



May 3, 2016

Congress is currently on a one-week recess. With upcoming recesses scheduled for Memorial Day week, July 4th week, then starting July 15 for the two conventions followed by the traditional August recess, there is not much time left before the November elections for significant legislative action.

One of the top congressional priorities is to pass the 12 federal agency FY'17 annual appropriations bills. So far, they are not off to a good start. The House is required to introduce the spending bills first, but because of tea party members' insistence that the additional money added to last year's budget deal be offset with mandatory entitlement cuts before the House starts drafting its bills, the Senate has opted to act first. The Senate Appropriations Committee approved several funding bills very quickly, including the THUD (US DOT) bill, but despite several days of floor debate, none have passed due to unrelated "holds" by various Senators.

FY'17 US DOT Appropriations

The Senate Appropriations Committee approved the THUD (US DOT) FY'17 appropriations bill on April 21. The bill was expected to be taken up on the Senate floor last week, but "holds" on the pending Energy & Water appropriations bill slowed down the schedule.

Program	Current FY'16 Funding	FAST Act Authorization for FY'17	Senate THUD FY'17 Funding
Core Highway Program – Obligation Limit	\$42.36B	\$43.26B	\$43.26B
Transit Total	\$11.6B	\$12.17B	\$12.18B
Transit Formula and Bus Grants	\$9.35B	\$9.73B	\$9.73B
Transit CIG-New Starts, Small Starts, Core Capacity	\$2.17B	\$2.30B	\$2.33B
DC WMATA	\$150M	NA	\$150M
TIGER	\$500M	NA	\$525M
Amtrak Northeast Corridor	NA – Total Amtrak Funding \$1.39B	\$474M	\$345M
Amtrak National Network	NA	\$1.02B	\$1.07B
FRA Rail Discretionary Grants Total	\$0	\$350M	\$85M
Airport Improvement Grants (AIP)	\$3.35B	NA	\$3.35B



Here is a [link](#) to the text of the Senate bill and a [link](#) to the committee report.

Additional details:

FHWA – the bill continues the current language permitting the “repurposing” of certain old, unobligated earmarks. It requires FHWA to give the Appropriations Committee 60 days’ notice before making a FASTLANE freight discretionary grant.

TIGER - the bill makes several policy changes including reducing the maximum grant size from \$100M to \$25M, increasing the minimum set-aside for rural areas from 20% to 30%, and decreasing the maximum amount to any one state from 20% to 10%.

FTA Capital Improvement Grants – the bill funds \$1.2B for New Start projects with Full Funding Grant Agreements (FFGAs) which will provide full FY’17 scheduled funding for all existing FFGA projects (although it does not include the additional \$25M per project that the Administration had requested). In addition, \$511M is funded for proposed FFGAs, but only one project is fully funded – the Maryland Purple Line at \$125M - while five other projects are identified for partial funding. It funds Small Start projects at \$241M and Core Capacity projects at \$332M – however no specific projects are identified in the bill. The expedited delivery pilot program is funded at \$20M. The bill caps the amount of money for any one Core Capacity, Small Start, or Expedited Delivery project at \$100M.

Positive Train Control – the bill includes a one-time \$199M for PTC implementation for commuter and intercity passenger railroads as part of the FTA Formula program.

FRA Discretionary Rail Grants – the bill provides only modest funding for the three new FAST Act authorized grant programs – the Consolidated Rail Infrastructure and Safety Improvement (CRISI) Program receives \$50M versus the \$190M authorized for FY’17, the State of Good Repair (SOGR) Program receives \$20M versus the \$140M authorized, and the Restoration and Enhancement (R/EG) Program receives \$15M versus the \$20M authorized.

RRIF Loans – an amendment agreed to during the full committee mark-up would strike existing language prohibiting RRIF rail loans from being made using federal funds for the credit risk premium.

National Surface Transportation and Innovative Finance Bureau – the bill provides \$3M for salaries and expenses for this new US DOT office authorized in the FAST Act which has jurisdiction over innovative financing programs such as TIFIA and RRIF as well as discretionary grant programs such as FASTLANES.

FAA Air Traffic Control System (ATC) –the bill includes language prohibiting the use of any federal funds for the purpose of privatizing the ATC – a direct shot at House T&I Committee Chairman Bill Shuster’s effort to do so in the pending FAA reauthorization bill.



Truckers Hours of Service – the bill includes a very controversial provisions regarding hours of service that could hold up floor debate over safety concerns.

The House THUD Subcommittee has not yet drafted its version of the FY'17 US DOT funding bill.

Senate Water Resources Reauthorization

Last week, the Senate Environment and Public Works Committee (EPW) approved the \$9.3B bipartisan Water Resources Development Act (WRDA) of 2016 by a vote of 19 to 1.

The bill (S. 2848) would:

- authorize \$70M for WIFIA innovative financing loan guarantees
- make stabilizing adjustments to Harbor Maintenance Tax (HMT) spending
- modernize the cost-share formula for deep-draft navigation construction
- approve 27 Corps of Engineers Chief's reports to enable construction of specific projects – however, actual funding for the projects is subject to annual appropriations. Projects include deepening and widening of navigation channels for the harbors at Charleston, S.C., and Port Everglades, Fla.; a deepening of the Brazos Island Harbor channel east of Brownsville, Texas; hurricane risk reduction for the western shore of Lake Pontchartrain, La.; ecosystem restoration for the Los Angeles River; and, most expensive of all, another stage in the ecosystem restoration effort for the Everglades in Florida
- authorize 26 project studies and project modifications requested by the Corps
- provide \$220M in funding for emergency assistance for Flint, Michigan
- authorize a new Water Trust Fund

Here is a [link](#) to the text of the bill and a [link](#) to a 20 page section-by-section summary.

Industry groups such as ACEC, the American Association of Port Authorities (AAPA), the Waterways Council, and the Association of Metropolitan Water Agencies (AMWA) have indicated support for the bill.

There is no word yet on when the bill will go to the Senate floor. The House has not yet introduced its version of a Water Resources bill, but is expected to do so shortly. The goal is to keep to a schedule of passing an authorization bill every two years. The current WRRDA legislation was passed in 2014.



FAST Act Implementation

FHWA has released a notice of proposed rulemaking which outlines new performance measures to assess travel reliability, congestion, and emissions at a national level. The proposed regulation calls for an increased level of transparency and accountability in establishing and achieving targets for performance impacting commuters and truck drivers.

Here is a [link](#) to the Notice of Proposed Rulemaking published in the Federal Register on April 22 and a [link](#) to additional information about the NPRM, including audio recordings and slide presentations from several webinars held on the issue. Comments are due by August 20, 2016.

The proposed new rule – 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 – is a requirement under MAP-21 and the FAST Act. Major provisions involve requirements for all states to evaluate and report more effectively and consistently on transportation system performance, including travel time reliability, delay hours, peak-hour congestion, freight movement, and on-road mobile source emissions.

FHWA's National Performance Management Research Data Set, a relatively new data tool that collects actual travel times from vehicles, will be used by states to monitor system performance. All state departments of transportation and metropolitan planning organizations would be required to use travel time data to establish performance targets and report on progress.

In addition, the reduction in criteria pollutants resulting from federally funded projects will also be estimated and reported. FHWA is also seeking comment on whether and how to establish a greenhouse gas emissions measure.

The proposed regulation is expected to bring about greater accountability nationwide in addition to more consistency in data collection and analysis and more comprehensive practices. Overall, the proposed rule will provide FHWA with better information to more fully understand how different investment strategies have led to improved system performance.

Performance measures will continue to grow in importance given the need to set priorities for the use of limited federal funding.



FAA Reauthorization

On April 19, the Senate passed an 18-month (FY'16 and FY'17) reauthorization of federal aviation programs. The bill increases funding for the Airport Improvement Program (AIP) from the current \$3.35B to \$3.75B per year, but does not include an increase in the Passenger Facility Charge (PFC) used to finance airport construction. Here is a [link](#) to the text of the bill as passed by the Senate.

The House T&I Committee approved a six-year FAA bill, H.R. 4441, earlier this year that, in a highly controversial move, would take the air traffic control (ATC) system out of FAA and transfer it to a nonprofit corporation. Opposition to the ATC provision has prevented the bill from moving to the House floor.

Moving forward, the House could opt to simply pass the Senate bill, it could amend the Senate bill and send it back to the Senate for further consideration, or it could pass its own FAA bill (with or without the ATC provision) and go to conference with the Senate to resolve the differences. The current short-term extension of FAA programs expires on July 15.

Other News

FRA announced that it is accepting applications from local governments, states, and railroads for \$25M in competitive grants to increase rail safety. Applicants can request funds for safety improvements to railroad infrastructure, including railroad crossings, track, tunnels, bridges, yards, and other areas. The funding is made available from the FY'16 Consolidated Appropriations Act that funds US DOT.

Applications must be submitted by June 14, 2016. Here is a [link](#) to the April 29 Federal Register notice.

The Railroad Safety Infrastructure Improvements Grant program can fund safety improvements to railroad infrastructure, but the focus of a project must be safety improvements. This includes the acquisition, improvement, or rehabilitation of intermodal facilities; improvements to track, bridges, and tunnels; upgrades to railroad crossings; and the separation of railroad crossings and roads.

Additional information and materials, including archived Washington Updates, are located on the WSP | Parsons Brinckerhoff *Federal Briefing* website at www.federalbriefing.com. This is a new URL and title for the website previously named *PB Transportation Update*. The old website URL will automatically redirect to the new website, but please bookmark this new address for future reference.