



New Surface Transportation Legislation Likely to Encounter Many Roadblocks in the Coming Months

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Both the Obama Administration and Chairman Mica of the House Committee on Transportation and Infrastructure (T&I) have stated that the passage of a multi-year surface transportation bill will be high on their legislative agendas for this year. However, many uncertainties remain, largely driven by sharp differences on the appropriate spending level for such legislation. In fact, while the President would increase funding substantially over the next six years, and Congressman Mica appears to be favoring an approach that would essentially provide funding at current levels, other House Republicans are seeking to scale back the current program to FY2008 levels.

It is not at all clear if or how these differences will be resolved.

Background

The 2005 surface transportation authorization law known as "SAFETEA-LU", which authorized \$287 billion in highway and transit projects, expired on Sept. 30, 2009. Congress has extended that law six times through temporary extensions. The current extension expires on March 4.¹

The bill proposed by James Oberstar, the former chair of the House T&I Committee, would have provided \$500 billion in authority, but also included severe restrictions on tolling and public private partnerships, and would have created a new "Office of Public Benefit" to institute extensive federal oversight of State transportation decision-making processes. This bill died when the last Congress adjourned.

The Obama Administration, in its new budget proposal, has indicated that it will push for a \$556 billion surface reauthorization bill. However, the Administration has not indicated how such a bill would be funded.

John Mica, Oberstar's Republican successor, has yet to propose a bill. He has warned transportation stakeholders that a Republican bill this year might contain only \$250 billion in new budgetary authority over the next six years -- \$37 billion less than the last law.

Mica has said that, instead of looking for ways to increase revenues through transportation-related taxes, he would like to use tolling, public private partnerships, and successful credit programs, like the Transportation Infrastructure Finance and Innovation Act (TIFIA) and Private Activity Bonds (PABs), to leverage existing transportation revenues.

Fuel Taxes Inadequate But Unlikely to Change

The Highway Trust Fund, which pools revenues from fuel taxes and other fees, has been hard pressed to keep pace with demand for transportation funding. In a report released in January 2011, the Congressional Budget Office estimated that the Highway Trust Fund's Highway Account may be insolvent as early as FY2012 and that the Transit Account will run dry sometime during Fiscal Year 2013.²

The Obama Administration opposes increasing federal taxes on gasoline and diesel fuels, and has said that it is unwise to raise fuel taxes during a period of high unemployment and still-uncertain economic prospects. The federal fuels tax of 18.4 cents per gallon for gasoline and 24.4 cents per gallon for diesel has not been raised since 1993.

Mica told the Transportation Nation blog³ that he does not support Republican calls to cut the federal fuel taxes. Instead, he would like to look at financing alternatives to stabilize revenues, prioritize how Federal money is spent, and give States more discretion.

House Limits Transportation Spending, Pushes for Cuts

House Republicans, with the help of 17 Democrats, passed House Resolution 38⁴ which required the House Budget Committee to assume that nonsecurity spending levels would be limited to FY 2008 levels when it set discretionary spending limits for the remainder of FY2011. On January 5, the House eliminated a rule that protected guaranteed spending levels authorized for programs funded by the Highway Trust Fund.

On February 3, House Budget Committee Chairman Paul Ryan released the discretionary budget authority ceiling for the remainder of FY 2011. The new ceiling is set at \$1.055 trillion, \$34 billion less than the former level. The \$1.055 trillion spending cap is \$74 billion less than President Barack Obama's FY 2011 budget request, from which House Republicans have pledged to cut \$100 billion. House Appropriations Chair Harold Rogers has proposed cutting transportation and housing program funding by \$11.5 billion. This 17% cut is the largest reduction given to any of the 12 appropriations subcommittees.

In its February 10 proposed Continuing Resolution, the House Appropriations Committee has suggested FY2011 cuts of \$1 billion for high speed rail, \$224 million for Amtrak, and \$234 million for the FAA's Next Gen program. The proposal follows close on the heels of Vice President Joe Biden and Transportation Secretary Ray LaHood proposal to expand the nation's high-speed rail investment by \$53 billion over the next six years.⁵

Obama Administration Pushes Multi-Modalism, Targeted Assistance

At the 2011 Transportation Research Board Annual Meeting, Roy Kienitz, USDOT's undersecretary for policy, outlined the Administration's goals for the next surface transportation authorization. USDOT is looking at ways to make multimodalism easier, and is instead trying to find ways to simplify and increase collaboration across modes, which could require federal statutory changes.

Kienitz said USDOT's authorization proposal will also look at other key issues:

- **Fewer Methods of Assistance vs. More Assistance:** How will the federal government help fund large projects while encouraging private investment?
- **Who Are the Recipients of Federal Aid?:** Traditionally, Highway Trust Fund allocations are funneled mostly through state DOTs. But USDOT might consider more ways to fund projects by public ports, local governments, and metropolitan planning organizations.
- **Certainty vs. Competition:** Kienitz said that rather than formula funding, USDOT will seek to fund projects that "give the most bang for the buck."

State and Local Agencies Push to Expand TIFIA, Streamline NEPA

At a recent joint House/Senate hearing, Los Angeles Mayor Antonio Villaraigosa called on the federal government to expand the TIFIA program. His proposal would expand funding to \$375 million per year, more than triple existing funding TIFIA. In a press conference following the hearing, Senate Environment and Public Works Committee Chairwoman Barbara Boxer said that she and Mica are already discussing a larger figure.

Villaraigosa also recommended increasing the maximum TIFIA share from the current 33 percent to 49 or 50 percent, to allow TIFIA more flexibility to finance programs related to approved projects, and to authorize the Department of Transportation to make upfront conditional credit commitments that would mitigate financing risk for project sponsors.

California Transportation Director Cindy McKim testified that a pilot program allowing California to assume most federal responsibilities for environmental documents has cut about 14 months off the process. McKim suggested including the program in the upcoming authorization bill, saying that allowing "concurrent" rather than consecutive federal/state environmental reviews of projects would make a major contribution toward cutting the time it takes from design to implementation of a project.

Los Angeles County Supervisor Don Knabe called for amending Section 54 of the Internal Revenue Code to establish a new class of qualified tax credit bonds, called "Qualified Transportation Improvement Bonds." The bonds would be taxable rate bonds issued by state or local issuers, with the federal government subsidizing most or all of the interest costs by granting investors annual tax credits in lieu of interest. QTIBs would allow issuers to finance more than twice the dollar value of capital improvements than is possible with traditional tax-exempt bonds for any given annual revenue stream.

The joint hearing was one of several fact-gathering sessions the House T&I Committee is holding nationwide in advance of writing the next six-year surface transportation reauthorization bill. Other hearings took place in Washington state and Oklahoma. The House T&I Committee recently began the field hearings in West Virginia.

Highlights from the Obama Administration's Budget Proposal

President Obama has released his proposed budget for FY2012. It would provide \$128 billion in total transportation funding for all modes, including \$13 billion in discretionary budget authority, \$109 billion in obligation limitations and \$6 billion in mandatory budget authority. The proposed budget:

- Provides \$13.4 billion in discretionary resources in 2012, a \$1.3 billion decrease from 2010 levels.
- Includes a six-year, \$556 billion surface reauthorization plan.
- Jump-starts productive investment and stimulates job growth with a first-year funding boost of \$50 billion in 2012.
- Provides \$8 billion in 2012 and \$53 billion over six years to reach the President's goal of providing 80 percent of Americans with convenient access to a passenger rail system, featuring high-speed service, within 25 years.
- Includes \$30 billion over six years for a pioneering National Infrastructure Bank to invest in projects of regional or national significance to the economy.
- Continues to invest in the Next Generation Air Transportation System.
- Initiates Transportation Leadership Awards to create incentives for State and local partners to pursue critical transportation policy reforms.
- Reduces funding for Airport Grants, focusing Federal support on smaller airports, while giving larger airports additional flexibility to raise their own resources.

More detail on the budget proposal is available at the White House website: <http://www.whitehouse.gov/omb/budget/Overview/>

[1] AASHTO Journal, Senate OKs Extension of Transportation Appropriations & Authorization to March 4, (Dec. 21, 2010) at: <http://www.aashtojournal.org/Pages/122110newsalert.aspx>

[2] AASHTO Journal, CBO: Highway Account Faces Possible Insolvency Next Fiscal Year, (Jan. 28, 2011) at: <http://www.aashtojournal.org/Pages/012811htf.aspx>

[3] Transportation Nation, Interview: John Mica says Transpo Bill Needs "Alternate Means of Financing", (Jan. 18, 2011) at: <http://transportationnation.org/2011/01/18/interview-john-mica-says-transpo-bill-needs-alternate-means-of-financing/>

[4] A copy of the resolution is available at: <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:HRES38>:

[5] AASHTO Journal, Obama Administration Announces \$53 Billion Plan for High-Speed Rail, (Feb. 11, 2011) at: <http://www.aashtojournal.org/Pages/021111biden.aspx>