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With President Barack Obama now officially sworn into office, the real work begins on passage of the economic recovery bill, nomination and confirmation of sub-cabinet level political appointees and development of policy changes that can be made administratively, without requiring legislation to be passed.

Economic Recovery/Stimulus:

A great deal of activity took place this week in the House on the American Recovery & Reinvestment Act of 2009. The bill was “marked up” and approved by the Appropriations, Ways & Means and Energy & Commerce committees with only minor amendments. President Obama held a meeting this afternoon with a group of bi-partisan congressional leaders to urge quick action on the bill.

Speaker Pelosi’s goal is to bring the bill to the House floor next week. There is likely to be a very tight “rule” for floor consideration, limiting the amount of debate and the number of amendments that can be offered.

The Senate has not yet produced the infrastructure portion of its version of the recovery bill, but the Senate Finance Committee today released a plan for \$275B in tax cuts and \$180B in entitlement funding for Medicaid, unemployment benefits, etc. The Committee could act on the bill as early as Tuesday, January 27. The goal is still to complete the final bill for President Obama to sign by the start of the February 16 congressional recess. It is unclear how the Senate bill may differ from the pending House bill.

Infrastructure/Transportation Provisions:

The House T&I Committee held a hearing yesterday on the transportation sections of the House economic recovery bill. The theme of most of the testimony presented by representatives of various industry groups is that state DOTs and local agencies as well as the construction and engineering community are prepared to spend the stimulus money quickly and effectively and create jobs. Many witnesses specifically criticized a recent report by the Congressional Budget Office (CBO) that suggested transportation funds spend out too slowly to significantly impact the economy or create jobs in the near term. A number of witnesses also raised concerns that only \$63.5B of the total \$825B recovery package is going to T&I committee-related programs, which include funding for the Corps of Engineers, public buildings, the Clean Water Revolving Fund, etc, versus the \$85B recommended originally by the Committee, and that only \$43.1B is going to transportation programs – highways, transit, rail and airports.

Attached to this Update is a portion of the summary prepared by the House T&I Committee staff of the transportation/infrastructure funding and program requirements in the economic recovery bill. Refer to section III (B) - The American Recovery and Reinvestment Act of 2009. The full text of the T&I Committee hearing summary can be accessed [here](#). The attached material is a summary of the current bill with the exception of one change—during its mark up this week, the House Appropriations Committee approved an extension of the timeline to spend funds. The original House bill required that 50% of the funds had to be under contract within 120 days, otherwise the funds would be redistributed to other states/agencies. **The amendment extends the 120-day “use or lose” provision to 180 days and changes the implementation from “based on awarded contracts” to “obligated”. This applies to highway, transit formula, rail and airport funds.**



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The Appropriations Committee also approved an amendment to require all contractors to pay Davis Bacon prevailing wages and to require projects funded by the bill to use iron and steel produced in the US.

Some of the key points of the House recovery bill:

- The bill includes no project earmarks.
- The funds are 100% federal funds (with the possible exception of the FTA New Start funds).
- No federal requirements are waived.
- Projects to be funded must be part of an approved TIP or STIP.
- With the exception of the transit New Starts and Amtrak/rail funds, all the transportation funding is allocated based on existing formulas.
- Section 1201 of the bill establishes transparency requirements that apply to all funds in the bill. Each federal agency will publish information about all grant competitions, formula allocations, and other implementation information on a new website – www.Recovery.gov (has not been activated yet)
- Section 12001 establishes maintenance of effort and reporting requirements for transportation program funding. No later than 30 days after enactment each state governor must certify that the state will maintain its current effort with regard to state funding. These are self-certifications with no enforcement mechanism or penalties provided.
- Highway Funding Distribution - The \$30B in highway funding (minus some small take-downs) is distributed to the states based on a pro-rata share of Federal-aid highway FY'08 obligation limitation (not the STP formula as recommended by the Oberstar proposal). Within each state's share of the \$30B, 45% (\$13.1B) is sub-allocated using the STP formula allocation process. Of that 45%, 10% (\$1.3B) is set aside for the enhancement program. Of the remaining 90%, 62.5% (\$7.4B) is sub-allocated to metropolitan areas based on population and 37.5% (\$4.4B) can be allocated to any area in the state. Funds sub-allocated to metro areas can also be used for transit purposes.
- The \$1B in FTA New Start funding can also be used for Small Starts and is expected to create \$2B in additional authorization/Contingent Commitment Authority (CCA) which can be used by FTA to approve additional FFGAs.
- FTA expects to publish a separate apportionment notice for the transit formula stimulus funds. There is \$6B for general transit capital assistance (90% of which is to be distributed under the urban Section 5307 program and the remaining 10% is to be distributed under the rural Section 5311 program), and \$2B for the Section 5309 Fixed-Guideway Modernization Program.
- There is no explicit language in the bill stating that transit formula funds can be used for operating assistance, however several Democratic House members hope to offer an amendment on the House floor to permit such use.

LaHood Confirmed as US DOT Secretary:

On January 22, the US Senate confirmed former Rep. Ray LaHood to be US DOT Secretary by a voice vote. He is being sworn-in and will start work today, January 23. His confirmation hearing before the Senate Commerce Committee was easy and friendly despite some press reports criticizing his history of earmarking numerous projects for his district.

During the hearing LaHood expressed support for implementation of the recently passed Amtrak authorization bill, opposition to the Bush policy of instituting slot auctions at the NY airports and the



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Mexican truck pilot program, support for PPPs and tolling in certain instances but not on existing highways, and support for resolving FAA's air traffic controller labor problems. He was not asked about his position on a gas tax increase.

Other News:

- FY 2010 Budget – The new Obama Administration is expected to submit a “current services” budget for FY 2010 in early February which is simply a budget to retain current levels of funding. An outline of a “real” FY’10 budget will likely be released in late February with a formal, detailed budget submission not expected until early April.
- House DOT Appropriations Subcommittee – Rep. Tom Latham (R-IA) has been named to replace defeated Rep. Joe Knollenberg (R-MI) as the senior Republican on the House DOT (THUD) Appropriations Subcommittee. Latham has served in Congress since 1994. He represents the north/central part of Iowa – a very rural area.
- House T&I Committee Republican Members Named – Four new Republicans are joining the committee – Reps. Scalise (LA), Cao (LA), Guthrie (KY) and Schock (IL). All are freshman. Democrats on the committee will now have a 45 to 30 person advantage. Two new subcommittee Ranking Republicans were named – Rep. Frank LoBiondo (NJ) will become the senior Republican on the Coast Guard & Maritime Subcommittee and Rep. Mario Diaz-Balart (FL) on the Economic Development, Public Buildings, and Emergency Management Subcommittee.
- FFGAs Signed – The Bush Administration approved Full Funding Grant Agreements (FFGAs) for four FTA New Start projects in the final days of the Administration. They include: Salt Lake City – Mid-Jordan Extension; Seattle – University Link; Denver – West Corridor and Virginia’s Dulles Airport Corridor. These four projects effectively use up any remaining authorization and Contingent Commitment Authority provided by the SAFETEA-LU legislation. Unless the Economic Recovery Act includes additional authorization for the New Starts program (the House bill includes \$1B in additional funding), no new FFGAs can be signed until the program is reauthorized which is not expected to occur until some time in 2010.