



ML Strategies Legislative Update

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Roadmap to the Next Highway Bill

Policy Committees Driving Activity

While the current surface transportation authorization, Moving Ahead for Progress in the 21st Century (MAP-21), is due to expire on September 30th, the Department of Transportation (DOT) recently unveiled new calculations projecting the Highway Trust Fund will become completely insolvent by August 29th. Even more pressing, the Highway Trust Fund is expected to dip below the critically low level of \$4 billion as soon as July – potentially slowing transportation payments at the peak of construction season.

Under this ramped up pressure, the Senate and House authorizing committees are now operating on an aggressive timeline to introduce, mark up, and pass a new surface transportation authorization bill.

On April 10th, the “Big Four” of the Senate Environment and Public Works Committee announced agreement on a framework for the next transportation bill, which they hope to introduce upon returning from the two-week recess on April 28th. A markup is tentatively planned for early May. Environment and Public Works Committee Chairman Barbara Boxer (D-CA) and Ranking Member David Vitter (R-LA), and Surface Transportation Subcommittee Chairman Tom Carper (D-DE) and Ranking Member John Barrasso (R-WY), outlined a vision for a comprehensive, six-year bill at current funding-levels plus inflation, that address both transportation policy and the looming Highway Trust Fund shortfall.

Meanwhile, House transportation leaders, including Transportation and Infrastructure Committee Chairman Bill Shuster (R-PA), view the infrastructure challenge somewhat differently, and have suggested that the solvency of the Highway Trust Fund and road and transit policy reforms should be addressed as separate, but related, legislative efforts.

Of course, assembling the highway bill is no easy task, especially given the number of congressional committees with jurisdiction over the various titles typically included in the bill. On the Senate side, the committees of jurisdiction include the Environment and Public Works Committee; Commerce, Science, and Transportation Committee; Banking, Housing and Urban Affairs Committee; and the Finance Committee. On the House side, the primary committees of jurisdiction include the Transportation and Infrastructure Committee and the Ways and Means Committee.

Potential Pay-Fors

It is the Senate Finance Committee and the House Ways and Means Committee that have jurisdiction over the critical and political task of determining how to pay for the next transportation bill, especially as the Senate's six-year authorization proposal comes with a Congressional Budget Office (CBO) estimated price tag of roughly \$100 billion. While a number of suggestions have been made for financing the highway bill, each of the following proposals comes with its own criticism, especially in this midterm elections year:

Increasing the Gas Tax: The Highway Trust Fund currently relies on revenues from the 18.4 cents per gallon federal gas tax, which has declined in purchasing power over the years. By way of background, the gas tax has not been increased since 1993 and the tax is not indexed for inflation. Despite the introduction of legislation by Congressman Earl Blumenauer (D-OR) to raise the gas tax by 15 cents per gallon over three years, the Senate and House managers of the transportation bill have said this proposal is virtually off the table.

Broader Tax Reform: Perhaps a more likely financing package for the transportation bill could be sourced from the comprehensive tax reform packaged introduced by Ways and Means Committee Chairman Dave Camp (R-MI) earlier this year. Some provisions of the tax reform package that might be used to fund the highway bill include using revenue from a tax repatriated on corporate earnings, ending tax breaks for certain overseas income, and reviving the Build American Bonds program.

Vehicle Miles Traveled: Favored by Chairman Shuster, support for a user fee approach, frequently known as a vehicle-miles-traveled (VMT) tax, is growing. While this type of tax has never been implemented at the federal level, mainly due to privacy concerns and the need to hammer out the logistics for collecting the levy, pilot projects at the state and local level have proved somewhat effective. Congressman Blumenauer has also introduced legislation to study the prospects for this kind of program nationwide.

Cost Shifting to the States: As the federal government continues to face budget pressures, some more conservative members of Congress have also advocated for an approach that would shift the responsibility for identifying the revenues to fund local infrastructure projects from the federal government to states and municipalities. For example, Senator Mike Lee (R-UT) and Congressman Tom Graves (R-GA) have introduced companion bills that would actually lower the federal gas tax to 3.7 cents per gallon over five years, while transferring most of the responsibility for highway funding to states.

Forthcoming Administration Proposal

Also a factor in the near term highway bill debate is a proposal for the next transportation authorization that DOT is expected to unveil in the coming weeks. Secretary of Transportation Anthony Foxx is currently on an eight-state bus tour promoting President Barack Obama's vision for a four-year, \$302 billion plan to reinvigorate the Highway Trust Fund.

It is anticipated the Administration's forthcoming version of the surface transportation bill will fit within the parameters of President Obama's plan. While details on both the policy provisions of the proposal and the financing package are still emerging, it is likely that a significant portion of the Administration's highway bill will be funded with existing proposals for reforming corporate tax laws.

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