June 18, 2012

Legislation

Congressional schedule. Both the House and the Senate are in session the next two weeks. Both chambers will adjourn on June 30th for the July 4th recess and reconvene on July 9th.

Highway Bill negotiations continue as deadline approaches. Negotiations among the 47 members of the House and Senate conference committee have continued, without any major breakthrough, in the effort to produce a long-awaited surface transportation bill before a June 30 deadline.

On March 14, the Senate passed a two year, $109 billion bill by a 74-22 margin. The House thus far has failed to pass anything beyond an extension of the current law. The most recent action was a 90 day extension passed on April 18 that expires on June 30.

On June 14, Senator Barbara Boxer (D-CA), chairwoman of the Senate Environment and Public Works Committee, along with other senators and representatives held a rally outside the U.S. Capitol to urge the conference committee to come to an agreement and pass a multi-year surface transportation plan.

Recently, House Speaker John Boehner (R-OH) suggested that a six-month extension of the existing law might be the best option. "If we get up to June 30th, I am not interested in some 30-day extension," explained Boehner. "Frankly, I think if we get to June 30th, it'd be a six-month extension, and move this thing out of the political realm that it appears to be in at this moment."

However, in a letter from the American Association of State Highway and Transportation Officials (AASHTO) to the members of the conference committee, the organization emphasized, "It is critical that this legislation be enacted by June 30. A six-month extension is not the way to go. This approach could further exacerbate the Highway Trust Fund's financial crisis and cause states to cut back on transportation investments during what should be the peak construction season."

Senate Majority Leader Harry Reid (D-NV) expressed last week that he was not yet ready to entertain the possibility of a temporary extension of the current law. "I'm not ready to do an extension yet," Reid said. "I don't even want to talk about it now. Senator Boxer and Senator (James) Inhofe (R-OK) have worked very hard. I think that we could surprise everybody and get a bill done here."

On June 8th, the House of Representatives voted against a proposal to instruct members of the conference committee to limit spending on surface transportation to the money collected through the gas and diesel tax. The motion, introduced by Congressman Paul Broun (R-GA) was defeated by an 82-323 vote. One-hundred and forty-five Republicans joined Democrats in voting against the amendment.

The Senate's two year, $109 billion measure spends about $13 billion more than is brought in each year by the 18.4 cents-per-gallon tax on gas and the 24.4 cents-per-gallon tax on diesel fuel that primarily finance the nation's surface transportation system. The House had originally considered, but was unable to pass, a five-year, $260 billion bill that also spent more per year than the highway trust fund's annual revenues.

A still unresolved point of contention in the negotiations is over the proposed Keystone XL Pipeline. The House-approved extension of the surface transportation bill includes a provision for construction of TransCanada Corp.'s proposed pipeline to bring Canadian oil sands to refineries along the Gulf Coast. The provision is not included in the Senate-passed version.

Both the House and Senate versions of the surface transportation bill contain language that stipulates that funding generated by the Harbor Maintenance Tax be spent on harbor maintenance and dredging. The language is based on Congressman Charles Boustany's (R-LA) "Realize America's Maritime Promise Act" (RAMP Act). While language supporting the concept is included in both versions, there is not an enforcement mechanism in either to ensure compliance.

The Harbor Maintenance Trust Fund was established in 1986 and is funded via a 0.125 percent tax on the value of imports and domestic cargo arriving at U.S. Ports with federally maintained harbors and channels. The tax collects $1.3 to $1.6 billion annually.

In establishing the Harbor Maintenance Trust Fund, there was an understanding that revenue generated from the tax would be spent on dredging and channel maintenance. Instead, about half is spent on such projects. The balance is spent on other discretionary projects that are unrelated to harbor maintenance.

While there is a $6.1 billion surplus in the account, that money has already been spent. To regain that surplus or even to get 100 percent of the trust fund revenue in future years for harbor maintenance, it would require a reduction in spending in other areas.

New fuel efficiency standards would cut billions from Highway Trust Fund. A recently released study by the non-partisan Congressional Budget Office (CBO) predicted that the impact of a proposed fuel efficiency mandate would result in a $57 billion decrease in funding for the Highway Trust Fund.

In 2011, the National Highway Traffic Safety Administration and the Environmental Protection Agency jointly proposed a rule that would tighten corporate average fuel economy (CAFE) standards for light-duty vehicles (including cars, sport utility vehicles, pickup trucks, minivans, and crossover utility vehicles) manufactured from 2017 through 2025. By the end of that period, the proposed standards are expected to raise the average fuel economy of the new-vehicle fleet from 34.1 miles per gallon (mpg) to 49.6 mpg. The proposed rule also would require gradual reductions in greenhouse gas emissions from light-duty vehicles, which would be accomplished primarily through reduced fuel consumption.

The Highway Trust Fund is financed via a federal fuel tax of 18.4 cents per gallon of gasoline and 24.4 cents per gallon of diesel fuel. The proposed CAFE standards eventually would cause a significant reduction in fuel consumption by light-duty vehicles. The CBO estimates this decrease in fuel consumption would result in a 21 percent drop in gasoline tax revenues – a $57 billion drop in revenues by 2022.

Administration

FRA issues rule on emergency notification systems at railroad crossings. U.S. Transportation Secretary Ray LaHood announced on June 12th new regulations requiring railroads to install signs at highway-rail grade and pathway crossings with telephone numbers the public can use to alert railroad companies to unsafe conditions.

According to the rule, railroads must establish Emergency Notification Systems (ENS) by installing clear and readable signs with toll-free telephone numbers at crossings so the public can report unsafe situations and for railroads to respond to malfunctioning warning signals, vehicles stalled on the tracks or other emergency situations. Depending on a railroad's operating characteristics, calls may be received through a 24 hour call center, or for smaller railroads, through an automated answering system or third-party telephone service.

Upon receiving a call, the dispatching railroad is required to contact all trains authorized to operate through the crossing, inform local law enforcement to assist in directing traffic, investigate the report or request that the railroad with maintenance responsibility for the crossing to investigate the report. If the report is substantiated, the railroad is required to take certain actions to remedy the unsafe condition.

There are approximately 211,000 public and private highway-rail and pathway grade crossings in the United States.