



December 20, 2011

Despite their best efforts to adjourn last Friday or over the weekend, Congress remains in session with only one issue left to resolve – a tax extenders bill to extend the payroll tax cut, unemployment insurance and the Medicaid “Dr. Fix”.

Last week the House passed a year-end tax extender bill with only 10 Democrats voting in support. However, the House bill also includes a highly controversial provision to expedite approval of the Keystone XL pipeline. Over the weekend, the Senate approved its version of a tax extenders bill, but it only extends the tax provisions for two months to allow Congress to come back next year and revisit the issue. The House voted this morning to disagree with the Senate bill, insisting on a full year extension. It is unclear how this will all play out over the next few days. Right now, neither the House nor Senate-passed bills include an extension of the transit commuter tax benefit.

Congress has not been able to resolve the final issue holding up passage of a multi-year FAA Authorization bill related to union mediation. Despite a number of last minute efforts, it appears Congress will adjourn for the year without passing a final bill. The current short-term FAA extension expires on January 31, 2012, which leaves little time to complete a bill given the very limited number of days Congress will be in session in January. Earlier this fall, House T&I Committee Chairman John Mica said he would not support another short-term FAA bill after Congress passed the 22st extension, although he has recently said that any extension will have to come with an unspecified price.

Upcoming dates to note include: The State of the Union address will be held on January 24. The House returns to session on January 17 and the Senate on January 23. However, the two bodies will only be in session at the same time for four days in all of January.

Senate Commerce Committee Surface Transportation Authorization Package

The Senate Commerce Committee approved four bills on December 14 which will eventually be folded into the Senate surface transportation authorization bill (MAP-21) when it comes to the floor. The bills include S.1449, which reauthorizes NHTSA for two years; S.1953, which does the same for the Research and Innovative Technology Administration (RITA); S.1952, which reauthorizes the Office of Hazardous Materials Safety and S. 1950, the Commercial Motor Vehicle Safety Enhancement Act of 2011.



The only bill which encountered any debate or controversy was S. 1950. Senator Kay Bailey Hutchison (R-TX), the Ranking Republican on the Committee, offered an amendment to strike Title XII of the bill, Senator Lautenberg's (D-NJ) "Surface Transportation and Freight Policy Act of 2011". The amendment was defeated by a partisan vote of 11 to 13 and the bill was then passed by a similar partisan vote of 13 to 11.

The approved S. 1950 now includes the following elements from Lautenberg's original FREIGHT Act:

- Development of a National Freight Transportation Policy
- Creation of a National Freight Infrastructure Investment Grant Program
- Establishment of an Office of Freight Planning and Development in US DOT

Senator Hutchison or other Republican Senators may place a hold on the Senate Commerce Committee package preventing floor consideration. Although Hutchison has some serious concerns about the legislative process under which the amendment was offered, she is primarily upset about the bill's creation of a new unfunded discretionary program for National Freight Infrastructure Investment Grants that might use Highway Trust Fund dollars, possibly even to support private sector freight rail projects. She and others are also concerned that the requirement for a National Freight Policy is an extra layer of planning on top of the existing planning process at a time when Congress is trying to streamline the planning process. The American Trucking Associations (ATA) and Highway Users Alliance (HUA) have come out strongly against the FREIGHT ACT while other industry groups strongly support the bill's focus on intermodal corridors, goods movement, and the nation's freight network.

A separate rail title, potentially including amendments to the Passenger Rail (PRIIA) and Amtrak legislation, that the Commerce Committee had at one time hoped to mark up before the end of the year was pulled after the freight railroads raised numerous objections. The Rail title will be revisited early next year.

The Banking Committee had scheduled a markup on the transit title of the surface transportation bill for December 16; however, the markup ended up being postponed until early next year. The Committee has not yet released a staff draft of the bill for stakeholder review.

Senate Finance Chair Max Baucus has indicated he will not act on the finance title of the surface transportation bill until the tax extenders bill has been completed which means not until sometime in 2012.



FY'12 Appropriations

Last week Congress passed a nine-bill, \$900B+ "megabus" FY'12 appropriations bill, HR 3671, to fund most federal agencies through the remainder of the fiscal year. Passage did not impact funding for US DOT programs since the FY'12 DOT Appropriations bill was previously passed in November as part of a three-bill "minibus" package. The new bill does include funding for DHS/FEMA, the Corps of Engineers, DOE and DOD, and other infrastructure related programs.

H.R. 3671 provides a total of \$5B for the Corps of Engineers in FY'12, which is higher than both the House and Senate proposed levels and exceeds even the Administration's request of \$4.57B.

TIGER III Grants

On December 15, US DOT made the formal announcement of the third round of TIGER Grants. Here is a [link](#) to the US DOT press release and a [link](#) to the full list of selected projects.

Secretary Ray LaHood announced that ~~46~~ projects across the country will receive a total of \$511M. The projects were selected from a total of 848 applications, with funding requests totaling more than \$14B. According to U.S. DOT, roughly 48% of the funding will go to road and bridge projects including over \$64 million for Complete Streets projects benefitting motorists, bicyclists and pedestrians; 29% of the funding will support transit projects; 12% will go to port projects; and 10% will support freight rail projects.

The FY'12 DOT Appropriations bill included \$500M for another round of TIGER discretionary grants. US DOT is expected to issue of Notice of Funding Availability for a fourth round of TIGER funds in early 2012.

Additional information and materials can be found on the PB Transportation Update website at www.PBTransportationUpdate.com
