



## November 18, 2011

Once again, this has been a very busy week for infrastructure/transportation news. Congress passed and the President signed the FY'12 appropriations "minibus" bill which includes annual funding for US DOT programs; House Speaker John Boehner announced the introduction of HR 7, the "American Energy & Infrastructure Jobs Act", which would authorize surface transportation programs for five years; and House and Senate committee leaders met to continue, and hopefully quickly complete, negotiations on the multi-year FAA authorization bill that expires on December 31. The House and Senate will be on recess next week for the Thanksgiving holiday, but SuperCommittee members will continue to work in advance of the November 23 deadline to issue their deficit reduction recommendations.

## Surface Transportation Reauthorization

Yesterday morning, House Speaker John Boehner (R-OH), accompanied by House T&I Committee Chairman John Mica (R-FL), made a major announcement regarding moving a surface transportation bill before the end of 2011. The bill, HR 7, the "American Energy & Infrastructure Jobs Act", would authorize surface transportation programs for five years and be funded in part by revenues from fees and royalties from expanded oil and gas exploration and drilling. While the Speaker's announcement is good news for potential quick passage of a multi-year authorization bill, the proposed revenue source to cover the shortfall in Highway Trust Fund revenues is a non-starter for many Members, including Senate EPW Chair Barbara Boxer (D-CA) and House T&I Committee Ranking Member, Rep. Nick Rahall (D-WV).

The Speaker did not release the text of HR 7 or many details about the bill. He primarily reiterated the points Chairman Mica has previously made about his proposal - speeding up the project delivery process by consolidating the permitting process, eliminating needless programs, leveraging private sector dollars, and banning earmarks. No mention was made of specific funding levels although the press release says that "the measure provides responsible infrastructure funding". In the past, the Congressional Budget Office (CBO) has scored the potential new revenue from such energy sources at only about \$1B a year, far short of what would be needed to fund even current levels of highway and transit funding. It remains to be seen whether this latest plan will support more generous revenue estimates, as well as how these revenues would flow into the Trust Fund.

Here is a [link](#) to Chairman Mica's press statement, a [link](#) to Speaker Boehner's statement and a [link](#) to House T&I Ranking Member Rahall's statement.



## FY'12 Appropriations

Congress has passed the FY'12 DOT Appropriations bill as part of a three-bill "minibus" and the President signed the bill late this afternoon. The bill also includes an extension of the current Continuing Resolution (CR) which will fund all remaining federal agencies through December 16. The current CR expires at midnight tonight. Since the US DOT bill, along with the Agriculture and Commerce/State/Justice bills, have been completed, they will no longer be part of the CR. This "minibus" is the first and only FY'12 appropriations bill to be completed by Congress.

The final version of the FY'12 DOT appropriations bill, HR 2112, is much closer to the higher funding levels included in the Senate version of the bill than to the House bill which included severe cuts of as much as 34% for highway and transit programs. Passage of these higher levels signals that House Republicans have abandoned their plan for significant funding reductions as proposed by the earlier FY'12 House Budget Resolution.

Program	FY'11 Enacted Level	House FY'12 Level	Senate FY'12 Level	Final Conference Level
FHWA Obligation Limitation	\$41.1B	\$27.0B	\$41.1B	\$39.14B
Transit – Total	\$10.0B	\$7.0B	\$10.6B	\$10.5B
Transit – New Starts/Small Starts	\$1.6B	\$1.55B	\$1.95B	\$1.95B
Transit – Formula and Bus	\$8.3B	\$5.2B	\$8.3B	\$8.36B
Amtrak – Capital/Debt Service	\$922M	\$899M	\$937M	\$952M
Amtrak - Operating	\$562M	\$227M	\$544M	\$466M



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High Speed Rail	\$0	\$0	\$100M	\$0
Airport Improvement Program	\$3.51B	\$3.33B	\$3.5B	\$3.35B
TIGER Grants	\$528M	\$0	\$550M	\$500M
National Infrastructure Bank	\$0	\$0	\$0	\$0

Highlights of the FY'12 DOT Appropriations bill include:

- A highway obligation ceiling of \$39.14B, down from the FY'11 level of \$41.1B, but in line with the authorized level included in the current SAFTEA-LU extension. The House bill had proposed a severe cut down to \$27B. The appropriators did note that the higher level agreed to cannot be sustained in future years without new revenue.
- Inclusion of language restricting FTA from signing New Start FFGAs for projects with over a 60% federal share. This is less than the authorized level of 80%, but higher than the 50% maximum federal share included in the House bill. The 60% limit is the same that has been applied in previous appropriations bills.
- Retention of Senate bill language to fund \$188M of Small Starts BRT projects from the FTA Bus and Bus Facilities program rather than from the New Starts program, thus crowding out other potential discretionary bus grants by the Administration. This effectively amounts to funding the New Starts/Small Starts program at \$2.18B.
- No FTA TIGGER greenhouse gas or energy reduction funding.
- No High-Speed Rail funding– not even the very modest \$100M included in the Senate bill.
- Over \$1.36B in specific project allocations for 13 FTA New Start projects with FFGAs and \$510M in unallocated funds for five light rail projects with pending or recommended FFGAs. Most of the FFGA projects were cut below the requested level, but FTA's requested amounts per project were particularly large for FY'12.
- Other than the New Start FFGA and BRT allocations, no highway or transit project earmarks.



The legislative text of the FY'12 DOT Appropriations bill (Division C) can be accessed [here](#), beginning on page 225 of the document. The explanatory text of the joint statement of managers can be accessed [here](#) beginning on page 179 of the document.

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## SuperCommittee

The congressional SuperCommittee, which has been tasked with cutting the federal deficit by at least \$1.2 trillion over ten years, has until next Wednesday, November 23 to finalize and approve its recommendations. Seven of the 12 bi-partisan members must approve the recommendations. If approved, the recommendations would then go to the full Congress where both the House and Senate must vote to approve the report before December 23. The recommendations cannot be amended or filibustered. If the Supercommittee or the full Congress fails to approve the recommendations, there will be an across-the-board cut or "sequestration" starting on January 1, 2013 on all federal programs, including defense programs.

The Supercommittee has revealed few details of its deliberations. Despite encouragement from some sources to "go big" and some movement by key Republicans to put tax reform on the table, the outlook does not currently look too promising for an agreement to be reached by the deadline.

## Other News

In personnel news, Karen Hedlund has been named to be the FRA Deputy Administrator to replace Karen Rae who has joined NY Governor Cuomo's administration. Karen Hedlund was previously the FRA Chief Counsel and before that the FHWA Chief Counsel. US DOT Undersecretary Roy Kienitz has announced that he will be leaving DOT in early December to start his own consulting firm.

House T&I Committee Chairman John Mica recently announced that he is dropping his effort to privatize Amtrak, particularly the Northeast Corridor (NEC) in the face of strong opposition from Amtrak, elected officials in the region and labor. In addition, he indicated he will work to transfer any unspent federal high-speed rail funds to the NEC.

FHWA has announced a solicitation for FY'12 funding for 12 discretionary highway programs. FHWA will allocate funding for the first six-months of FY'12 (through March 31, 2012) as authorized by the current short-term SAFETEA-LU extension. Programs include Interstate Maintenance, TCSP, Value Pricing, National Scenic Byways, and Rail Highway



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Grade Crossing Elimination. Applications are due by January 6, 2012. Here is a [link](#) to the FHWA announcement.

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In the November 3 Federal Register, US DOT announced a new fixed-date solicitation process to be used to evaluate and select projects to receive loans and lines of credit through the TIFIA financing program. Rather than the previous rolling application process, applicants must now apply for the \$110M in FY'12 TIFIA credit assistance by December 30, 2011. Previous year's letters of interest must be resubmitted if applying for FY'12 funding. Here is a [link](#) to the Federal Register notice.

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