

Highway and Transit Program Reauthorization

Summary

Authorizing legislation for the existing federal highway, highway safety, and transit programs will expire at the end of FY2003. Reauthorization of these programs will be considered in the 1st Session of the 108th Congress. The Bush Administration is expected to send its version of a reauthorization bill to Congress along with the FY2004 budget request in early February 2003. This will start a cycle of congressional action that should conclude before October 1, 2003. The last two reauthorization bills, however, were passed well after the authorization contained in the previous Act had expired.

The current 6-year authorization, the Transportation Equity Act for the 21st Century (TEA21) (P.L. 105-178 and P.L. 105-206), was significantly different than its predecessors in several respects. Most notably it provided for a dramatic increase in funding for federal surface transportation programs. This was in large part the result of a successful effort to link the revenue stream for the highway trust fund to significant increases in spending for the highway, highway safety, and transit programs. TEA21 provided 40% more funding than the previous 6-year program authorization. Furthermore a mechanism created by TEA21, revenue aligned budget authority (RABA), has provided the federal highway program with an additional \$9.1 billion in funding over TEA21's six-year authorization period, although difficulties with this mechanism in the last session of Congress will make RABA a reauthorization issue in the coming debate.

From the public's perspective the surface transportation reauthorization is taking place against the backdrop of growing concern about congestion and sprawl in urbanized areas, and increased concern about maintaining access to the national system in rural areas. The congressional debate that will take place as part of the highway and transit program reauthorization process in the 108th Congress is shaping up primarily as a debate about money. Given the large increase in funding made available by TEA21, there appears to be an expectation in some quarters that the reauthorization under discussion should also provide for a large increase in funding. The economy, the return of the deficit, and other policy concerns, however, make such a large increase problematic.

The money question aside, there appears to be very little interest in making major changes to the overall structure of the highway, highway safety, and transit programs. Rather, the interest appears to be in tweaking these programs to allow spending for some additional activities and perhaps adding some new stand alone programs or consolidating several traffic safety programs into a single program. Among the issues likely to be considered are: allowing states greater flexibility in how they use their transportation funds; retention of the existing highway trust fund funding framework established by TEA21; financial assistance for physical infrastructure security; streamlining of environmental evaluations required by the project approval process; a new categorical grant program for highway safety; and an increased focus on reducing drunk driving and increasing seat belt use. This report is intended as a resource document for the reauthorization debate. It will not be updated.

CRS Highway, Highway Safety, and Transit Reauthorization Policy Staff

| Area of Expertise | Name | CRS Division | Telephone |
|--|-----------------------------------|---------------------|------------------|
| Highway Program Issues | John Fischer Bob Kirk | RSI RSI | 7-7766 7-7769 |
| Trust Fund Issues | John Fischer | RSI | 7-7766 |
| Donor/Donee & Formula Issues | Bob Kirk John Fischer | RSI RSI | 7-7769 7-7766 |
| Highway, Railroad, & Truck Safety | Paul Rothberg | RSI | 7-7012 |
| Intelligent Transportation Systems (ITS) | Paul Rothberg | RSI | 7-7012 |
| Automobile and Traffic Safety | Duane Thompson | RSI | 7-7252 |
| Transportation Enhancements & Planning | Glennon Harrison | RSI | 7-7783 |
| Transit Program Issues | Randy Peterman | RSI | 7-3267 |
| Intermodal/Freight Issues | John Frittelli | RSI | 7-7033 |
| CMAQ & Environmental Streamlining | David Bearden Linda Luther | RSI RSI | 7-2390 7-6852 |
| Conformity with the Clean Air Act | Jim McCarthy | RSI | 7-7225 |
| Transportation Infrastructure Policy | John Fischer | RSI | 7-7766 |
| Transportation Security | John Frittelli | RSI | 7-7033 |
| Highway and Transit Program Data | Hussein Hassan John Williamson | RSI RSI | 7-2119 7-7725 |

Division abbreviations: RSI = Resources, Science, and Industry Division.

High Priority Projects (Earmarking)

In the view of some observers the most controversial feature of TEA21 is found in Section 1601 which establishes the “high priority projects program”. This section lists 1,850 specifically identified projects throughout the United States and provides a specific dollar authorization for each project. In total almost \$9.4 billion in authorizations are provided for this program. This compares with 538 congressionally designated projects in ISTEA that were provided with \$6.2 billion in funding.

Earmarking was not a major feature of surface transportation reauthorization bills until the 1990s. Since then, as the above paragraph shows, the growth has been rapid. The growth in earmarking here, however, is not isolated. Earmarking in transportation appropriations legislation has also grown dramatically in the last decade. In fact, certain programs, such as CORBOR and TCSP that were established as competitive discretionary funding programs in TEA21 are now entirely earmarked in appropriations legislation.

There are numerous philosophical arguments both for and against earmarking at the congressional level. In the surface transportation context the argument has always been between Members meeting what they see as their representational requirements and meeting the overall planning and other national goals embedded in the rationale

¹⁶The highway programs have limitations on how funds can be transferred among programs. Further information on the TEA21 structure can be found at: www.fhwa.dot.gov/tea21/factsheets/transfer.htm

behind federal formula and discretionary program goals. To the extent that earmarks can be structured to meet overall program goals, the tension between these two perceptions is somewhat mitigated.

Earmarks do have some significant effects on policy questions that will arise during the reauthorization debate. Earmarking does affect the donor/donee computation. Within the context of a state's total program spending, if the state receives a significant number of earmarks, the state will see its discretion over total program spending somewhat reduced. This will have an effect on state and local planning during the life of the next Act and can tie up state/local matching funds that could have been used for other projects.

Growth in earmarks in TEA21 mimicked the growth in overall program spending. If significant new funds are not part of the reauthorization process, increased earmarking might reduce the availability of formula funds for state and local projects. Because states and localities tend to have much greater interest in formula and discretionary funds that they direct, as opposed to those that are earmarked, this could be a growing source of tension between legislators and their otherwise supportive state and local constituencies.
