

The Federal Flyer

House Appropriators Begin Work on FY 2003 Transportation Bill Proposed Bill Falls Short of Full Highway Funding Restoration

Although the future of the FY 2003 appropriations process is in major flux, the House Committee on Appropriations began work on the \$60 billion FY 2003 appropriations act for the U.S. Department of Transportation and Related Agencies on Thursday, with a final committee vote expected next Tuesday.

Highway Funding Proposed at TEA 21 Levels. Despite strong lobbying by transportation supporters for a higher spending level, the House Appropriations Committee is expected to adopt a bill providing only \$27.7 billion in obligation authority for the federal-aid highway program in FY 2003. This amount is equal to the authorized level set in the Transportation Equity Act for the 21st Century (TEA 21) for the year and would represent a \$4.4 billion increase above President Bush's \$23.3 billion budget request. The budget request reflects a reduction of some \$8.6 billion below the \$31.8 billion enacted for FY 2002. The Senate Appropriations Committee in July adopted a bill that would restore the highway funding level to the \$31.8 billion provided in FY 2002.

Although House committee Democrats are expected to offer an amendment to increase the highway amount to the Senate level when the committee reconvenes October 1, the amendment is not expected to be adopted. House Republicans, including the chairman of the House Transportation and Infrastructure Committee, have agreed to support the \$27.7 billion highway program spending level, which was guaranteed by language in the recently-enacted FY 2002 supplemental appropriations act. President Bush has signaled that he would support that higher spending level as well but might veto a transportation bill that provides any additional obligation authority above the \$27.7 billion level.

The House Appropriations Committee's draft bill would provide Texas approximately \$1.8 billion in highway obligation authority for FY 2003, a reduction of some \$250 million compared to the FY 2002 level supported by the Senate bill. The Texas Department of Transportation uses historic funding trends to plan our annual letting schedule. A dip in federal funding for FY 2003 would cause the department to delay projects now planned for letting next year. These projects represent years of state and local planning, design, public involvement, and environmental review. In addition, once those funds are lost, the lower funding level would set a highway funding baseline that, over the course of the next ten years, would reduce by nearly \$3 billion the federal funds available to meet our tremendous transportation needs in Texas.

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Implications for TEA 21 Reauthorization. FY 2003 spending will establish the baseline for reauthorization of the federal surface transportation programs next year. Beginning the reauthorization debate with a baseline of at least \$31.8 billion for the highway program would continue Congress' historic commitment to steady increases in the federal investment in transportation. Establishing a high reauthorization baseline for highways would be a step forward from the tremendous gains Texas made in TEA 21. A higher baseline will make it easier for Congress to bring greater fairness to the distribution of highway program funds. It also will enable Congress to maintain the job creation, economic stimulus, national security, and quality of life benefits that increased highway investment provides. Setting a lower spending level for FY 2003, even at the TEA 21 authorized level of \$27.7 billion, will negatively affect the future of the highway program, further hamper efforts to stimulate the economy, and make improving Texas' rate of return in the highway program much more difficult.

Funding for Other Programs Is Up. The bill also provides \$762.5 million for Amtrak, approximately \$500 million below the \$1.2 billion the passenger rail company said it must have to continue service in FY 2003. The measure would essentially allow Amtrak to spend no more than \$150 million on each of the existing long-distance trains. **House Appropriations Committee ranking Democrat David Obey** (Wisconsin) criticized the amount, stating that "Congress is essentially saying 'we're going to cut service, but we're not going to tell you which ones.'" **Transportation Appropriations Subcommittee Chairman Harold Rogers** (R - Kentucky) responded that he did not want the committee to reward "mismanagement" by Amtrak and instead should encourage the company to find ways to generate more money. The Senate committee bill would provide the requested \$1.2 billion for Amtrak.



The House measure would fund the Federal Aviation Administration at the authorized level of \$13.6 billion (including \$3.4 billion for the Airport Improvement Program) and would provide \$7.23 billion for the Federal Transit Administration, including \$3.8 billion for formula grants and \$3 billion for capital investment grants as authorized in TEA 21. The bill recommends \$6 billion for the Coast Guard and increases the Transportation Security Administration's budget to \$5.1 billion for FY 2003.

The House bill would provide \$430 million for the National Highway Traffic Safety Administration, including \$225 million for highway traffic safety grants, in accordance with TEA 21. The Federal Motor Carrier Safety Administration is funded at \$367 million, including \$190 million for the Motor Carrier Safety Assistance Program grants. Like the Senate version, the House measure includes \$47 million in Federal Highway Administration funding for the construction of motor carrier safety inspection facilities at the U.S. border with Mexico, as requested by the Bush Administration. It also continues last year's general provision language regarding motor carrier safety requirements that must be met before the USDOT can open the border to expanded Mexican motor carrier traffic in the United States.

Project Earmarks. Since the committee has not finalized its work on the bill, we cannot yet confirm what projects have been identified for earmarks in FY 2003. We will provide Texas project information in the next issue of the *Federal Flyer*.

Prospects for Appropriations Enactment This Year Are Dim. With the beginning of the new fiscal year (October 1) right around the corner and none of the 13 annual appropriations on the President's desk, Congress will have to pass a series of Continuing Resolutions (CRs) to keep the government operating until the appropriations bills are enacted. The prospects for how the Congress will handle the task are varied. First, the House of Representatives this week passed a short-term CR that would fund government programs at the FY 2002 level through October 4, in an effort to keep the pressure on Congress to finalize at least some of the appropriations bills before the Congressional break for the November elections. That break is currently scheduled for October 11 but could possibly slide back to October 18. On or before October 4, the Congress will need to pass another CR, extending funding authority into the future. What period that CR will cover is the subject of intense debate in Congress right now, with many calling for a CR that funds programs into January or February to avoid the need for a lame-duck session after the elections. Others think that Congress has a responsibility to return after the elections to deal with the spending issues. Another possibility is the creation of an omnibus appropriations act, rolling all of the remaining appropriations bills into one bill. Stay tuned.

President Issues Order on Environmental Stewardship & Project Reviews Creates Cabinet-Level Task Force, Identifies Key Projects for Expedited Review



On September 18 the White House issued an Executive Order (EO) on Environmental Stewardship and Transportation Infrastructure Project Reviews. A copy of the Executive Order is available at the White House web site at www.whitehouse.gov. The EO calls for a Cabinet-level task force reporting to the President through the Council on Environmental Quality "to ensure that environmentally sound projects are not held up unnecessarily by inefficient review procedures." Further, the Secretary of Transportation, in coordination with other cabinet agencies as appropriate, is directed to "advance environmental stewardship through cooperative actions with project sponsors to promote protection and enhancement of the natural and human environment in the planning, development, operation, and maintenance of transportation facilities and services." Finally, the EO directs the Secretary of Transportation to develop a list of high-priority transportation infrastructure projects that should receive expedited agency reviews, consistent with available resources and applicable laws, including those relating to safety, public health, and environmental protection.

Various transportation industry groups have indicated their support for the executive order. However, many still believe that a legislative fix is needed. **Senators Max Baucus** (D - Montana) and **Michael Crapo** (R - Idaho), members of the Environment and Public Works Committee, apparently agree, pledging to address what they perceive as "unnecessary delays" in the environmental review process. Specifically, they said their legislative proposal will contain provisions to 1) designate USDOT as the lead agency for defining purpose and need, along with the range of alternatives to be analyzed; 2) delegate to states the role of the USDOT, if certain requirements are met; and 3) establish time frames for resource agency participation.



Compromise Reached on Rural Consultation. The USDOT press release about the environmental review EO indicates that the transportation planning and environmental rulemakings proposed by the Federal Highway Administration and the Federal Transit Administration in May 2000 are being withdrawn. The reason is that the American Association of State Highway and Transportation Officials, the National Association of Counties, and the National Association of Development Organizations have reached a compromise agreement on the implementation of regulations on rural consultation in transportation planning, a major area of concern with the proposed rules. The agreement provides that states will consult with non-metropolitan elected officials during the transportation planning process. That consultation is to take place as a separate process from the public participation process that occurs in plan development. While a specific solicitation of comments from rural elected officials will occur, state departments of transportation will have discretion whether plan modifications will take place. States will have one year, following publication of the final rule in the *Federal Register*, to implement the consultation process.

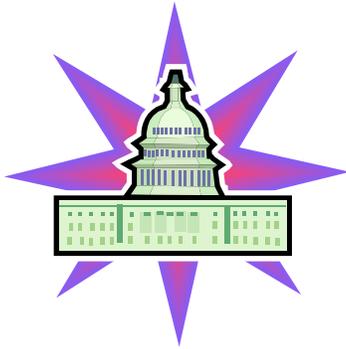
House Subcommittee Hears Testimony on TEA 21 Reauthorization Proposals Committees Collect Information As They Begin Bill Drafting Process

Many of the major surface transportation stakeholder groups testified before a House subcommittee last week to lay out their comprehensive plans for the next federal surface transportation bill. At a September 19 hearing before the **House Subcommittee on Highways and Transit**, representatives of fourteen stakeholder groups expressed a surprising range of agreement on what that bill should look like. Almost all of the witnesses agreed with a set of basic principles:

- ◆ TEA-21 has been a success, and the basic structure of the highway, transit, and highway safety programs should be maintained.
- ◆ The highway and transit programs should continue to grow.
- ◆ The linkage between highway revenues (gas and diesel taxes) and highway spending, through the budget “firewalls” and RABA calculations, should be preserved and refined.
- ◆ Congestion relief is paramount, and added capacity is an important part of congestion relief.

However, there was a lack of unity when discussion turned to the specifics of “growing the program,” with witnesses disagreeing on to find additional revenues. Most of the witnesses who commented supported the “easy” revenue options — equalizing the tax treatment of gasohol, ending the gasohol subsidy, recapturing interest on Highway Trust Fund balances, spending down Highway Trust Fund balances, and possibly indexing the gas tax for inflation. On the issue of an outright increase in motor fuel taxes, however, a variety of opinion was expressed.

The American Road and Transportation Builders Association has called for an annual increase of about two cents in the gas and diesel taxes for the six-year life of the next reauthorization bill (about 12 cents altogether, part of which represents inflation indexing).



The American Concrete Pavement Association and the National Asphalt Pavement Association back that plan, and a representative of the major construction craft unions expressed support during the hearing as well. The American Association of State Highway and Transportation Officials said it is “exploring” support for a one-time, five-cent increase in the motor fuels tax but is also working out a complicated system of issuing federal bonds to leverage extra funding for the highway program. The Associated General Contractors and the U.S. Chamber of Commerce support the “easy” revenue raisers but are uncommitted on a large tax increase. The groups representing those who would pay the increased tax — the American Trucking Associations and the International Brotherhood of Teamsters — are against increasing the tax, and the American Highway Users Alliance will not take a position until after its executive committee meets in November.

Several senior members of the subcommittee, including **Congressman Bob Borski** (D - Pennsylvania), the current ranking Democrat, and **Congressman Bill Lipinski** (D - Illinois), who will take that spot next year, told the stakeholder representatives that it was incumbent upon them to come up with a single industry position on revenue increases and lead a charge on Capitol Hill for the additional resources next year. Lipinski’s opening statement quoted President Ronald Reagan’s 1982 radio address to the nation endorsing the massive increase in the fuels taxes that was contained in that year’s highway and transit bill (more than doubling the tax rate), saying “the cost to the average motorist will be small, but the benefit to our transportation system will be immense.”

The House and Senate authorizing committees will continue their hearings on TEA 21 reauthorization begun earlier this year. Over the next few months, the committee staff will begin drafting their separate proposals for TEA 21 reauthorization. Those proposals are most likely to be unveiled in February 2003. The Bush Administration is also working diligently to develop its own reauthorization proposal, scheduled for release with the President’s FY 2004 budget in February. Also up for reauthorization in 2003 is the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), which provides funding and program structure for the federal aviation program. In addition, Congress will tackle various plans for the future of Amtrak, the national passenger rail corporation.

The *Federal Flyer* is a publication of the TxDOT Legislative Affairs Office. It is intended to provide up-to-date information on major legislative activities in the 107th Congress for the management of the Texas Department of Transportation, state leaders, and others interested in Texas transportation issues. This report will also feature key activities in the national transportation community. Sources include news services and staff reports.

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