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August 2018 Insights

Infrastructure: The Status

Both the Administration and Congress have talked about doing infrastructure “after the election”, but it’s not clear if that will be this year or next. The DOT has the lead for the Administration. Previously, the President sent his proposal to Congress and they have been waiting for Congress to act. However, that proposal was short on details, being an outline and not bill language, and it was silent on the source for the \$200B seed money. This is different with how past presidents have submitted proposals, but is consistent with this president (submitting general policy outlines for health care and tax reform). While the timing is not clear for an infrastructure bill, House Transportation and Infrastructure (T&I) Chair Shuster recently introduced his infrastructure plan (see the following section). Key Advocates connected with staff from the Energy & Commerce, Natural Resources, and Ways and Means Committees, and there have been no activity regarding a mega infrastructure bill. However, this is not unusual as these committees expect T&I to be out-front on a large infrastructure bill. Key Advocates has also met with Senate Environment and Public Works (EPW) staff. They are currently focusing on program structure, specifically for highways. So far, these efforts have been bi-partisan. In addition, Key Advocates met with with the Senate Banking Committee, and they are looking for money for transit. So far there are no activities for Energy and Natural Resources, Commerce and Finance Committees.

Shuster Infrastructure Plan

On July 11, Congressman Bill Shuster, Chair of the Transportation and Infrastructure Committee, released his infrastructure plan. In doing so, he said: “This discussion draft does not represent a complete and final infrastructure bill. It is meant to reignite discussions amongst my colleagues, and I urge all Members to be open-minded and willing to work together in considering real solutions that will give America the modern day infrastructure it needs. Over the coming weeks and months, I look forward to additional input from my Republican and Democratic colleagues in order to prepare a bill for congressional consideration.”

For section-by section summary, see the following link-

<https://transportation.house.gov/building21/>

Revenues: The base bill extends all funding in the Fast Act by one year - to FY21 - to give time for a new “blue-ribbon commission” to come up with revenues to stabilize the trust fund above and beyond the gasoline tax increase (15 cents/gallon) and diesel fuel tax increase (20 cents/gallon) included in the proposal. The proposal also proposes new taxes on mass transit buses (eliminates the refund on motor fuels), commuter

rail fuels, electric vehicle batteries and bicycle tires. Overall, the Shuster bill raises approximately \$284 billion over 10-years to cover the HTF shortfall and leave room for additional investment. But Shuster also wants to create a blue-ribbon panel to dive deeper into long-term HTF sustainability. The blue-ribbon panel would be made up of 5 members appointed by DOT, 5 House members and 5 Senators. The panel be required to produce a long-term funding fix by January 15, 2021. The bill would be “fast tracked” and thus is not open to amendment in either chamber and could not be filibustered in the Senate.

Spending: On the spending side, Shuster is basically proposing a three year “infrastructure bill” and plusses up some FAST Act authorized programs, including the Bus and Bus Facility program. In addition, the tax increases will allow room for the next reauthorization bill to increase highway and transit funding through 2028. However, Shuster does go outside the three-year window for the TIGER (BUILD) program and for the first time authorizes the program through 2023 (\$3 billion per year). The TIGER funding increase along with increased “general fund plus-ups” make up the bulk of the short term “infrastructure” component of the spending equation on the transportation side (there is a water infrastructure component too).

In the bill, Fast Act authorized funding levels are maintained in FY19, FY20 and FY21 (FY21 is the extra year of authorization and is flat lined at the FY20 level). In these three years, there is extra “infrastructure” funding for buses, rail, highways, Amtrak and TIGER.

Increased or New General Fund Authorizations in Title II, Subtitle A of the Shuster Bill

Millions of dollars. General fund authorizations subject to appropriation.

		<u>FY19</u>	<u>FY20</u>	<u>FY21</u>	<u>FY22</u>	<u>FY23</u>
Sec. 201	National Infrastructure Investments	3,000	3,000	3,000	3,000	3,000
	<i>Set-aside: Projects of National Significance</i>	500	500	500	500	500
	<i>Limitation: Incentive Grants</i>	<i>[Not more than \$3.0 billion over FY29-23]</i>				
Sec. 204(a)	Surface Transportation Block Grant Program	2,000	1,500	1,000		
Sec. 204(b)	Bus and Bus Facility Grants	400	300	200		
Sec. 204(c)	Nationally Signif. Fed. Lands & Tribal Projects	200	200	0		
Sec. 204(d)	Grants to Amtrak - Northeast Corridor	93	63	676		
Sec. 204(d)	Grants to Amtrak - National Network	148	117	1,343		
Sec. 204(e)	Consolidated Rail (CRISI) Grants	345	282	624		
Sec. 20f(f)	Fed.-State Partnership for SOGR Grants	300	312	624		
Sec. 204(g)	Rail Restoration & Enhancement Grants	5	6	1		
Sec. 204(h)	Amtrak Inspector General	0	0	23		
Sec. 204(i)	PHMSA Hazardous Materials	0	0	62		

Innovative Financing and Project Delivery. There are some P3 components and other innovative loan and financing programs included. Shuster also includes some project delivery features that require “Record of Decisions” to be met in 2-years, expand Categorical Exclusions and promote innovative environmental review practices.

WRDA 2016 Reauthorization

We have a House-passed WRDA bill, which is an Army Corps only bill (no other water funding programs). The House T&I Republican leadership position is that any other programs would be addressed in a separate infrastructure bill. The Senate has a reported bill, but there’s been no Floor action (a report was filed on July10). There is an expectation of Floor action before the August recess. Again, the Senate version contains some beneficial funding programs. It incorporates a modified version of the SRF-WIN Act (S.2364), as well as a modified version of H.R. 5596 (Carbajal/Reed bill). Key Advocates continues to stay in touch with Joe Brown from Senator Boozman’s staff, as he has been very helpful. Based on overall timing and the need for bill

conference (once the Senate passes their version), it's likely that WRDA won't be passed before the election. However, Congress has stated their intent to keep WRDA on a two-year track, and the authorization expires this year, so there is motivation to complete it before the end of the year.

House and/or Senate Bills

Most of the water bills of interest to the Coalition that have been introduced are intended to raise issues of interest to legislators and for them to position themselves for a future infrastructure bill. To date, there have been no changes (no new cosponsors) to those bills. With regard to the Natural Resources Committee desire to modify McNerney's WEST Act for programs in their jurisdiction, they were waiting for his new Legislative Director to join. They have now had an introductory meeting with him, but it is early and no details were shared.

FY19 Interior Appropriations Bills

On July 19, the House passed its version of the FY19 Interior Appropriations bill. Floor action pending in the Senate. The House bill contains lower numbers than the Senate for CWSRF - \$1.3B - despite the FY19 raised budget caps. The Senate has the same numbers as for FY18, which are \$1.694 B for the CWSRF, \$1.16B for DWSRF, and \$63 M for WIFIA. Key Advocates met with staff from each Committee, pushing the House Democrats to support the Senate levels, and urging the Senate to hold the line on their numbers.

FY19 Transportation Appropriations Bill

On June 5, the House Appropriations Committee approved its version of the FY19 DOT funding bill. FY19 is the second year of the two-year budget deal that Congress agreed to in February which raised the budget caps on both defense and domestic spending and designated at least \$10B per year in additional general funds for infrastructure programs. The House bill recommends that the highway and transit formula programs receive the same amount that was authorized in the FAST Act for those programs in FY19 plus additional funding from the General Fund (\$4.25B for highways and \$800M for transit). Other programs, such as transit Capital Improvement Grants (CIG) (New Starts/Small Starts/Core Capacity), are recommended to receive the same increased funding level as in FY18. The TIGER (now BUILD) program is recommended to receive \$750M, which is only half of the FY18 level of \$1.5B, but is significantly higher than in prior-year House bills, which often zeroed out TIGER, and higher than the pre-FY18 levels of approximately \$500M per year. On June 7, the Senate Appropriations Committee approved its version of the FY19 DOT funding bill. Key highlights include: FHWA - \$45.27B (the FAST ACT authorized level) plus an additional \$3.3B from the General Fund of which \$800M would be directed to bridge repairs and \$90M for highway-rail grade crossings; FAA - \$3.35B (the authorized level) plus an additional \$750M from the General Fund for the Airport Improvement Program (AIP). There no language increasing the Passenger Facility Charge (PFC) as in FY18; FRA - a total of \$1.9B for Amtrak, in addition to \$300M for FRA State of Good Repair (SOGR) grants, and \$255M for FRA Consolidated Rail Infrastructure and Safety (CRISI) grants; FTA - \$9.94B (the FAST Act authorized level) plus an additional \$800M from the General Fund for the FTA formula program; \$2.6B for the Capital Investment Grant (CIG) program which includes New Start, Small Start, and Core Capacity projects; and, BUILD (formerly TIGER) - \$1B. Both House and Senate bills are pending Floor action.

SRF WIN Bills

S. 2364 was introduced by Senators John Boozman (R-AR), Chair of the Water Subcommittee of the Environment and Public Works Committee (EPW), and Senator Diane Feinstein (D-CA), Ranking Democrat of the Energy and Water Appropriations Subcommittee. Cosponsors are Senators Jim Inhofe (R-OK), Chair of the EPW Transportation and Infrastructure Subcommittee and Cory Booker (D-NJ), Ranking Democrat of the EPW Superfund Subcommittee (now with 10 sponsors). H.R. 4902 was introduced by Congressmen John Katko (R-NY-24), a member of the Water Resources Subcommittee of the Transportation and Infrastructure Committee, and Earl Blumenauer (D-OR-3), a member of the Ways and Means Committee (now with 7 sponsors) and, if you recall, the author of the voluntary fee labeling bill.

Generally, the bills - a new loan program - are intended to combine the “best aspects of the SRF’s with the leveraging power of WIFIA.”

Specifically, the bills authorize \$200M for each of FY19-23 for states to apply for loans. There is a \$7B per state loan cap for the 5 years. Fifty percent of the funds would be loaned at the current Treasury rate. The bill states that those funds would support \$10B in loans per year. The other fifty percent would go to states that receive less than 2 percent of the total amount of funds made available to the states for the state loan funds for the most recent fiscal year OR to major disaster declared states if the loan is for a project related to wastewater or drinking water infrastructure damaged by the disaster. The bills states that those funds would support \$850M in loans per year. The Federal share for loans is up to \$100%. Eligible project activities are those included in a state’s SRF “intended use plan.”

The \$100,000 WIFIA application fee is waived. The application process is limited to 180-days maximum. No new project approval requirements would be needed - existing approvals would suffice. The new program is tied to FY18 appropriation levels for the SRF’s - if at any year in the appropriations process the SRF funding levels are below the FY18 levels, this new program will not kick in for that year.

Status Update: No change since the last report.

Carbajal and Ellison Bills

H.R. 5596 was introduced on April 24 by Congressmen Salud Carbajal (D-CA-24) and Tom Reed (R-NY-23) and H.R. 5609 and introduced on April 25 by Congressman Keith Ellison (D-MN-5). H.R. 5596 authorizes \$50M for each of FY18-22 for a new EPA grant program for owners or operators of water systems who wish to increase resiliency or adaptability to extreme weather events. Eligible projects include efforts to conserve water or increase efficiency in its use, preserve or improve water quality, rebuild or relocate threatened infrastructure, protect source waters, etc. The Federal share is 75%. H.R 5609 creates a new water trust fund financed by increasing the corporate tax rate from 21 to 24.5% with an annual funding cap of up to \$35B going into the trust fund. Of that amount, 45% would be available for the Clean Water SRF and 44% for the Safe Drinking Water SRF. Other water programs – pollution control, non-point source, agriculture programs, etc. – make up the balance.

Status Update: 5 cosponsors added to H.R. 5609 since the last report.

Other Bills

The Coalition has been involved in the formulation of the following bills which it continues to support and monitor: H.R. 3275, the WEST Act; H.R. 2510, the “Water Quality Protection and Job Creation Act of 2017;” H.R, 5127, the “Water Recycling Investment and Improvement Act;”

and, H.R. 1647, the Water Infrastructure Trust Fund Act of 2017.”

Natural Resources Committee Dems: McNerney Rewrite

They are looking at McNerney’s WEST Act (H.R. 3275) which the Coalition was very much involved in, with the goal of re-writing the bill to reflect the Committee’s jurisdiction and introducing it as such. The McNerney office just hired a new LD so they are letting him get settled before they go over the plan with him in more detail. Initial conversations with the Chief have taken place but they now have to get the LD up to speed.

Earmarks

No further developments to date. As a result of the Rules Committee hearings on earmarks, it was decided that both parties would take the issue to their respective caucus for further deliberation. The Republicans have done so. There was some discussion in the caucus but not too extensive and no resolution was forthcoming. The Dems have not brought the issue up but are still planning to do so.

Bill Tracking

H.R.434 — 115th Congress (2017-2018) **New WATER Act Sponsor: Rep. Denham, Jeff [R-CA-10]** (Introduced 01/11/2017) **Cosponsors: (9)** **Committees: House - Natural Resources**

Status Update: no change since the last report.

H.R.23 — 115th Congress (2017-2018) **Gaining Responsibility on Water Act of 2017 Sponsor: Rep. Valadao, David G. [R-CA-21]** (Introduced 01/03/2017) **Cosponsors: (14)** **Committees: House - Natural Resources, Agriculture** **Latest Action: Passed House on July 12.**

Status Update: no change since the last report.

H.R.465 — 115th Congress (2017-2018) **To amend the Federal Water Pollution Control Act to provide for an integrated planning and permitting process, and for other purposes. Sponsor: Rep. Gibbs, Bob [R-OH-7]** (Introduced 01/12/2017) **Cosponsors: (1, now 8)** **Committees: House - Transportation and Infrastructure**

Status Update: no change since the last report.

H.R.547 — 115th Congress (2017-2018) **National Infrastructure Development Bank of 2017 Sponsor: Rep. DeLauro, Rosa L. [D-CT-3]** (Introduced 01/13/2017) **Cosponsors: (73, now 86)** **Committees: House - Energy and Commerce, Transportation and Infrastructure, Financial Services, Ways and Means**

Status Update: no change since the last report.

H.R.2479 — 115th Congress (2017-2018) **Leading Infrastructure for Tomorrow's America Act Sponsor: Rep. Pallone, Frank, Jr. [D-NJ-6]** (Introduced 05/17/2017) **Cosponsors: (25)** **Committees: House - Energy and Commerce, Science, Space, and Technology, Transportation and Infrastructure, Ways and Means, Natural Resources**

Status Update: no change since the last report.

H.R.100 — 115th Congress (2017-2018)

Support Local Transportation Act

Sponsor: Rep. Brownley, Julia [D-CA-26] (Introduced 01/03/2017) **Cosponsors:** (0, now 2)

Committees: House - Transportation and Infrastructure

Status Update: no change since the last report.

H.R.481 — 115th Congress (2017-2018)

REBUILD Act

Sponsor: Rep. Calvert, Ken [R-CA-42] (Introduced 01/12/2017) **Cosponsors:** (0)

Committees: House - Natural Resources

Status Update: no change since the last report.

H.R.966 — 115th Congress (2017-2018)

TIGER CUBS Act

Sponsor: Rep. Larsen, Rick [D-WA-2] (Introduced 02/07/2017) **Cosponsors:** (5, now 8)

Committees: House - Appropriations, Budget.

Status Update: no change since the last report.

S.846 — 115th Congress (2017-2018)

SAFE Bridges Act of 2017

Sponsor: Sen. Shaheen, Jeanne [D-NH] (Introduced 04/05/2017) **Cosponsors:** (4)

Committees: Senate - Environment and Public Works

Status Update: no change since the last report.

H.R.1670 — 115th Congress (2017-2018)

Infrastructure 2.0 Act

Sponsor: Rep. Delaney, John K. [D-MD-6] (Introduced 03/22/2017) **Cosponsors:** (21)

Committees: House - Ways and Means, Transportation and Infrastructure, Rules

Status Update: no change since the last report.

H.R.1669 — 115th Congress (2017-2018)

Partnership to Build America Act of 2017

Sponsor: Rep. Delaney, John K. [D-MD-6] (Introduced 03/22/2017) **Cosponsors:** (23, now 27)

Committees: House - Transportation and Infrastructure, Ways and Means

Status Update: no change since the last report.

S.1756 — 115th Congress (2017-2018)

Rebuild America Now Act

Sponsor: Sen. Sullivan, Dan [R-AK] (Introduced 08/03/2017) **Cosponsors:** (11)

Committees: Senate - Environment and Public Works

Status Update: no change since the last report.