April 30, 2014

Yesterday, the Obama Administration released its proposal for reauthorization of MAP-21 called the Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act - the GROW AMERICA Act. It is a four-year (FY'15 through FY'18), $302B proposal to reauthorize highway, transit, highway safety and rail programs.

The current MAP-21 authorization expires at the end of FY'14 on September 30, 2014. Without an infusion of new revenue, the Highway Trust Fund cannot support any new highway or transit funding in FY'15. The GROW AMERICA Act proposes to raise, in addition to the existing gas tax revenue, approximately $37.5B per year for four years, totaling $150B, through various forms of corporate tax reform. If approved by Congress, that amount would be enough to fill the $63B funding gap in the Trust Fund and support $87B over four years in new funding.

While the industry applauds the Administration's recommendations for significant new transportation funding, it appears unlikely, at this point, that the current Congress will support the tax legislation needed to make the funding levels and program expansion described below a reality this year.

Here is a link to the US DOT GROW AMERICA Act website which includes the US DOT press release on the bill, the text of the bill (350 pages), a section by section summary explanation of the bill (101 pages), and various fact sheets including ones on financing, projects delivery, public transit, highway and bridge infrastructure, and freight.

Here is a link to the US DOT transmittal letter to Congress which provides a summary of the bill's objectives.

The GROW AMERICA Act would rename the Highway Trust Fund the Transportation Trust Fund. The Fund would include separate highway, transit, rail and multimodal accounts. Existing gas tax revenues would continue to flow exclusively to the highway and transit accounts, supplemented by new revenue generated through corporate tax reform. The balance of the revenue proposed from tax reform would be used to fund the new rail and multimodal accounts. The new accounts would not receive any existing gas tax revenue. Much of the new money in the bill goes to fund multi-modal initiatives and other elements that align with Administration priorities, such as passenger rail. Traditional formula based highway and transit programs grow more slowly.

FHWA – the bill proposes $199B over four years for the Federal-aid highway program - $9B, or 22%, more per year than under the current program. The funding includes $92B over four years for the National Highway Performance Program to reduce traffic congestion on the NHS.

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FTA – the bill recommends $72B over four years for public transit programs, a significant increase over the current $10.5B a year program. Also, all FTA programs, including the Capital Investment Grants (New Starts/Small Starts) program, would be treated as mandatory spending and funded through the Trust Fund, not the General Fund as New Starts is currently funded. The bill includes a new $2B, over four years, Rapid Growth Area Transit program that will fund primarily discretionary BRT projects.

FRA – the bill proposes to include authorization for rail programs in addition to the usual highway and transit programs. A newly configured $19B, over four years, rail program would be divided into two components – Current Passenger Rail Service, i.e. Amtrak (comprised of the Northeast Corridor; state corridors; long distance routes; stations; and national assets, legacy debt and Amtrak PTC) and Rail Service Improvement Program (comprised of high-speed rail passenger corridors; commuter railroad PTC compliance; rail relocation and grade crossings; and planning and workforce). Both components would be funded out of the new rail account of the Transportation Trust Fund. Regulatory provisions would empower FRA to set a new timetable for implementation of PTC, subject to case-by-case waivers where justified.

TIGER Grants – the bill would officially authorize the popular TIGER grant program with modest changes and authorize funding at $5B over four years to be funded out of the new multi-modal account of the Trust Fund.

Innovative Financing – the bill would continue the TIFIA financing program at $1B per year, the same as the current level of funding, and would make it easier for smaller projects to use TIFIA. It would make rail RRIF loans more accessible and less costly to obtain, and it would increase the availability of Private Activity Bonds (PABs) by raising the current $15B cap to $19B. The viability of these financing options would be enhanced through relaxation of the prohibition against tolling on Interstates.

Tolling - the bill includes provisions for tolling the Interstate highway system including permitting tolling of the existing free system for purposes of reconstruction and allowing toll revenue to be used on all components of the highway system. This change would result in superseding the current Interstate pilot program. In addition, the bill would permit the use of toll revenue for transit under specific conditions. Also, new toll facilities on the Federal-aid system would be required to exclusively install non-cash electronic technology for all users.

Freight – the bill proposes a new $10B, over four years, multimodal freight grant program with rail, aviation, port and other multimodal projects eligible. The program is divided equally between formula grants which can only be accessed in states that develop and improve freight plans and broad discretionary grants for major freight projects. The bill also transforms the highway-oriented freight policy provisions of MAP-21 into a multi-modal configuration.

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Project Delivery - the bill proposes to improve project delivery and streamline the federal permitting and regulatory review process through the creation of a new Interagency Infrastructure Permitting Improvement Center to be housed at US DOT. The bill emphasizes concurrent rather than sequential agency reviews, avoiding duplicative processes, and improving transparency and accountability. The MAP-21 streamlining reforms are extended beyond their current highway/transit applicability.

State of Good Repair - the bill includes an emphasis on "Fix it First" and a state of good repair approach to highway and transit grants. It includes a new $13.4B Critical Immediate Investments Program (CIIP) to fund improved pavement conditions on NHS routes and deficient Interstate bridges. It also includes a new Fixing and Accelerating Surface Transportation (FAST) competitive grant program to incentivize transformative programmatic reforms which is funded at $1B per year ($500M for FHWA and $500M for FTA).

There is much more to be studied in the details of the bill, including planning and regulatory reforms. Additional analysis of the GROW AMERICA Act will be distributed over the next few days.

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