

## TRANSPORTATION WEEKLY

### MOVEMENT (FINALLY) ON YEAR-END WRAP-UP

MONDAY, DECEMBER 7, 2009 – 11:05 A.M.

Congress will finally take the first steps to wrap up its must-pass 2009 business this week, starting with the seven unfinished general appropriations bills for fiscal 2009. Six of the seven bills will be packaged together in a conference report on the Military Construction-VA appropriations bill (H.R. 3082). The House could vote to send that bill to a formal House-Senate conference as early as this evening. Under the House leadership's preferred scenario, the conference report on MilCon-VA would be filed on Tuesday and would also contain the conference agreements on the Commerce-Justice-Science, Financial Services, Labor-HHS-Education, State-Foreign Operations, and Transportation-HUD measures. The "mini-bus" conference report would go to the House Rules Committee later on Tuesday and would be on the House floor on Wednesday.

The last appropriations bill – Defense – would be sent to House-Senate conference separately. While the mini-bus conference may contain certain non-controversial extensions of existing laws such as a three-month extension of Federal Aviation Administration programs, it seems that the leadership wants to make sure that none of the extraneous items in the domestic mini-bus would risk driving Senate support for the measure below the 60-vote level. Therefore, the high-risk, high-reward items – like an increase in the statutory ceiling on the public debt and the second fiscal stimulus a.k.a. "jobs bill" – will wait and ride on the Defense conference report.

One measure that will probably be included in the mini-bus is a third extension of the continuing appropriations resolution (CR) funding all federal agencies in the absence of an enacted FY 2009 appropriations law. The current CR is set to expire at midnight on Friday, December 18. While it seems likely that a domestic mini-bus could be signed into law by the 18<sup>th</sup>, no one in the Senate leadership has any idea whether or not a Defense conference report carrying a debt ceiling extension can get the 60 votes necessary to defeat a point of order that would strike the extraneous provision from the conference report (several Democratic Senators have vowed to oppose any debt ceiling increase unless it is accompanied by the creation of a blue-ribbon panel to make binding take-it-or-leave-it recommendations to Congress on deficit reduction, which has received an over-my-dead-body-level objection from Speaker Pelosi). And no one has any idea if whatever the combination of pay-fors and deficit increases to pay for a "jobs bill" will be able to muster the 60 votes to defeat a point of

order to strike that extraneous provision from a Defense conference report. And of course, no one has any remote idea whether a Defense conference report could get 60 votes carrying both a debt ceiling increase and a yet-to-be-announced jobs bill and associated pay-fors at the same time.

As a result, it is very likely that an extension of the CR will be needed to give the Defense bill time to make its way through the process. And with health care the big priority, the Senate will probably not have time to spend the several days necessary to deal with the Defense/debt/stimulus II bill before Christmas, which would necessitate an extension of the CR into next year. And the mini-bus conference report is the most logical place for such an extension, since if House leaders attempt to bring up a CR extension by itself, it would be subject to one opportunity for Republican amendment on the House floor, and a quirk in House rules means that almost anything can be offered in such amendment – Guantanamo Bay detainees, Afghanistan, repeal of unused stimulus money, repealing the District of Columbia city council gay marriage law, etc. Democratic leaders would prefer not to give Republicans an opportunity for a bad on-the-spot vote at this point of the year, so the mini-bus is the more likely vehicle for another CR extension.

(Speaker Pelosi plans to be in Copenhagen on the 18<sup>th</sup>. So if she rolls the dice and tries to stick the Senate with a must-pass Defense/debt/jobs conference report without first enacting a CR extension, and the effort fails, there would be a partial government shutdown of non-essential employees of the Pentagon while she and the President are in Copenhagen. The media coverage of that would potentially be so catastrophic for the Democratic Party that it is hard to see the Speaker risking it.)

So far, there are no signs that an extension of authorizations for Highway Trust Fund programs will be made a part of the mini-bus bill, which would mean that an extended CR would continue to provide contract authority for highway, transit, and highway safety programs. And due to budget rules, the CR gives highway formula funding to states at a rate of \$1.979 billion per month, while a separate extension bill would be able to give out money at a rate of \$2.776 billion per month. An extension of HTF authorizations may or may not be a part of the second stimulus bill.

A list of transportation-related committee meetings currently scheduled for this week follows. Bear in mind that a House-Senate conference meeting on the mini-bus appropriations bill, and a Rules Committee hearing on the bill, will probably be added to Tuesday. And once the conference report has been filed in the House, the full text of the conference report will be available on the House Rules Committee website shortly thereafter.

## **COMMITTEE MEETINGS FOR THE WEEK**

**Tuesday, December 8, 2009** – House Transportation and Infrastructure – Subcommittee on Highways and Transit – subcommittee hearing on the federal role in public transit safety – *10:00 a.m., 2167 Rayburn.*

**Wednesday, December 9, 2009** – House Transportation and Infrastructure – Subcommittee on Coast Guard and Maritime Transportation – subcommittee hearing on maritime domain awareness – *2:00 p.m., 2167 Rayburn.*

**Thursday, December 10, 2009** – Senate Banking, Housing and Urban Affairs – Subcommittee on Housing, Transportation and Community Development – subcommittee hearing on the federal role in public transit safety – *9:30 a.m., SD-538 Dirksen.*

House Transportation and Infrastructure – full committee hearing on Recovery Act progress – *10:00 a.m., 2167 Rayburn.*

Senate Commerce, Science and Transportation – Subcommittee on Aviation Operations, Safety and Security – subcommittee hearing on aviation safety focusing on FAA safety initiatives – *10:00 a.m., SR-253 Russell.*