



April 17, 2014

Congress is on a two-week recess until the week of April 28.

MAP-21 Reauthorization

MAP-21 expires on September 30, 2014. Congress and the transportation industry have gotten used to the fact that surface transportation authorization bills are rarely passed on time and a series of short-term policy extensions are usually required. However, this time, simply extending the authorizing language will not be enough because the Highway Trust Fund will not have sufficient funds to pay for the extensions. As early as August, the Trust Fund, particularly the Highway account, is expected to be insolvent. Therefore, Congress must decide not only what policy provisions to include in the next reauthorization bill, they must decide how to find new revenue to fund the bill. There is strong support from industry for a gas tax increase (the easiest and quickest revenue raiser), including from a number of stakeholders who might be expected to oppose a increase, such as the American Trucking Associations and the US Chamber of Commerce. However, Congress does not appear to have the will to take on such a politically charged issue prior to the November mid-term elections, if ever. As a result, Congress will have to pass some sort of short-term funding bill, most likely before they leave for the August recess.

While there are a number of possible revenue sources other than raising the gas tax, such as the currently popular option of amending the tax code to encourage repatriating corporate overseas profits, it is unlikely that they could be approved and implemented in time. Therefore, yet another General Fund transfer is likely. Estimates are that approximately \$10B would be needed to be transferred from the General Fund just to provide sufficient revenue through the end of the calendar year – on top of \$53B previously transferred over the past few years. The most likely opportunity for Congress to possibly consider a gas tax increase or other long-term revenue options may be the post-election lame duck session of Congress when Members no longer feel as politically vulnerable.

Here is a [link](#) to US DOT's Trust Fund Ticker which is updated regularly. The latest estimate is that the highway account of the Trust Fund will reach its minimum balance by August 29 and the transit account by September 26. In anticipation, a number of state DOTs have already announced that they are starting to slow down procurements.

This situation presents a serious problem for the House and Senate transportation authorizing committees. While they have jurisdiction over drafting a multi-year MAP-21 reauthorization bill and any required short-term policy and program extensions, they do not have authority over increasing or finding new Trust Fund revenues. That falls to the Senate



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Finance Committee and the House Ways & Means Committee, neither of which have indicated how or when they intend to deal with the looming funding crisis.

Despite not knowing how much money they have to spend on existing, much less, new programs, the House and Senate authorizing committees are moving forward with drafting multi-year reauthorization bills. The Senate appears to be leaning towards writing a bill with few major policy changes or additions, other than perhaps a more expansive freight title. They feel that although MAP-21 only authorized two years of funding, it essentially made six-years' worth of policy changes and reforms, many of which have not yet been implemented or tested. Last week, the "Big 4" bipartisan leadership of the Senate Environment & Public Works (EPW) Committee, chaired by Senator Barbara Boxer (D-CA), which has jurisdiction over the highway program, held a press conference to announce their joint reauthorization principles:

- Passing a long-term bill, as opposed to a short-term patch;
- Maintaining the formulas for existing core programs;
- Promoting fiscal responsibility by keeping current FY'14 levels of funding, plus inflation;
- Focusing on policies that expand opportunities for rural areas;
- Continuing efforts to leverage local resources to accelerate the construction of transportation projects, create jobs, and spur economic growth ; and
- Requiring better information sharing regarding federal grants.

The EPW leaders stated that they hope to act on their bill in early May. They also indicated that they will encourage the Banking Committee (which has jurisdiction over transit programs) and the Commerce Committee (which has jurisdiction over highway safety programs) to act on their portions of the overall bill as soon as possible so that action can move to the Senate Finance Committee.

In the House, Transportation & Infrastructure (T&I) Committee Chairman Bill Shuster (R-PA) has indicated he wants to write a more expansive reauthorization bill, including a variety of new policy initiatives especially in the freight area. He continues to state that the House will pass a reauthorization bill on time, but has not outlined a specific schedule.

The other player in the reauthorization effort, the Administration, still plans to release a formal reauthorization proposal, possibly before the end of April. It is expected to flesh out the numerous policy initiatives first outlined in the US DOT FY'15 budget request.

FY'15 Budget and Appropriations

Last week, the House very narrowly passed the controversial FY'15 Budget Resolution drafted by House Budget Committee Chairman Paul Ryan (R-WI) with no Democratic votes.



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However, the Senate has indicated it does not plan to pass its own version of a Budget Resolution since it previously agreed to overall spending levels for FY'15 in the December 2013 budget deal. Therefore, the House and Senate Appropriation Subcommittee are proceeding ahead to mark-up the individual federal agency funding bills. Last week, the House Appropriations Committee tentatively approved the FY'15 Military Construction/VA and the Legislative Branch funding bills, pending action to approve a formal allocation of funding to the various appropriations subcommittees.

There is speculation that the THUD (US DOT) appropriations bill may be one of the last to be passed since there is not enough revenue in the Highway Trust Fund to fully fund DOT programs for the entire fiscal year and because the THUD bill may be used as a legislative vehicle for a short-term transfer of General Funds to keep the Trust Fund solvent for some period of time. On April 3, the various US DOT modal administrators testified before the House THUD Subcommittee in support of their FY'15 agency budget requests.

Water Resources

The House and Senate continue to work to resolve the few remaining differences in their versions of the Water Resources Redevelopment Act (WRDA) bills which authorize Corps of Engineers programs. Both sides are very close and the main sticking point seems to be which Corps projects will be authorized for federal funding. Only projects with Corps of Engineers Chief's Reports will be eligible for funding and the Corps is still in the process of finalizing reports for a few key (and politically connected) projects. Committee leaders have said they hope to finalize the bill in early May following the recess.

Tax Extenders Bill

There appears to be a general consensus that comprehensive tax reform will not pass Congress this year, despite the best efforts of retiring House Ways & Means Committee Chairman Dave Camp (R-MI) who released a draft corporate tax reform bill in early March. Therefore, the new Chairman of the Senate Finance Committee, Ron Wyden (D-OR), has decided to proceed with a temporary tax extenders bill – the EXPIRE Act. The bill would extend a number of expired or expiring tax breaks for two years – 2014 and 2015. Wyden's bill includes an extension of the monthly commuter tax benefit parity with parking which expired at the end of 2013. The bill would restore the transit benefit to \$250 per month up from the current \$130. The bill was approved by the Finance Committee last week on a bi-partisan vote. An amendment, offered by Senator Chuck Schumer (D-NY), to add a \$20 per month tax exemption for bike share costs was approved.



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Wyden has indicated he hopes to get the bill through the full Senate before Memorial Day although he has not yet identified the offsets necessary to pay for the extended tax benefits. The offsets will be hard to find and will be competition for the offsets needed to pay for a Highway Trust Fund “fix”. No word yet on the House’s plan to take up a tax extenders bill.

Other News

- FHWA and FTA have launched an online dialogue to gather input on the use of programmatic approaches for conducting environmental reviews for transportation projects, in preparation for a rulemaking effort. Section 1305 of MAP-21 requires DOT to initiate rulemaking to allow for programmatic approaches. The national outreach effort will continue until May 16. The agencies will host a webinar on April 23 for interested parties. Here is a [link](#) to participate in the National Dialogue, a [link](#) to background information on MAP-21 Section 1305, and a [link](#) to register for the webinar.
- FHWA has posted an updated Q&A document on its website on MAP-21 Section 1203 performance management provisions. Here is a [link](#).
- FTA has released a 116-page draft Circular on the State of Good Repair Grants Program – Guidance and Application Instructions. This is a new Circular which implements provisions in MAP-21. The State of Good Repair (SGR) Grants Program makes federal funding available specifically for rehabilitating and replacing public transportation assets to keep systems in a state of good repair under three new sections of MAP-21 -section 5326 transit asset management, section 5329 public transportation safety program, and section 5337 SGR Grants program. Here is a [link](#) to both the Federal Register notice and the Circular. Comments are due to FTA by May 3.
- AASHTO has released a new informational tool designed to educate the public and elected officials about the potential impact of an insolvent Highway Trust Fund. The “Nation at a Crossroads” is a web-based infographic, mobile app and printed brochure that provides a national perspective on surface transportation investments and also provides state-level information. The web-based version is available [here](#) and the mobile app version can be downloaded [here](#).
- People Update – After a long delay, the Senate last week confirmed former Kansas DOT Secretary Deb Miller to be a member of the Surface Transportation Board. In another congressional retirement, this week Rep. Tom Petri (R-WI) announced he will not run for reelection in November. Petri is the chair of the House T&I’s Highways & Transit Subcommittee, one of the so-called “Big Four” leading the MAP-



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21 reauthorization effort. Petri is another in a long line of moderate Republicans to opt to retire. Also retiring is long-time TRB Executive Director Bob Skinner. Bob will end his career at TRB following the January 2015 annual meeting.

- Dates to Note – The week of May 12-16 has been designated as Infrastructure Week. A wide variety of industry groups have joined together to organize numerous events in DC and around the country to bring attention to the importance of infrastructure investment. Here is a [link](#) to a website which will soon include a calendar of events, most of which will be open to the public. On June 11, the Transportation Constructors Coalition (TCC) and other industry groups will hold a rally on the National Mall in Washington, DC to bring attention to the need to resolve the Highway Trust Fund crisis.
- US DOT has announced a public meeting of its National Freight Advisory Committee (NFAC) to finalize recommendations on the development of the National Freight Strategic Plan. The meeting will take place online as a webinar on Tuesday, April 29, 2014, from 1:00 p.m. to 5:00 p.m. Eastern Time. Here is a [link](#) to register for the webinar. Members of the public will be able to listen to and view the webinar as observers. For additional information contact freight@dot.gov or visit the [NFAC web site](#).

Additional information and materials can be found on the Parsons Brinckerhoff Transportation Update website at www.PBTransportationUpdate.com