



## June 23, 2015

This is a very busy week in Congress as congressional committees hold numerous hearings and markups in advance of next week's July 4<sup>th</sup> recess. When Congress returns after the recess, it will be in session only four weeks before starting the five-week August recess.

### MAP-21 Reauthorization

The latest short-term extension of federal highway and transit programs expires on July 31. Although a number of key congressional leaders, as well as the President, have said they will not support any additional short-term extensions, it is almost inevitable that Congress will have to pass at least one more extension – probably through the end of the calendar year. It does not appear likely that a consensus will be reached by the end of July on a long-term funding solution for the Highway Trust Fund (HTF). Unlike the current two-month extension, which did not require any additional funding, an extension through December will require at least \$10B in additional funding – likely in the form of yet another General Fund transfer – in order to keep the HTF solvent. US DOT has recently reinstated its Highway Trust Fund Ticker which predicts the Highway Account will fall below \$4B by the end of July and below \$2B by the end of August, with less than \$1B in the Mass Transit Account by early September. Here is a [link](#) to the Ticker.

On Wednesday, the bi-partisan leadership of the Senate Environment & Public Works (EPW) Committee plans to mark-up its version of the highway title of a MAP-21 reauthorization bill. It is expected to be a six-year bill that provides some modest growth in program funding. Since the EPW Committee does not have jurisdiction over revenue raising and it is not clear how much, if any, new revenue will eventually be identified to fund the HTF, it is unclear how expansive or comprehensive the Senate bill will be.

This morning, Senate EPW Chairman Jim Inhofe (R-OK) and Ranking Member Barbara Boxer (D-CA) will hold a press conference to introduce their reauthorization proposal, the "Developing a Reliable and Innovative Vision for the Economy Act" (DRIVE Act).

Senator Inhofe has indicated that he expects the Senate Banking Committee (transit jurisdiction) and Senate Commerce Committee (highway safety, freight and R&D jurisdiction) to mark-up their titles of the MAP-21 bill shortly after the EPW Committee acts, but that timing has not been verified by the leadership of those committees.

The critical issue of identifying new revenue to provide long-term, sustainable funding for the HTF is the responsibility of the House Ways & Means and Senate Finance tax writing committees. Both committees held hearings last week on this subject. Unfortunately, neither committee came to a consensus on how to proceed. House Chairman Paul Ryan (R-



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WI) indicated he understood the seriousness of the situation, but he strongly objected to any form of a federal gas tax increase. A number of committee members mentioned support for greater use of P3s, tolls, TIFIA, environmental streamlining, lifting the cap on Private Activity Bonds (PABs), etc., but they did not seem to recognize that while such provisions might be a supplement to increased, dedicated HTF revenues, they would not generate revenue to serve as a substitute for direct funding.

Senate Chairman Orin Hatch (R-UT) made it clear that his goal is to find a way to fund a long term bill, but no consensus on how to do so was reached at the hearing.

Here is a [link](#) to Chairman Ryan's opening remarks. Here is a [link](#) to information from the Senate hearing.

As a follow-up, the House Ways & Means Subcommittee on Select Revenue Measures will hold a hearing on Wednesday on using tax revenue from repatriated, tax deferred overseas corporate profits to bail out the HTF. However, many Ways & Means committee members oppose using repatriation for this purpose because they want to reserve the potential revenue to fund a reduction in the corporate tax rate or for other tax cuts as part of a comprehensive tax reform bill.

The Senate Finance Committee will hold a follow-up hearing on Thursday on "Unlocking the Private Sector: State Innovations in Financing Transportation Infrastructure". Here is a [link](#) to information about the hearing.

There is growing talk of trying to tie the controversial Export-Import Bank reauthorization bill to a "must-pass" MAP-21 extension in late July in an effort to garner more Republican votes for a extension that will likely require significant General Fund transfers.

## FY'16 Appropriations

On June 9, the full House approved the FY'16 THUD (DOT/HUD) annual appropriations bill. On June 23, the Senate THUD Appropriations Subcommittee will introduce and mark-up its version of the FY'16 funding bill. The hope is that the Senate will restore some or all of the funding that the House cut from popular programs such as TIGER, transit New Starts projects, and Amtrak. The full committee is expected to act on the bill on Thursday. After that, it is unclear how or when the THUD bill or many of the other federal agency appropriations bills will proceed.

The Senate Democratic leadership has announced that it will filibuster floor action on any FY'16 appropriation bills which propose reduced, sequestered funding levels. The Administration has also indicated the President will veto any appropriation bills funded under sequestration. It is therefore possible that as of the October 1 start of the new fiscal



year, US DOT, as well as many other federal agencies, could be funded under a Continuing Resolution (CR) for some period of time. A CR would provide funding at existing FY'15 levels.

## Rail/Amtrak Reauthorization

Senators Roger Wicker (R-MS) and Cory Booker (D-NJ) last week introduced a four-year bipartisan measure to improve passenger rail safety, reauthorize Amtrak, and improve existing rail infrastructure. The bill, "Railroad Reform, Enhancement, and Efficiency Act," may be acted on by the Senate Commerce, Science, and Transportation Committee as early as this week.

The Senate bill, S. 1626, would authorize significantly more money for Amtrak than the House-passed bill – an annual average of \$1.65B (up to \$1.9B in year 4). It would create a discretionary competitive grant program funded at an annual average of \$570M (up to \$900M in year 4) by consolidating a number of existing programs and expanding eligibility. High-speed passenger rail projects would be eligible. The bill would reform the RRIF financing program to make it more user friendly and streamline the permitting process to make it more compatible with the MAP-21 process. The bill does not address the issue of extending the December 31 deadline for installing Passenger Train Control (PTC), although PTC would be eligible for funding under the new consolidated grant program.

Earlier this spring, the House passed its version of a rail reauthorization bill, PRRIA, which differs in many areas from the Senate bill.

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

## FAA Reauthorization

On June 15, House T&I Committee Chairman Bill Shuster (R-PA) released a summary of principles upon which he plans to develop an FAA reauthorization bill. The current FAA bill expires on September 30, 2015. The principles state that the House FAA bill will:

- Establish a federally chartered, fully independent, not-for-profit corporation to operate and modernize the Air Traffic Control (ATC) system, free from the volatile funding uncertainty, political meddling, and bureaucratic inertia that have plagued FAA and our ATC system in years past.



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- Establish a stable, self-sustaining, fair user fee structure, insulated from the federal budget process and threats of related sequesters, furloughs, agency closures, and shutdowns to fund the new entity.

There is no mention of additional funding for airport construction such as an increase in the Passenger Facility Charge (PFC) or increases to the Airport Improvement Program (AIP). The airlines strongly oppose any increase in the PFC.

House Aviation Subcommittee Chairman Frank LoBiondo (R-NJ) indicated last week that he hopes to be able to mark-up the House FAA bill and get it to the House floor before the August recess – a ambitious goal.

Here is a [link](#) to Chairman Shuster's remarks at the Aero Club and a [link](#) to the text of the principles.

## Other News

- On June 18, the Senate passed a reauthorization of the Surface Transportation Board (STB), a measure that would expand voluntary arbitration tools that rail carriers and customers can use to resolve rate cases. The bill, S. 808, would also give the oversight board the authority to investigate issues other than rate cases, require the STB to establish a database of complaints, order the board to submit quarterly reports on those complaints and expand the board's roster from three to five members. Here is a [link](#) to the bill text and a [link](#) to a summary of the bill. The House has not yet drafted an STB bill.
- Last week, a bipartisan group of 11 Senators reintroduced a bill, S. 1589, which would create an infrastructure financing authority to help state and local governments leverage private funding for key infrastructure projects. The Building and Renewing Infrastructure for Development and Growth in Employment (BRIDGE) act would establish an independent federal lending agency, the Infrastructure Financing Authority. The Authority would receive \$10B in federal seed money which it would use to provide up to 49% of a project's total cost in the form of low-interest loans and loan guarantees. Funding would be made available for all types of transportation infrastructure projects as well as water/sewer and energy transmission projects. Lead sponsors Senators Roy Blunt (R-MO) and Mark Warner (D-VA) first introduced this bill in the previous Congress. Here is a [link](#) to a summary of the bill.
- The House T&I Subcommittee on Water Resources and Environment, chaired by Rep. Bob Gibbs (R-OH), held a hearing on June 10 on implementation of the Water Resources Reform and Development Act of 2014 (WRRDA), legislation that



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made reforms to accelerate the project delivery process and increase transparency, accountability, and congressional oversight in reviewing and prioritizing future water resources development investment. The hearing took place one year after WRRDA was enacted in law. The witnesses were Jo-Ellen Darcy, Assistant Secretary of the Army-Civil Works, and Lieutenant General Thomas P. Bostick, Chief of Engineers, US Army Corps of Engineers. Both Republican and Democratic committee members expressed serious concern with the Corps' prioritization of projects authorized by WRRDA. Here is a [link](#) to information about the hearing, including witness testimony, opening statements by Chairman Shuster and Subcommittee Chair Bob Gibbs, additional background information and a link to live webcast.