress is draft legislation--

To provide authority to compensate Federal employees for the two-day period in which authority to make expenditures from the Highway Trust Fund lapsed, and for other purposes.

I know that you are aware that unforeseen circumstances resulted in the recent, two-day lapse of authority to make expenditures from the Highway Trust Fund for any purpose. Despite our best efforts to manage this unexpected development, the lapse prevented the Department of Transportation and other Federal agencies, such as the Bureau of Indian Affairs (Department of the Interior), from delivering many program services and to compensate certain Federal employees because they are funded by the Trust Fund.

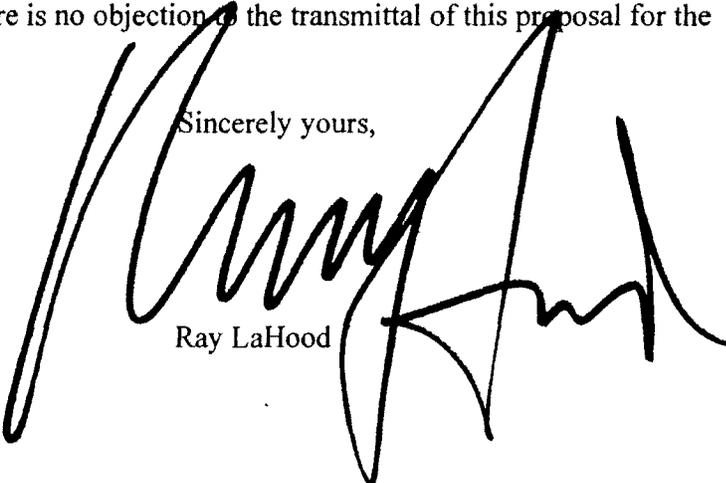
My experience as Secretary, especially overseeing implementation of major new programs like the American Recovery and Reinvestment Act of 2009 and the "CARS Act," has shown me that our employees are highly capable and fully motivated to carry out the many functions Congress has assigned us. It is clear that these employees should not be the ones to "pay the price" for this unexpected disruption of the programs they are dedicated to carry out.

For this reason, I propose that the enclosed legislation be taken up by Congress to ensure that the employees placed involuntarily on furlough be paid for this two-day period. The bill language also ratifies and approves any other actions taken on an emergency basis during this period.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the transmittal of this proposal for the consideration of Congress.

Sincerely yours,

Ray LaHood

A large, stylized handwritten signature in black ink, which appears to be "Ray LaHood", is written over the typed name and extends upwards into the "Sincerely yours," line.

A BILL

To provide authority to compensate Federal employees for the two-day period in which authority to make expenditures from the Highway Trust Fund lapsed, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPENSATION AND RATIFICATION OF AUTHORITY.--

(a) Any Federal employees furloughed as a result of a lapse in expenditure authority from the Highway Trust Fund (26 U.S.C. 9503) after 11:59 PM on February 28, 2010, for any period before the date of enactment of this section shall be compensated at their standard rates of compensation, as determined under policies established by the Secretary of Transportation, for the period during which there was a lapse in expenditure authority.

(b) All actions taken by Federal employees, contractors, and grantees for the purposes of maintaining the essential level of Government operations, services, and activities to protect life and property and to bring about orderly termination of Government functions during the lapse in expenditure authority from the Highway Trust Fund (26 U.S.C. 9503) after 11:59 PM on February 28, 2010, through March 2, 2010, are hereby ratified and approved if otherwise in accord with the provisions of the Continuing Appropriations Resolution, 2010, Pub. L. 111-68, div. B, as amended.

(c) Funds used by the Secretary to compensate employees described in section 1(a) shall be derived from funds previously authorized out of the Highway Trust Fund and made available or limited to the Department of Transportation by the Consolidated Appropriations Act, 2010 (P.L. 111-117) and shall be subject to the obligation limitations established in such Act.

(d) To permit expenditures from the Highway Trust Fund to effectuate the purposes of this section, this section shall be deemed to be a section of the Continuing Appropriations Resolution, 2010, Pub. L. 111-68, div. B, as in effect on the date of the enactment of the last amendment to such Resolution.

Analysis of the Bill

The purpose of the Bill is to provide the basis for payment of salaries and related benefits of those Federal employees who are paid from the Highway Trust Fund, for the two-day period (March 1 and 2, 2010) when the authority to make expenditures from the Highway Trust Fund lapsed and they were furloughed. These provisions are modeled on Section 116 of Public Law No. 104-99, in which Congress addressed a prior funding lapse.

Subsection (a) of Section 1 addresses those furloughed Federal employees not designated as "essential" under title 31 United States Code and who therefore did not work during some or all of the two-day period, as directed by the applicable agency. This subsection would authorize expenditures from the Highway Trust Fund to pay compensation for the two-day period.

Subsection (b) of Section 1 ratifies and approves any actions taken by Federal employees, contractors, and grantees on an emergency basis during the two-day lapse in expenditure authority.

Subsection (c) of Section 1 clarifies that the funds provided will come from obligation limitations provided in the Fiscal Year 2010 appropriations Act for the Department.

Subsection (d) of Section 1 is needed to make clear that the stringent restrictions on the use of Trust Fund balances do not prevent expenditures for the purposes of compensation of furloughed Federal employees for the two-day lapse in authority otherwise available.