LEGISLATIVE

Senate Environment and Public Works Committee Approves Five Year Surface Transportation Proposal

On July 29, 2019 the Senate Environment and Public Works Committee unanimously approved a five year surface transportation authorization proposal, America’s Transportation Infrastructure Act, which would invest $287 billion in the nation’s roads, bridges and highways. This proposed funding level is roughly 27 percent higher than the current surface transportation reauthorization, Fixing America’s Surface Transportation Act, which expires in September of 2020. Although ATIA defines how funding would be spent, action is required by the Senate Finance Committee in order to fund the proposal. The Senate Finance Committee is facing a steep challenge: Highway Trust Fund revenues will not support this level of spending and it is estimated that $110 billion in revenue will be necessary to support ATIA’s proposed funding plus a complementary proposal for transit, which has not yet been released by the Senate Committee on Banking, Housing, and Urban Affairs.

Roughly 90 percent of ATIA’s funding will be distributed by formula. Notably, the National Highway Freight Program’s funding would be increased from $6.3 billion over five years to $8.5 billion over five years. While the FAST Act capped this program’s spending on rail and intermodal projects at 10 percent of funds annually, ATIA would increase this annual cap to 30 percent. The Nationally Significant Freight and Highway Projects Program, also known as INFRA, would also receive a funding boost and increased flexibility. ATIA would authorize the program at $5.5 billion over five years, a $1 billion increase over FAST Act funding. While the FAST Act capped spending on rail and intermodal projects at $500 million, in aggregate, over five years, ATIA suggests an annual 30 percent spending cap on rail and intermodal projects.

While ATIA is cleared to go to the Senate Floor for a vote, action by several Senate Committees is necessary for a comprehensive, funded proposal. The Senate Committees on Finance, Commerce, Science, and Transportation; and Banking, Housing, and Urban Affairs have not yet acted. The House Transportation and Infrastructure Committee has not yet introduced its proposal for surface transportation authorization; leadership has indicated a proposal will be forthcoming in early 2020.
House Passes Coast Guard Reauthorization

On July 24 the House of Representatives passed the Coast Guard Authorization Act of 2019. The bill, introduced by Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OR) and six bipartisan cosponsors, passed unanimously by voice vote. It includes over $29 million in appropriations authorization for the Federal Maritime Commission for fiscal year 2020, a slight increase from the fiscal year 2019 enacted level which was $28.5 million.

The Senate also introduced their own version of the bill on July 25, 2019, sponsored by Senator Sullivan (R-AK). It was approved on July 31 by the Senate Committee on Commerce, Science, and Transportation and includes appropriations authorization for the FMC at the same level as the House version. The Senate bill has three bipartisan cosponsors.

Legislation Introduced to Require Automatic Braking Systems

Congressman Hank Johnson (D-GA) introduced the Safe Roads Act of 2019 on July 16. The bill would require all new commercial motor vehicles to be equipped with automatic emergency braking systems. The bill has six cosponsors, all Democrats, and was referred to the House Committees on Transportation and Infrastructure, and Energy and Commerce. Several groups, including the Trucking Safety Coalition, Advocates for Highway and Auto Safety, and Roads Safe America, support the proposed legislation. The bill was last introduced by Congressman Johnson in 2015, it died in committee upon the conclusion of the 114th Congress.

REGULATORY

FMCSA Proposes Increased Flexibility for CDL Applicants

The Federal Motor Carrier Safety Administration proposed two rulemakings aimed at increasing flexibility for commercial driver’s license applicants. Currently, FMCSA prohibits states from allowing third-party skills examiners to administer the CDL skills test to the same applicants they provided skills training. In a notice published on July 9, 2019, FMCSA proposed allowing states to individually decide if third-party examiners are permitted to train and administer tests for the same applicant. FMCSA said this deregulatory action would provide states greater flexibility, reduce unnecessary barriers to employment, and alleviate testing delays. Comments on this notice of proposed rulemaking are due September 9, 2019.

In a separate NRPRM, published on July 29, 2019, FMCSA proposed allowing CDL applicants to take general and specialized knowledge tests in a state other than their
state of residence. States would not be required to offer these tests to out-of-state applicants. However, if states do elect to do so, the results would be transmitted to the applicant’s state of residence which would be required to accept them. FMCSA noted this proposal would make the knowledge testing process more consistent with the skills testing process, which already allows out-of-state applicants. Comments are due by September 27, 2019.

ATA Publishes Report on Driver Shortage

American Trucking Associations published its 2019 Truck Driver Shortage Analysis. The report found that in 2018 the trucking industry saw a shortage of around 60,800 drivers, which is a 20 percent increase from 2017. ATA predicted the shortage could grow to over 160,000 by 2028. To account for retiring drivers as well as industry growth, roughly 1.1 million new drivers are needed over the next decade. The analysis notes that the strict hiring criteria carriers must maintain contributes to the shortage, stating that the focus is on quality rather than quantity. "According to a 2015 ATA study, 88% of fleets said they were getting enough applicants, but many were simply not qualified." Several other causes for the shortage are identified, including: age, gender, lifestyle factors, alternative job availability, and regulatory restrictions. To increase the number of truck drivers ATA makes the following recommendations: increasing driver salaries, lowering the driver age for interstate commerce to 18, attracting more demographically diverse drivers, increasing efficiency throughout the supply chain, and increasing flexibility for CDL applicants.

USDOT Announces INFRA Grant Recipients

On July 25, 2019 the U.S. Department of Transportation released its fiscal year 2019 INFRA grant selections. These discretionary grants are made available for nationally or regionally significant highway and freight projects. USDOT selected 20 projects for a total of nearly $856 million in awards. The INFRA program separates applicants between large projects, with awards over $25 million, and small projects, with awards over $5 million. Statutorily, 25 percent of funds must go toward rural projects. This round of INFRA awarded 54 percent of funds to projects in rural areas. Non-highway projects are eligible to receive only an aggregate of $500 million between fiscal years 2016 and 2020. Approximately $200 million remained in multimodal eligible funding before this round was announced. Four projects with multimodal elements, totaling around $67.5 million, were among the projects announced in July. USDOT is required to notify Congress of its proposed grant selections; lawmakers have 60 days to review awards before they are finalized. Rejecting an award would require a joint resolution by Congress.
Earlier in July, the U.S. Government Accountability Office published a report examining the transparency and consistency of the INFRA application review process. GAO found that USDOT solicited additional information from some applicants whose applications were incomplete, but not others. The report also noted that while USDOT assigns scores to certain merit criteria, all eligible applications were forwarded for award consideration. GAO recommended: USDOT provide their rationale when requesting additional information from certain applicants; USDOT clarify how, if at all, merit criteria scores are used in the application review process; and, Congress consider including in the next surface transportation authorization bill provisions to increase transparency and consistency within USDOT’s grant programs.