

The Federal Flyer

Unable to Find Funding, Congress Punts on TEA 21 Reauthorization *5-Month Surface Transportation Extension Act Signed with Leap Day Expiration Date*

The September 30, 2003 expiration date came and went without Congress taking action on a long-term reauthorization measure. Instead, unable to find the increased funding they seek, transportation leaders in Congress struck a deal with the White House and congressional leaders to enact a short-term extension. H.R. 3087 provides 5/12ths of the FY 2004 budget resolution's funding levels for the nation's highways, highway safety, transit, and motor carrier safety programs through February 29, 2004.

The legislation, which President Bush signed into law on September 30th in time to avoid a lapse in program authority, sets the highway obligation limitation at \$14.7 billion for the five-month period. Contract authority for all highway programs will be made available for obligation in the same manner as if funds were apportioned under Title 23 of the U.S. Code. The five-month extension keeps in place all policies authorized by TEA 21. Additionally, states are given flexibility in how they obligate their funds from the highway categories during the five months. The bill allows the temporary transfer of apportioned funds among the highway programs; however, the reauthorization contains a reconciliation provision that would bring spending in line with apportionments in each category by the end of the fiscal year.

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The bill is a "clean extension," providing a simple continuation of TEA 21 program authority and the underlying taxing authority without any new provisions. In particular, the Senate stripped from the bill the Finance Committee's proposal to repeal the ethanol tax subsidy. Congress will tackle that and other financing options later this year and in early 2004 to determine how to fund the long-term

reauthorization legislation.

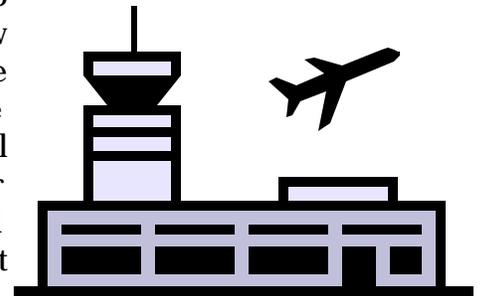
For transit, the bill extends all currently authorized federal transit programs for five months at an obligation level of \$3.04 billion. The bill also includes \$142 million for the Federal Motor Carrier Safety Administration and \$125 million for the National Highway Traffic Safety Administration for highway safety grants, occupant protection grants, and alcohol driving countermeasure grants.

Outlook is Cloudy. The enactment of the short-term extension does not guarantee that a multi-year reauthorization will be in place by February 29, 2004, when the current extension authority expires. There are significant differences between the House and Senate and between Congress and the President over how to appropriately fund additional highway and transit program increases beyond FY 2003. We can expect that, unless some major breakthrough occurs in the funding negotiations, we will face either a series of short-term

extensions or a two-year extension to take the debate beyond the fall 2004 elections. If a two-year bill is enacted, we can expect Congress to insert project earmarks in the bill. TxDOT will continue working with the Texas Delegation and the authorizing committees to ensure that the bill does not negatively affect Texas in funding or in program flexibility.

AIR 21 Reauthorization Temporarily On Hold Congress Must Clear Lingering Issues Before AIP Funds Can Flow Again

The Aviation Investment and Reform Act for the 21st Century (AIR 21) expired on September 30, 2003, without Congress taking any action to extend program funding authorizations. Although the AIR 21 reauthorization bill has been approved by the conference committee of the two houses of Congress, objection to provisions dealing with privatizing air traffic control and a few other issues has left the bill in uncertain status. If the offensive provisions are removed from the conference report, then the multi-year reauthorization of federal aviation programs will likely move forward, hopefully before the end of the calendar year. In the absence of continued authorization, states and airport sponsors will receive no new Airport Improvement Program (AIP) funds.



The AIR 21 reauthorization bill (H.R. 2115) is known as the **VISION 100 - Century of Aviation Reauthorization Act** (VISION 100). The bill would provide for \$3.4 billion in AIP funds in FY 2004, \$3.5 billion in FY 2005, \$3.6 billion in FY 2006, and \$ 3.7 billion FY 2007. The bill includes new language providing flexibility to non-primary airports in the use of their AIP funds. In particular, it permits an airport to make an agreement with Federal Aviation Administration (FAA) to forego its non-primary airport entitlement funds if the FAA agrees to make the money foregone available for a grant to another airport in the same State or to an airport that the FAA determines is in the same geographical area. In addition, the bill would allow a general aviation airport to use its AIP entitlement for revenue producing facilities, such as building fuel farms and hangars, if the airport certifies that its airside needs are being met, and for terminal development.

Leaders in Congress expect to resolve the remaining policy issues holding up the AIR 21 reauthorization within the next few weeks. Although Senate Democrats have drafted a short-term AIR 21 extension bill without the offending privatization provisions, Congressional leaders instead are hoping to move ahead with the long-term bill within the next few weeks.

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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