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January 2009 Monthly Report for MTC

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Re: Monthly Report for January 2009

Date: February 4, 2009

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Ray LaHood Becomes Secretary of Transportation

On January 23rd, just three days after the inauguration of President Obama, Ray H. LaHood became the sixteenth U.S. Secretary of Transportation. During his confirmation hearing before the Senate Commerce Committee, Secretary LaHood outlined four policy areas that the department will focus on under his leadership: economic growth, sustainability, a focus on people and communities, and safety.

During the confirmation hearing Secretary LaHood, the only Republican nominated to President Obama's cabinet (until Senator Gregg was recently nominated as Secretary of Commerce), was widely applauded for his bi-partisanship in Congress and his level-headed, practical approach. Secretary LaHood will now move to nominate modal administrators and fill out his staff.

President Obama's Inauguration Draws a Crowd

Washington, D.C. was overflowed with well-wishers for the President's Inauguration and corresponding ceremonies. Security for the events was unprecedented as most downtown streets and buildings were closed. The Washington METRO set new daily ridership records without any major incidents. An estimated 1.8 million people jammed onto the mall to witness the swearing in ceremony, including MTC Chairman Bill Dodd.

Congress Forges Ahead with its Economic Stimulus Package

****Editorial Note—this update is being written at 5:30pm EST on Wednesday, January 4th, the Senate is in the process of working through amendments and the Senate version will likely change substantially between now and when the board receives this report. We will provide MTC staff with an update next week ahead of the board meeting.****

In January, Congress primarily focused its efforts on the creation of an economic stimulus bill. HR 1, the 'American Recovery and Reinvestment Act of 2009' has passed the House and is currently being considered by the Senate. The House version, which includes \$819 billion in emergency spending and tax cuts, was passed without any Republicans voting for the legislation.

In January, the Senate's Appropriations and Finance Committee reported their versions of legislation and the Senate was poised to take up the legislation the week of February 2nd. The Senate package currently has a price tag of more than \$900 billion; however, all signs point to the legislation failing in the Senate if spending is not cut from the package.

Below is a brief summary of the transportation portions of the House passed version and the Senate version as it came to the floor.

U.S. Department of Transportation			
Administration	Program	House Bill	Senate Bill
OST	Competitive Surface Transportation Grants	\$ ---	\$5,500,000,000
FHWA	Highways and Bridges	\$30,000,000,000	\$27,060,000,000
FRA	Intercity passenger rail	\$300,000,000	\$250,000,000
FRA	Amtrak capital grants	\$800,000,000	\$850,000,000
FRA	High-speed rail corridors	\$ ---	\$2,000,000,000
FTA	Transit formula grants	\$6,000,000,000	\$8,400,000,000
FTA	Transit rail modernization	\$2,000,000,000	\$ ---
FTA	Transit new starts	\$1,000,000,000	\$ ---
Total		\$40.1 billion	\$44.06 billion

House Passed Highway & Transit Provisions:

The Federal Highway Administration (FHWA)

- Of the \$27 billion appropriated for FHWA, 45 percent shall be distributed in the same fashion STP funds are sub-allocated.
- Recipients shall give priority to projects which can award contracts within 90 days, are included in the STIP and/or TIP, are projected for completion within a three-year time frame, and are located in economically distressed areas.
- Federal Share may be up to 100 percent.
- If less than 50 percent of the funds made available to a state have not been obligated within 90 days after the distribution of funds, unobligated balances will be reapportioned to other states.
- If less than 50 percent of the funds sub-allocated within a state have not been obligated within 75 days after the distribution of funds, then unobligated balances will be returned to the state and the state will have 90 days to obligate the funds.
- Any funds not obligated by the end of FY 2010 shall be redistributed.
- Any funds sub-allocated within a state not obligated by June 30, 2010 shall be returned to the state and the state will have 90 days to obligate the funds.
- A number of set-asides are created:
 - \$300 million Indian reservation Roads;
 - \$250 million park roads and parkways;
 - \$20 million for highway surface transportation & technology training;
 - \$20 million for disadvantaged business enterprises bonding assistance.

The Federal Transit Administration (FTA)

- Funds apportioned under Transit formula grants shall not be commingled with other funds apportioned at any other time.
- Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent.
- The deadline for grantees to enter into obligations to make use of not less than 50 percent of the funds awarded shall be 90 days after apportionment.

GENERAL PROVISIONS

- For each amount that is distributed to a State or agency thereof from an appropriation in the legislation the governor of the state shall certify that the state will maintain its effort with regard to state funding for the types of projects that are funded by the appropriation.

As part of this certification, the governor shall submit to the covered agency a statement identifying the amount of funds the state planned to expend as of October 1, 2008, from non-Federal sources in the period beginning on the date of enactment of this Act through September 30, 2010, for the types of projects that are funded by the appropriation.

Senate Highway & Transit Provisions as the legislation was introduced on the Senate floor:

SUPPLEMENTAL DISCRETIONARY GRANTS FOR NATIONAL SURFACE TRANSPORTATION SYSTEM

- \$5.5 billion appropriated to remain available until September 30, 2011— The Secretary of Transportation shall distribute funds provided under this section as discretionary grants to be awarded to state and local governments on a competitive basis for projects that will have a significant impact on the nation, a metropolitan area, or a region.
- Projects eligible for funding provided under this section shall include, but not be limited to, highway or bridge projects eligible under Title 23, including interstate rehabilitation, improvements to the rural collector road system, the reconstruction of overpasses and interchanges, bridge replacements, seismic retrofit projects for bridges, and road realignments; public transportation projects eligible under Chapter 53 of Title 49, United States Code, including investments in projects participating in the New Starts or Small Starts, passenger and freight rail transportation projects; and port infrastructure investments, including projects that connect ports to other modes of transportation and improve the efficiency of freight movement.
- The Secretary may use an amount not to exceed \$200 million for the purpose of paying the subsidy costs of projects eligible for federal credit assistance under Chapter 6 (infrastructure financing) of Title 23.
- A grant funded under this heading shall be no less than \$20,000,000 and no greater than \$500,000,000.
- Federal share of the costs for which a grant is made under this heading shall be, at the option of the recipient, up to 100 percent.
- The Secretary shall give priority to projects that require an additional share of Federal funds in order to complete an overall financing package, and to projects that are expected to be completed within three years of enactment of this Act.
- The Secretary shall publish criteria on which to base the competition for any grants awarded under this heading not later than 75 days after enactment of this Act. Additionally, the Secretary shall require applications for funding provided under this heading to be submitted not later than 180 days after enactment of this Act, and announce all projects selected to be funded from such funds not later than one year after enactment of this Act.

FHWA

- One hundred and eighty days following apportionment, DOT will withdraw 50 percent of the funds which remain unobligated and those funds shall be redistributed.
- One year following apportionment, DOT will withdraw all remaining funds and transfer funds to the supplemental discretionary program.
- The Secretary may provide a one-year extension if he feels that a state has encountered extreme conditions that create an unworkable bidding environment or extenuating circumstances. Before granting an extension, the Secretary shall submit in writing a letter justifying his decision.
- Sub-allocates 40 percent of funds to urbanized areas of a state with an urbanized area population of over 200,000, these funds are not subject to the 180 day obligation deadline.
- Funds may be used for storm water runoff, passenger and freight rail, and port infrastructure.
- A number of set-asides are created:
 - Five percent of the funds shall be for activities eligible under CMAQ;
 - \$60 billion is set-aside for competitive ferry boat projects;
 - \$500 million for Indian reservations and federal lands;
 - \$320 million for Indian Reservation roads;
 - \$100 million for park roads;
 - \$70 million Forest Highway Program;
 - \$10 million for Refuge roads.

FTA

- Seventy-one percent of the funds appropriated for formula grants shall be apportioned using the urbanized formula [section 5336 (a) (b) & (c)], 19 percent using the 'growing States and high density States formula factors' (Section 5340), and 10 percent using the non-urbanized formula (section 5311).
- One hundred and eighty days following apportionment DOT will withdraw 50 percent of the funds which remain unobligated and those funds shall be redistributed.
- One year following apportionment, DOT will withdraw all remaining funds and transfer funds to the supplemental discretionary program.
- The Secretary may provide a one-year extension if he feels that a State has encountered extreme conditions that create an unworkable bidding environment or extenuating circumstances. Before granting an extension, the Secretary shall submit, in writing, a letter justifying his decision.

- Federal Share is up to 100 percent.
- \$200,000,000 shall be set-aside for a discretionary program which shall provide grants to transit agencies to for capital that will assist in reducing energy consumption or greenhouse gas emissions.

General Provisions

- Cap on the transit portion of the transportation fringe benefit increased to \$230/month, the same level as parking. This provision will expire at the end of 2010.

Assuming that appropriate measures are taken for the legislation to pass the Senate, it is assumed that House and Senate leaders will either officially or 'unofficially' conference the legislation. However, depending on the margin of victory in the Senate it is possible that the House will accept the Senate version to avoid a second Senate vote.

USDOT on Stimulus Bill

Before completion of the stimulus bill, FHWA and FTA began to provide guidance regarding the potential funding which would come from the stimulus package. Below is a brief summary of what each agency has released, as well as a link to their Web sites:

FHWA

The FHWA stands ready to implement the economic recovery act and is taking steps to ensure effective coordination and support among federal agencies, as well as preparing our partners and stakeholders to implement the recovery legislation as expeditiously as possible. To assist all state and local agencies in this preparation they have established this economic recovery Web page, which includes a series of key questions and answers, at: <http://www.fhwa.dot.gov/economicrecovery/qandas.htm>.

FHWA has posted a list of actions that can be taken to expedite the economic recovery delivery at: <http://www.fhwa.dot.gov/economicrecovery/expedite.htm>.

FTA

The FTA is taking action to support our grantees and other stakeholders in implementing the terms of the legislation as expeditiously as possible. We are also working closely with our federal partners to ensure effective coordination. One of our initial tasks involves working with state and local governments, and public transportation providers to prepare projects that could be funded with additional resources as soon as the legislation is enacted.

To help keep you informed of how the economic recovery legislation affects our grantees and stakeholders, FTA will update this Web site as often as necessary: http://www.fta.dot.gov/index_9118.html. Please check back regularly for critical updates to guidance and other information.

Appropriations Update

With Congress spending almost \$1 trillion on an economic stimulus package, which was preceded by a \$750 million bailout, it is easy to forget that Congress needs to pass the standard FY 2009 appropriation bills, as well as begin the FY 2010 process. Below is a brief summary of each process:

FY 2009

Differences between the remaining appropriation bills have been ironed and will be combined into a single omnibus measure. The House had been scheduled to take up that legislation the week of February 2nd, but have since delayed that vote. There is some thought that Congress' appetite for spending has been diminished over the past few weeks and that they will pass a full-year continuing resolution.

If the omnibus is passed it will go straight to the House and Senate floor without a markup, according to Appropriations Committee aides. The omnibus bill will incorporate the nine remaining spending bills that the House and Senate did not pass last year and fund their operations for the rest of FY 2009. The continuing resolution that Congress passed in September covers all of FY 2009 spending bills excluding Defense, Homeland Security and Military Construction-Veterans Affairs and lasts until early March.

FY10

No firm deadlines have been set by the House or Senate Appropriations Committees for actions on FY 2010. However, individual member offices have begun setting internal deadlines for project submissions for February and March. Leadership may move to reduce the number of earmarks in FY 2010. The President is expected to submit a budget in late March or April. President Obama intends to release a broad budget framework in late February.

Congressional Committees Set

In January, Congress released Committee membership for the 111th Congress. A number of items of note:

- Congressman McNerney (D-CA) has left the House Transportation & Infrastructure Committee and is now on the Energy & Commerce Committee; leaving Congresswoman Tauscher as the only Bay Area member on the committee;
- Senator Boxer (D-CA) remains Chair of the Senate Environment & Public Works Committee;
- Senator Carper (D-DE), the only senator who sat on all three transportation authorizing committees (Commerce, EPW, and Banking), has left the Banking and Commerce committee and will join the Finance committee, Senator Carper will remain on the Environment & Public Works Committee.

DOT Issues TIFIA Rule

The Department of Transportation issued a proposed rule in the Federal Register that would make changes to the Federal credit assistance program for surface transportation projects under the Transportation Infrastructure Finance and Innovation Act (TIFIA).

TIFIA was enacted in 1998 as part of the Transportation Equity Act for the 21st Century. It established a new federal credit program under which the DOT may provide credit assistance to surface transportation investments of regional or national significance. To be selected for TIFIA assistance, projects must meet a number of statutorily specified criteria. As funding for this program is limited, projects obtaining assistance under the program may be selected on a competitive basis. The proposed rule would amend the current TIFIA rule to incorporate changes made by SAFETEA-LU to the statute.

Major changes include a reduction in the minimum project size eligible for assistance to \$50 million for projects or one-third of the apportionment of federal funds. This rule would also change the broadening of the categories of projects eligible for TIFIA assistance for private rail facilities providing public benefit to highway users, and surface transportation infrastructure modifications necessary to facilitate direct intermodal transfer and access into and out of a port terminal. Comments are due March 23, 2009.

Transportation Research Board Annual Meeting

The Transportation Research Board (TRB) held its annual meeting in Washington, D.C. in January 2009. We attended a number of meetings and sessions and had an opportunity to catch up with MTC staff at the conference.

Additionally, we used this time to meet with the Congressional delegation to speak about the economic stimulus package and the upcoming transportation authorization in advance of the new Congress and Administration. Specifically, we meet with:

- House Speaker Nancy Pelosi's staff,
- Senator Barbara Boxer's Environment & Public Works Committee staff,
- Senator Dianne Feinstein's Appropriation and Policy staff,
- Congressman Mike Honda's Appropriation staff, and;
- Congresswoman Ellen Tauscher's staff.

US Conference of Mayors Mid-Winter Meeting

On January 11th, we attended the U.S. Conference of Mayors mid-winter legislative conference, Commissioner Tom Bates was also in attendance at the conference. The meeting featured Highways & Transit Subcommittee chairman, Peter DeFazio (D-OR). Congressman DeFazio admitted that he was not thrilled with the treatment of infrastructure in the House's version of the economic stimulus bill.

Also speaking at the event was Aaron Klein, economist for the Senate Banking Committee. Mr. Klien discussed Senator Dodd's and Senator Hagel's Infrastructure Bank Act. This legislation would establish a new method through which the federal government could more effectively finance infrastructure projects of regional or national significance with private capital.

Other January Meetings of Note

Other January meetings of note included:

ITS America Authorization Meeting – ITS America is wrapping up its authorization platform. At the meeting we learned that ITS America is hosting a luncheon with Chairman Oberstar on February 3rd, and a breakfast meeting with Congresswoman Tauscher on February 26th.

National Business Coalition for Rapid Transit – We participated in a conference call with business and community leaders in which participants expressed a desire to have a stronger role in the transportation bill. Several suggested having a meeting during the APTA legislative conference and meet with top Obama administration officials as well.

National Transportation Policy Project Bi-Partisan Policy Center Meeting – We participated in a day-long session, which focused on everything from the stimulus package, to climate change legislation, and ultimately what effect each will have on the next transportation bill. Also, different perspectives on the next transportation bill were discussed in detail.