



**Government Relations and Public  
Affairs Committee**

**Meeting Date:** 8/27/2018

**Agenda Item No.:** 2018-August-6.

**Subject:** Federal Advocacy Update (Est. time: 5 minutes)

**Information**

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**Approved by:** Erik Johnson

**Attachments:** Yes

**1. Issue:**

Federal advocacy update

**2. Recommendation:**

None, this item is for information only.

**3. Background/Analysis:**

House Transportation and Infrastructure Chairman Bill Shuster (R-PA) recently released a broad proposal related to transportation funding, including providing short-term and long-term solvency for the Highway Trust Fund (HTF). Attachment A is an overview of each section of the proposal.

**4. Discussion/Analysis:**

On July 24, 2018, Chairman Shuster, who is retiring this year, released an infrastructure package proposal. Action on the proposal, released as a discussion draft, is unlikely. However, that was not the intent of Chairman Shuster, as he stated, "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." The proposal focuses on the HTF, providing both short-term and long-term funding solutions, in addition to other transportation infrastructure funding.

Overview of Short-Term HTF Solutions

- \_Increases fuel taxes: gasoline – 15 cents per gallon and diesel – 20 cents per gallon
- Phased in over three years
- Indexes the tax rates for inflation
- Zeros out the fuel taxes in 2028 to allow for other long-term solutions
- Adds several new taxes, which would go towards the HTF:
  - 10 percent tax on batteries for electric vehicles
  - 10 percent tax on bicycle tires
  - 4.3 cent per gallon tax, adjusted for inflation, on diesel for certain passenger trains, expires in 2028

- Eliminates the reduced user fee on fuel used by certain intercity and local public transportation buses
- Increases revenue by at least \$284 billion over a ten-year period, according to a Joint Committee on Taxation (JCT) preliminary estimate
  - Fuel tax increase - \$280 billion
  - Electric vehicle battery tax - \$3.3 billion
  - Bicycle tire tax - \$148 million
  - *JCT did not estimate the commuter rail diesel fuel tax*
- Sets the HTF up for solvency over the next ten years. The fuel taxes would expire in 2028 with the assumption there would be a new structure of taxes

### Overview of Long-Term HTF Solutions

- Creates a blue ribbon commission to study the issue
  - Conduct a study by 2021 that identifies current and future needs of the nation's surface transportation program; determines levels of funding needed to meet those needs; and analyzes potential revenue sources
  - Develop at least one recommendation for achieving long-term HTF solvency and legislation to achieve it. Cannot rely on a federal fuel tax
- Develop a pilot to study the concept of a per-mile user fee
  - Must test the design, acceptance, implementation, and financial sustainability of a national per-mile user fee, increase public awareness, and provide recommendations for adoption and implementation
  - Must include volunteer participants from all 50 states and the District of Columbia and owners of commercial vehicles
  - Includes \$5 million per year for three years

### Additional Items of Interest

- Provides a one-year extension of the Fixing America's Surface Transportation (FAST) Act, through fiscal year 2021, funded at Fiscal Year 2020 levels
- Authorizes the National Infrastructure Investments program, known as BUILD - \$3 billion per year for 5 years
  - Up to \$3 billion total for incentive grants for "asset recycling" and up to \$500 million each year for projects of national significance
  - Minimum award of \$25 million
  - Eligible grantees: state, local government, transit agency, political subdivision of a state, interstate compact, public agency or publicly chartered authority established by one or more states, multistate or multijurisdictional group of entities
  - Eligible projects: highway or bridge project, public transportation project, passenger rail or freight rail, port project, airport project, or a transformative transportation project (defined as "a project that uses innovation or technology to facilitate the movement of goods or people.")
  - At least 30 percent must go to rural projects
- Provides a mechanism to fund "projects of national significance"
  - Requires reports from the Secretary of Transportation to Congress each year identifying projects as submitted by project sponsors
  - Eligible projects cannot have previously been included in a report and must have non-Federal support
- Requires the Secretary of Transportation to report to Congress on unsuccessful applicants for Infrastructure For Rebuilding America (INFRA) grants and provides that

\$200 million for three years can only go to reported unsuccessful prior-year applicants

- Reauthorizes various water resources and economic development programs
- Makes numerous changes intended to accelerate project delivery
  - One Federal Decision - requires a record of decision no later than two years after a notice of intent is published pursuant to the National Environmental Policy Act (NEPA)
  - Requires the National Surface Transportation and Innovative Finance Bureau to maintain a permitting dashboard
  - Expedites the environmental review process by making the application of categorical exclusions applicable to all transportation projects
  - Establishes a pilot program for up to 15 projects using innovative approaches to the environmental review process, including integrating environmental planning; improving mitigation or enhancement measures; technologies that enable more effective public participation; and focusing on outcomes rather than processes

## **5. Fiscal Impact/Grant Information:**

This item has no direct fiscal impact.

## **6. This staff report aligns with the following SACOG Work Plan Goals:**

6. Help the Region Advance a Vision for "Next Generation Transit", 7. Deliver Key High-Profile Transportation Projects

### **ATTACHMENTS:**

Description

Attachment A Shuster Transportation Discussion Draft Section by Section



## Discussion Draft Section by Section

### Title I – Highway Trust Fund

#### Subtitle A – Future of the Highway Trust Fund.

##### **Section 101. Highway Trust Fund Commission.**

This section establishes a Highway Trust Fund Commission. The Commission will submit a report to Congress that includes recommendations to achieve the long-term solvency of the HTF and the corresponding legislation required to enact those recommendations. This section also includes a provision that allows for expedited consideration of the legislation by Congress.

##### **Section 102. Per-mile User Fee Surface Transportation System Funding Pilot.**

This section establishes a national, volunteer-based pilot program to demonstrate whether a per-mile user fee can replace the existing user fees on gasoline and diesel, which are the primary sources of revenue for the HTF. Volunteers can be owners of both passenger vehicles and commercial motor vehicles, as well as an owner of a fleet commercial of motor vehicles. The pilot program would be administered by the Secretary of Transportation, in coordination with the Secretary of the Treasury.

#### Subtitle B – Highway Trust Fund Reform.

##### **Section 111. Elimination of Reduced Rate for Intercity and Local Public Transportation Buses.**

This section eliminates the reduced user fee on fuel used by certain intercity and local public transportation buses. The reduced user fee on fuel used by school buses remains in effect.

##### **Section 112. Application of Tax on Diesel to Certain Passenger Trains.**

This section reinstates the 4.3 cents per gallon user fee on diesel used by passenger trains eligible for funding under certain federal public transportation programs. The user fee is indexed to inflation.

##### **Section 113. Electric Vehicle Battery Excise Tax.**

This section establishes a 10 percent user fee on the wholesale price of electric batteries used to propel motor vehicles.

##### **Section 114. Bicycle Tire Tax.**

This section establishes a 10 percent user fee on the wholesale price of bicycle tires used on adult bicycles.



## **Subtitle C – Highway Trust Fund Solvency.**

### **Section 121. Increase in Tax on Motor Fuels.**

This section increases the federal user fees on gasoline and diesel fuel by 15 cents per gallon and 20 cents per gallon, respectively. These increases are phased in over a period of three calendar years. Once the phase in is complete, the new user fees are indexed to inflation. On September 30, 2028, the rates for these user fees become zero. This section also provides for corresponding increases in similar user fees on alternative fuels.

### **Section 122. Floor Stocks Tax.**

This section imposes a floor stocks tax on certain fuels under limited circumstances.

### **Section 123. Extension of Other Highway-Related Taxes.**

This section extends the other users fees, which provide revenue for the HTF, that were not addressed by previous sections, as well as certain exemptions from those user fees through September 30, 2028.

### **Section 124. Extension of Transfers of Certain Taxes.**

This section extends the transfers of revenue from the user fees into the HTF through September 30, 2028.

### **Section 125. Extension of Highway Trust Fund Expenditure Authority.**

This section extends the expenditure authority of the Highway Trust Fund through September 30, 2021.

## **Title II – Investment in Infrastructure**

### **Subtitle A – Transportation Infrastructure.**

#### **Section 201. Infrastructure Improvements.**

This section authorizes the National Infrastructure Investments Program to make investments in transportation infrastructure. It directs the Secretary of Transportation to award grants on a competitive basis to eligible applicants. Thirty percent of annual grant awards must go to projects located in rural areas.

This section also establishes a set-aside for incentive grants. Incentive grants would be given to eligible applicants that have leased an infrastructure asset to the private sector and have certified that the proceeds from the lease will be used to make other infrastructure improvements. The incentive grants can only be used to make improvements to transportation infrastructure.

Finally, this section establishes a set-aside and a transparent process for a future Congress to authorize nationally significant transportation projects. This process is similar to the process Congress used to authorize new projects in recent Water Resources Development Acts.



### **Section 202. Extension of Federal Surface Transportation Programs.**

This section provides an additional year of certainty to non-federal partners by extending the funding, policies, and programs of the FAST Act through fiscal year 2021.

### **Section 203. Repeal of Rescission.**

This section repeals the approximately \$7.6 billion rescission of federal highway funding in the FAST Act. This section prevents state departments of transportation from potentially having to shelve needed investments in our Nation's surface transportation system.

### **Section 204. Additional Authorizations.**

This section provides additional funding, subject to the availability of appropriations, for certain highway, public transportation, and rail programs for fiscal years 2019, 2020, and 2021.

### **Section 205. Nationally Significant Freight and Highways Projects.**

This section establishes a set-aside and a transparent process within the FAST Act's National Significant Freight and Highways Projects Program for a future Congress to authorize nationally significant highway, bridge, and freight projects.

## **Subtitle B – Water Resources.**

### **Section 211. WIFIA Reauthorization.**

This section reauthorizes the Water Infrastructure Finance and Innovation Act (WIFIA) program. This section allows the Army Corps of Engineers (Corps) to enter into an agreement with the Environmental Protection Agency (EPA) to service loans for the Corps WIFIA program. Additionally, this section would ease administrative burdens on State Infrastructure Financing Authorities when applying for WIFIA loans, and makes other improvements to the program.

### **Section 212. Technical Assistance for Rural and Small Treatment Works.**

This section amends Section 104 of the Federal Water Pollution Control Act (also known as the Clean Water Act or CWA) to allow the EPA to make grants to nonprofit organizations to provide technical assistance relating to financing wastewater infrastructure in rural, small, and tribal municipalities. This section would allow the EPA to better provide assistance to underserved communities to access affordable financing options for constructing and operating wastewater treatment systems to in order to maintain compliance with the Clean Water Act.

### **Section 213. State Management Assistance.**

This section reauthorizes an EPA grant program under Section 106 of the CWA that assists States, interstate agencies, and tribes in administering programs for the prevention, reduction, and elimination of pollution in the Nation's waterways. These grants support cooperative federalism by providing funding to build and sustain effective water quality programs that ensure the health of our Nation's water bodies.

### **Section 214. Watershed Pilot Projects.**

This section formally authorizes EPA's on-going efforts under Section 122 of the CWA to support states, tribes, and local communities in developing watershed-based plans to achieve water quality standards. Through this program, EPA would provide technical assistance and grants to



municipalities to carry out pilot projects to best manage wet weather discharges on a watershed basis.

**Section 215. Nonpoint Source Management Programs.**

This section reauthorizes EPA's CWA Section 319 Nonpoint Source Management Program to provide technical and financial assistance to states, territories, and tribes to implement a variety of nonpoint source projects. Nonpoint source pollution – principally nitrogen, phosphorus, and sediments - continues to be an impediment to improving water quality. Reauthorization of this important program continues the important Federal role in protecting the Nation's water through innovative approaches and effective partnerships with state and local partners.

**Section 216. State Water Pollution Control Revolving Funds.**

This section amends Title VI of the CWA to reauthorize the Clean Water State Revolving Funds (CWSRF) program and increase financial assistance for communities of fewer than 10,000 individuals. Additionally, this section requires the EPA to establish simplified procedures for communities to obtain assistance through the CWSRF program.

**Section 217. Harbor Maintenance Trust Fund Discretionary Spending Limit Adjustment.**

This section establishes a specific budgetary mechanism to allow revenue deposited in the Harbor Maintenance Trust Fund to be appropriated and expended to address the maintenance dredging needs of U.S. commercial harbors.

**Subtitle C – Economic Development.**

**Section 221. Economic Development Administration Reauthorization.**

This section reauthorizes the Economic Development Administration through 2023.

**Title III – Innovative Project Finance**

**Section 301. Authorization for Credit Risk Premium Payments for Railroad Rehabilitation and Improvement Financing.**

This section authorizes funds for fiscal years 2019 through 2021 for the direct cost of loans and loan guarantees for Railroad Rehabilitation and Improvement Financing (RRIF) program. These authorizations for coverage of the credit risk premiums will help leverage private-sector dollars and expertise in rail infrastructure projects.

**Section 302. Public Buildings Public-Private Partnership Pilot Program.**

This section directs the General Services Administration (GSA) to carry out a pilot program to complete 3 to 5 building projects as public private partnerships consistent with Office of Management and Budget scoring rules and requires the GSA to conduct a review and evaluation of projects executed under the pilot program. This pilot project will help the GSA determine how best to leverage private-sector dollars and expertise to construct and rehabilitate federal buildings.



### **Section 303. Federal Capital Revolving Fund.**

This section creates a new \$10 billion federal capital revolving fund managed by the GSA to help finance the costs of constructing and rehabilitating federal buildings. The fund will provide financing for large federal capital projects by allowing federal agencies to borrow from the fund for such projects and pay back the fund over time.

### **Section 304. Reenactment of Coast Guard Housing Authorities.**

This section will reduce a decade's old backlog of shoreside infrastructure projects and improve the quality of life for Coast Guard servicemembers by providing the Service the authority to enter into public private partnerships to rehabilitate old and construct new military family housing for servicemembers and their dependents.

## **Title IV – Accelerating Project Delivery**

### **Section 401. One Federal Decision.**

This section directs the National Surface Transportation and Innovative Finance Bureau (Bureau), which was established by the FAST Act, to be the entity within the Department of Transportation (Department) that is responsible for carrying out various activities to accelerate project delivery. It also enables the Bureau to provide technical assistance on compliance with the National Environmental Policy Act to all non-federal sponsors of transportation projects. It directs the Bureau, in coordination with other modal administrations and federal agencies as applicable, to ensure that a record of decision is issued for a transportation project within two years. Finally, it requires the Bureau to maintain the permitting dashboard within the Department.

### **Section 402. Application of Categorical Exclusions for Transportation Projects.**

This section expedites the environmental review process by enabling a categorical exclusion for a project under one modal administration of the Department to be applied to a project under a different modal administration.

### **Section 403. Pilot Program on the Use of Innovative Practices for Environmental Reviews.**

This section establishes a pilot program to allow for the use of innovative approaches to environmental review process in order to accelerate project delivery while still maintaining environmental protections.

### **Section 404 – Section 401 Certification Reform.**

This section amends section 401 of the CWA to clarify that states may only consider water quality requirements which are consistent with the intent and goals of the CWA and with appropriate water quality requirements under state law when providing a 401 certification for a project.