



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



September 26, 2017

Congress is back in session this week and focused on a final push to pass key legislation before the October 1 start of the new fiscal year. Must-do legislation includes a possible vote on yet another healthcare repeal and replace bill, renewal of an important childhood health insurance program, and reauthorization of Federal Aviation Administration (FAA) programs and funding. Other important items to watch for this week are the release of a framework for a major tax reform bill by congressional Republicans and the introduction of additional hurricane emergency relief funding bills. At this time, it does not appear that the tax proposal will include any new revenue for infrastructure programs such as a federal gas tax increase or the use of repatriated funds - which it appears will go primarily towards lowering the corporate tax rate.

One issue that does not require action this week is assuring that federal agencies have funding in place for the start of FY'18 on October 1. When it became clear that Congress would not be able to complete any of the 12 federal agency funding bills on time, Congress passed a government-wide Continuing Resolution (CR) which temporarily funds federal programs, at FY'17 funding levels, through December 8. Between now and then, Congress will need to complete full-year FY'18 appropriations bills. As part of the vote on the CR, Congress approved a temporary suspension of the federal debt ceiling - also through December 8 - in order to avoid a potential government default.

FAA Reauthorization

The current authorization of FAA programs expires on September 30. Continued controversy over provisions in the pending House multi-year FAA reauthorization bill to privatize the Air Traffic Control (ATC) system have prevented the bill from coming to the House floor for a vote. In the meantime, the House leadership introduced a six-month extension - through March of 2018. Although short-term extension bills are usually non-controversial, Democrats have objected to several extraneous provisions related to health care, hurricane tax relief, and flood insurance that have been attached to the bill as well as to Congress' inaction on DACA. As a result, last night an effort to pass the extension bill under an expedited procedure failed to gain the required 2/3 vote. The bill will likely be brought up again under regular order later this week. After House passage, the bill goes to the Senate for approval.



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



Trump Administration Infrastructure Plan

There is still not much information available about the Administration's infrastructure plan. The schedule for releasing more details and a formal proposal to Congress keeps getting pushed back, but something could still be released later this fall. There is hope that since an infrastructure bill could be a bi-partisan win/win for all sides, it may be possible to pass such a bill even into 2018.

The House leadership is waiting for the Administration to initiate a plan. However, in the meantime, House T&I Committee Chairman Bill Shuster (R-PA) is holding a series of hearings on infrastructure needs in various sectors. A hearing will be held by the Water Resources Subcommittee on September 26 and hearings by the Highways & Transit Subcommittee and the Railroad Subcommittee are currently being rescheduled. Here is a [link](#) to the Committee website which under the "Hearings" tab will include links to the witness testimony and to live and archived videos of the hearings.

In the Senate, the Senate Environment & Public Works Committee, chaired by Senator John Barrasso (R-WY), has been developing an environmental streamlining/permit expediting bill that will likely incorporate many of the same recommendations that the Administration has put forward. Here is a [link](#) to the August 17 Update which includes information on the Administration's latest Executive Order (EO) on streamlining.

The White House recently hosted a briefing for state and local stakeholders at which they outlined the general parameters of their potential infrastructure plan. Key points made include stretching the use and benefit of taxpayer dollars and encouraging more state and local involvement with a belief that states and localities are better equipped to understand the right level and type of infrastructure investments needed for their communities. Also discussed was the goal of leveraging the private sector through use of better procurement and delivery methods, market discipline, and a long-term focus on maintaining assets

As has been known for some time, the Administration's plan will not actually include \$1T in new federal funding. The \$200B (over ten years) in potential new funding (the source which has yet to be identified) will be primarily focused on three programs: financial incentives to states, a rural formula program, and funding for "transformative" projects.

Financial incentives for states (likely in the form of competitive "challenge" grants) will be used to encourage state and local officials to raise more of their own revenue and attract private sector funding. This federal money will be used to incentivize state and local officials to raise gas and other taxes, pass ballot initiatives, develop P3 enabling laws, initiate P3 projects, recycle assets, monetize assets such as ROW and rest areas, etc.



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



The rural program will be a formula program potentially for areas under 50,000 in population. It will likely be 100% federal money with no match required.

The transformative project program will be a DARPA-like program for projects with high risks and projects that will lead to long-term changes in how infrastructure is designed, built, and maintained. Administration officials have used the examples of the Hyperloop, moon landing, and construction of the interstate system to demonstrate the magnitude of potential projects.

Additional funding for the existing federal financing/loan programs such as TIFIA, RRIF, and WIFIA is also expected to be proposed.

Autonomous Vehicle Activity

There has been a flurry of activity on the issue of connected and autonomous vehicles in recent weeks, including passage of a House bill, release of a Senate discussion draft, and a new policy announcement by US DOT.

The full House has approved HR 3388, Safely Ensuring Lives Future Deployment and Research in Vehicle Evolution Act or the "SELF DRIVE Act", by a voice vote. The bill attempts to clarify state and federal roles with respect to self-driving cars. Here is a [link](#) to the text of the House bill and a [link](#) to the House Energy & Commerce Committee website which includes additional information such as a one-page summary of the bill.

The House bill does not address the issue of automated trucks and the leadership of the Senate Commerce Committee is currently debating whether to include trucks in its bill, an issue it held a hearing on last week.

Here is a [link](#) to new US DOT/NHTSA policy statement, "Automated Driving Systems-A Vision for Safety 2.0", which includes a message from Secretary Elaine Chao and an Executive Summary. It replaces the Federal Automated Vehicle Policy released in 2016 by the previous Administration. The revised policy offers broad federal guidance on how auto manufacturers, technology companies, artificial intelligence developers, and others should go about testing automated vehicle technologies to get them ready for mainstream America. The guidance offers additional regulatory guidance while recognizing that flexibility is necessary to allow the industry to continue to innovate around automated driving technologies. NHTSA is currently seeking comments from stakeholders on the new policy.



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



US DOT Personnel

The nominations of several key US DOT political appointees continue to be held up in the Senate pending a final confirmation vote, including Ron Batory, nominee for FRA Administrator, Steven Bradbury, nominee for General Counsel, Derek Kan, nominee for Under Secretary for Policy, and Adam Sullivan, nominee for Assistant Secretary for Government Affairs.

In the meantime, the Administration has announced the nomination of Paul Trombino to be FHWA Administrator and Howard "Skip" Elliot to be the Administrator of the Pipeline and Hazardous Materials Safety Administration (PHMSA). Until December, Trombino was the Director of Iowa DOT and was previously with Wisconsin DOT. His nomination has been strongly endorsed by AASHTO where he served a term as President. Elliott is a recently retired CSX executive.

An administrator for FTA has not yet been nominated.

Other News

TIGER Funding – On September 1, US DOT released a Notice of Funding Opportunity (NOFO) for the \$500M (\$480M after the administrative cost take-down) in FY'17 funding for the hugely popular TIGER competitive grant program. The deadline for applications is October 16. Here is a [link](#) to the NOFO as published in the Federal Register and a [link](#) to other materials about the TIGER program, including FAQs and recordings of recent US DOT webinars on how to compete for a TIGER grant and how to prepare a cost-benefit analysis (click on "TIGER 2017" drop-down box).

Key changes to prior years' TIGER NOFOs include:

- At least 20% of the funding must be used in rural areas
- No more than 10% of funding may be awarded for projects in a single state (in previous years up to 20% of funding could be awarded to projects in any single state)
- The maximum grant size is \$25M. For a project in a rural area, the minimum grant award is \$1M; in non-rural areas the minimum grant award is \$5M. (in FY'15, the maximum grant award was \$200M and it was reduced to \$100M in FY'16. Capital project awards throughout past TIGER rounds have ranged from \$1M to \$105M, with an average award size of \$14.5M)
- Toll Credits will now be considered as a non-federal source of funding.



WASHINGTON UPDATE

PREPARED BY CATHY CONNOR,
DIRECTOR OF FEDERAL GOVERNMENT AFFAIRS



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