



Policy Update

March 3, 2022

Congress Passes Stopgap Bill to Avoid Shutdown – Both the House and Senate passed a continuing resolution (CR) to avert a government shutdown. Leaders of the House and Senate Appropriation Committees have agreed to a “framework” on the FY22 appropriations but have said they need more time to finish. The CR expires March 11th. Leaders in Congress know that the obligation limitation for spending Highway Trust Fund dollars under the IIJA need to match what is in the law to follow through on the promises in the new law.

Senate Republicans Not Happy with FHWA Memo On Federal Infrastructure Dollars – More than half of the US Senate Republican conference sent a [letter](#) asking Transportation Secretary Pete Buttigieg to “rescind or substantially revise” the Federal Highway Administration’s (FHWA) December 16th memo encouraging state DOTs to use new federal infrastructure dollars to prioritize repairs over highway expansions. Specifically, the FHWA memo states that *“This Policy prioritizes projects that move more people and freight by modernizing and increasing the operational efficiency of existing roads and highways over projects that expand the general-purpose capacity of roads and highways.”* Further, the memo issued to state FHWA offices encourages infrastructure investments that align with the administration’s focus on climate, equity, and road safety which has led many Republicans to accuse the administration of trying to circumvent the letter of the infrastructure law, which in many cases allows states to invest federal infrastructure dollars as they see fit under law. The letter also points out the Administration’s use of categorical exclusions under NEPA to highlight the fact that FHWA can approve repair projects more quickly than expansion projects which has led some members of both the House and Senate to comment that FHWA and environmental agencies may drag their feet on approvals of permits for expansion projects.

Secretary Buttigieg Testifies before the Senate EPW Committee on the implementation of the IIJA – Secretary Buttigieg testified before the Senate Environment and Public Works (EPW) Committee on March 2nd and fielded several questions over the December 16, 2021 FHWA guidance memo that encourage States to spend their federal transportation funding on state-of-good-repair projects and other administration priorities over capacity and expansion projects. The Secretary responded to several Republican Senators telling them that States will continue to have the ultimate say over how the new infrastructure dollars are spent, but went on to say that DOT will consider “safety, the state of good repair, economic strength, and resilience” as it determines grant applications. The Secretary updated the Committee on the amount of highway formula funding (\$52 billion) apportioned as well as the solicitations for \$2 billion in discretion funding. Several Senators said they are hopeful that whatever Congress decides to do with the FY22 appropriation that the legislation sets the HTF obligation limitation at the IIJA levels to reflect the higher spending.

Gas Tax Holiday Bills Introduced in the House and Senate – Rep. Tom O’Halloran (D-AZ) and several other House Democrats introduced a House companion to a Senate bill that would pause the federal gasoline tax temporarily. The bill is similar to S. 3609, the Gas Prices Relief Act of 2022, introduced by several Democrat Senators concerned about reelection this November. The loss of revenue from zeroing out the gas tax would be replaced by a General Fund transfer in an equal amount. The plan would suspend the 18.4-cents-per-gallon gas tax for the rest of the calendar year. Members of both parties have criticized the bills from different perspectives. The new infrastructure bill passed in November relies on \$43 billion in federal gas tax revenues this year alone, about half of which could be forfeited if Congress cancels the gas tax for part of the year. Inflation and the on-going war between Russia and

Ukraine are likely to put more pressure on Congress to address rising prices on fuel but eliminating the gas tax will not impact the daily fluctuations in the price of oil.

USDOT Grant NOFOs – The Federal Aviation Administration (FAA) announced \$1 billion in competitive grant opportunities under the new Airport Terminal Program included in the IIJA. Airports can apply to upgrade their passenger terminals and fund other projects that would make their facilities more sustainable and accessible, especially in underserved communities. The projects may include replacing aging building complexes, relocating terminals, expanding on-airport rail access, improving energy use, upgrading access to passengers with disabilities or historically disadvantaged populations, among other projects. The FAA will distribute funding based on the following splits: Large hub airports will receive up to 55 percent of the total funding; medium hub airports will get up to 15 percent; small hub airports will receive up to 20 percent; and “at least 10 percent of the total funding will go to non-hub and non-primary airports.” Applications are due March 28th.

The Maritime Administration (MARAD) will award \$450 million for projects that help move goods in and out of U.S. ports more efficiently. The funding will mark the single largest distribution of grants ever made through the Port Infrastructure Development Program (PIDP). Projects will be chosen based on their impact on trade through the ports, as well as their potential to mitigate environmental concerns and advance equity and opportunity, a senior administration official said. Applications are due May 16th.

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