



October 16, 2015

This morning, the bi-partisan leadership of the House Transportation & Infrastructure Committee released details of the long awaited House version of a multi-year surface transportation reauthorization bill, the Surface Transportation Reauthorization and Reform Act of 2015 (STRRA). The Committee will mark up the bill next week at 10:00am on October 22. Here is a [link](#) to a summary of the bill and a [link](#) to the text of the 543-page bill. Details about the bill will be sent out shortly.

The bill is a six-year authorization – FY'16 through FY'21, however, the House Ways & Means Committee has yet to identify where the additional revenue will come from to fund the full six years. The House appears to be leaning towards using the same sources of funding previously used by the Senate this summer when it drafted and passed its DRIVE Act bill. Efforts to get the House to support a gas tax increase never gained traction and negotiations to use repatriated overseas corporate profits fell apart. House leaders had previously severely criticized the Senate “payfors”, but in the end they may not be able to come up with any better options.

The Senate “payfors” total about \$45.6B which is only enough to fund three years of the DRIVE Act at levels slightly above current funding, not the full six years that stakeholders had been pushing for. In addition, a number of the “payfors” are under intense scrutiny for not being fiscally responsible, such as the sale of oil from the Strategic Petroleum Reserve and diverting Customs fees.

The House STRRA bill will likely get through the T&I Committee mark-up next week fairly easily. Getting the bill to the House floor may be more difficult. With the House Republican leadership currently in disarray, it may be hard to get enough Republican votes to pass the bill without help from Democrats. Republican fiscal conservatives strongly oppose many of the potential “payfors”.

Chairman Shuster’s immediate goal is to get a reauthorization bill out of committee so that he can show that progress is being made on a long-term bill before he is forced to introduce another short-term extension bill. It is essentially impossible at this point for Congress to complete a multi-year bill before October 29, when the current extension expires. It is likely the next extension will be through mid-December in order to keep the pressure on Congress to act and because no additional funding would be needed for that length of time.

In addition to the surface transportation bill, a number of other critical issues will be coming to a head in the next two months:



November 3 –the US government will default on its financial obligations if the federal debt ceiling is not raised.

December 11 –the current Continuing Resolution (CR) funding all federal agencies expires which will result in a government-wide shutdown unless a budget deal is reached that would raise the budget caps in order to avoid across-the-board spending cuts under sequestration.

December 31 –Congress must pass a tax extenders bill in order to avoid key tax provisions from expiring.

December 31 –railroad and commuter rail systems must complete implementation of mandated Positive Train Control (PTC) systems or face severe penalties unless Congress passes legislation to extend the deadline.

Other

On October 9, 2015, the US Court of Appeals for the Sixth Circuit issued a stay of the Obama Administration's new rule defining the scope of federal jurisdiction over "Waters of the US" under the Clean Water Act. The stay postpones nationwide implementation of the Clean Water Rule, which a coalition of states argue dramatically expands the regulatory jurisdiction of the Clean Water Act and upsets the balance of federal-state collaboration in restoring and maintaining the integrity of the nation's waters. In addition, opponents believe it would be used as a litigation tool by project opponents, resulting in delays to key transportation improvements.

Last week, US DOT Secretary Anthony Foxx formally unveiled the Build America Transportation Investment Center (BATIC). BATIC will serve as US DOT's single point of contact and coordination for states, municipalities and project sponsors looking to utilize federal transportation expertise, apply for federal transportation credit programs and explore ways to access private capital in public private partnerships. Here is a [link](#) to the DOT BATIC website. BATIC is the product of President Obama's Build America Investment Initiative, a government-wide effort aimed to harness the potential of private capital to complement government funding. BATIC will assist project sponsors to navigate the procedural, permitting, and financial barriers to increased infrastructure investment and development.

BATIC will work with AASHTO through a cooperative agreement to establish the BATIC Institute: An AASHTO Center for Excellence. The BATIC Institute will aim to improve State DOTs and other public sector organizations' ability to effectively employ project finance tools through a program of training, sharing best practices, and technical assistance. Here is a [link](#) to the AASHTO BATIC Institute.

The White House has recently made a series of announcements in support of the President's goal of cutting timelines for the Federal review of infrastructure projects.

- The [Permitting Dashboard](#) has been refreshed and updated guidance released to assist agencies to develop and publicly post permitting schedules for all



- projects requiring an Environmental Impact Statement. The Guidance document can be found [here](#).
- The “Red Book” a 1988 guidance document developed by FHWA and Army Corps, EPA and US Fish & Wildlife has been refreshed to better reflect the current state of play in infrastructure development and provide agencies with a roadmap to complete their reviews and permitting decisions concurrently rather than sequentially. The updated guidance can be found [here](#).
 - More recently, the White House released a memorandum directing Federal agencies to factor the value of ecosystem services into Federal planning and decision-making. The press release can be found [here](#) and the memo [here](#). No word yet on the release of the Presidential memorandum on regional and ecosystem-scale mitigation strategies.

The U.S. Army Corps of Engineers posted a notice in the October 7 Federal Register that listed water resource projects identified for deauthorization in compliance with Section 6001 of the Water Resources Reform and Development Act (WRRDA) of 2014 – Deauthorization of Inactive Projects. These projects were initially authorized by Congress but are no longer viable for construction based on new criteria. The Corps issued implementation guidance for Section 6001 of WRRDA to establish procedures and reporting requirements for deauthorizing projects, programs and uncompleted work. The review period for the list of deauthorized projects is 90 days. Comments will be accepted until January 4, 2016. Here is a [link](#) to the notice and a [link](#) to the Corps’ implementation guidance.