Federal Transportation Briefing

A Periodic Report on Federal Transportation Activities

Issue # 155 Dec. 19, 2014

The 114th Congress will convene on Tuesday, Jan. 6, 2015

Annual Appropriations

On Dec. 16, the president signed HR 83, known as the "cromnibus." It combines a continuing resolution (CR) for the Department of Homeland Security through Feb. 27, 2015, with an omnibus for all other federal agencies through Sept. 30, 2015. For transportation, HR 83 provides:

- *highway, transit and aviation obligation limitation at FY 2014 levels*
- *$500 million for the TIGER program, with eligibility for highways, bridges, transit, passenger and freight rail, and ports*
- *temporary suspension of two provisions of the trucker hours of service rules*
- *a Jan. 2015 deadline for tank car rules phasing out DOT 111s*
- *an increase in port project funding from the Harbor Maintenance Trust Fund, but $95 million less than authorized in WRRDA.*

Tax Credit Extension

Shortly before adjourning, the 113th Congress passed its last piece of legislation, HR 5771, which retroactively extends through FY 2014 several tax breaks, including credits for railroad track maintenance and certain transit expenses. In addition, the bill raises the diesel fuel tax charged to barge operators by nine cents per gallon. These funds flow into the Inland Waterway Trust Fund which was created to fund infrastructure projects on the inland waterway system. President Obama is expected to sign the bill.

Funding/authorization expiration dates:

Sept. 30, 2015 – transportation appropriations (HR 83, T-HUD)
Sept. 30, 2019 - water resource and development programs (WRRDA of 2014)
Sept. 30, 2013 - passenger rail and freight safety programs (PRIIA of 2008)
May 31, 2015 - surface transportation programs (MAP-21 extension, in HR 5021)
Sept. 30, 2015 - aviation programs (Air Transportation Modernization & Safety Improvement Act, 2012)

Background

Annual Transportation Appropriations

Congressman Paul Ryan's FY 2015 budget proposal, reported out of the House Budget Committee the week of March 31 on a 22-16 vote, would allow transportation funding to go over

the “fiscal cliff.” In contrast to the administration proposal and also a tax reform plan from Ways and Means Chair Camp released last month, the House FY 2015 budget contains no provisions to address the Highway Trust Fund shortfall, expected to begin impacting the rate of reimbursements to states by this summer. In addition, states would be prevented from obligating any new highway projects in FY 2015. This would allow for existing revenues to sustain higher levels of investing in FY 2016.

Without additional revenues for the Trust Funds, outlays for FY 2015 under the Ryan proposal would be reduced by $13 billion. However, since FY 2015 funding is already established (via the Ryan-Murray agreement signed four months ago), the new proposal is unlikely to take effect.

A House-proposed FY 2015 budget, voted out of committee last month, would have allowed transportation funding to go over the “fiscal cliff.” However, that proposal is no longer in play. Amounts published in the April 29 Congressional Record by Budget Committee Chairman Paul Ryan and approved in subcommittee yesterday adhere instead to those agreed to in the Ryan-Murray Bipartisan Budget Act, which allows for FY 2015 transportation funding at MAP-21 levels (but it does not address the shortfall).

Against that backdrop, Representative Tom Latham, chair of the House Transportation-Housing and Urban Development Appropriations subcommittee released an FY 2015 T-HUD appropriations bill on May 6, and says he plans to mark it up on May 7. Funding for highway, transit and aviation apportionments stay at FY 2014 levels. The TIGER program would be cut to $100 million, down from the current $600 million; also, eligible projects would be limited to highway, freight rail and ports.

On the Senate side, T-HUD Appropriations Subcommittee Chairwoman Patty Murray has not announced a markup schedule, but has repeatedly spoken on the floor about the impending transportation funding crisis.

The House has reported out its FY 2015 appropriations bill for Transportation, Housing and Urban Development. HR 4745 would maintain FY 2014 obligation limitation levels for highway, transit, and the Airport Improvement Program. The TIGER program would be continued, but reduced from the current $600 million down to $100 million, with projects restricted to highway, freight rail and ports only. Floor action is likely the week of June 9.

The Senate has not yet released its proposal. However, subcommittee markup is scheduled for June 3, with a full committee vote on June 5.

Yesterday, the Senate Appropriations Committee reported out its FY 2015 bill for Transportation, Housing and Urban Development (T-HUD). Like the House proposal, S. 2438 would maintain the current obligation limitation of $40.256 billion for highway programs. For most other programs, however, Senate amounts are somewhat higher than in the House. Under S. 2438:

- The obligation limitation for transit would increase by $309 million over FY 2014 to $11.1 billion.
- The Airport Improvement Program would be funded basically at current levels after certain transfers between accounts. $149 million is included to staff contract towers.
- A TIGER program is included, but reduced slightly to $550 million, down from $600 million in FY 2014. (This is still, however, much higher than the House proposal of $100 million.)

- Amtrak would stay at the current $1.39 billion. The bill also addresses safe rail transportation of crude oil, such as by providing $3 million to expand the use of automated track inspection, and requiring quick completion of federal rules for a certain type of unpressurized tank car ("DOT-111").

During markup, senators approved an amendment to temporarily suspend (through September 2015) two specific provisions of the new FMCSA hours-of-service rules for truck drivers. In the interim, FMCSA would conduct a study on the potential impacts of changes to requirements that drivers rest for two consecutive nights between 1 a.m. and 5 a.m., and the once-per-week clock restart limit.

Senator Reid has reserved floor time for the bill during the last two weeks in June.

Work on FY 2015 appropriations for transportation is at an impasse in the Senate. Senator Mikulski, who chairs the Appropriations Committee, has combined the Transportation-Housing and Urban Development bill (S 2438) with two others to form a "minibus" under HR 4660. But floor debate scheduled for Thursday afternoon was deferred due to a leadership dispute over vote thresholds for some amendments. If no agreement is reached in the coming weeks, a short-term continuing resolution will be necessary before the current bill expires Sept. 30.

The House passed its T-HUD proposal, HR 4745, on June 9.

After the House passed its FY 2015 Transportation-Housing and Urban Development appropriations bill in June, work came to a standstill in the Senate due to a leadership dispute over vote thresholds for some amendments. Work has begun this fall, however, on a short-term Continuing Resolution (CR) covering all departments to take effect when the current appropriations expire on Sept. 30.

H J Res. 124 was introduced in the House on Sept. 9, one day after the end of the August recess. As currently written, it would provide funding through Dec. 11, 2014, with few anomalies. (One exception is a very small across-the-board cut of 0.0554 percent to offset $88 million in funding to help fight the Ebola outbreak in Africa.) However, a floor vote scheduled for last week was delayed to allow for discussion on the possibility of adding provisions related to arming and training Syrian rebels. After work in the Rules Committee tonight, the resolution may come to the House floor tomorrow, Sept. 16.

Leadership in both chambers has expressed the hope that the lame duck Congress will pass an omnibus, possibly based on previous proposals, to span the time period between the expiration of the CR and the end of FY 2015. However, the outcome of the November elections will play a major role in the course taken.

The lame duck session of the 113th Congress began last week, with the main action taking place in closed-door meetings and leadership elections in which the current line-up was largely retained. However, when the 114th session begins in January, Senator McConnell and Senator Reid will switch places as Majority and Minority leader due to Republican gains in the mid-terms. Still to come are changes to committees, including the selection of chair and ranking member for each.

Neither Senator McConnell nor Representative Boehner (returning Speaker of the House) mentioned transportation during press conferences outlining their agendas for next session, but

several related issues are looming, including reauthorization of surface transportation, aviation and passenger rail programs.

Meanwhile, the lame duck Congress must confront FY 2015 appropriations since, without further action, funding for transportation and other government agencies and programs will end Dec. 11, 2014. Also, the administration has requested emergency funding for activities related to Ebola, ISIS, and child migrants at the southwest border.

Both Senator Mikulski and Senator Rogers, current chair and ranking member of the Senate Appropriations Committee, have championed an omnibus for the rest of the fiscal year, since most of the 12 bills in the package have been written, and some have passed out of committee or even one chamber. For instance, the House passed its Transportation-Housing and Urban Development (T-HUD) bill, HR 4745, in June, and the Senate version has received committee approval. One of the biggest differences between the two proposals involves the funding level and scope of the competitive TIGER grant program. Rep. Latham, who chairs the House Appropriations T-HUD subcommittee, says the two chambers will work to reconcile the differences in the TIGER language this week.

Another option is a full-year Continuing Resolution (CR), which would also “clear the decks” and allow the 114th Congress to focus on new business. However, it would lock agencies into last year’s funding categories and levels.

Gaining momentum toward the end of last week was a push for a short-term CR to keep the government funded just long enough for the new, Republican-controlled Congress to write and enact an entirely new omnibus bill.

Complicating the situation, however, is the threat by some members to encumber any proposed funding legislation with riders related to issues such as immigration and EPA rules on waterways. The stalemate that could result would have the potential to lead to another shut-down of the federal government.

With the current Continuing Resolution (CR) funding the federal government expiring Dec. 11, 2014, the House is working on a combined omnibus and CR (a “CRomnibus”) to finish out FY 2015.

> The omnibus section: Reportedly, each agency except the Department of Homeland Security would be funded based on a negotiated version of the appropriations bills under earlier consideration. The T-HUD committees in the House and Senate had both proposed measures for transportation that continued highway, transit and AIP obligation limitation at FY 2014 levels. Major differences between the two included the TIGER program amount and scope, with S 2438 providing $550 million for projects in currently eligible categories, and HR 4745 providing $100 million for highway, freight rail and ports only. Another difference relates to trucker hours of service, with the Senate proposing to delay certain provisions of the rules. Additional transportation-related issues that could come into play include EPA water rules.
>
> The CR section: Funds for the Department of Homeland Security would be in the form of a short-term CR perhaps until February. The intent is to provide the 114th Congress with an opportunity to alter funding related to immigration enforcement.

Representative Rogers, who chairs the House Appropriations Committee, says the negotiations are nearly complete and the CRomnibus text will be ready for release on Monday morning. However, controversy over potential policy riders could result in a close vote in the House. With the deadline looming, another CR for all 12 bills is still a possibility.

The federal government is currently operating under a short continuing resolution (CR) good through Saturday. Despite last night's approval by the House of HR 83, the FY 2015 appropriations measure known as the cromnibus (in a close 219-206 vote), insufficient time remained for action in the Senate before funds expired at midnight. To prevent a shut-down, each chamber quickly approved H.J. Res. 130, and it was signed by the president.

HR 83 is generating controversy in the Senate, as it did in the House, which could make it difficult to reach the unanimous consent agreement necessary for a vote today. Procedural rules could then delay action until Monday, necessitating yet another stop-gap CR.

As passed by the House, HR 83 provides:

- highway, transit and aviation obligation limitation at FY 2014 levels
- $500 million for the TIGER program, with eligibility for all modes, but excluding planning
- temporary suspension of two provisions of the trucker hours of service rules
- an increase in port project funding from the Harbor Maintenance Trust Fund, but $95 million less than authorized in WRRDA.

On Dec. 16, the president signed HR 83, known as the "cromnibus." It combines a continuing resolution (CR) for the Department of Homeland Security through Feb. 27, 2015, with an omnibus for all other federal agencies through Sept. 30, 2015. For transportation, HR 83 provides:

- highway, transit and aviation obligation limitation at FY 2014 levels
- $500 million for the TIGER program, with eligibility for highways, bridges, transit, passenger and freight rail, and ports
- temporary suspension of two provisions of the trucker hours of service rules
- a Jan. 2015 deadline for tank car rules phasing out DOT 111s
- an increase in port project funding from the Harbor Maintenance Trust Fund, but $95 million less than authorized in WRRDA.

Surface Transportation Reauthorization

With MAP-21 due to expire on Sept. 30, 2014, Congress is holding an increasing number of hearings on surface transportation reauthorization issues. So far, however, there is no consensus in Congress on addressing the most significant of those issues – namely, the highway trust fund shortfall described above. Very few members of Congress have expressed support for raising the federal gas tax, or for any of the alternatives, including the option of trimming the program to match the revenue.

By contrast, at a Feb. 12 meeting of the Environment and Public Works Committee, representatives of diverse stakeholder groups such as the US Chamber of Commerce and the AFL-CIO advocated directly for an increase in the gas tax to maintain current investment levels. And the American Trucking Association and AAA have both endorsed HR 3636, a bill to double

the tax, which was introduced last month by Representative Blumenauer of Oregon. No other members of the House have signed on as co-sponsors.

This week, the administration submitted a four-year, $302 billion surface transportation reauthorization proposal, GROW AMERICA. Much of the content, including funding levels, had been revealed in March as part of President Obama's FY 2015 budget.

For instance, the "Transportation Trust Fund" (replacing the Highway Trust Fund – see below) would be shored up for the duration of the bill with approximately $150 billion in general fund transfers based on increased revenue from yet-to-be-enacted business tax reform. Approximately $63 billion of this amount would be necessary just to maintain the solvency of the fund. The remainder would allow for modestly increased apportionments to states under existing programs, plus large increases in funding for certain new programs targeting mainly passenger rail, large urban transit systems and multimodal freight projects.

Reflecting the emphasis on new program areas, the Highway Trust Fund would be replaced with a Transportation Trust Fund consisting of four accounts: Highway; Mass Transit; Rail; and Multimodal. The Highway and Mass Transit accounts would receive gas tax and other user-generated revenue, supplemented with general fund transfers. The Rail and Multimodal accounts would be funded entirely with general fund transfers.

Receiving the most attention so far, however, are the tolling provisions detailed in GROW AMERICA. Currently, tolling is prohibited on existing interstates (paid for using federal funds) with some exceptions. The proposal would essentially allow conversion of any existing interstate lanes into toll lanes, with DOT approval. It would also expand allowed use of the revenue to include categories such as reconstruction, congestion management, or transit costs within the corridor. As the bill is analyzed, additional detail will be provided.

The House and Senate may offer their own reauthorization proposals in the next few months. However, due largely to the funding issues, a short-term extension of MAP-21 is more likely than enactment of a replacement any time soon.

On May 15, the Environment and Public Works Committee amended and approved its portion of the Senate's surface transportation reauthorization measure. S. 2322, a six-year proposal released earlier this week, would fund highway programs at current levels plus inflation. In addition, the Senate would create a formula National Freight Program that would begin in FY 2016 ($400 million per year, increasing by that amount each year through FY 2020); and competitive funding similar to the TIGER program called "Projects of National and Regional Significance" ($400 million per year). Of concern, however, is an amendment the committee adopted before approving the bill: it would permanently rescind states' obligation authority in an amount that would prevent the Highway Trust Fund from falling below acceptable levels. The Senate will continue to revise the language during consideration on the floor. Additional details will be provided as the bill text is analyzed.

Still to come are: the transit title (Banking, Housing and Urban Affairs Committee); and the rail and safety titles (Commerce, Science and Transportation Committee). It will be up to the Finance Committee to identify funding to address the Highway Trust Fund shortfall and pay for the bill.

The administration's reauthorization bill, GROW AMERICA, was released late last month. The Transportation and Infrastructure Committee has not yet offered a House proposal. Since it would be nearly impossible to craft a final bill before MAP-21 expires on Sept. 30, 2014, an extension is expected.

Since it will be nearly impossible to craft a final surface transportation reauthorization bill before MAP-21 expires on Sept. 30, 2014, an extension is likely. However, here is the status of proposals for a replacement:

Senate - The Environment and Public Works Committee reported out its six-year highway title on May 15. The other committees have a ways to go. The Banking, Housing and Urban Affairs Committee, which writes the Senate's transit title, held a hearing on May 22. The Commerce, Justice and Science Committee, which is responsible for the rail and safety titles, will conduct a safety hearing June 3 at 8:30 (central time). No related hearings have been scheduled by the Finance Committee, which must identify the funding to address the Highway Trust Fund shortfall and pay for the bill.

House - The Transportation and Infrastructure Committee, which writes the entire House bill, has not yet offered a proposal.

Administration - GROW AMERICA, a four-year bill, was released late last month.

Interest is increasing in using revenue from a tax overhaul as a one-time source of funding for surface transportation reauthorization. This week, House Budget Committee Chairman Paul Ryan expressed some support for that approach, citing a discussion draft released by Representative David Camp (Chairman of the House Ways and Means Committee) last February. Under that proposal, $126.5 billion of such anticipated revenue would be added to the Highway Trust Fund over a period of eight years, according to committee summaries.

The administration advocates a similar approach. U.S. DOT's GROW AMERICA proposal included provisions that would add to the trust fund approximately $150 billion in new revenue from "pro-growth tax reform" over a period of 10 years. However, the president has emphasized that he is willing to look at other sources of funding.

Although the 113th Congress has adjourned until after the election, consensus on a pay-for would increase the chances of the 114th Congress producing a successor to MAP-21. In the Senate, three sections of that chamber's surface transportation reauthorization package have been introduced, covering highway, highway safety, and rail safety. They could serve as a starting point for new legislation in the 114th session. On the House side, the Transportation and Infrastructure writes a comprehensive bill, but has proposed no surface reauthorization language.

Water Resources Development Act reauthorization

The Environment and Public Works committee reported out S 601 on March 20. The Water Resources Development Act (WRDA) authorizes the civil works program of the Army Corps of Engineers, which includes river operations and issues.

The Senate is set to vote Thursday on S 601, the bill to reauthorize the civil works program of the Army Corps of Engineers, which includes river operations and issues. Provisions aimed at increasing revenue into the Inland Waterways Trust Fund may be proposed on the floor.

Senate work on amendments to the Water Resources Development bill continued the week of May 6. So far, proposals to raise the rate of fuel taxes going into the Inland Waterways Trust Fund (IWTF) have met resistance by leadership, since the Constitution requires tax legislation to originate in the House. (The trust fund pays for improvements to locks, dams and navigation channels.) However, the manager's amendment, which was agreed to on Wednesday by unanimous consent, includes a provision that funds the enormous Olmsted lock and dam project on the Ohio River (near Olmsted, Illinois) entirely from the general fund, freeing up IWTF revenue for use on other projects.

On May 15, the Senate amended and passed S 601, the Water Resources Development Act of 2013 (WRDA) authorizing the Army Corps of Engineers' civil works program, including river operations and issues. The vote was 83-14, with Senator Harkin and Senator Grassley both voting "yes."

As passed, the bill:

- authorizes Corps activities and projects;
- funds the Olmsted lock and dam project on the Ohio River (near Olmsted, Illinois) entirely from the general fund, freeing up Inland Waterway Trust Fund (IWTF) revenue for other projects;
- includes a pilot program to evaluate non-federal interests carrying out certain projects including inland harbor navigation, flood risk management and other activities;
- authorizes federal support for state levee safety programs and grants;
- streamlines certain environmental requirements; and
- creates a loan and loan guarantee program called WIFIA for certain water projects that produce a revenue stream and cost at least $20 million.

A proposed Senate amendment to increase the per-gallon diesel tax going into the IWTF was dropped due partly to concerns about the requirement that tax legislation originate in the House. The House Transportation and Infrastructure Committee has jurisdiction on the House side and will write its own bill.

Transportation and Infrastructure (T&I) Committee leadership says the long-awaited House version of the bill to reauthorize water resources development programs will go to the committee in September and come to the floor in early October. Committee chairman Bill Schuster said the bill will contain no earmarks and will make major reforms to water resources development activities, especially with regard to streamlining project delivery.

The House version of the water resources reauthorization bill was introduced Sept. 11. HR 3080, the Water Resources Reform and Development Act (WRRDA) authorizes the civil works program of the Army Corps of Engineers, which includes river operations and issues. The House Transportation and Infrastructure Committee is scheduled to mark up the bill on Sept. 19.

In contrast to previous reauthorization acts, which consisted mainly of earmarks, the proposal addresses many policy issues (such as streamlining the environmental review process), and mentions few specific projects. One issue not addressed, however, is the need for additional revenue into the Inland Waterway Trust Fund. Transportation and Infrastructure Committee

Chairman Bud Shuster said that while there is support for an increase in the diesel tax supporting the trust fund, the Ways and Means Committee would have to initiate any tax-related proposals.

The Senate passed its version of WRDA reauthorization, S. 601, on May 15.

The House Transportation and Infrastructure Committee reported out the water resources reauthorization bill last Thursday. HR 3080, the Water Resources Reform and Development Act (WRRDA) authorizes the civil works program of the Army Corps of Engineers, which includes river operations and issues. Few changes were made during mark-up.

The House could take up its Water Resources Development authorization bill (WRRDA) next week. Amendments must be filed on HR 3080 by Tuesday morning.

The Water Resources Reform and Development Act of 2013 (WRRDA) passed the House on Oct. 23 by an overwhelming margin, 417-3. While previous reauthorization acts have consisted mainly of earmarks, HR 3080 mentions few specific projects and consists mostly of policy changes aimed at lowering the cost and time required for project completion. As passed, the bill:

- authorizes Corps activities and projects (23 specific projects with completed Chief's Reports are listed, including a flood risk management project in Cedar Rapids)
- increases the federal share of fund for the Olmsted lock and dam project on the Ohio River (near Olmsted, Illinois) to 75v percent (up from 50 percent), to leave more of the Inland Waterway Trust Fund (IWTF) revenue for other projects
- includes a pilot program to evaluate non-federal interests carrying out certain projects
- streamlines many environmental requirements

The en bloc amendment adopted on the floor includes provisions to prevent the spread of Asian Carp, and require coordination between the Corps and FEMA when informing the public about flood risk. A proposal to designate a water-based freight network (modeled on the MAP-21 Primary Freight Network) was defeated.

The next step will be appointment of a conference committee to work out the differences between HR 3080 and the Senate's bill, S. 601 which was passed in May.

All conferees have been appointed to negotiate a compromise between the House and Senate versions of the water resources development bill now called HR 3080. House members who will serve (chosen yesterday) include 25 members of the Transportation and Infrastructure Committee and three members of the Committee on Natural Resources. Senate members were appointed Nov. 4 and include eight members of the Environment and Public Works Committee. None of the conferees are from Iowa.

The Water Resources Reform and Development Act of 2013 (WRRDA) passed the House on Oct. 23 by an overwhelming margin, 417-3. The Senate passed S. 601 in May, also by a bipartisan vote of 83-14. One major difference between the two versions is their approach to project authorization. While both establish a set of criteria for choosing future projects, the Senate would technically leave the final choice to the Army Corps of Engineers, while the House would give the final say to Congress. (In fact, the House bill actually names 23 specific projects, including $67.2 million for flood risk management on the Cedar River in Cedar Rapids.) Other differences: the Senate includes a comprehensive national levee safety program which the

House does not, and S 601 adds language throughout requiring a watershed approach to planning and projects – HR 3080 does not generally require this.

The Water Resources Development Act bill is still in conference, but sign-off by the US Army Corps of Engineers on 14 new projects is likely to spur final action. USACE approval of the projects, some of interest to conference committee leadership, makes them eligible for inclusion in the list of projects authorized by the bill. However, a new issue has arisen over language related to use of the Apalachicola-Chattahoochee-Flint River System in Alabama, Florida and Georgia. Senator Boxer has relinquished floor time previously scheduled for WRDA debate.

Also on Thursday: after nearly a year of negotiations, the conference report for HR 3080, the Water Resources Reform and Development Act (WRRDA), was introduced in the House by Transportation and Infrastructure Committee Chair Bill Shuster. H. Rept. 113-449 incorporates significant reforms to the process for approving and implementing water infrastructure projects.

It also authorizes 42 new or revised projects which have received U.S. Army Corps of Engineers sign-off via Chief's Reports. Two projects in Iowa are included: a flood risk management project involving the Cedar River in Cedar Rapids ($73,130,000 federal share, $39,380,000 non-federal share); and a flood damage reduction and recreation project involving the Des Moines River and the Raccoon River in Des Moines ($14,990,000 federal share, $8,254,700 non-federal share).

Expedited floor action in the House is set for Tuesday, and it could go to the Senate floor the next day.

On May 22 the Senate finalized the conference report for the Water Resources Reform and Development Act of 2014 (HR 3080, Rpt. 113-449) and sent it to the president for signature. Like the House vote (412-4), the Senate's 91-7 tally reflected bipartisan support for the compromise measure.

The first such bill since 2007, WRRDA is aimed at streamlining environmental review and development of water resources projects. For instance, certain reviews must take place concurrently, and federal agencies are fined for exceeding agreed upon deadlines for decisions. Also, non-federal agencies can play a greater role in advancing projects.

While no earmarks are included, the bill authorizes construction (or modification) of 42 specific projects with completed Chief's Reports. Two of those projects are in Iowa: flood risk management on the Cedar River in Cedar Rapids (estimated federal share $73,130,000); and a modification to the authorized amount for the Des Moines River and Raccoon River Project (estimated federal share $14,990,300). Also included is a technical correction to the authorized boundary of the Fort Dodge Riverfront Project which will make additional elements of the project eligible for federal funds.

Despite the need for increased revenue into the Inland Waterway Trust Fund (IWTF), Congress declined to raise the barge tax. It did, however, assign to the general fund a larger percentage of the Olmsted lock and dam project on the Ohio River. Lowering the IWTF contribution from the current 50 percent down to 15 percent will free up approximately $105 million per year for use on other inland waterway projects.

Provisions related to the Mississippi River include requiring updated water level and vessel tracking, and conducting a study on management related to flooding and drought. Regarding the Missouri River, WRRDA authorizes cooperative agreements to advance the monitoring of soil moisture and snow pack in the plains.

President Obama signed the 2014 Water Resources Reform and Development bill (WRRDA) on June 10. The first such measure enacted since 2007, WRRDA includes provisions to hasten the completion of water projects, along with authorization for 42 specific projects. However, funding for these projects, and for programs in WRRDA, will be through the FY 2015 Energy and Water appropriations measure. While the Senate version of that bill is currently in limbo due to issues similar to those impacting transportation, floor action on the House version is expected the week of July 7.

Budget

Each year, the administration proposes a specific budget for federal programs in the coming year, plus aggregate spending levels for the out-years. It generally serves as a starting point for the topline amount and policy direction for the appropriations process.

Earlier this month, President Obama released his budget proposal for FY 2015. The implications are slightly different this year, with the administration taking its cue on the total amount from the Ryan-Murray budget agreement (signed in December 2013) which set that limit at $1.014 trillion. The request would fund most programs within that limit, but cites revenue from “pro-growth corporate tax reform” to offset new programs and higher funding levels for some existing programs.

The transportation section, which actually specifies funding levels for FY 2015-2018, can be seen as a preview of the administration’s surface transportation reauthorization bill. However, since any reauthorization proposal will hinge on the solvency of the Highway Trust Fund, the most significant aspect of the budget request is, arguably, the proposal to fill the gap between trust fund receipts and outlays. The administration would add to the trust fund approximately $150 billion in new revenue during FY 2015-2018, singling out approximately $63 billion of that amount for maintaining the solvency of the fund. The president has emphasized that he is willing to look at other sources of funding proposed by Congress.

Within the same week, Representative David Camp, the chairman of the House Ways and Means committee, released a comprehensive tax reform “discussion draft” that also adds to the Highway Trust Fund using tax reform revenue – specifically, changes to taxation involving repatriated funds. However, Camp would spread a smaller estimated amount ($126.5 billion) over a longer period (nine years). So the approximately $35 billion that would be added by Camp during FY 2015-2018 would fill the “glass” little more than halfway to the top.

The good news is: the two proposals both address the trust fund shortfall and rely on roughly the same taxation change to provide the necessary revenue, suggesting some momentum. The bad news is: the trust fund is expected to become insolvent possibly as early as July 2014 – almost certainly before enactment of a new reauthorization bill. Also, any specific increase in corporate taxation will be difficult to enact on its own, and the chance that Congress will pass a comprehensive tax reform package is remote at best.

However, the administration’s proposed budget would tap this same source to boost transportation funding (by approximately $90 billion), with the largest increases by far going to passenger rail, urban transit systems, and multimodal projects. (Another trend: increasing the

share of funds distributed via competitive programs rather than formula.) The entire package totals about $302 billion.

Administration funding proposals include:
Rail – **243 percent increase** for additional Amtrak funding, plus: a new Rail Service Improvement Program (mostly passenger rail but some funds for rail line relocation, grade crossings, and upgrades for shortlines).

Transit – **68 percent increase** for additional funds for some existing programs (State of Good Repair, Bus and Bus Facilities and New Starts), plus: a new Bus Rapid Transit discretionary grant program specifically for fast-growing areas; and "FAST" discretionary grants for innovative projects with an incentive for performance management.

Highway – 21 percent increase for a higher obligation limitation, plus: apportioned "Fix it First" funds for Interstate System bridges, and other projects on NHS and rural roads; new competitive multimodal freight grants; and "FAST" discretionary grants for innovative projects with an incentive for performance management.

Aviation - (funded through the Airport and Airway Trust Fund) – overall funding for the Airport Improvement Program would actually decrease by 13 percent, but large hub airports would no longer receive passenger and cargo entitlement, a change intended to leave enough AIP funds to actually increase apportionments to the smaller airports. In exchange, the Passenger Facility Cap would be raised for large hub airports, allowing them more flexibility to increase revenue.

TIGER – 100 percent increase for these discretionary grants for multimodal projects (to $1.2 billion per year)

Administration policy proposals (many of which have appeared in past requests) include:
- Replacing the Highway Trust Fund with a Transportation Trust Fund that would receive increased general fund transfers to support the addition of rail and multimodal projects
- Creation of an interagency center to improve the permitting process for infrastructure projects
- Continuation of TIFIA
- Capitalization of a National Infrastructure Bank ($10 billion)

Highway Trust Fund
The chair of the Senate Finance Committee intends to propose a funding source by the end of June to keep the Highway Trust Fund (HTF) solvent and address long-term revenue needs. Senator Ron Wyden says all options are on the table for committee members to consider. Without an infusion of funds, the HTF is expected to become insolvent as soon as late July. The Finance Committee is responsible for identifying funding for the Senate reauthorization bill.

The statement came a few days after House leadership signaled its intent to introduce a bill within the next two months that combines a short-term extension of MAP-21 with a $12 billion bailout of the HTF. Speaker of the House John Boehner spoke in support of offsetting the cost in part by ending Saturday delivery of most mail and transferring $1.3 billion from the Leaking Underground Storage Tank fund.

On June 19, Transportation Secretary Anthony Foxx sent a second letter to state DOTs regarding the Highway Trust Fund shortfall, stating that “in about a month” the balance of the highway account of the trust fund is expected to dip below a critical threshold, and repeating the warning that if the trust fund becomes insolvent, US DOT will likely need to delay some reimbursements to states. The letter notes US DOT’s goal of providing as much notice as possible and, in the next few weeks, providing specific guidance on its cash management approach.

Also this week, Senator Corker and Senator Murphy unveiled a bipartisan proposal to raise the gas tax by a total of 12 cents per gallon and link it to the Consumer Price Index. While the added revenue into the Highway Trust Fund would not address the impending July insolvency, it would generally offset spending at MAP-21 levels over a ten-year period. To encourage support for the gas tax increase, the senators propose other measures such as making permanent some provisions of the “tax extenders” bill, or reducing taxes by at least the amount of revenue raised from the gas tax.

The Senate Finance Committee took a step the week of June 23 toward keeping the Highway Trust Fund solvent. At a meeting on Thursday, the group discussed a proposal by committee chairman Ron Wyden (along with several amendments); and a counter-proposal by ranking member Orrin Hatch.

According to statements and summaries, Senator Wyden’s latest draft provides an $8.4 billion bailout from the general fund using: a transfer from the Leaking Underground Storage Tank (LUST) fund ($750 million); plus certain tax compliance measures implemented over a 10-year period ($7.6 billion). The 53 amendments offered include: raising the federal gas tax by 12 cents per gallon over three years; raising the barge tax to 29 cents per gallon to increase revenue to the Inland Waterway Trust Fund; exempting emergency infrastructure repairs from certain environmental regulations; and allowing states to opt out of the federal transportation program.

An earlier draft by Wyden would have increased the Heavy Vehicle Use Tax, but this pay-for was dropped in the modified version presented at the meeting Thursday afternoon, and the planned vote was delayed to allow consideration of alternative proposals and amendments.

Senator Hatch’s proposal would reportedly provide a bailout totaling more than $9 billion from the general fund based on: a transfer from the LUST fund ($1 billion); paying for non-construction costs from the general fund rather than the Highway Trust Fund ($840 million); plus ten years of revenue from expanded oil and gas exploration ($3.2 billion) and from various tax measures ($4.3 billion).

Efforts to find common ground will continue during the week-long 4th of July recess, and Senator Wyden intends to reconvene the committee “early in the week of July 7.”

According to the Congressional Budget Office (CBO), it will take about $8 billion to keep the trust fund solvent through Dec. 31, 2014, assuming a short-term extension of MAP-21 beyond the end of the current fiscal year. (So far, neither draft has been described as including an extension.) Despite the introduction of various bills to increase revenue into the trust fund, CBO estimates that even hiking the federal gas tax by 6 cents per gallon would raise only $4 billion between now and the end of the fiscal year.

A letter from Transportation Secretary Anthony Foxx to state DOT directors last week warned that well before the end of July the Highway Trust Fund is expected to dip below “a critical threshold” that will trigger delayed reimbursements to states.

Congress is closing in on a short-term measure to keep the Highway Trust Fund solvent. Committees in both the House and the Senate approved bailout plans by voice vote last week, with the Senate version now very similar to the House bill.

The most recent point of contention has been timing. HR 5021, offered by Chairman Camp of the House Ways and Means Committee, specifically extends expenditure authority through May 31, 2015, and would transfer about $10.8 billion into the trust fund (presumed to maintain current program levels for that time period). This would delay the need to write a new reauthorization bill until after the next Congress is in place. In the Senate, an earlier proposal by Chairman Wyden of the Finance Committee would have lasted only through Dec. 31, 2014. However, after a compromise with Ranking Member Hatch, the committee took up a version that provides funding for a similar timeframe as the House (although the overall amount is very slightly higher).

Both proposals would add about $8.8 billion to the highway account of the trust fund, and $2 billion to the transit account, with the funds coming from transfers from the General Fund (approximately $9.8 billion) and from the Leaking Underground Storage Tank Fund ($1 billion). For those General Fund transfers, the two chambers relay mainly on 10 years of revenue from various sources, including “pension smoothing” (which was also used as an offset in enacting MAP-21) and an extension of customs duties. However, the Senate would: rely somewhat less on pension smoothing and more on various other fees and penalties; lower the tax rate for liquefied natural gas and propane; and make other changes to tax rules intended to increase compliance.

The House Rules Committee is scheduled to decide this afternoon on the process for amendments and other floor action, which could take place as early as tomorrow. Only a couple of weeks remain before FHWA begins the process of limiting reimbursements to states, and before the annual August recess.

By a decisive vote of 367-55, the House passed its Highway Trust Fund bailout measure on Tuesday. HR 5021 provides a “clean” extension of MAP-21 through May 31, 2015, and would transfer about $10.8 billion into the trust fund (an amount presumed to maintain current program levels for that time period). The transferred funds would consist of $1 billion from the Leaking Underground Storage Tank Fund, and $9.765 billion from the general fund, offset with 10 years of revenue from “pension smoothing” and extended customs duties. President Obama has said he would sign the bill.

The path in the Senate is less straightforward. Majority Leader Reid has been working to secure a unanimous consent agreement to bring up the House-passed proposal. However, the Senate adjourned for the week before consensus was reached on the number and type of amendments that would be allowed.

A common theme of statements on the floor and in committee is that while a short-term rescue is essential, it should not be an excuse to delay work on a longer-term reauthorization bill and revenue source. In fact, Senator Boxer and others have advocated for a short-term bill lasting only to Dec. 31, 2014, to force quicker action on a replacement for MAP-21.

The legislative week ended with no final action on HR 5021, the bill aimed at keeping the Highway Trust Fund solvent through May 31, 2015. On Wednesday, Senate Majority Leader Reid announced an agreement on the terms of the debate: votes will be taken on four specific amendments (below), with 60-vote thresholds for the amendments and final passage. The four amendments are:

- Wyden-Hatch – replace the revenue provisions with those in the "PATH Act," a similar measure approved in committee earlier this month which differs mainly from HR 5021 in the specific offsets (less reliance on "pension smoothing" and more on tax compliance and other fees and penalties) and a reduction in the tax on liquefied natural gas and propane.
- Boxer-Carper – shorten the duration of the extension to Dec. 31, 2014.
- Lee – devolve to the states the taxing and spending authority for transportation programs.
- Toomey – exempt from NEPA certain emergency repairs to roads, highways, railways, bridges, or transit facilities.

Floor action is expected the week of July 28. Adoption of any of the amendments would mean sending the bill back to the House, bringing final passage perilously close to August 1, when USDOT will implement "cash management" measures, and the month-long August recess begins.

Congress kept the Highway Trust Fund issue in play until the very last minute this week, passing HR 5021 on Thursday to keep funds flowing to states until about May 31, 2015. The decisive vote came just a few hours before legislators walked out the door for the annual August recess - and just days before USDOT took action to slow highway funding reimbursements to states.

Earlier in the week, the Senate overwhelmingly approved an amendment to HR 5021 that would have shortened the duration to mid-December, 2014, thereby encouraging quicker action on a longer-term solution. Specifically, the amendment would have extended spending authority only to Dec. 19, 2014, and was intended to provide revenue for approximately the same time period by lowering the amount by about $3 billion. This was accomplished by removing the "pension smoothing" revenue provision. However, the Congressional Budget Office ruled that another offset (involving customs fees) raised less revenue than assumed in the Senate's calculations.

Subsequently, the House rejected the Senate's version, prompting the Senate to withdraw the amendment by a vote of 81-13, effectively sending HR 5021 directly to the president's desk for signature.

On August 8, President Obama signed HR 5021 to replenish the Highway Trust Fund (HTF) and extend MAP-21 to May 31, 2015. The action came a few days after US DOT Secretary Anthony Foxx notified state DOT directors that the cash management procedures he had previously outlined would not be necessary. Congress passed the measure, which averted a shortfall by transferring $10.8 billion from the general fund into the HTF, on July 31.

Passenger Rail Reauthorization

The House Transportation and Infrastructure Committee rolled out a proposal last week for passenger rail reauthorization. HR 5449, the Passenger Rail Reform and Investment Act

(PRRIA) is described as a bipartisan bill, and an effort to apply to Amtrak the same types of reforms that encouraged enactment of the Water Resources Reform and Development Act last May. The bill is set for committee markup next week.

PRRIA is a four-year bill (FY 2015-2018) that streamlines environmental reviews for rail projects and allows for more private investment, mostly relating to partnerships for commercial development of Amtrak-owned stations in the Northeast Corridor (NEC). It would authorize funding for Amtrak at a level similar to the actual amount appropriated in FY 2014 (that level is about 40 percent lower than authorized in PRIIA of 2008). Also, NEC revenue could be invested back into the NEC instead of subsidizing other routes. For long-distance routes such as those running through Iowa, the bill requires an outside audit, and provides for the possibility of competition.

FY 2015 Highway Apportionments and Obligation Authority

With the fiscal year beginning on Oct. 1, FHWA has released the first apportionment and obligation limitation notices for FY 2015. In this round, states are receiving only a part of the anticipated funding, since no full-year legislation has been enacted. Apportionments are at 243/365ths (to May 31, 2015) and obligation limitation is 72/365ths (to Dec. 11, 2014).

Prepared by:
Office of Policy and Legislative Services
Iowa Department of Transportation
http://www.news.iowadot.gov/federal_updates/index.html