

# The Federal Flyer

## Congress Enacts Sixth TEA 21 Extension

### *TEA 21 Highway Equity Preserved, Authority Continued Through May 31, 2005*

Congress passed a “final-hour” TEA 21 extension bill (HR 5183) September 30, the last day of FY 2004 and the most recent extension. The President signed the measure while in Florida for the first presidential debate. This is the sixth in a series of TEA-21 extensions since its expiration on September 30, 2003. With this measure, highway, transit, and transportation safety programs will be funded until May 31, 2005. Most observers admit it is very unlikely that a full, six-year reauthorization bill will pass during the 108th session of Congress, although conference committee staff will continue working to resolve areas of disagreement toward creating a bill that everyone can support.

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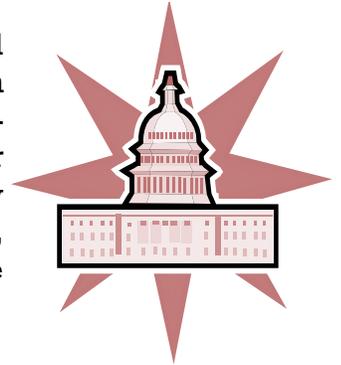
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#### Key elements of this extension:

- Distributes the \$1.8 billion in FY 2004 obligation, which Congress intended for member projects, out through the Minimum Guarantee formula to the states;
- Preserves the 90.5 percent Minimum Guarantee authorized in TEA 21, which assures that Texas and other donor states will receive a 90.5 percent rate of return based on the latest gas tax contribution data, as required by TEA 21 (thanks to the strong leadership of **House Majority Tom DeLay** (R—Sugar Land));
- Extends the budgetary firewalls protecting the Highway Trust Fund (HTF) from non-transportation spending;
- Waives the “Byrd Rule” test that would otherwise have declared the HTF insolvent;
- Continues the current HTF tax structure with one change: \$940 million in new HTF funds is the result of a temporary transfer of a portion of the ethanol tax (2.5-cents/gallon) that had been directed to the General Fund for deficit reduction. This is applied for FY 2004 only. A complete transfer of the 2.5 cents and 5.2 cents from ethanol is waiting passage in a separate bill now in conference committee ( HR 4520, S 1637);
- Authorizes \$36.8 billion in new contract authority to be apportioned to the states or allocated for discretionary programs; \$35.3 billion in FY2005 obligation limitation is authorized for distribution until May 31, 2005; and
- Provides \$24.5 billion in highway obligation authority, \$5.2 billion for transit, \$200 million for highway safety, and \$287 million for motor carrier safety.

## Status Report on FY 2005 Transportation Appropriations *House Passes Bill, Senate Awaits Action; Omnibus Likely*

The House passed a FY 2005 Transportation/Treasury Appropriations bill (HR 5025) on September 22 that proposes spending \$46.3 billion in funding from the highway and aviation trust funds. Unlike the committee-passed version, the House-passed version does not include funding for the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the National Highway Traffic Safety Administration, Amtrak, the Federal Transit Administration and the Surface Transportation Board.



These bill sections were stricken as the result of a committee jurisdiction “turf war” between authorizers and appropriators, but will be restored in conference committee. After the conference stage, it is highly likely HR 5025 will be included in an omnibus FY 2005 appropriations bill—a conglomerate bill of all remaining, unfinished FY 2005 spending measures. Continuing Resolutions are anticipated considering that less than a week remains before the end of the current 2004 fiscal year. The full Senate Appropriations Committee passed its measure on September 14; Senate floor time has not yet been scheduled.

The consideration of this bill was plagued in large part by the fact that a full, multi-year TEA 21 reauthorization bill (HR 3550) setting programmatic spending levels for highway and transit programs is not yet passed. Instead, it languishes in a conference committee while a series of TEA 21 extensions continue to be passed. This situation only exacerbated the perennial jurisdiction fight between committee authorizers and appropriators, which had set the stage on the House floor as debate began on September 15. Debate lumbered on until September 22 because House leadership opted to let the two camps “duke it out” on the floor.

Procedurally, debate and offered amendments are limited by the House Rules Committee. But in the case of HR 5025, debate was subject to a “open rule.” This resulted in making the bill vulnerable to an onslaught of “points of order” motions by authorizers and appropriators and a three-day long debate with unlimited amendments.

### **Floor-adopted transportation related amendments would —**

- prohibit the use of any funds to pay the salaries of Treasury Department employees who take any actions taking money from or suspending investment into various federal trust funds, including the Social Security trust fund, the Military Retirement trust fund and the Unemployment trust fund, in order to circumvent the federal debt limit. (Sponsor: Rep. Charlie Stenholm, D-Abilene); and
- prohibit the US DOT from using any funds to implement or enforce a proposed regulation providing foreign-operated and foreign-built trucks operating in the US with a 24-month exemption from federal safety standards compliance. (Sponsor: Rep. John Olver, D-MA).

**House Committee-passed version provided:**

- Highways: \$35.1 billion, a 2 percent increase over FY 2004;
- Safety: \$438.5 million for Federal Motor Carrier Safety Administration and \$448 million for National Highway Traffic Safety Administration;
- Transit: \$7.2 billion, under FY2004 levels, New Starts funding decreased by 22 percent;
- Amtrak: \$900 million; and
- Aviation: \$14 billion, a 1 percent increase over FY 2004.

### **Transportation just may bring the presidential candidates together** *Reviewing the Candidates' Positions on Transportation*

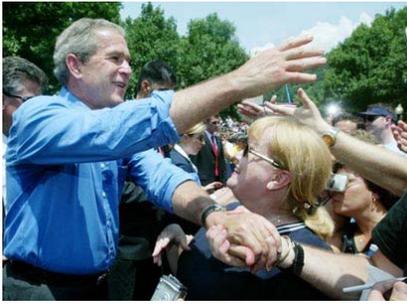
During this intense election year, it may seem that President George Bush and Senator John Kerry have polar views on the issues dominating the political campaigns. However, when it comes to transportation, President Bush and Senator Kerry address the key concerns for the issue with many similar proposals. Among the similarities in their transportation policies is a discouraging fact for transportation supporters: neither candidate is making transportation a forefront issue in their campaign.



The Bush administration's surface transportation reauthorization proposal, SAFETEA, and the Senate-passed version of SAFETEA are similar with the exception of the funding level. President Bush supports his administration's \$256 billion funding level because he believes the flexible and innovative funding tools allow states to meet their specific transportation needs. Senator Kerry would like to invest more in the nation's highways, mass transit and passenger rail systems, and believes the \$318 billion Senate-passed proposal "addresses the funding problem."

**Transportation Security** — During his term, President Bush has initiated or supported numerous congressional acts to increase security programs and improvement projects for aviation, ports, and the border. If re-elected, the President hopes to expand many of the programs to "strengthen security at every identified vulnerability" by tightening border security with increased personnel, using biometric identification at land ports of entry, and using remote video surveillance. Senator Kerry supported the security acts implemented during the administration, but believes that many security provisions do not receive enough funding to fully protect airports, ports, and the border. He proposes increasing the resources of the Department of Homeland Security, increasing security for air and ship cargo, and working with Canada and Mexico to protect borders while allowing legal entries into the United States to move efficiently.





**Amtrak** — President Bush revealed his proposal to make Amtrak a profitable national rail system by giving states more flexibility in their rail investments and creating managed competition to increase the quality and efficiency of the system. President Bush's proposal, the Passenger Rail Investment Reform Act of 2003, would privatize parts of the Amtrak system, and allow states to choose the provider of their choice for rail service in their state. Senator Kerry, on the other hand, adamantly opposes breaking up Amtrak, and

believes the national rail system currently suffers from "chronic under-funding". Senator Kerry is against privatizing the rail system, and believes that a multi-year reauthorization with increased funding levels would transform Amtrak into a modern rail network.

**Energy** — The candidates are mutually concerned about America's dependence on foreign oil, and their energy proposals share many components. Both candidates are against increasing the federal gas tax, and both are supportive of increasing domestic oil production. President Bush wants to open one-percent of the Arctic National Wildlife Refuge for oil production, a measure opposed by Senator Kerry who prefers to focus on the Gulf of Mexico for future oil. Both support increasing the nation's use of alternative fuel sources by investing in research and development and offering tax credits for alternative fuel vehicles. President Bush's Hydrogen Fuel Initiative dedicates \$1.7 billion over five years to develop transportation systems that rely on hydrogen cells instead of oil. Senator Kerry would offer \$10 billion in incentives to the domestic automobile manufactures to spur alternative fuel vehicle production.



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 108th 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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