



Potomac Partners DC

Monthly Legislative Report – December 2017

December Advocacy Meetings

Chairman Mario Diaz-Balart (R-FL) – We met with Chairman Diaz-Balart and his staff to follow-up on our discussions late last month regarding the OC Streetcar and the need for an FFGA in early 2018. We also discussed the FY18 appropriations process and new topline spending levels to be expected in January with the planned omnibus appropriations bill.

Congressman Ed Royce (R-CA) – We met with Congressman Royce and his staff to give them an update on the OC Streetcar. We discussed the current timing for an FFGA for the OC streetcar and FY18 Appropriation funding for the New Start program at FTA. We facilitated an OC delegation support letter to Secretary Chao regarding the OC Street Car FFGA. Chairman Royce's office is also reaching out to senior DOT staff to request a status from the FTA.

Chairman Sam Graves (R-MO) – We met with Congressman Sam Graves and his staff to follow-up on our discussion regarding our priorities for the new infrastructure legislation and the White House's infrastructure guidelines scheduled for release in January. We discussed funding for the OC Street Car and the status of the FFGA at FTA. We also shared with his staff our OC delegation support letter to Secretary Chao. We also discussed the infrastructure package and the administration's statement regarding a potential gas tax increase in the next infrastructure bill.

Congresswoman Napolitano – We met with Congresswoman Napolitano and her staff to continue our discussion on the Aviation Fuel Tax issue. We also discussed funding for the CIG program in the FY 18 Appropriations bill and the status of the OC Street Car- the next New Start project in the pipeline.

Congressman Alan Lowenthal (D-CA) – We met with staff in Congressman Lowenthal's office to discuss the OC Streetcar and the delegation support letter that was circulated this month. We also continued our discussion regarding the upcoming infrastructure bill and the inclusion of provisions that would streamline transportation financing. We also discussed the next steps for the FAA Reauthorization in the House.

Congressman Lou Correa (D-CA) – We met with Congressman Correa's staff to discuss the OC street car and the CIG program. We discussed the OC Streetcar timeline and coordination with other members of the OC delegation in the House.

Congressman Darrell Issa (R-CA) – We met with Congressman Issa’s staff to follow-up on the need for support of the Capital Investments Grant (CIG) Program, and specifically support for a FFGA for the OC Streetcar.

Chairman Jeff Denham (R-CA) – We met with Congressman Denham’s senior staff to continue our discussion regarding the upcoming infrastructure bill and we followed up on previous discussions regarding the Capital Investment Grant program at FTA.

Senate Banking Committee – We met with senior staff on the Senate Banking Committee’s minority staff to continue our discussion regarding the FTA’s New Starts report, report language in the FY18 Appropriations bill for CIG projects, and the OC Streetcar. We also discussed the timing of an FFGA for OC Street Car based on proposed passage of a full funding FY18 appropriations bill.

House Transportation and Infrastructure Committee – We continue to meet with key staff at the House T&I Committee to discuss the timing and contents of the infrastructure bill, and the inclusion of key priorities. We also discussed streamlining provisions being discussed for President Trump’s infrastructure package and the inclusion of new financing options such as P3s. We also discussed plans for any hearing regarding PTC implantation next year.

Congressman Ken Calvert (R-CA) – We met with staff in Congressman Calvert’s office to discuss FY18 appropriations and budget and CIG funding in the year end appropriations legislation.

Senator Kamala Harris (D-CA) – We met with Senator Harris’ staff to discuss support for the CIG program and the expected timing for the OC Streetcar’s FFGA. We also discussed PAB’s in the tax reform legislation and budget negotiations in the Senate.

Senator Dianne Feinstein (D-CA) – We met with staff in Senator Feinstein’s office several times throughout the month to discuss FY18 appropriations and the projected timing of an FFGA for the OC Streetcar.

Tax Reform

This month the focus was on passing tax reform (HR 1 – The Tax Cuts and Jobs Act). The full bill can be found [HERE](#). The Conference Committee Report can be found [HERE](#). The House and Senate each passed their own version of tax reform on September 16th and December 2nd respectively. After Senate passage, House and Senate leadership from both parties appointed members to a conference committee to negotiate differences between the two versions. The Conference Committee members included:

HOUSE REPUBLICANS

Ways and Means Committee

- Conference Chair: Chairman Kevin Brady (R-TX)
- Rep. Devin Nunes (R-CA)
- Rep. Peter Roskam (R-IL)
- Rep. Diane Black (R-TN)
- Rep. Kristi Noem (R-SD)

Natural Resources Committee

- Chairman Rob Bishop (R-UT)
- Rep. Don Young (R-AK)

Energy and Commerce Committee

- Rep. Fred Upton (R-MI)
- Rep. John Shimkus (R-IL)

HOUSE DEMOCRATS**House Committee on Ways and Means**

- Congressman Richard Neal (D-MA), Ranking Member
- Congressman Sander Levin (D-MI)
- Congressman Lloyd Doggett (D-TX)

House Committee on Natural Resources

- Congressman Raúl Grijalva (D-AZ), Ranking Member

House Committee on Energy and Commerce

- Congresswoman Kathy Castor (D-FL)

SENATE REPUBLICANS

Senator Tim Scott (R-SC)

Senator Rob Portman (R-OH)

Senator Pat Toomey (R-PA)

Senator John Thune (R-SD)

Senator John Cornyn (R-TX)

Finance Committee Chairman Orrin Hatch (R-UT)

Budget Committee Chairman Mike Enzi (R-WY)

Natural Resources Committee Chairwoman Lisa Murkowski (R-AK)

SENATE DEMOCRATS

Senator Ron Wyden (D-OR)

Senator Bernard Sanders (I-VT)

Senator Maria Cantwell (D-WA)

Senator Debbie Stabenow (D-MI)

Senator Robert Menendez (D-NJ)

Senator Tom Carper (D-DE)

Senator Patty Murray (D-WA)

These negotiations were mostly conducted behind closed doors among Republican conferees. The conference committee held a single public hearing as required by parliamentary rules, which was primarily used for political posturing with Democrats.

One difference between the two bills was the treatment of Private Activity Bonds (PABs). The initial House version would have repealed their tax exclusion status outright. The Senate version made no change. According to staff we spoke to, House negotiators were looking to reduce the statutory uses for PABs. During negotiations, we met with senior staff with most every member of the conference committee to ensure the preservation of all PAB uses. Ultimately the final bill did not change the tax exclusion or uses/caps for PABs. With regard to commuter tax benefits both the House and Senate bill repealed the employer deduction for transportation benefit. The employee commuter tax benefits, however, was maintained.

The final version of the bill was sent to the President for signing after passing the House with a vote of 227-203. Two members of the OC delegation originally did not support the bill, Congressman Darrell Issa (R-CA) and Congressman Dana Rohrabacher, however, after a re-vote on the bill a day later both were “yes” votes.

A preliminary chart showing both the House and Senate versions compared to the final bill is included below:

	<u>House Bill</u>	<u>Senate Bill</u>	<u>Final Bill</u>
Highway Trust Fund	No solution for long-term deficit	No solution for long-term deficit	No Solution
Private Activity Bonds	Taxes interest earned on private activity bonds	No change	No change
Advance Refunding Bonds	Taxes interest earned on advance refunding bonds	Taxes interest earned on advance refunding bonds	Taxes interest earned on advance refunding bonds
Deduction for Commuter Benefits	Repeals employer deduction for transportation benefits	Repeals employer deduction for transportation benefits; repeals bicycle incentive for individuals	Repeals employer deduction for transportation benefits; repeals bicycle incentive for individuals
Electric Car Credit	Repeals tax credit for electric vehicles	No change	Maintains Electric Car Credit
In-Service Pension Distributions	Permits in-service pension distributions at age 59½	No Change	No Change
Healthcare Individual Mandate	No change	Repeals individual mandate	Repealed

After the tax bill was sent to the White House, Senator Orrin Hatch—Chairman of the Senate Finance Committee—introduced the Committee’s “Tax Extender” legislation that would extend the alternative fuel tax credit (language for the alternative fuel tax is included below). There has been talk of attaching these tax extenders to the end of the year “must-pass” bills like the Continuing Resolution. However, that plan was scuttled after the House quickly prepared a clean CR until Jan 19th that the House and Senate passed before adjourning for the Holidays. It is possible that this legislation will move early in 2018 and could be attached to either the tax reform tech correction bill or the pending omnibus that Congress hopes to pass before the current CR expires on January 19th.

SEC. 307. EXTENSION OF BIODIESEL AND RENEWABLE DIESEL INCENTIVES.

(a) INCOME TAX CREDIT —

- (1) IN GENERAL — Subsection (g) of section 1340A is amended by striking “December 31, 2016” and inserting “December 31, 2018”.
- (2) EFFECTIVE DATE —The amendment made by this subsection shall apply to fuel sold or used after December 31, 2016.

(b) EXCISE TAX INCENTIVES —

- (1) IN GENERAL —Section 6426(c)(6) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.
- (2) PAYMENTS —Section 6427(e)(6)(B) is amended by striking “December 31, 2016” and inserting “December 31, 2018”.
- (3) EFFECTIVE DATE —The amendments made by this subsection shall apply to fuel sold or used after December 31, 2016.
- (4) SPECIAL RULE FOR 2017.—Notwithstanding any other provision of law, in the case of any biodiesel mixture credit properly determined under section 6426(c) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2017, and ending on December 31, 2017, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary’s delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

On December 21st Congress passed a stopgap spending legislation to keep all federal agencies funded through January 19th at FY17 levels. Lawmakers needed to pass this funding legislation by Friday to avert a government shutdown. This bill also includes some extra funding for disaster aid, and missile defense programs along with repairs to the Navy destroyers that were damaged in collisions this year. The extra emergency defense spending — which totals just over \$4.6 billion — was needed to attract the support of defense hawks for the continuing spending resolution after House Republican leaders abandoned plans to include a full-year Pentagon funding bill in a previous CR draft.

The measure also would delay mandatory across-the-board cuts to defense and domestic spending slated to take place in January, which benefits key transportation programs like the CIG program.

A summary of the bill provisions can be found on the rules committee website [here](#).

With a CR now in place, congressional appropriators hope to complete their work on an “Omnibus” spending bill in January.

Positive Train Control (PTC) Discussion in Congress

After the recent Amtrak train derailment in Washington State, Congress has begun discussing PTC implementation again. The initial deadline for freight and passenger railroads to have positive train control installed on their locomotives and tracks is just a year away, and many commuter railroads are far behind. Some Congressional Members are concerned some may not comply in time due to a number of reasons that include funding scarcities, the inherent complexity of the technology (and the small number of firms that can help agencies install it) and some railroads' failure to prioritize its installation. We are hearing that Congress will likely conduct oversight of the PTC implementation process early next year, and the Senate Commerce Committee is already planning a hearing for sometime next month.

The FRA's most recent report on PTC implementation for 2017 can be found here: <https://www.fra.dot.gov/app/ptc/>

The Senate has yet to confirm a new FRA administrator, which many on Capital Hill expect to happen sometime in January in order to help address the ongoing PTC implementation issues.