



AUGUST 4, 2009

The House left for its August recess last Friday and the Senate plans to adjourn this Friday after they vote on the Supreme Court nomination of Sonia Sotomayor. Both bodies will return to session after Labor Day on September 8, leaving only three short weeks until the start of the new fiscal year on October 1. The House has made good progress on its versions of the FY'10 annual appropriations bills, completing all 12 bills before recess; however, the Senate has only completed four of the bills. The goal is still to pass all 12 as separate, stand-alone bills and avoid any short-term Continuing Resolutions (CR), but that may not be possible.

Two major priorities – healthcare reform and climate change legislation – are being carried over into the fall. These two issues are expected to monopolize the attention of Congress for much of the rest of this year's session.

FY'10 Appropriations:

On July 23, the full House voted to approve its version of the FY'10 DOT Appropriations bill (HR 3288) by a vote of 256 to 168. The full Senate Appropriations Committee unanimously approved its DOT funding bill on July 30, but Senate floor action and a conference with the House to resolve differences in the bills will not occur until after the August recess. A summary of the funding approved to date:

FHWA Total – Senate \$42.67B; House \$41.1B. The Senate funding level includes \$1.56B in General Funds (\$900M for the formula program, \$500M for the TIFIA loan program and \$165M for earmarked projects).

FAA Airport Improvement Grants (AIP) – Senate \$3.52B; House \$3.52B

FTA New Starts/Small Starts – Senate \$2.31B; House \$1.83B

FTA Formula and Bus Grants – Senate \$8.34B; House \$8.34B

FRA High Speed/Intercity Rail – Senate \$1.20B; House \$4.00B

Amtrak – Senate \$1.55B; House \$1.48B

The Senate bill also includes \$1.1B for discretionary grants to support surface transportation projects (the program is structured very similarly to the TIGER stimulus grant program).

Attached to this Update email is a list of the highway, rail, transit and airport project earmarks approved by the Senate committee.

Information about other key federal agency appropriations bills including FEMA, GSA, Army Corps of Engineers and EPA water programs will be provided in upcoming PB Washington Updates. Details about the appropriations bills which have been acted on can be accessed [here](#).

Surface Transportation Reauthorization/Highway Trust Fund Bailout:

As the September 30, 2009 expiration date of the SAFETEA-LU surface transportation authorization looms, it is clear that Congress will not be able to pass a new authorization bill by that date. The question is whether Congress will pass a very short-term extension and continue to work seriously on a full six-year bill (as the House Transportation & Infrastructure Committee leadership is urging) or will punt and



PB Washington Update

PREPARED BY CATHY CONNOR
MANAGER OF GOVERNMENT AFFAIRS



pass a longer term extension into 2010 or even 2011, after the mid-term elections. The Senate, in particular, is recommending an 18-month extension to March 2011 and the three committees with jurisdiction – Environment & Public Works, Banking and Commerce – have approved such legislation. The White House has also endorsed an 18-month extension.

In the meantime, even before the expiration of the current authorization, the highway account of the Highway Trust Fund is estimated to run short of funds by the end of August. In response, both the House and Senate passed identical legislation (HR 3357) before they adjourned which, among other things, transfers \$7B in General Funds to the Trust Fund to cover the remainder of FY'09. This is in addition to the \$8B in General Funds that was used to “bail out” the Trust Fund this time last year.

During the Senate floor debate, Senator Kit Bond (R-MO) offered an amendment to repeal the \$8.70B rescission of unobligated highway contract authority set to take place on September 30 as required by the existing SAFETEA-LU law. His amendment was not accepted, but may be revisited in September when the full Senate debates the 18-month extension bill. The “bail out” bill now goes to the White House where the President is expected to sign it.

The next funding question is how to ensure the Trust Fund will have enough revenues to finance a 12-month or 18-month extension of SAFETEA-LU, assuming that becomes necessary. The chairman of the Senate Finance Committee Max Baucus (D-MT) has introduced legislation (S. 1474) to transfer \$22B to the Highway Account of the Trust Fund and \$4.8B to the Mass Transit Account. The total of \$26.8B would come from General Funds representing reimbursement of interest which was not credited to the Trust Fund since 1998 and of funds paid by the Trust Fund for Emergency Relief (ER) projects between 1989 and 2004. If approved, this funding bill will likely be merged on the Senate floor with the 18-month authorization extension bill.

The issue of even longer term financing to fund a potential \$500B six-year bill was discussed at a hearing last week held by a House Ways & Means subcommittee, the committee that has jurisdiction over financing the reauthorization bill. In a surprise move, House T&I Committee Chairman Jim Oberstar (D-MN) stated that given the current recession he does not support an immediate gas tax increase to fund surface transportation programs.

Instead, he recommended a variety of other options, such as restoring interest paid to the Trust Fund and reimbursement of ER funds, similar to what Senator Baucus has proposed, issuing \$60B worth of 10-year Treasury Bonds, imposing a fee on barrels of imported and domestic crude oil, instituting a transaction tax on speculative trading of crude oil futures and various freight-related fees. Oberstar left it up to the Ways & Means Committee to develop a financing plan. Administration officials testifying at the hearing said the White House would not back any of the T&I Committee recommendations.

ARRA/Economic Stimulus Implementation:

TIGER Grants – this week US DOT Secretary Ray LaHood announced that DOT will accelerate the selection and announcement of the \$1.5B TIGER grant program one month early, in January 2010. Applications for TIGER discretionary grants are due to DOT by September 15. The program will award grants on a competitive basis for highway, bridge, transit, freight and port stimulus projects that impact the economy and create jobs. Most grants will range from \$20M to \$300M.



PB Washington Update

PREPARED BY CATHY CONNOR
MANAGER OF GOVERNMENT AFFAIRS



High-Speed Rail Grants – pre-applications for 278 projects worth \$102B were submitted by 40 states and DC to FRA for the High-Speed Intercity Passenger Rail (HSIPR) competitive grant program by the July 10 deadline. [Here](#) is a link to a state by state listing of the amount of funds requested in this first show of interest. Full project applications are due by August 24 for entities applying for individual projects and planning and October 2 for corridor programs.

US DOT Secretary Testifies on ARRA Implementation - on July 24 Ray LaHood testified before the House Budget Committee. He reported that US DOT has approved over 6,600 transportation projects nationwide. The FAA has allotted virtually all its \$1B in ARRA funds, FHWA has obligated nearly two-thirds of its \$27.5B in formula funds, and FTA has awarded \$3.2B in transit grants with another \$5B in the pipeline. LaHood's testimony is available [here](#).

GAO Report on State DOT Implementation of ARRA Highway Funds – [here](#) is a link to a new GAO Report which states that as of July 17 approximately 49% of the obligated highway stimulus funds have gone to pavement improvement projects.

AGC Survey of ARRA Implementation – in a report released on July 31, the Associated General Contractors (AGC) states that many non-transportation ARRA programs are not obligating funds very quickly. According to AGC, the Corps of Engineers has only obligated \$715M of the \$4.6B received in ARRA funding. GSA has obligated \$656M of the \$5.9B for investments in federal buildings and EPA has spent only half of one percent of its \$6B in ARRA funds for clean water and drinking water. The report and press release are available [here](#).

FTA New Starts/Small Starts Guidance:

FTA published two Federal Register notices on July 29 on New Starts policies and procedures. The notices are available [here](#) and [here](#). The first notice, "Final Policy Guidance", adopts the changes proposed in the May 20th Federal Register notice including new weights assigned to the New Starts project justification criteria: mobility (20%), cost effectiveness (20%), land use (20%), economic development (20%), operating efficiencies (10%), and environmental benefits (10%). New weights for Small Start projects are: cost effectiveness (1/3), land use (1/3), and economic development (1/3). Also adopted is an FTA proposal to require project sponsors to develop and consider information relating to the benefits of transit tunnels during the Alternatives Analysis phase if they consider alternatives that include tunnels.

The second notice, "Proposed Additional Guidance", proposes additional changes, clarifies some policies, and solicits comments on others. Proposed changes include: eliminating the specific consideration of certain "other factors" (e.g. innovative contractual agreements, road pricing, Making the Case document) that was required by the prior Administration and offering project sponsors more flexibility in selecting the horizon forecast year (i.e., 2035 could be used if that is the MPO's forecast year). FTA is also considering wider use of pre-award authority and/or Letters of No Prejudice. Comments are due by August 18.

FTA has also published its Reporting Instructions for the FY'11 New Starts Report. The reporting instructions and templates are available [here](#). Key dates include August 14, the due date to submit cost and ridership information for new projects proposed for approval into the pipeline and for existing projects if there has been a significant change in cost and ridership estimates since FTA's last rating, and



PB Washington Update

PREPARED BY CATHY CONNOR
MANAGER OF GOVERNMENT AFFAIRS



September 9 for all other parts of the submission (land use templates, financial template and financial plan, cost estimates in the standardized cost categories, etc.).

FAA Reauthorization Bill:

The Senate Commerce Committee approved a two-year bill (S. 1451) to reauthorize FAA programs. The House previously passed a four-year bill (HR 915) earlier this year. Both bills are long overdue and a temporary authorization extension expires on September 30, 2009. Aside from the lengths of the authorization period, the bills have many differences, but the Senate did opt to drop a number of the controversial policy issues which have held up passage. The Senate bill does not increase the current \$4.50 Passenger Facility Charge (PFC), unlike the House bill which increases the PFC up to \$7. PFC funds are used for airport construction and renovation. The Senate Finance Committee still must act to identify additional revenue sources, likely an increase in aviation fuel taxes.

Other News:

- In a sad note, former House T&I Committee Chairman Don Young's (D-AK) wife Lu, the "Lu" in SAFETEA-LU, passed away suddenly this week at the age of 67.
- On July 24 Polly Trottenberg was confirmed by the US Senate to be the US DOT Assistant Secretary for Policy. Polly previously served as the Executive Director of Building America's Future and in several senior positions in the US Senate for Senators Daniel Moynihan (D-NY), Chuck Schumer (D-NY) and Barbara Boxer (D-CA).