



February 20, 2009

Congress finishes up its week-long recess and returns to work on Monday. Despite having completed the massive economic recovery bill, they still have plenty of work ahead of them, including debating President Obama's new proposal for reviving the housing market, crafting a potential auto industry bail-out, finishing up the FY'09 appropriations bills and starting the FY'10 budget and appropriations process.

Economic Recovery Bill:

President Obama signed the American Recovery and Reinvestment Act (ARRA) on Tuesday and the bill is now referred to as Public Law 111-5.

Details of the major provisions in the bill were reported in the February 16 PB Washington Update. Two clarifications - all highway formula funds are eligible to be used for transit, passenger and freight rail and port projects, if a state so chooses, not just the sub-allocated funds. Also, there is no funding for school construction in the bill, not the \$6 billion reported.

The Federal Transit Administration has posted preliminary [apportionment tables](#) for the transit formula stimulus funds. The information can be found on the FTA Economic Recovery website towards the bottom of the page. FHWA is expected to publish its apportionment tables very soon. In the meantime, they have posted a variety of information about implementation of the recovery bill on their [website](#).

On February 18, the Office of Management and Budget (OMB) released a 60-page [guidance](#) document to executive branch agencies on what information they will be required to publicly disclose about government implementation of funding provided by the recovery bill. The guidance is intended to meet the President's goal of ensuring that federal expenditures under the ARRA are transparent to the public. All federal agencies are required to publish a wide variety of information about how their recovery funds are being spent on a new website – <http://www.recovery.gov>.

Additional information and analysis has been posted this week on www.pbstimulus.com.

FY'09 Omnibus Appropriations:

Congress was unable to pass most of the federal agency FY'09 funding bills before adjourning to hit the campaign trail last Fall. With the exception of the DOD, DHS and Military Construction bills, all other agencies are currently operating under a Continuing Resolution (CR) at FY'08 funding levels through March 6. The Appropriations Committee staffs worked during December to finalize the FY'09 bills, including US DOT funding, which they plan to introduce as one enormous omnibus bill which will encompass all remaining bills. Congress had planned to take up the FY'09 bill in mid-January, but got waylaid by the economy recovery bill. The House plans to bring its version of the bill to the floor next week. Details have not been made public, but highway and transit funding is expected to be appropriated at the SAFETEA-LU authorized levels. The bill will include project earmarks. Details will be distributed as soon as they are available.



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FY'10 Budget and Appropriations:

Even though not all the FY'09 appropriations bills have been completed, the process of developing the FY'10 budget and appropriations bills has begun. President Obama will address a joint session of Congress this Tuesday, February 24 and is expected to talk about the broad outlines of his first budget submission. A formal, detailed budget submission is not expected until early April.

In the meantime, the various House appropriations subcommittees are in the process of requesting project earmarks from individual members of Congress. While the House leadership has indicated that they plan to significantly reduce the number of project earmarks, there will be earmarks in the bills. Project sponsors should be in contact with their member of Congress immediately if they wish to pursue an earmark. The House deadline for Members to get their requests to the full Appropriations Committee is no later than April 3. Some subcommittees could have earlier deadlines.

In an effort to increase transparency, a new House Appropriations requirement is that members must post all earmark requests on their official House websites and must detail the amount of the request and provide an explanation of the request, including its purpose and why it is a valuable use of taxpayer funds.

FAA Reauthorization:

Chairman Jim Oberstar (D-MN) of the House Transportation & Infrastructure Committee has introduced a bill to authorize the FAA programs, including authorization of \$16.2B for the construction-related Airport Improvement Program (AIP). The bill, HR 915, is nearly identical to the bill the House passed last year, but which was never passed by Congress. It authorizes approximately \$70B over four years - FY'09 to FY'12. Over the past two years Congress has been unable to agree on how to finance the aviation system and the previous authorization expired without a new bill in place. The FAA is currently operating under a temporary extension which expires on March 31. There was an effort to include another extension through the end of year in the economic recovery bill, but that was unsuccessful.

Since the House bill still needs to be debated and passed and the Senate has not yet introduced a companion bill (and may not for some time), an additional short-term extension will likely need to be passed in the next few weeks. Background information on HR 915, including the committee press release and a link to the actual bill text (at the very bottom of the page), can be found [here](#).

Other News:

In the [February 17 Federal Register](#) FTA withdrew two Notices of Proposed Rulemakings (NPRMs) developed under the Bush Administration that had sought to incorporate proposed New Starts/Small Starts program changes into the federal regulatory framework. Specifically:

- FTA withdrew the New Starts/Small Starts NPRM (dated 8/3/07). The transit industry generally opposed this NPRM, as many disagreed with the emphasis given to cost effectiveness, the way FTA defines "cost effectiveness", the lack of simplification in the Small Starts program, and the proposal to combine the "economic development" and "land use" evaluation measures. FTA is withdrawing this NPRM because the SAFETEA-LU Technical Corrections Bill (6/6/08) directed



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the agency to make such a fundamental change in the way it weighs project justification criteria that a new approach to rulemaking is required.

- FTA withdrew the Contractor Performance Incentives NPRM (dated 2/19/08). FTA has determined that it is more appropriate to consider contractor performance incentives (for the development of ridership forecasts and cost estimates) on a case-by-case basis than through a formal rulemaking. FTA still plans to publish its Contractor Performance Assessment Reports – these reports are not affected by this withdrawal.

DOT Personnel – It is being widely reported by a number of news sources that Jane Garvey will be nominated shortly to be the Deputy Secretary of US DOT. Jane is the former FAA Administrator and FHWA Deputy Administration during the Clinton Administration. She recently served on the DOT transition team. Secretary LaHood is also supposedly close to naming an FAA Administrator and a NHTSA Administrator. Jill Zuckman was named this week as Assistant Secretary and Director for Public Affairs. She comes from the Chicago Tribune.