

January 24, 2014

MEMORANDUM

Building the Foundation for Surface Transportation Reauthorization

On January 14, 2014, the House Transportation and Infrastructure (T&I) Committee held a hearing entitled, "Building the Foundation for Surface Transportation Reauthorization," to receive testimony from witnesses representing both the public and private sectors regarding their priorities for the next surface transportation reauthorization bill. During the hearing, the Committee examined several critical aspects of the reauthorization bill, including the following: the proposed process and timeline for drafting and advancing a bill through Congress; potential strategies for updating the funding mechanism for transportation projects; and the role of the federal government in funding transportation projects with specific focus given to transit projects.

The full list of witnesses testifying before the Committee is included below, along with links to their corresponding testimony:

- Honorable Mary Fallin, Governor, State of Oklahoma (*on behalf of the National Governors Association*)
 - [Testimony](#)
- Mr. Stuart Levenick, Group President, Caterpillar Inc.
 - [Testimony](#)
- Honorable Kasim Reed, Mayor, City of Atlanta (*on behalf of the U.S. Conference of Mayors*)
 - [Testimony](#)
- Mr. Lawrence Hanley, International President, Amalgamated Transit Union
 - [Testimony](#)

In his opening remarks, Chairman Bill Shuster (R-PA) announced that it was his intention to have a bill drafted and ready for Committee action by the "late spring or early summer," and that in the interim there would be several additional hearings and roundtable discussions so that the Committee members could meet with stakeholders to

hear their “policy priorities and concerns.” The Chairman said it was his hope to have the bill approved by the Committee and on the House floor before the August recess in order to provide adequate time to conference with the Senate on their version.

As you recall, the current authorization bill, MAP-21, which was signed into law in the summer of 2012, was essentially a two-year bill and is currently scheduled to expire on September 30, 2014. The short timeline is compounded by the fact that the Highway Trust Fund (HTF), which has been the primary source of federal funding for highway, highway safety, and transit projects, has faced a growing shortfall in recent years as the revenue it generates from gasoline (primarily), tire, and heavy truck taxes has suffered a steady decline. Despite a transfer of nearly \$19 billion from the general fund, the Congressional Budget Office (CBO) estimates the HTF will not be able to meet its obligations to states by early Fiscal Year (FY) 2015. As such, Congress will need to modify the existing financing program or use new and innovative revenue-generating methods, to provide sufficient funding for surface transportation. Despite these concerns, the Chairman was optimistic that the Committee and Congress could duplicate the bipartisan efforts surrounding the pending reauthorization of WRDA in order to advance a bill prior to the deadline.

In their testimony and responses to questions from Committee members, the witnesses did agree that a longer-term bill was needed in order to provide state and local entities, and in turn private companies, with the certainty needed to institute long-term transportation planning efforts. Oklahoma Governor Mary Fallin noted that there was a bipartisan consensus among Governors across the country that the bill needed to provide “long-term vision and funding stability,” in order to better meet the nation’s “diverse mobility needs.” This sentiment was echoed by Atlanta Mayor Kasim Reed, who specifically called for a six-year bill, saying that while MAP-21 made several important reforms, “a two-year bill doesn’t help us very much.” When asked by Congresswoman Eleanor Holmes-Norton (D-DC, ranking Democrat of the Highway and Transit Subcommittee) about the need for a long-term bill, Mayor Reed also suggested that with regard to the nation’s competitiveness in the global economy, as well as the competitiveness of cities in the regional and national economies, “without long-term planning, we’re just giving it (*our competitiveness*) away.” He also stressed that mayors need to be at the table in discussions on this bill, suggesting that they know best what works and does not work at the local level and so could provide the Committee with new and innovative ideas to incorporate into the reauthorization bill.

Another key point of agreement among several of the witnesses was on the issue of public-private-partnerships (PPP) and the role they might play in financing transportation projects. Governor Fallin commended the Committee for its role in

securing MAP-21's increase in funding and support for TIFIA (Transportation Infrastructure Finance and Innovation Act), which she heralded as a strong tool for leveraging private dollars. When asked by Congressman André Carson (D-IN) for his thoughts on partnering with the private sector on transportation infrastructure, Mayor Reed said that PPPs "are going to have to be part of the solution, because you have so much wealth that is prepared to invest." However, he cautioned that we should not allow PPP solutions to crowd out access for "traditional labor," suggesting again that it was critical when undertaking these projects "to have everyone at the table to show that you can compete." Speaking from his experience in his role as President of the Amalgamated Transit Union, Mr. Lawrence Hanley provided an opposing view, stating that private companies brought with them certain risks and outside influences that could negatively affect transit, and that "government can effectively run transit and government does effectively run transit." Speaking on the topic of seeking more involvement by private companies into public transit, Mr. Hanley further explained that "as we seek to improve transit by injecting the importance of a profit motor for private companies, we will fail."

On the issue of the federal role in funding public transit, Congressman Richard Hanna (R-NY) questioned Mr. Hanley about why people who use mass transit do not pay something to the federal government, as do highway users who pay through a gas tax. Congressman Hanna noted that there "is currently no quid pro quo" for these people, and that it was especially important since Mr. Hanley was there "asking for more money." In response, Mr. Hanley said that people using public transit already pay for this service because, "they pay huge fares, they pay incomes taxes, they pay real estate taxes ... all fund transit." However, Congressman Hanna again noted that "people who use the rest of the transportation system have historically paid directly," without a subsidization, unlike the current system for transit financing. Subsequently in the hearing, Chairman Shuster took a conciliatory tone with both sides of the transit funding debate, clarifying that public transit did provide benefits to the overall system and that the federal government does provide funding for highways, with the difference being that unlike transit it's a "user-based system ... so if you use it you pay for it." However, he also suggested the issue of subsidization for public transit should be discussed further and in greater detail in order to close the gap between the current model and making public transit profitable. Recalling his own experiences on Amtrak, the Chairman admitted that whenever he saw the ticket price and then sat down and factored in "gas, tolls, parking, my productivity goes from zero when I'm driving to 100 percent," he knew he should be paying more.

Also of interest was Q&A regarding the broader role of the federal government in providing funding for transportation infrastructure, and whether there was merit to

“devolution”; eliminating most federal assistance for transportation through a reduction of transportation-related revenue and a transfer of responsibility over federal highway and transit programs away from the federal government and to the states and municipalities. The idea of devolution was raised in the House during deliberations on MAP-21, and Congressman Tom Graves (R-GA) and Senator Mike Lee (R-UT) have introduced the Transportation Empowerment Act in both the House and Senate (*H.R. 3486 and S. 1702, respectively*). However, all four witnesses agreed that while there was certainly room to improve programs, increase flexibility, and in some cases leverage private funding; the federal government needed to have a major role in financing transportation projects. Governor Fallin went so far as to clarify that she did not want her comments in support of utilizing innovative state plans to be viewed as a signal to devolve funding back to the states, instead saying that “states can’t pick up the load by themselves and we need to have a national vision for a national transportation infrastructure system.” When asked for further clarification by Ranking Member Nick Rahall (D-WV), the Governor again stressed that there needs to be a “partnership between federal, state and localities to work together.”

Similarly, Congressman Peter DeFazio (D-OR) asked Caterpillar Inc.’s Group President Stuart Levenick about his opinion of devolution. Mr. Levenick said that Caterpillar does not support such proposals and that in fact, “the federal government has always had a constitutional role in creating a national system of transportation that supports the common good, and we couldn’t agree with that more.” Mr. Levenick also commended states for developing their own innovative financing systems and recommended that Congress thoroughly review such plans when developing the next reauthorization bill as they could be used to strengthen the national transportation network. However, he emphasized that devolution was not a practical solution due to its negative impacts on the national transportation network, suggesting that if devolution were implemented and the country ultimately ended up with “a patchwork of 50 different solutions, you don’t have a network.”

We will continue to follow progress on the reauthorization of the nation’s surface transportation programs and provide updates accordingly. If we may answer any questions or provide additional information, please do not hesitate to contact us.

ALCALDE & FAY



FISCAL YEAR 2014 OMNIBUS APPROPRIATIONS BILL

Congressional appropriators this week released details of a \$1.012 trillion bipartisan spending package (HR 3547, The Consolidated Appropriations Act, 2014), which incorporates all 12 annual appropriations bills into one "Omnibus" bill and funds the government through the remainder of Fiscal Year (FY) 2014 which ends on September 30, 2014.

The Omnibus bill is reflective of the budget agreement that passed in December which set overall discretionary spending levels for FY 2014 and 2015 and partially restored funding cut by sequestration. The measure would provide a 2.6 percent increase in discretionary spending from the \$986.3 billion, sequester-set level for FY 2013. Under pressure from leadership, the measure keeps a tight rein on new funding and effectively freezes appropriations for President Obama's healthcare program at the reduced, post-sequester level. Despite these reductions, the Administration announced its support for the spending package and the President is expected sign the bill into law once Congress approves the measure later this week.

Proposed funding levels for programs generally of interest to local governments have been highlighted below as provided in the explanatory statements accompanying the omnibus bill, as well as the House and Senate Appropriations Committee summaries. Please let us know if you have any questions or would like additional information on specific agreement details not provided below.

DEPARTMENT OF AGRICULTURE

The bill provides \$20.9 billion in discretionary funding for the Department of Agriculture, \$350 million above the FY 2013 enacted level.

- *Water and Waste Disposal Program*

\$1.752 billion, \$248 million above FY 2013 for the water and waste disposal program, which provides loans and grants to assist communities in obtaining clean water and sanitary waste disposal systems.

- *Community Facilities Program*

\$2.288 billion to assist rural communities with essential community facilities, including: hospitals, schools, health clinics, libraries, day care centers, public safety buildings and equipment.

- *Job Corps*

\$1.7 billion, \$14 million less than the FY 2013 enacted level, is provided to help unemployed, young Americans receive education, job training, and employment assistance

- *Veterans Employment and Training Service (VETS)*

\$269.5 million, which is \$5.1 million above the FY 2013 enacted level, is included for VETS. This includes \$14 million for the Transition Assistance Program to help new veterans receive training for civilian employment and job search assistance.

DEPARTMENT OF TRANSPORTATION

The bill includes \$17.8 billion in discretionary appropriations, \$164 million below the FY 2013 enacted level. Key program funding includes:

- *TIGER Discretionary Program*

\$600 million is provided for TIGER grants, which is \$126 million more than the FY 2013 level.

- *Federal Highway Administration (FHWA)*

\$41 billion in obligation limitation funding for the Federal Highway program, which reflects level authorized in the MAP-21 transportation authorization legislation.

- *Federal Aviation Administration (FAA)*

\$12.4 billion is provided for the FAA, \$168 million below the FY 2013 enacted level, to support the full operations of the air traffic control system, including the hiring and training of air traffic controllers and safety inspectors. Funding is preserved for the FAA's Next Generation air transportation systems (NextGen), and \$3.35 billion in "obligation limitation" funding is provided for airport construction projects. However the omnibus bill does not include the Administration's proposals for new passenger facility fees.

- *Federal Railroad Administration (FRA)*

\$1.6 billion is provided for FRA programs, which \$34.6 million below the FY 2013 enacted level for railroad assistance and rail safety programs. Also no funding is provided for High Speed Rail initiatives.

- *Federal Transit Administration (FTA)*

\$2.15 billion, a decrease of \$100 million below the FY 2013 enacted level, is included for FTA programs. The bill allows \$8.6 billion in state and local transit grant funding from the Mass Transit Account of the Highway Trust Fund, which is consistent with MAP-21, in order to help local communities build, maintain, and ensure the safety of their mass transit systems.

\$1.942 billion is provided for Capital Investment Grants ("New Starts"), full funding for state and local "Small Starts," and funding for all current "Full Funding Grant Agreement"

projects. When combined with available prior year transit funds, \$2.132 billion is available for all New Start programs.

OTHER AGENCIES

U.S. ARMY CORPS OF ENGINEERS

The Army Corps of Engineers is funded at \$5.5 billion, an increase of \$487 million above the FY 2013 enacted level, focusing funding on navigation and flood control projects to advance public safety, boost U.S. export ability, create jobs, and help ensure our waterways stay open for business. Within the total, the bill provides: \$642 million above the request for essential flood control and navigation projects; \$2.3 billion for navigation projects and studies; more than \$1 billion in funding from the Harbor Maintenance Trust Fund; and \$1.6 billion for public health and flood and storm damage reduction activities, including \$247 million for critical dam safety improvements.

ECONOMIC DEVELOPMENT ADMINISTRATION (EDA)

The bill provides \$247 million, \$28 million more than the FY 2013 enacted level, for investments that will leverage regional assets to support the implementation of regional economic development strategies designed to create jobs, leverage private capital, and encourage economic development.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

The bill provides \$8.2 billion for the EPA, which is \$143 million below the FY 2013 enacted level, and includes approximately \$2.35 billion for the Clean Water and Drinking Water State Revolving Funds, which provides grants to states for local drinking water and sewer construction projects.

NATIONAL SCIENCE FOUNDATION (NSF)

The NSF is funded at \$7.2 billion, a decrease of \$82 million below the fiscal year 2013 enacted level. This funding is targeted to programs that help strengthen U.S. innovation and economic competitiveness, including funding for an advanced manufacturing science initiative, and for research in cybersecurity and cyber-infrastructure.