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## November 2008 Monthly Report for MTC

**To:** Steve Heminger, Executive Director  
MTC

**From:** Tom Bulger, President  
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GRI

**Re:** Monthly Report for November 2008

**Date:** December 2, 2008

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### **FHWA Announces Highway Trust Fund Deficit and RABA figure for FY 2009**

In November, Secretary Mary Peters announced that the Highway Trust Fund took in \$3 billion less in FY 2008 than it did in FY 2007 as Americans drove 90 billion fewer miles. In September alone, Americans drove 10.7 billion fewer miles, declining for the eleventh straight month.

In 2008, the Highway Trust Fund collected \$31 billion in revenue, \$3 billion less than the FY 2007; however, spending increased by \$2 billion. In her announcement, Secretary Peters said that if this trend continues through FY 2009, it is probable that the Highway Trust Fund will not remain solvent through the fiscal year, prompting Congress to take

immediate steps. In the summer, Congress transferred \$8 billion from the general fund to the Highway Trust Fund in the hopes that the trust fund would remain solvent until the next Federal transportation legislation is enacted.

Also, in November, FHWA Administrator Thomas Madison announced that the 'Revenue Aligned Budget Authority' (RABA) adjustment for FY 2009 was negative \$1.0 billion. However, the balance of the Highway Account of the Highway Trust Fund was in excess of \$6 billion; therefore no reduction in funding will be made for FY 2009. RABA provides for adjustments in funding for FHWA apportionments and allocated programs to reflect changed estimates of Highway Account revenue.

### **Senate Appropriations Committee Chairman Unveils Economic Recovery Legislation**

On November 17<sup>th</sup>, 2008, Senator Robert Byrd (D-WV) unveiled S. 3686, the Bryd/Reid Economic Recovery Act of 2008. It is generally expected that Congress will hold off on any effort to enact a stimulus package until the new Congress, the legislation introduced offers a glimpse into what the Senate Majority leader has in mind for a stimulus next year.

- \$10 billion in new funding for highway projects for projects which can be obligated within 180 days. The legislation apportions the funds using the same formula used to distribute STP funds. The funds may be 100% federal.
- \$2.5 billion for transit projects, the funds would be distributed using the formula found in section 5336 of title 49
- \$500 million for competitively awarded grants to State, local, county, and tribal governments for innovative energy efficiency and renewable energy demonstration projects.
- \$25 billion in loans from the \$700 billion bailout will be made available to domestic auto manufacturers.
- Creates an 'above the line' tax deduction for interest payment on car loans for new cars purchased over the next 13 months

This is the second economic stimulus package that Senate leadership has announced over the past two months. Both pieces of legislation contain some of the same themes, including additional funding for infrastructure. This package has a price tag of \$100.3 billion, well below what is expected to be ultimately acted upon, which some accounts reports will exceed \$700 billion.

Transportation associations including AASHTO, APTA, and the US Conference of Mayors have rolled out lists of 'projects ready to go', and have called for \$100 billion in new investments in infrastructure.

President elect Obama has said that he expects Congress to deliver to him an economic stimulus package focused on infrastructure and public works, however, no details of a Obama stimulus package have emerged. Congress is expected to return for the beginning of the 111<sup>th</sup> Congress in early January and will make an economic stimulus package the first priority. House and Senate leaders have said that they plan to have legislation ready for President Obama to sign when he takes the oath of office.

## **FY 2009 Appropriation Update**

In November, Senate Appropriation leaders announced that they plan on completing the remaining nine FY 09 appropriation bills before President Elect Obama takes office, and legislation will be ready for him to sign when he takes office. The current continuing resolution runs through March of 2009, but it appears appropriators want to complete work as soon as possible in order to begin work on an economic stimulus and the FY '10 budget.

### **Transit Agencies Seek Legislative Protection Following AIG Collapse**

Executives of public transit agencies facing imminent default on billions of dollars in financing deals have asked Congress to include language protecting them in any economic stimulus legislation. The agencies, which may owe as much as \$16 billion because of American International Group's collapse, want the Treasury Department or Federal Reserve to guarantee the financing deals using authority under the \$700 billion financial rescue plan.

At issue are transit financing deals reached between 1988 and 2003 that were guaranteed by AIG. Terms of the complicated financial deals required the insurer guaranteeing the transactions to maintain a AAA credit rating. The downgrading of AIG's credit rating this year suddenly put the transit agencies into technical default on these deals, allowing investors to demand full payment and hefty termination fees.

The agency that runs Washington's Metrorail system has been in court this week, asking a judge to block a Belgian bank's demands for immediate payment of \$43 million.

Lawmakers, including House Speaker Nancy Pelosi , (D-CA), and House Transportation and Infrastructure Committee Chairman James L. Oberstar , (D-MN), and ranking Republican John L. Mica of (R-FL), have already asked the Bush administration to intervene, however, no decision has been made.

### **President Elect Obama Names Transportation Transition Team**

President elect Obama has named his transition team for the Department of Transportation. These individuals are charged with making the transition between the Bush and Obama administrations, including the development and transition of policy positions. Those included in the transition team are not charged with filling cabinet or agency posts. However, their opinions will greatly impact that decision as well as the first several months of President Obama's transportation policy. Below is a quick summary of those who have been selected to head the transition

**Mortimer L. Downey** was the U.S. Deputy Secretary of Transportation, and served in this post since 1993, making him the longest-serving person to ever hold the post. Downey served as Acting Secretary of Transportation during the transition period from the Clinton administration to the Bush administration. He served in this capacity for four days, from January 21, 2001 to January 24, 2001. Prior to his service as Deputy Secretary of Transportation, he was Executive Director and Chief Financial Officer of the New York Metropolitan Transportation Authority. He has also served as Assistant Secretary U.S. Department of Transportation, as Transportation Analyst for the U.S. House of

Representatives Committee on the Budget, and in various positions at the Port Authority of New York and New Jersey.

**Michael Huerta** is Executive Vice President and Group President of ACS Transportation Solutions, an industry leader in providing transportation services to governments worldwide. The Transportation Solutions Group helps government agencies in more than 30 countries address their challenges through revenue collection and regulation compliance services.

In 2002, Huerta returned to ACS from the Salt Lake Organizing Committee for the Olympic Winter Games of 2002, where he was the managing director responsible for the highly successful travel demand management program used during the games.

From 1993 to 1998, Huerta served in two senior positions at the U.S. Department of Transportation. He was chief of staff to Secretary Rodney E. Slater, serving as the chief strategist and policy advisor to the secretary, as well as day-to-day manager of the Office of the Secretary. He also served as Associate Deputy Secretary of Transportation to Secretary Federico Peña.

Before his federal government service, Huerta was the executive director of the Port of San Francisco, a self-supporting agency that develops and administers maritime facilities, commercial development, and fishing facilities on San Francisco's waterfront. He was also commissioner for the City of New York Department of Ports, International Trade, and Commerce.

Huerta is a member of the board of directors of the Intelligent Transportation Society of America. He is active in the International Bridge, Tunnel, and Turnpike Association, the American Association of State Highway and Transportation Officials, and the American Association of Port Authorities.

Huerta received a master's degree in public affairs in international relations and policy analysis from the Woodrow Wilson School of Public and International Affairs at Princeton University.

**Jane Garvey**, executive vice president JP Morgan. Prior to joining APCO, Ms. Garvey served as the first ever five-term administrator of the Federal Aviation Administration (FAA).

Prior to becoming FAA Administrator in 1997, Ms. Garvey was acting administrator and previously deputy administrator of the Federal Highway Administration (FHWA). Among her accomplishments at FHWA, Ms. Garvey conceived and developed the Innovative Financing Initiative, enabling the states to use federal highway funds more effectively. Most of the funds-management methods tested by more than 30 states under this initiative were later enacted into law. One particularly successful innovation enables a state to pledge future federal highway revenues to repay a special debt instrument, designated a GARVEE (Grant Anticipation Revenue Vehicle) by the U.S. public finance market.

Before joining FHWA in 1993, Ms. Garvey was director of Boston's Logan International Airport, and from 1988 to 1991, she was commissioner of the Massachusetts Department of Public Works.

Ms. Garvey holds a Bachelor's degree from Mount Saint Mary College and a Master's degree from Mount Holyoke College. After graduation, Ms. Garvey began her career as a teacher at both the secondary school and collegiate level. She participated in the Fellowship Program for Public Leaders at Harvard, and she holds honorary degrees from several universities.

Those included in the transition team charged with filling cabinet or agency posts. However, their opinions will greatly impact that decision as well as the first several months of President Obama's transportation policy. It should be noted that both Mr. Downey and Ms. Garvey have been mentioned as possible Department of Transportation Secretary's along with Congressman Oberstar (D-MN), Blumenauer (D-OR), and MTC Executive Director Steve Heminger.

### **FTA Administrator Simpson Resigns**

The Federal Transit Administration Administrator, Jim Simpson, a presidential appointee confirmed by the Senate, resigned in November. Since the new FTA career position of Executive Director, advertised last summer, has not been filled, the order on succession has Robert Tucillo, career Associate Administrator for Budget and Policy, as acting Administrator during the transition beginning with the inauguration in January. A new FTA administrator is frequently not confirmed until September. FTA normally has 4 political appointees, with only the Administrator confirmed by the Senate.

### **New Leadership at House Energy & Commerce and Senate Appropriations Committees**

In November, Democrats began to determine who would lead the Energy & Commerce Committee during the 11<sup>th</sup> Congress. Congressman John Dingell (D-MI), currently the longest tenured member of Congress, has been Chair or Ranking member of that committee since 1981.

However, Congressman Dingell lost his chairmanship through a challenge by Congressman Henry Waxman. Waxman, formerly the chair of the House Government Reform Committee, was the Energy & Commerce Committee's second ranking Democrat. Dingell, known for his staunch defense of the automotive industry and opposition to anti-gun legislation, has presented a challenge to House leaders when it comes to moving environmental legislation such as CAFÉ standards and a cap and trade bill.

The move in Committee leadership is seen by many as a change in which Democrats will choose Committee heads. In the past, seniority was the top factor in selection of Committee leadership, however, this shift may signal future changes. Additionally, Congressman Waxman has promoted a much more liberal agenda and will certainly act swiftly to move legislation related to climate change and energy conservation.

Adolphus Towns (D-NY) is expected to assume leadership of the House Government Reform Committee, and Congressman Dingell is expected to be given the title of chairman emeritus, however, it is unclear if Congressman Dingell will be given any subcommittee leadership positions.

In the Senate, Congressman Robert Byrd (D-WV) has stepped down as Chair of the Senate Appropriations Committee, Senator Byrd, who turned 91 this month, has been suffering from

poor health the past several years and many with the Senate Democratic Caucus had begun to question if he had the stamina to manage the appropriations process. In stepping down as Chair, Senator Byrd did not force Senate Democratic leadership's hand. Additionally, Senator Byrd will retain his leadership of the Senate Homeland Security Subcommittee. Senator Inouye (D-HI) will now chair the Senate Appropriations Committee.

### **Pelosi Renews Climate-Change Panel**

House Speaker Nancy Pelosi announced that the special committee on global warming will continue in the new Congress. Created in 2007, the Select Committee on Energy

Pelosi created the committee largely as a check against John D. Dingell (D-MI), former chairman of the Energy and Commerce Committee, who will be replaced next year by Henry A. Waxman (D-CA). Speaker Pelosi feared that Dingell would not move aggressively enough to address climate change. The select committee has no legislative authority, but it has subpoena power to conduct investigations. Markey has held hearings on the implications of global warming and strategies for how to address it.

Speaker Pelosi said she would talk to the incoming Obama administration about the nature and timing of a climate bill.

### **Atlanta to Receive Funding Under Urban Partnership Agreement**

In November, Secretary Peters announced that Atlanta would receive \$110 million through its urban partnership program to reduce traffic congestion. The plan will call for the conversion of I-85s HOV lanes into HOT lanes and will allow for the establishment of a new high-speed commuter bus service into downtown Atlanta.

### **Meeting with Senate Environment & Public Works Committee**

On November 5, 2008 we met with the Senate Environment & Public Works Chief of Staff Bettina Poirier to discuss the committee's plans concerning the upcoming authorization of the Federal Highway program. Based upon our meeting and previous discussions, we have determined that the committee has not yet taken any concrete steps towards developing an authorization proposal since we last met in August. We will continue to meet with committee staff and report to MTC staff.

### **Secretary Mineta Portrait Unveiling**

On November 11, Tom Bulger was invited to participate in the unveiling of the official portrait ceremony at the US Department of Transportation, on behalf of MTC. During the ceremony, Mr. Bulger had the opportunity to congratulate Secretary Mineta and to also speak with the current Secretary of Transportation, Mary Peters. A number of other transportation officials were present at the event.

### **ITS World Congress**

From November 16<sup>th</sup> through November 18<sup>th</sup>, Tom Bulger attended the ITS World Congress on behalf of MTC. During the conference, Mr. Bulger attended Steve Heminger's panel discussion on the next authorization. In addition, he participated in a panel session with House and Senate Committee staff and former Secretary of Transportation Rodney Slater. In addition, Mr. Bulger was able to meet with a number of MTC commissioners and staff to discuss the upcoming year.

### **US Conference of Mayors Presentation**

On November 23<sup>rd</sup>, Tom Bulger presented at the US Conference of Mayors regarding a potential metropolitan mobility program. During the presentation, Mr. Bulger discussed the benefits of such a program and why the mayors should be supportive of the creation of a Metro Mobility program in the next surface transportation bill.