



January 17, 2017

On Friday, Donald J. Trump will be inaugurated as the 45th President of the United States. Trump has made numerous appointments of senior White House advisors and has nominated candidates for most Cabinet posts. In an effort to expedite the congressional confirmation process, the Senate has been holding confirmation hearings on many of the nominees with the expectation of voting to approve them as soon as Trump is sworn-in. On January 3, the 115th Congress was sworn-in with Republicans in control of both the House and Senate.

115th Congress Agenda

The Republican led Congress, energized by the election of a Republican president, is off to a fast start. Republican leadership's first priority is repealing and potentially replacing the Affordable Care Act. Next up will be completing the FY'17 budget and appropriations bills (the current short-term FY'17 funding expires on April 28), starting the FY'18 budget process, crafting a major tax reform bill, and passing legislation to overturn and reform numerous Obama Administration regulations.

The prior Congress completed action on many key infrastructure bills including the FAST Act, which authorized highway, transit, and rail programs for five years, and the WIIN water authorization bill. That leaves reauthorization of FAA's airport and aviation programs for the new Congress to tackle. A short-term extension of the FAA expires on September 30, 2017. The primary issue holding up passage is a very controversial House-led proposal to privatize the Air Traffic Control (ATC) system.

Congressional leaders plan to use the budget resolution/reconciliation process to package and move many of their new initiatives because that mechanism does not require a "super majority" of 60 votes in the Senate to pass. That allows Senate Republicans, with their 52-seat majority, to avoid having to depend on Democratic votes.

Trump Infrastructure Plan

Few, if any, additional details have been released about candidate Trump's bold plan for \$1T over ten years in infrastructure investment. It now appears this initiative will likely be a "Day 200" issue developed later this spring rather than first up. At least until after January 20, there are more questions than answers including:

How is infrastructure being defined? Will it primarily be transportation and water infrastructure or will it include pipelines, such as the Keystone pipeline, the electric power grid, cybersecurity, broadband, public buildings, etc.? The broader the definition, the less money potentially for a particular sector.



What form will the investment take? Will it be predominately private sector financing including P3s, tax credits, repatriation, or tolling; i.e. loans which need to be paid back and are only applicable to a select number of projects, or will it include long-term, sustainable federal funding for the Highway Trust Fund such as a gas tax or other revenue increase?

Will it be focused primarily on iconic or legacy projects as some have suggested? This approach would benefit certain critical mega projects such as NY/NJ's Gateway, Chicago's CREATE, Ohio's Brent Spence Bridge, etc., but could leave nothing for some states and for much needed maintenance and rehabilitation projects across the country.

Who will have the lead in developing the plan? Will it be US DOT or perhaps the Treasury Department given the focus on tax revenues or the White House given Trump's personal interest? Will it be driven by the House Ways & Means and Senate Finance Committee rather than the traditional transportation authorizing committees?

Will Congress cooperate with the Trump Administration? Many fiscal conservatives in Congress, including Rep. Mick Mulvaney (R-SC) who has been nominated to lead the Office of Management & Budget (OMB), are leery of funding proposals that would increase the deficit.

Elaine Chao Confirmation Hearing

On January 11, the Senate Commerce Committee held its confirmation hearing on Elaine Chao's nomination to be US DOT Secretary. While many of the hearings for other nominees have been quite contentious, the Senators of both parties were friendly, warm and supportive of Chao. This is not surprising given her significant experience in prominent federal government positions, including as Deputy Secretary of US DOT, and her marriage to the Senate Majority Leader, Mitch McConnell (R-KY). Chao answered most questions about policy issues by saying it was premature for her to answer until she was more formally briefed and promising to study the issue or to meet with competing stakeholders, which are not unusual responses for nominees.

She emphasized the top priority of safety issues, reducing redundant and burdensome regulations, and the value of private investment and innovation. She did not provide any substantive details about President-elect Trump's campaign promises to fund infrastructure. A number of Senators emphasized that it is critical that any proposals include long-term sustainable funding for the Highway Trust Fund, not just tax credits or other types of financing. Issues that were raised by various senators included Buy American, Davis Bacon, FAA reauthorization, PTC privatization, drones, autonomous vehicles, airport security, drunk driving, NextGen, P3s, freight, and TIGER grants.

Chao is expected to be easily confirmed by the full Senate. No other US DOT nominations for the various Assistant Secretaries positions or modal Administrators have been



announced. Here is a [link](#) to Chao's opening statement before the Senate Commerce Committee and to her nomination questionnaire.

Other News

FHWA has released one of the last regulations of the Obama Administration – the final rule on National Performance Management Measures; Assessing Performance of the National Highway System, Freight Movement on the Interstate System, and Congestion Mitigation and Air Quality Improvement Program. This final rule is the third and last in a series of related rulemakings that together establish a set of performance measures for State DOTs and MPOs to use as required by MAP-21 and the FAST Act. The rule includes a very controversial provision requiring states to measure greenhouse gas emissions on roads which was not specifically authorized by Congress. Here is a [link](#) to the text of the regulation. It has not yet been published in the Federal Register.

EPA launched the Water Infrastructure Finance and Innovation Act (WIFIA) program this week, providing \$1B in credit assistance to state and local governments to build drinking water, wastewater, and drought prevention projects. WIFIA provides water clients with another source of low-cost financing to support major water projects. EPA will accept letters of interest from prospective borrowers through April 10, 2017. Because borrowers must match the WIFIA funds, EPA estimates that the \$1B in financing will support approximately \$2B in total infrastructure investment. Here is a [link](#) to more information.

Secretary Foxx named Martin Klepper as Executive Director of the US DOT Build America Bureau. Klepper is a senior partner at the Energy and Infrastructure Projects Group at Skadden, Arps, Slate, Meagher & Flom. According to US DOT, Klepper is experienced at developing, financing, acquiring and selling transportation, energy, and other large infrastructure projects in the US and abroad. The Build America Bureau is the renamed National Surface Transportation and Innovative Finance Bureau, which was created by the FAST Act. The Build America Bureau provides P3 and NEPA expertise and administers the FASTLANE, RRIF, and TIFIA programs. The initiative is an expanded version of President Obama's BATIC. Here is a [link](#) to the US DOT press release about Klepper's appointment.

In related news, the Build America Bureau has issued a Credit Programs Guide for the TIFIA and RIFF federal financing programs. Here is a [link](#) to the guide.

The latest version of US DOT "Status of the Nation's Highways, Bridges and Transit Conditions and Performance" report has been released. The biennial report to Congress identifies an \$836B backlog of unmet capital investment needs for highways and bridges, or about 3.4 percent more than the estimate made in the previous report. The report also indicates that \$26.4B is needed per year to improve the condition of transit rail and bus systems. Here is a [link](#) to the report.



Washington Update

PREPARED BY CATHY CONNOR
MANAGER OF GOVERNMENT AFFAIRS



On January 12, outgoing US DOT Secretary Anthony Foxx released his Cabinet Exit Memo in which he highlights many of the key accomplishments of both his tenure and the past eight years of the Obama Administration at the Department. Here is a [link](#) to the memo.

US DOT has announced the creation of a "Committee on Automation," which will be charged with advising the department on issues like driverless cars. The committee's 25 members include Chesley "Sully" Sullenberger as well as leaders from FedEx, Zipcar, Hyperloop One, Delphi Automotive, the National Safety Council, Uber, Lyft, Apple, Waymo, Amazon, ATA and TTD, AFL-CIO. Mary Barra, the CEO of GM, and Los Angeles Mayor Eric Garcetti will co-chair the committee. J. Chris Gerdes, an engineering professor at Stanford University, will serve as vice chair. The group met for the first time on Jan. 16. Here is a [link](#) to the US DOT press release.

Additional information and materials, including archived Washington Updates, are located on the WSP | Parsons *Federal Briefing* website at www.federalbriefing.com.