



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
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November 17, 2017

Congress has adjourned for the week-long Thanksgiving recess. When Members return to DC there are only four weeks until the end of the 2017 session. The top two priorities are to pass a final tax bill and to craft and pass an omnibus FY'18 federal funding bill.

Tax Bill

On Thursday, the full House passed its long-awaited tax reform bill – HR 1, the Tax Cuts and Jobs Act by a vote of 227 to 205. The bill moved very quickly from introduction on November 2 to passage yesterday, in part because no amendments were agreed to during the Ways & Means Committee mark-up, nor on the House floor where the bill was debated under a closed rule. No Democrats voted for the bill and only 13 Republicans voted against it, primarily from states with high taxes such as CA, NJ, and NY. While many additional Republicans may have had objections to aspects of the bill, they feared that after the healthcare debacle, if they didn't pass the long promised tax bill, their majority could be in jeopardy in the 2018 elections.

Things moved equally quickly in the Senate where the Senate Finance Committee voted to approve the bill last night after only two days of debate by a party-line vote of 14 to 12. The bill will now go to the floor for a vote after the Thanksgiving recess. Under "reconciliation" rules only 50 votes are required to pass the bill. Assuming it passes, House and Senate conferees will then negotiate the details of a final joint bill. Republican leaders would like to have a bill to the President to sign by Christmas.

One provision of immediate concern to the infrastructure industry is the House provision to eliminate the current tax exemption for the interest on Private Activity Bonds (PABs) after 2017. PABs are a valuable tool for financing transportation, water and other infrastructure projects. This proposal was quite a surprise as it had not been discussed or rumored in the weeks and months leading up to the bill's introduction. In addition, the Trump Administration's preliminary infrastructure plan calls for expanding the eligibility for PABs and for eliminating the current funding cap on PABs as part of its push for greater use of Public Private Partnerships (P3s). In a related provision, the House bill proposes to eliminate advance refundings of debt issues. However, the bill maintains the tax-exempt status of municipal bonds. The Senate bill does not address PABs, but it does eliminate advance refundings.



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Most concerning, there are no provisions in either bill to provide additional revenue for the Highway Trust Fund or to fund the Trump Administration's infrastructure plan. The Highway Trust Fund will be insolvent by 2020. Over \$100B in additional revenue will be needed in order to pass the next five-year FAST Act surface transportation authorization bill just to continue current funding levels.

WSP is actively involved in several industry efforts to kill the PABs provision. Numerous industry groups signed a letter to House leadership strongly opposing the provision. A similar letter, signed by an even more extensive list of groups, was sent to Senate leadership which appears to have been effective. The focus now turns to making sure the PABs provision is not included in the final bill.

Here are some of the other provisions which impact infrastructure/transportation projects in the House and Senate tax bills:

- Both bills eliminate the current deduction for state and local income and sales taxes. In addition, the Senate bill totally eliminates the property tax deduction while the House bill proposes to cap the property tax deduction at \$10,000. Many state and local transportation projects are funded through sales and property taxes.
- Neither bill extends the Alternative Fuel Tax (ALT) credit which expired on December 31, 2016. These tax credits are offered to transit agencies utilizing compressed (CNG) or liquefied (LNG) natural gas fleets.
- Both bills retain the employee pretax payroll deduction option of the Commuter Tax Benefit, but the ability of employers to deduct the cost of this transit benefit is eliminated.

Here is a [link](#) to an overall summary of the House bill prepared by the House Ways & Means Committee.

FY'18 Appropriations

While most of the focus is on the tax bill debate, Congress is facing a major deadline on December 8 when the current short-term Continuing Resolution (CR) which funds the entire federal government expires. House and Senate Appropriations Committees have been working to draft a year-long omnibus FY'18 federal funding bill that would combine all 12 pending federal agency funding bills into one massive bill. However, they cannot finalize the bill until there is an agreement on the overall, top-line funding levels. Congress must first vote to raise the defense and non-defense budget caps established by the 2011 Budget



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Control Act (BCA) in order to accommodate the spending levels proposed by the appropriators and avoid the across-the-board cuts required under sequestration.

Not only is voting to increase the budget caps very controversial, particularly for Republican members, the effort is further complicated by attempts to add other, unrelated provisions to the “must-pass” bill, such as billions of dollars for hurricane/fire emergency relief and Democratic attempts to attach the DACA/Dreamers bill.

It appears now that Congress will not be able to meet the December 8 deadline. Therefore, in order to avoid a government shutdown, another short-term CR will need to be passed – possibly extending into early 2018. Under a CR, federal programs are funded at FY’17 funding levels. However, most federal agencies, including US DOT, typically do not release discretionary funds, such as FTA’s Capital Improvement Grants (CIG) and TIGER funds, until a full-year funding bill has been approved.

Both the pending year-long House and Senate FY’18 US DOT appropriation bills fully fund the FAST Act-authorized formula programs, such as the highway program, however, other important programs such as CIG, TIGER, and Amtrak are funded at different levels in each bill and must be reconciled.

FAA Reauthorization

Congress passed another short-term extension authorizing FAA programs through March 2018. Continued controversy over provisions in the pending House multi-year FAA reauthorization bill to privatize the Air Traffic Control (ATC) system have prevented the bill from coming to the House floor for a vote. A companion bill pending in the Senate does not include the ATC provision but is being held up over other issues.

Trump Administration Infrastructure Plan

There have been no recent public developments or announcements related to the White House’s infrastructure plan as the Administration’s focus is currently on the tax bill. As noted above, neither the House nor the Senate tax bills provide any additional revenue to fund the Highway Trust Fund beyond 2020 or the new infrastructure programs expected to be proposed by the White House. This will make identifying the approximately \$200B in new federal funding proposed for the Administration’s plan very difficult.



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US DOT Personnel

Last week, the full Senate finally voted to confirm the nominations of several key US DOT political appointees including Steven Bradbury as General Counsel and Derek Kan as Under Secretary for Policy. Also recently confirmed is Howard “Skip” Elliot to be the Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Still pending Senate confirmation is Ron Batory as FRA Administrator, Paul Trombino, former Director of Iowa DOT, as FHWA Administrator, Adam Sullivan, as Assistant Secretary for Government Affairs, Raymond Martinez as Federal Motor Carrier Safety Administrator (FMCSA), and Diana Furchgott-Roth as Assistant Secretary for Research & Technology.

Nominations for FTA Administrator, NHSTA Administrator, Assistant Secretary for Policy, and Assistant Secretary for Budget/CFO, have not yet been announced by the White House.

The current FAA Administrator, Michael Huerta, who was appointed by President Obama, serves a fixed five-year term which expires on January 6, 2018. No replacement has been nominated yet.

Water Resources Development Act

On October 27, the leadership of the House T&I Committee hosted a roundtable on “America’s Water Resources Infrastructure: Concepts for the Next Water Resources Development Act”. The event, held in Miami, served as a kick-off to reauthorize the Water Resources Development Act (WRDA), the biennial legislation to authorize improvements for the country’s ports, locks and dams, inland waterways, and other water resources infrastructure funded by the Corps of Engineers. Here is a [link](#) to more information and to the testimony presented.

Additional information and materials, including archived Washington Updates, are located on the WSP *Federal Briefing* website at www.federalbriefing.com.