

# PacificShipper

## Road work ahead

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If anyone is likely to break out the party hats this New Year's Eve, it's those who spent 2008 hammering home the need to put infrastructure high on the national agenda.

After years of feeling neglected — just like the crumbling bridges and roads they kept warning us about — they're suddenly the center of attention.

Barack Obama, who championed infrastructure on the campaign trail, is making roads, bridges and other public works projects the main component of an economic stimulus package he wants in place as soon as he steps into the White House.

Democrats in the 111th Congress share the president-elect's enthusiasm for infrastructure. They promise it will be at the top of the agenda when they convene this month.

"I would say transportation is on the national agenda prominently," said John Horsley, executive director of the American Association of State Highway and Transportation Officials, which offered up a holiday list of \$64 billion in highway projects.

Infrastructure's sudden leap to prominence is a sign that 2009 may be a watershed year in Washington, as a new federal government looks to leave a bold and permanent mark on the economy and transportation policy as well as America's asphalt landscape.

Beyond the economic stimulus package and what Obama promises will be the biggest public works spending project since the construction of the Interstate Highway System in the 1950s, Congress will begin work in earnest on the next highway bill.

On Sept. 30, the clock runs out on the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005. Congress is expected to replace the SAFETEA-LU with a much bigger bill with a much shorter name.

The transportation industry in general and many in Congress criticized the \$286 billion SAFETEA-LU as being inadequate for the nation's needs. The next bill is expected to be nearly double its size — ballooning to somewhere in the ballpark of \$500 billion.

One thing that's not expected is that Congress will make its deadline — it hasn't passed a surface transportation bill on time since the 1970s. When it's done, however, and a new bill becomes law, it could transform the ways we fund transportation infrastructure.

On the table are new sorts of users fees and taxes, such as charging motorists by the number of miles they travel; container and freight fees; and new federal rules regarding how private investment in the nation's road network should be leveraged.

The next transportation secretary will have a major hand in determining the direction the administration and Congress will take when it comes to congestion pricing, tolling and public-private partnerships, all ideas espoused by the Bush administration. Many congressional Democrats oppose some or all of those methods, but many of them are popular among Obama's transportation advisors who, coming from urban backgrounds, are concerned with the costs and consequences of traffic congestion.

And then there's the Employee Free Choice Act — also known as the “card check” legislation — which would make it easier for unions to organize companies. It's a major objective for organized labor and a major concern for business interests.

“I don't think you can make a rational argument for dropping an Employee Free Choice program on top of stimulus bill,” said Thomas J. Donohue, president and chief executive of the U.S. Chamber of Commerce. That doesn't mean an argument won't be made.

Environmental issues are expected to be a top priority in the next Congress, and in the House, Rep. Henry Waxman, D-Calif., the new chair of the House Committee on Energy and Commerce, is expected to be a lot more aggressive than his predecessor, Rep. John D. Dingell, D-Mich.

“On global warming, one of the critical areas we will confront early in the next sessions, inaction is not a possibility,” House Majority Leader Steny Hoyer, D-Md., said in November. “The longer we wait to act on emissions, the more painful and expensive the consequences will be.”

The Obama administration will look to make its mark in the regulatory field as well, possibly overturning some of the last-minute rules the Bush administration has been rushing into print since Nov. 4, while issuing new regulations of its own.

Rules and programs that may be targeted include the latest final hours of service rule for truck drivers recently issued by the Federal Motor Carrier Safety Administration, and the Department of Transportation's crossborder Mexican trucking pilot project.

Altogether, shippers, carriers and transportation interests of all sorts should expect a more tempestuous, tumultuous year in Washington than they've seen in a long time.

The next transportation secretary will play a critical role on Capitol Hill and in the cabinet, perhaps raising the profile of that cabinet seat to its highest level since the terrorist attacks of September 11, when Transportation Secretary Norman Mineta was deeply involved in the immediate response.

The next stimulus package is certain to absorb much attention once the banners and tickertape left from the Obama inauguration are swept from the National Mall.

That infrastructure funding cannot come soon enough for states that have slashed their transportation budgets as they weather one of the worst economic downturns in memory.

The National Governors Association has identified \$136 billion worth of “ready-to-go” infrastructure projects across the nation, money that state departments of transportation say is desperately needed as they pare their budgets during lean times.

New Jersey Gov. Jon Corzine told the House Appropriations Committee earlier this month that a package totaling \$1 trillion — including as much \$175 billion for transportation projects — “would not be unreasonable.”

“I think we can all agree this is the worst recession since the Great Depression,” Corzine said. “New Jersey, like other states and local governments, has a long list of shovel-ready infrastructure projects.”

In early November, the House Transportation and Infrastructure Committee recommended \$45 billion in infrastructure projects to House Speaker Nancy Pelosi, D-Calif., a figure that will likely grow as the economic stimulus grows larger.

That short version of the stimulus included funding for projects ranging from road and bridgework to short line railroads, short-sea shipping and inland waterways.

As the stimulus dollars begin to flow however, Congress and others will be looking at new mechanisms for funding federal transportation projects in the future.

Among the questions they will ask are whether the federal fuel tax will retain its central role in raising funds for highway maintenance and construction. Industry insiders think fuel taxes will remain the primary funding mechanism — just not the only one.

That’s largely because Americans are driving less — 100 billion miles less from November 2007 to October 2008 — thanks to the record-high fuel prices of early 2008 followed by the economic downturn.

That decrease starved the Highway Trust Fund of fuel tax revenue and led the DOT to ask Congress for more than \$8 billion from the general fund in September.

“America’s travel habits are fundamentally changing,” Secretary Mary E. Peters said earlier this month. “The way we finance America’s transportation network must also change to address this new reality, because banking on the gas tax is no longer a sustainable option.”

Others think the time may be ripe for an increase in the gas tax, which has remained at the same level since 1993. “Now that fuel prices have dropped again, we think fuel taxes

as a revenue option is on the table,” AASHTO’s Horsley said. “We’ll see how Congress wants to move.”

A 10 cent increase in the 18 cent gasoline tax and a 13 cent increase in the 24 cent diesel tax serves as a good “illustrative example,” Horsley said.

But the fuel tax, which currently funds 90 percent of the highway program, may be joined by other sources of income in the next transportation bill.

AASHTO, at the request of Sen. Barbara Boxer, D-Calif., the chair of the Senate Environment and Public Works Committee, is currently working on a proposal to charge motorists based on their annual mileage usage, Horsley said. That concept could bring in approximately \$100 billion a year in addition to gas-tax revenue, he said.

Freight transportation, which many shippers and carriers say was ignored in the previous highway bill, is expected to get renewed attention in the legislation being crafted in 2009.

“I would expect a true emphasis on intermodalism in the next highway bill,” said Arthur Chan, the former Democratic director of highway policy for the House Transportation and Infrastructure Committee, “not some lip service.”

Many have called for, and expect to see, a dedicated freight program, that will channel funding for freight projects, paid for with new freight fees such as customs or container fees. AASHTO, for instance, is calling for a \$60 billion, six-year freight program.

Lawmakers are also expected to decide on which, if any, of the recommendations of the National Surface Transportation Policy and Revenue Study Commission they will adopt.

In addition to an annual investment of \$225 billion to \$338 billion until 2055 to improve all modes of transportation and a major increase in the fuels tax, the congressionally appointed bipartisan commission recommended last January that the DOT’s 108 programs be reduced to 10 broad new ones.

In addition to the highway bill, the Federal Aviation Administration is up for reauthorization in 2009. The agency has been operating under an extension that expires at the end of March.

The FAA legislation includes billions of dollars for the agency’s operations as well the Airport Improvement Program. It could speed the FAA’s upgrade to satellite-based air traffic control systems. It may contain environmental provisions as well.

“We are watching that very closely on our radar screen,” said Brandon Fried, executive director of the **Airforwards Association**.

The legislation is also expected to settle a battle between [FedEx](#) and unions and other supporters of legislation that will make it easier for employees of the parcel delivery company to unionize, a move that would be a boon to unionized rival UPS.

But the big issue for air shippers in 2009 will be air cargo screening. Homeland security legislation mandating that 50 percent of passenger cargo be screened begins in February.

“The big mountain is going to be how are we going to effectively do this using an approach that maintains the flow of commerce and keeps industry in control,” Fried said.

Fried believes the answer is the Transportation Security Administrations Certified Cargo Screening Program, a program that lets select forwarders screen shipments before they are sent to carriers.

But some, concerned about the cost of the equipment needed to do the screening — estimates have gone beyond \$100,000 — are arguing for the TSA have a broader role in the screening of freight.