



NOVEMBER 20, 2009

The Senate plans to stay in session over the weekend to continue to work on healthcare reform, then the House and Senate will be on recess next week for Thanksgiving, leaving only three short weeks before the December 18 scheduled adjournment date.

Surface Transportation Authorization:

It has been a very busy week related to surface transportation authorization, although it is still unclear if any of the various new developments are getting us any closer to a fully-funded, multi-year highway and transit authorization bill.

In the Senate, the bi-partisan leadership of the four committees with jurisdiction over SAFETEA-LU reauthorization – Environment & Public Works, Banking, Commerce, and Finance - sent a letter this week to Majority Leader Harry Reid asking him to proceed with floor consideration of a six-month extension of the existing SAFETEA-LU programs. This will require the Senate to hold a cloture vote and spend valuable floor time debating the extension because several fiscally conservative Republican senators continue to object to taking up the bill by unanimous consent. The key Senate committees originally supported the White House's request for an 18-month extension, but they now feel they might be able to move a multi-year bill next spring and therefore do not need that long of an extension.

At this point, it does not appear that any additional revenue would be required to fund a six-month extension. The transfer of \$7B in General Funds to the Highway Trust Fund this past July should be sufficient to cover existing highway and transit funding levels during this time-frame. The Senate extension bill includes language retroactively repealing the \$8.7B SAFETEA-LU rescission of unobligated highway contract authority. If approved by the full Congress, this would be the third short-term extension with still no clear path forward on a multi-year bill. The current extension expires on December 18, 2009.

Complicating the matter, the Senate has postponed consideration of a climate change bill until next year. Many of the SAFETEA-LU committees also have jurisdiction over the climate change issue, creating a potential workload conflict in the spring. In addition, the White House appears to be sticking with its proposal for an 18-month extension in order to give the Administration time to develop its own proposal. Also, Republicans may be less inclined to cooperate in passing a long-term bill before the 2010 elections as they become increasingly optimistic about picking up additional House and Senate seats in 2010, which would give them more leverage to develop a bill focused on their priorities in the next Congress. Most observers remain skeptical about the likelihood of raising the gas tax before the 2010 elections.

On a totally separate track, this week key House Democratic leaders announced support for a "jobs bill" which they would like to get through the House prior to adjourning in December. Rather than another broad economic stimulus bill, this bill would be targeted primarily on creating jobs in response to an unemployment rate that now exceeds 10 percent. Indications are that additional infrastructure/transportation funding will be a key component.



PB Washington Update

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Yesterday, House Highways & Transit Subcommittee leaders Peter DeFazio (D-OR) and John Mica (R-FL) announced an agreement to support a two-year surface transportation authorization as part of the jobs bill along with support for the Senate's interim six-month extension bill. A longer term authorization bill would then be addressed at a later date. Prior to this, the T&I Committee had insisted on only a three-month extension and a full six-year authorization.

DeFazio and Mica propose to fund a two-year authorization with money left over from the TARP bank bail-out program or possibly unspent ARRA stimulus funds. Other funding options which have been mentioned include transferring additional General Funds, "front loading" Highway Trust Fund revenue (i.e. spending six years worth of HTF revenue in the first two years and then pushing for a revenue increase later) or creating another source of revenue to fund both the transportation piece and other programs, such as an extension of unemployment insurance. Previously DeFazio had suggested a tax on oil futures options and this week Rep. John Larson (D-CT) proposed a new tax on certain stock transactions, a recommendation already blasted by Wall Street and a number of members of the New York congressional delegation.

Regardless of what the House does, the Senate likely does not have time to take up a jobs bill before the end of the year as they continue to grapple with the healthcare reform bill. In addition to the question of where to find sufficient revenue is the issue of what provisions might be included in a two-year bill, such as policy changes, program restructuring or project earmarks. The pending six-year House T&I Committee reauthorization bill includes major program consolidations and reforms, some of which are controversial and have not been fully debated. Yet another complication – a jobs bill would likely go through the appropriations committees, not the House T&I or Senate EPW authorizing committees.

FY'10 DOT Appropriations:

Although House and Senate staff continue to meet informally to work out remaining differences in the two FY'10 appropriations bills, it appears that the THUD (DOT) funding bill will serve as the legislative vehicle to move an omnibus/minibus funding bill that will include all agency appropriations bills that have not been completed by the time Congress adjourns for the year. This means that even if the THUD conference is completed soon, the bill will likely be held until approximately December 18 before it is given final approval and sent to the White House as part of a larger package.

On November 17, FHWA released an additional 79 days of formula funding (totaling \$8.1B) to state DOTs representing the funding approved under the second Continuing Resolution. A state by state list of funding allocations is located [here](#) (see links to Tables 1-3 at the bottom of the page). To date, FTA has not released any FY'10 formula or discretionary funds.

FAA Reauthorization:

Contrary to optimism expressed earlier this fall that the Senate might finalize its version of the long overdue, multi-year aviation authorization bill so that a final bill could be completed before the latest extension expires on December 31, it now appears that will not happen. The Senate continues to be pre-occupied with healthcare reform and it looks like final action will spill over to 2010. In that case, yet another extension bill will have to be passed before Congress adjourns for the year.



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FTA Transit Safety Oversight:

In response to a number of recent fatal accidents involving transit systems around the country, particularly at DC's WMATA, the Obama Administration is drafting a legislative proposal to have the federal government takeover safety oversight of subway and light rail systems. The proposal is under final review at OMB and will be sent to the Hill shortly for debate and passage. The House T&I Committee has already planned a hearing on the issue on December 8.

Transit safety is currently overseen by individual state safety agencies. The federal government already sets and enforces aviation and rail (Amtrak, freight, commuter rail) safety regulations, but transit safety was viewed as being a local issue since it generally does not involve interstate commerce. It is likely that states whose existing safety programs meet or exceed the new federal requirements will be able to opt-out through a certification program. It is not clear where the funding would come from to pay for the federal safety program or to help states pay for complying with new, potentially more stringent, safety requirements.