



## OCTOBER 30, 2009 - INTERIM REPORT

Another week has passed without any real progress on a FY'10 DOT Appropriations bill, a six-year surface transportation authorization bill or a six or 18-month short-term extension of the existing SAFETEA-LU authorization. Healthcare reform continues to be the focal point of congressional attention and will continue to be so for weeks to come. House and Senate leaders have tentatively agreed to stay in session until December 18 and to work through part of the Veterans Day and Thanksgiving recesses.

### **FY'10 Appropriations:**

Yesterday, Congress passed another short-term Continuing Resolution (CR), HR 2996, to provide funding for those federal agencies without a completed FY'10 appropriations bill, which includes US DOT. The CR funds programs at the FY'09 level and lasts through **December 18**, the last day Congress expects to be in session this year. In addition, the CR includes an extension of the now-expired SAFETEA-LU authorization bill through December 18 since Congress has been unable to agree on a multi-year bill or even a stand-alone, short-term extension (see more below).

To date, Congress has completed five of the twelve FY'10 appropriations bills - Legislative Branch, Energy & Water (funds the US Corps of Engineers), Interior, Homeland Security and Agriculture.

Both the House and Senate have passed the FY'10 DOT (THUD) funding bill and staff is working behind the scenes to resolve most of the differences in the two bills, but no formal conference has taken place. At one point, word was that leadership was holding back on the DOT bill in order to use it as the legislative "vehicle" for the latest CR; however, they ended up using the Interior bill. The hope is still to pass the DOT bill as a stand-alone bill, but it may end up getting rolled into a "minibus" along with the other unfinished appropriations bills.

### **Surface Transportation Authorization:**

There was a lot of activity this week on a stand-alone, short-term extension of the expired SAFETEA-LU bill, but in the end, no bill was passed. The House has passed a three-month extension of the current program in order to provide continuity until Congress can identify a plan to finance a multi-year bill. The Senate has been pushing for a longer, 18-month extension, but this week the leadership of the Senate Environment & Public Works Committee reached agreement on a compromise six-month extension. The hope was to reach unanimous agreement to move the bill which would avoid having to use up valuable floor time. Although House T&I Committee Chairman Jim Oberstar (D-MN) continues to push for only a three-month extension in order to keep pressure on passage of his six-year \$500B bill, a number a key House members, including T&I Ranking Republican John Mica (R-FL), most Senators and key industry groups such as the ATM Coalition (ARTBA, APTA, ACEC, Chamber, etc) supported the six-month bill as a reasonable compromise. The Administration continues to support a longer, 18-month extension.

There was optimism all week that the Senate could move the six-month bill, but several Republicans, rumored to include Senators DeMint (R-SC), Gregg (R-NH) and Coburn (R-OK), raised objections



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because they felt the bill should be fully debated on the floor. As a result of their objections, the bill was not brought up; however a temporary extension of surface transportation authorization was included in the new Continuing Resolution passed yesterday which extends through December 18. Inclusion in the CR essentially ends up being the equivalent of the House's proposed three-month extension.

Senator Dick Durbin (D-IL), the Majority Whip, again this week made comments suggesting a possible option of "front-loading" a multi-year authorization bill in an effort to create jobs and spur the economy. Pennsylvania Governor Ed Rendell, one of the three co-chairs of Building America's Future, expressed support for such a proposal. The idea would be to pass a six-year bill, but initially only identify enough funding for the first two years and then later, when the economy is hopefully in better shape, pass a gas tax increase or some other revenue raiser. In the short-term, the program would be funded by the General Treasury or perhaps, a yet to be created, National Infrastructure Bank.

### **Climate Change:**

Senate Environment & Public Works Committee Chairman Barbara Boxer (D-CA) and Senator John Kerry (D-MA) released their "Chairman's Mark" last Friday which provides additional specifics about their climate change bill, S. 1733. Several days of hearings on the bill were held this week. The bill, called the "Clean Energy Jobs and American Power Act (CEJAPA), includes a "cap and trade" system similar to the bill previously passed by the full House. Boxer plans to mark-up the bill in the committee next week, however, despite this progress, it is still unlikely there will be enough time to bring it to the Senate floor this year. The Administration supports the Senate bill and several Cabinet secretaries testified in favor of the bill, including US DOT Secretary Ray LaHood. However, EPA has yet to complete its economic analysis and many of the committee Republicans may boycott the mark-up because they believe it is premature.

One change in this latest version of the bill is an increase in the distribution allowances from a cap and trade system for transportation purposes. The Senate bill authorizes an average of nearly 2.8% of the allowances to be allotted to transportation programs during the first four years of the bill, as compared to the option of using up to 1% of the allowances in the House-passed version of the bill. The Senate allocation would initially be a total of about 3.2% and then decrease over the life of the bill. The funds would be used for transportation programs, predominately transit, that cut greenhouse gas emissions.