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Monthly Legislative Report – December 2019

FY2020 Budget and Appropriations Update

On Monday, December 16th, House and Senate Appropriators announced a deal on all twelve fiscal year 2020 (FY20) spending bills with an agreement on \$1.37 trillion in government funding which headed off the possibility of a federal government shutdown before the current Continuing Resolution expires on December 20. All twelve spending bills have been bundled into two bills, often called 'minibus' spending packages. The first package ([H.R. 1158](#)), being called the "National Security Minibus". The second bill ([H.R. 1865](#)) is being called the "Domestic Priorities and International Assistance Appropriations Minibus". Notably, Division I of the Domestic spending package includes a number of tax extenders and repeals, including a year extension of excise tax credits relating to alternative fuels ([LINK](#) – Section 133, Page 17).

A breakdown of the two packages is outlined in the following table.

FY 2020 Appropriations Minibuses (In Billions of Dollars)			
<u>H.R. 1158 – National Security Minibus</u>	Division (linked)	Overall FY20	Compared to FY19
Defense	A	693.30	+ 18.90
Commerce-Justice-Science	B	73.18	+ 9.00
Financial Services	C	23.83	+ 0.67
Homeland Security	D	50.50	+ 1.10
<u>H.R. 1865 – Domestic Priorities and International Aid Minibus</u>			
Labor-Health and Human Services-Education	A	184.90	+ 4.90
Agriculture	B	23.49	+ 0.18
Energy and Water Development	C	48.30	+ 3.70
Interior-Environment	D	35.98	+ 0.43
Legislative Branch	E	5.04	+ 0.21
Military Construction-Veterans Affairs	F	110.40	+ 10.70
State-Foreign Ops	G	54.70	+ 0.46
Transportation-Housing and Urban Development	H	135.60	- 1.20
Extensions	I	--	--
National Flood Insurance Program Extension (NFIP)	I Title II	NFIP Extended until 9/30/2020	

The explanatory statement for the Transportation-Housing and Urban Development (THUD) appropriations bill, as passed in the House, is found [HERE](#). As noted in the table provided above, the THUD bill is the only bill that received a reduction in funds compared to FY19. Programs at the Department of Transportation that will see a reduction in funding are highlighted in the summary below:

Division H – Transportation-Housing & Urban Development

Department of Transportation (DOT) – The bill provides \$86.2 billion in total budgetary resources for DOT, \$324.9 million below the 2019 enacted level and \$3.3 billion above the President's budget request. Of this amount, the bill includes:

- \$1 billion for **National Infrastructure Investments (TIGER/BUILD)**, \$100 million above the 2019 enacted level and equal to the President's budget request. The bill ensures parity between urban and rural awards.
- \$5 million to start a new **Highly Automated Systems Safety Center of Excellence**. This program was not in the 2019 enacted bill or the President's budget request.
- \$1 million to conduct a study on **Transportation Resilience Metrics**. This program was not in the 2019 enacted bill or the President's budget request.
- \$17.6 billion for the **Federal Aviation Administration (FAA)**, \$166 million above the 2019 enacted level and \$513 above the President's budget request.
 - \$1.4 billion for **Aviation Safety**, \$67 million above the 2019 enacted level and \$76 million above the President's budget request.
 - **\$400 million for discretionary Airport Improvement Grants**, \$100 million below the 2019 enacted level and \$400 million above the President's budget request.
- \$49.3 billion for the **Federal Highway Administration**, \$12.6 million above the 2019 enacted level and \$2.1 billion above the President's budget request.
 - **\$2.2 billion for discretionary Highway Infrastructure Programs**, \$1.1 billion below the 2019 enacted level and \$1.9 billion above the President's budget request.
 - \$1.15 billion for a risk-based bridge rehabilitation and reconstruction program.
- \$679 million for the **Federal Motor Carrier Safety Administration**, \$12 million above the 2019 enacted level and \$3 million above the President's budget request.

request.

- \$989 million for the **National Highway Traffic Safety Administration**, \$23 million above the 2019 enacted level and \$60 million above the President's budget request.
- **\$2.8 billion for the Federal Railroad Administration**, \$80 million below the 2019 enacted level and \$701 million above the President's budget request.
 - \$325 million for **Consolidated Rail Infrastructure and Safety Improvements**, \$70 million above the 2019 enacted level and \$5 million below the President's budget request.
 - **\$200 million for Federal-State Partnership for State of Good Repair**, \$200 million below the 2019 enacted level. The President's budget request proposed eliminating this program.
 - \$2 billion for **Amtrak**, \$58.4 million above the 2019 enacted level and \$1.1 billion above the President's budget request.
 - \$700 million for **Northeast Corridor Grants**, \$50 million above the 2019 enacted level and \$374.5 million above the President's budget request.
 - \$1.3 billion for **National Network Grants**, \$8.4 million above the 2019 enacted level and \$689 million above the President's budget request.
- **\$12.9 billion for the Federal Transit Administration**, \$503 million below the 2019 enacted level and \$494 million above the President's budget request.
 - **\$2 billion for Capital Investment Grants**, \$575 million below the 2019 enacted level and \$473 million above the President's budget request.
 - **\$510 million for Transit Infrastructure Grants**, \$190 million below the 2019 enacted level and \$10 million above the President's budget request. This amount includes \$75 million for low- and no-emission buses, and \$8.5 million for areas of persistent poverty.
- \$38 million for the **Saint Lawrence Seaway Development Corporation**, \$2 million above the 2019 enacted level and \$10 million above the President's budget request.
- \$1 billion for the **Maritime Administration**, \$67.5 million below the 2019 enacted level and \$390.4 million above the President's budget request.

- \$300 million for the **Maritime Security Program**, equal to the 2019 enacted level and the President's budget request.
- \$225 million for the **Port Infrastructure Development Program**, \$67.7 million below the 2019 enacted level. The President's budget request did not include funding for this program.
- \$300 million for **schoolship construction**, equal to the 2019 enacted level and \$95 million above the President's budget request.

Policy Provisions –

- Requires DOT to make awards for competitive funding appropriated in FY 2019 no later than May 1, 2020.
- Prohibits a 12 percent (more than \$1 billion) cut to transit formula funding in FY 2020.
- **Makes transit programs and alternative fuel infrastructure eligible for Surface Transportation Block Grant funding within Highway Infrastructure Programs.**
- Prohibits DOT from requiring Capital Investment Grant applicants from having a Federal share below 40 percent and eliminates the 51 percent cap on the Federal share of such grants, restoring the authorized 80 percent cap.
- Extends the authorization by which DOT may provide direct loans or loan guarantees to transit-oriented development projects under the Railroad Rehabilitation and Improvement Financing program until September 30, 2020. This authority expired on December 4, 2019.
- Strengthens protections for sexual assault and sexual harassment survivors at the US Merchant Marine Academy by requiring the Academy to seek concurrent jurisdiction with the State of New York.
- Requires DOT to initiate and complete a rulemaking on the use of automatic and remote-controlled shut-off valves on transmission pipeline facilities and hazardous liquid pipeline facilities leak detection systems as required by the Pipeline Safety Act of 2011.
- Prohibits Federal employees from using their public office for personal gain.

The House passed both packages on December 17th. The House vote on the National Security package (H.R. 1158) was bipartisan, with 62 Democrats and 75 Republicans voting no. the final vote on the National Security package was 280-138 in favor. The Domestic spending package (H.R. 1856) was more popular with Democrats, passing 297-120 with 7 Democrats and 112 Republicans voting no.

The Domestic Spending bill (H.R. 1856) passed the Senate with a vote of 71-23 bills on December 19th. The National Security spending package (H.R. 1158) was scheduled for a vote and expected to pass as of the time of this report. The White House has indicated support for the packages and the President is expected to sign them when they reach his desk before December 20th.

December Advocacy Meetings

Congressman Harley Rouda (D-CA) – We followed-up with Congressman Rouda and his staff this month on our discussions regarding streamlining the TIFIA process, and progress on the Surface Transportation Reauthorization. We followed-up on our discussions regarding possible climate provisions in the Highway Bill that may include new transit funding. We also discussed the impact of the cybersecurity plan provision in the NDAA and asked for assistance in clarifying the process transit agencies would follow to adhere to the statute if passed.

Congressman Lou Correa (D-CA) – We followed-up with Congressman Correa and his staff on our discussions regarding TIFIA, the I-405 project, and the Surface Transportation Reauthorization. We also discussed the NDAA and help with clarifications at DOT and possibly DHS on compliance procedures in implementing cybersecurity plans. We also followed-up on the need to extend the tax credits for alternative fuels, which were ultimately included in the domestic spending minibuss.

Congressman Mike Levin (D-CA) – We met with staff in Congressman Levin's office to discuss the cybersecurity plan provisions in the NDAA and the need for clarifications. We also followed-up on our discussions for alternative delivery methods for federally funded transportation projects and ways to streamline the TIFIA program. We also gave an update on the I-405 project.

Congresswoman Grace Napolitano (D-CA) – We followed-up with Congresswoman Napolitano and her staff again this month regarding the Surface Transportation Reauthorization drafting process and next steps for H.R. 2939 to address the aviation fuel tax issues.

Congressman Gil Cisneros (D-CA) – We have been maintaining close contact with senior staff in Congressman Cisneros' office to regarding tax extenders. Early in the month we discussed the inclusion of the alternative fuels tax credit and progress on the appropriations bills. We also followed-up on the TIFIA program and support for legislation to address the aviation fuel tax issue.

Congressman Pete Aguilar (D-CA) – We met with the Congressman and his staff multiple times this month to discuss the appropriations process and the timeline for a final bill. We will be following-up with the Congressman and his staff in January to discuss provisions regarding the cybersecurity plan implementation, rolling stock procurement requirements, and support for additional funding for transit programs in FY21.

Congressman Alan Lowenthal (D-CA) – We followed-up with Congressman Lowenthal and his staff to follow-up on our discussions regarding the Surface Transportation Reauthorization and opportunities to address TIFIA reforms and some additional provision that could expedite project delivery. We also discussed the alternative fuel tax credit provision issue leading up to the deal on appropriations.

House Transportation and Infrastructure Committee – We have been following-up with senior Majority and Minority staff on the House Transportation and Infrastructure Committee this month regarding TIFIA reform legislation in the Surface Transportation Reauthorization and other possible changes to the discretionary grant programs that are being contemplated. We also discussed the timeline for formal work to begin in the new year, and the impacts of climate change provisions on transit agencies, including the need to oppose unfunded mandates. Finally, we followed up on possible toll road provisions that may be contemplated as it relates to interoperability.

Department of Transportation – We met with senior staff at the Department of Transportation and Federal Transit Administration multiple times this month to inquiry about a potential cybersecurity plan implementation and certification process. PPDC will continue to follow-up on this issue in January when DOT senior staff have had a chance to review the NDAA provisions that were signed into law.

Surface Transportation Reauthorization

On December 5th, the House Transportation and Infrastructure Committee held a joint hearing entitled “*Where’s My Stuff?: Examining the Economic Environmental and Societal Impacts of Freight Transportation*”. During his opening statements, Chairman DeFazio (D-OR) discussed ways to reduce environmental impacts on the freight transportation system, and the climate impacts of the freight movement industry. He also discussed a desire to make the formula and competitive grant funding process more transparent and said that the Nationally Significant Freight and Highways Program (INFRA) is proven to be oversubscribed. Subcommittee Chairman Dan Lipinski (D-IL) also discussed the climate and environmental impact of the freight industry. Subcommittee Ranking Members asked witnesses for input on the implementation of the FAST Act and discussed support for critical investments in railroad freight infrastructure.

Witness List:

- **Ms. Erin Aleman**, Executive Director, Chicago Metropolitan Agency for Planning, *On behalf of the Coalition for America’s Gateways and Trade Corridors*, [Testimony](#)
- **Mr. Chuck Baker**, President, American Short Line and Regional Railroad Association, [Testimony](#)
- **Ms. Anne Goodchild, Ph.D.**, Founding Director, Supply Chain Transportation and Logistics Center, University of Washington, [Testimony](#)
- **Mr. Ian Jefferies**, President & CEO, Association of American Railroads, [Testimony](#)
- **Mr. Jason Mathers**, Director, Vehicles & Freight Strategy, Environmental Defense Fund, [Testimony](#)
- **Mr. Jim Tymon**, Executive Director, American Association of State Highway and Transportation Officials, [Testimony](#)

National Defense Authorization Act (NDAA)

The Senate passed a conferenced version of the National Defense Authorization Act (NDAA) on December 17th, sending the bill back to the House. This year's annual NDAA ([S. 1790](#)) conference report contains a provision that would prohibit federal public transit funding to be used to procure bus and rail rolling stock from entities that are owned, controlled by, or is a subsidiary to a corporation based in China. There would be a two-year delay before this provision is implemented from the date of enactment.

The NDAA also contains a provision that would immediately require transit agencies that operate streetcars to develop, implement, and certify a written plan for identifying and reducing cybersecurity risks. Transit agencies who do not comply with this language will lose eligibility to apply for and receive federal transit funding. PPDC has been meeting with Members of the Congressional Delegation, Department of Transportation, and House Transportation and Infrastructure staff to determine the exact procedure for complying with this provision. Particularly, who would administer the certificating process and whether it would be a Department of Transportation general program, or a new office at the Federal Transit Administration (FTA).

Presidential Impeachment

On December 18th, the House voted on two Articles of Impeachment to begin an impeachment trial in the Senate. Article I - Abuse of Power, passed on the House floor with a vote of 230-197. All House Democrats votes yes to impeach on Article I with the exception of Reps. Van Drew (D-NJ) and Peterson (D-MN) who voted no. Rep. Tulsi Gabbard (D-HI) voted 'present'. All House Republicans voted no on Article I, with the exception of Reps. Hunter (R-CA) and Shimkus (R-IL) who did not vote. Article II – Obstruction of Congress, passed shortly after with a final vote in the House of 229-198. The only Democrats to vote no on Article II were Reps. Peterson (D-MN), Van Drew (D-NJ), and Golden (D-ME). Note Republicans voted in favor of Article II.

The Impeachment process will now go to the Senate for a trial, if and when Speaker Pelosi transmits the Articles of Impeachment to the Senate. In his morning remarks the day after the House voted on impeachment, Senate Majority Leader Mitch McConnell (R-KY) decried the actions of House Democrats saying that the charges against the President do not meet the threshold for impeachment.

Other Administrative and Legislative Updates

- On December 10th, House Speaker Nancy Pelosi announced an agreement on the United States-Mexico-Canada Agreement. During the announcement, Speaker Pelosi said that she believes the USMCA is much better than NAFTA. The pact contains provisions designed to repatriate manufacturing jobs by, among other things, requiring 40-45% of autos to eventually be made in countries that pay autoworkers at least \$16 dollars an hour (i.e. the United States). The pact also gained more support

from Democrats after a pharmaceutical provision protecting manufacturers of new drugs, including biologics, was removed. Senator Toomey (R-PA) however was one of the few Republicans to criticize the agreement, saying that the USMCA is a modernized NAFTA that restricts free trade and the free movement of capital between US trading partners. The House passed the agreement later in the week, however Senate Majority Leader Mitch McConnell (R-KY) said shortly after that the Senate will not consider the USMCA on the floor until after a Senate impeachment trial.

- Congressman Lloyd Doggett (D-TX) introduced a bill last month ([H.R. 5164](#)) titled the EV CHARGE Act of 2019. This bill would modify the alternative fuel refueling property credit by renewing until December 31st, 2024 the 30% tax credit for the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer. The credit would also raise the limitation from \$30,000 to \$100,000 in the case of a property of a character subject to an allowance for depreciation, and from \$1,000 to \$3,333 in any other case.