

March 20, 2012

Update sent by Neil Gray, Director of Government Affairs, IBTTA

Last week the Senate cleared their 18-month, \$109 billion highway authorization package, S. 1813, on a vote of 74-22.

Among the tolling issues addressed:

- The Hutchison amendment prohibiting the toll conversion of highways funded with federal-aid funds **was withdrawn**.
- The Carper-Kirk-Warner amendment expanding the Interstate Reconstruction Pilot Program and extending the express lane and pricing programs **was withdrawn**.
- Bingaman language eliminating rapid depreciation and amortization for private highway toll concessions **was approved**.
- The Bingaman amendment which removes the mileage of private toll concessions from formulas used to determine a state's federal-aid allocation **was approved**.
- Language from Sen. Lautenberg calling for the Govt. Accountability Office (GAO) to conduct a review of toll rate-setting practices by Interstate toll bridge and tunnel operators **was approved**.

Technically S.1813 is now "held at the desk" of the Senate – meaning it can't be sent to the House of Representatives for direct action, it waits until such time as the House submits their own approved legislation. The Senate leadership has called on the House to simply "adopt our bill" but under the Constitution the Senate cannot originate measures calling for new revenues (which S.1813 does), this is the sole purview of the House of Representatives. For the House to consider the Senate bill it would have to be introduced as a new measure before receiving a vote. There is little likelihood that the Republican-led House would adopt and move a measure from the democratically-controlled Senate

Having just returned from a recess, the House leadership has indicated their intention **not** return to further consideration of a highway authorization until after the Easter recess (April 16). The House Transportation & Infrastructure Committee continues working towards passage of a 5-year measure and has been retooling their version of their highway bill, eliminating the proposal to remove transit funding from the Highway Trust Fund, and other politically problematic elements.

At such time as the House approves their own version of a highway bill, a House/Senate conference committee would be convened to negotiate a compromise package that is then returned to the House and Senate for final approval. With significantly different treatments of future transportation policy, program duration and funding approaches, it's generally expected that the conference, when eventually convened, will be a slow and complicated process.

With less than two weeks remaining before the current SAFTEA-LU extension expires (March 31) there will be an effort to move a "clean" extension, likely in the range of 45 to 60 days. This would allow further time to refine

the House multi-year bill (and count votes). John Mica, chairman of the House Transportation and Infrastructure Committee said today "A decision will be made on the length of an extension hopefully in the next 24 hours and it will be up next week, so that we can continue working to finalize the bill."

With much strategizing underway between the House and Senate, as well as within the Democratic and Republican factions, political positioning for the fall elections are coming into play and will impact the length of any extensions and how the 9th highway program stop-gap is handled. It is speculated that the House is likely to wait until the last minute on March 30th to approve an extension, then depart for the Easter recess, leaving the Senate the choice of either accepting whatever the House proffers or letting the program lapse. The House is concerned that the Senate, given the opportunity, would attach S.1813 to the extension and send it back to the House to reconcile.

Short-term theatrics aside there is considerable work underway in the transportation community to identify elements of the Senate bill that could be offset or countered in a House approved package. It is very likely that anti-tolling provisions like the Hutchinson amendment could surface in an eventual House debate over their final legislative vehicle.

I will send updates as events transpire – please feel free to contact me by phone or email if I can provide any assistance or information.