



February 21, 2019

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

A handwritten signature in blue ink, likely belonging to Darrell E. Johnson, is written over the "From:" line and extends into the "Subject:" line.

Overview

An update is provided on the appropriations process, the long-term funding outlook for federal transportation programs, and a nomination to the Department of Transportation. Summaries of a recent Executive Order and a hearing on infrastructure investments are also included.

Recommendation

Receive and file as an information item.

Discussion

Appropriations Update

On January 25, 2019, Congress and the President ended the partial government shutdown, which lasted more than a month, by enacting a continuing resolution through February 15, 2019. The short-term continuing resolution, which funds agencies at current spending levels, passed both chambers of Congress by unanimous consent and was signed by the President shortly thereafter. In a separate legislative vehicle, the President signed into law a measure to provide backpay for federal workers affected by the shutdown. As of the writing of this staff report, no legislation had been enacted to fund those agencies subject to the continuing resolution, including the Department of Transportation, before its expiration. Staff will provide a verbal update with the latest information pertaining to the appropriations process.

Long-term Transportation Funding Outlook

On January 28, 2019, the Congressional Budget Office (CBO) issued its annual fiscal projections for the next decade. This report provides the latest, most detailed information about the long-term outlook for revenues into, and

expenditures from, the Highway Trust Fund (HTF), the federal government's dedicated transportation funding account. Revenues into the HTF come from the federal gas tax, an 18.3 cent per gallon excise tax on gasoline and a 24.3 cent per gallon diesel tax. These revenues go into the HTF and are then used to fund federal transportation programs according to the statutory guidelines set out in surface transportation reauthorization bills.

The CBO report confirms that HTF expenditures continue to exceed revenues, causing a long-term structural revenue deficit that threatens the viability of current transportation funding levels. The CBO estimates that HTF revenues will be unable to cover expenditures roughly one year after the expiration of the Fixing America's Surface Transportation (FAST) Act on September 30, 2020. Congress has not raised the federal gas tax since 1993. Instead, recent surface transportation reauthorization bills have transferred \$144 billion from the General Fund into the HTF to cover the cost of transportation programs, including a \$70 billion transfer in the FAST Act.

HTF expenditures have exceeded revenues by \$115 billion since 2008. The CBO estimates that HTF revenues will be approximately \$41 billion per year over the next decade. By comparison, the FAST Act authorized \$281 billion over the course of five years, or approximately \$56 billion per year, in HTF expenditures. Given this large revenue shortfall, the Government Accountability Office continues to classify funding for our nation's surface transportation programs as a "High-Risk" policy area. The HTF revenue shortfall is further exasperated by continued improvements to vehicles' fuel economy that will lead to a decrease in fuel consumption and, in turn, a decrease in HTF revenues stemming from the federal gas tax. Considering all relevant factors, the CBO predicts that annual HTF revenues will decrease by an average of 0.3 percent per year over the next decade, with HTF revenues declining to \$40 billion per year.

As reauthorization efforts begin this year, Congress must consider fiscally sustainable solutions to the HTF revenue deficit. The most recent HTF revenue proposal given a cost estimate by the Joint Committee on Taxation, the body responsible for providing revenue projections for tax legislation considered on the House floor, was the bill put forth last year by then-Chair of the House Transportation and Infrastructure Committee Bill Shuster (R-PA). This proposal would have increased the federal tax by 15 cents per gallon on gasoline and 20 cents per gallon on diesel fuel, increasing HTF revenues by an estimated \$220 billion over ten years, to generate additional funding capacity for transportation programs. In addition to this proposal, other Congressional leaders and stakeholders have pitched different HTF proposals, including a road user charge, that have not received official revenue estimates. Orange County Transportation Authority staff will continue to monitor, analyze, and provide

additional information on policy proposals affecting funding for federal transportation programs.

Nominations to the Department of Transportation

On January 29, 2019, the Senate Committee on Environment and Public Works held a hearing on the nomination of Nicole R. Nason to be the Administrator of the Federal Highway Administration. At the hearing, the Senators noted that the agency has not had an Administrator in almost two years. The Senators also noted the nominee's experience in transportation, specifically as the Administrator of the National Highway Traffic Safety Administration and as Assistant Secretary for Government Affairs at the Department of Transportation. On February 5, 2019, the Senate Environment and Public Works Committee approved the nomination by voice vote, and it currently awaits action by the full Senate.

State of the Union

On February 5, 2019, the President delivered his State of the Union Address to a Joint Session of Congress. In the Speech, the President discussed a desire to invest in our nation's infrastructure, although he did not mention the infrastructure plan he pitched in the same speech last year. While particular investments or policy solutions were not part of the speech, the President continues to emphasize the importance of providing much-needed infrastructure investments across the country. Staff will continue to track and summarize legislative proposals that invest in our nation's infrastructure.

Executive Order

On January 31, 2019, the President signed an Executive Order to encourage the increased use of project components manufactured within the United States. Under current law, waivers can be granted for certain statutory Buy America requirements, and the White House claims that only 65 of the 265 infrastructure projects receiving federal assistance in 2016 had a Buy America requirement. In addition to encouraging the use of American-made components, the Executive Order also reports, within 120 days, from government agencies providing financial assistance awards for infrastructure projects on ways to maximize American-made components to the Assistant to the President for Trade and Manufacturing Policy. Staff will continue to monitor developments or additional policy proposals related to Buy America requirements and provide additional information as necessary.

House Transportation and Infrastructure Committee Hearing on Infrastructure Investments

On February 7, 2019, the House Transportation and Infrastructure Committee held a hearing entitled, "The Cost of Doing Nothing: Why Investing in Our Nation's Infrastructure Cannot Wait." Committee Chair Peter DeFazio (D-OR) opened the hearing by stating that Congress must act to ensure a strong federal partner in the delivery of transportation projects, noting that we cannot achieve a 21st century infrastructure system by forcing state and local governments to finance projects on their own. The primary focus of the hearing was the implications of failing to address the HTF's long-term structural revenue deficit. Key witnesses included Minnesota Governor Tim Walz, Los Angeles Mayor Eric Garcetti, and former Secretary of Transportation Ray LaHood. Mayor Garcetti discussed the importance of public-private partnerships in meeting our country's infrastructure needs. Other issues raised at the hearing included climate change and the streamlining of the project delivery process. Following recent meetings with the Orange County Congressional Delegation, staff provided information on projects underway and investments needed in Orange County to members of the Orange County delegation that serve on the Transportation and Infrastructure Committee.

Summary

Updates are provided on the 2019 appropriations process, the long-term funding outlook for federal transportation programs, a nomination to the Department of Transportation, a recent Executive Order, and a hearing on infrastructure investments.

Attachments

- A. Potomac Partners DC, Monthly Legislative Report – January 2019

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