The United States Senate Committee on Finance

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Memo to Reporters & Editors: Hatch Amendments Filed to Tax Portion of Two-Year Surface Transportation Bill

U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, filed a series of amendments that aim to improve the Highway Investment, Job Creation and Economic Growth Act of 2012, which will be considered by the Committee later today. A summary of the Hatch amendments follows below.

For a complete list of amendments filed by committee members and a description of the Modified Chairman's Mark click HERE.

Hatch Amendment #1 : The Chairman's mark contains new revenue provisions, including a transfer from the Leaking Underground Storage Tank (LUST) Fund, the closing of a black liquor loophole, the dedication of a "gas guzzler" tax, the revocation of passports for individuals owing more than $50,000 in back taxes, an increase of the levy authority on payments to Medicare providers with delinquent tax debt, and a transfer of certain imported tariffs to the Highway Trust Fund.

This amendment modifies the Chairman's mark by replacing all of the above offsets, except for the transfer of revenue from, and modification of the financing rate to, the LUST Trust Fund, with the following:

Recession of funds provided for the Advanced Technology Vehicle Manufacturing Loan Program. The "Energy Independence and Security Act of 2007" established this program to support the development of advanced technology vehicles. The FY 2009 Continuing Resolution, enacted on September 30, 2008 appropriated $7.5 billion to support a maximum of $25 billion in loans. The Congressional Budget Office estimates that rescinding the full amount would generate $1.5 billion in outlay savings over ten years.

Expanded oil and gas exploration in Alaska, the Outer Continental Shelf (OCS), and other areas. Currently our nation is not fully utilizing available energy resources. This proposal would expand oil and gas exploration in Alaska as described in H.R. 3407, Alaskan Energy for American Jobs Act of 2012, and the Outer Continental Shelf and other areas as described in H.R. 3410, Energy Security and Transportation Jobs Act. Based on CBO estimates, this proposal could raise as much as $4.4 billion over ten years.

Keystone XL Pipeline Project. In addition, this amendment would add S. 2041, a bill to approve the Keystone XL pipeline project and provide for environmental protection and government oversight, to the legislation being considered.

Hatch Amendment #2 (Included in the Chairman's Modified Mark): This amendment amends title 5, United States Code, to provide that moneys in the Thrift Savings Fund accounts of federal employees shall be subject to legal process by the Internal Revenue Service for payment of delinquent taxes. The Thrift Investment Board has previously taken the position that money in the TSP cannot be levied, due to an apparent conflict between the TSP authorizing statute and the federal tax levy statute. To address this dispute, the Office of Legal Counsel at the Department of Justice issued a memorandum opinion in May of 2010 holding that TSP accounts are subject to levy. However, this legal opinion has not resolved the practical effect created by the purportedly conflicting statutes.

This amendment resolves the statutory conflict by amending the TSP authorizing statute to clarify that TSP balances are subject to the permissible legal process of enforcement of a federal tax levy. This formal authorization from Congress will allow the Thrift Investment Board to honor an IRS notice of levy.

Hatch Amendment #3: Section 1509 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) provides for the funding or electric vehicle charging stations at new or previously parking facilities. This amendment strikes that provision from the EPW bill, in order to protect a trust fund on the path to insolvency from additional burdens.

Hatch Amendment #4: "The Davis-Bacon Act" requires that all federally funded projects worth more than $2,000 must pay workers the "prevailing wage," which, according to a study released by the Republican staff of the Joint Economic Committee, has resulted in wages being 22 percent higher, on average, than prevailing market rates. Though repeal of Davis-Bacon requirements would not produce new revenue to be spent on infrastructure projects, this proposal reduces the cost of individual projects while promoting job creation.