

# Legislative Update to the AASHTO Committee on Environment and Sustainability October 1, 2020

*Presented by Joung Lee, AASHTO Director of Policy and Government Relations*

- Today happens to be the very first day of federal fiscal year 2021, and the first day of the one-year FAST Act extension, and with that backdrop, I'm here to give you an update on a number of key federal legislative developments taking place.

## **Continuing Resolution, FAST Act Extension**

- First is that the Senate passed the Continuing Resolution—or CR—last night, and the President signed the measure overnight.
- The CR will allow for uninterrupted funding of federal government programs starting at the beginning of FY 2021 tomorrow through December 11.
- Unlike the contentious nature of virtually everything that Congress is looking at right now, at least for this CR, there was a commitment in early September between the House Speaker Nancy Pelosi and Treasury Secretary Steven Mnuchin to keep this measure as “clean” as possible.
- This means the CR simply continues the FY 2020 funding levels with as few of what are called “anomalies” or necessary and unavoidable program adjustments.
- The especially good news coming out of the CR deal is that the one-year extension of the FAST Act included, coupled with a plus-up of the Highway Trust Fund to the tune of \$13.6 billion to support this extension length.
- This was exactly what was requested by [AASHTO and 87 partner organizations](#) over the last five weeks, and given the number of short-term extensions we saw prior to MAP-21 and the FAST Act, this was a big win for state DOTs.
- With the FAST Act extension, we are good for one more year of current FAST Act policies and funding, including distribution of contract authority formula apportionments to states.
- The CR also provides obligation limitation—which is the ability to actually commit Federal-aid Highway Program dollars to projects-- through December 11, which is estimated to be \$9.1 billion.
- Regrettably, even if we were able to avoid piecemeal FAST Act extensions lasting a few weeks or months, the annual appropriations process remains far from

regular order, and they remain dependent upon these stopgap measures at the start of every fiscal year.

- (Just as an example of how far we've drifted from regular order, the last time all 12 federal appropriations packages were done on time by October 1 was 1996.)
- With that said, the CR does provide a \$10.4 billion general fund transfer to the Highway Account of HTF and a \$3.2 billion GF transfer to the Mass Transit Account.
- It also provides a \$14 billion GF transfer to the Airport and Airway Trust Fund due to make up for the aviation excise tax holiday included in the CARES Act.
- The CR also suspends the Rostenkowski fiscal solvency test for the Mass Transit Account for FY 2021, the complicated budgetary mechanism which would otherwise have massively reduced transit obligation for the fiscal year, perhaps zeroing it out altogether.
- The CR increases the INFRA discretionary grant program's "multimodal cap"—or the allowance to commit dollars to non-highway portions of multimodal freight projects—from \$500 million to \$600 million.
- Finally, the CR extends the 2017 and 2018 BUILD discretionary grant obligation deadlines through September 30, 2021.
- With all this said, it remains to be seen how the final FY 2021 appropriations picture will look by December 11.

### **Outlook for Surface Transportation Reauthorization**

- The one-year extension of the FAST Act means we need to make sure the transportation industry as a whole is able to make the most productive use of FY 2021, and to make sure that Congress is able to get a multiyear surface reauthorization of highway, highway safety, transit, and passenger rail programs across the finish line by a year from now, on September 30, 2021.
- AASHTO will continue to build on our five core policy principles adopted by the Board of Directors last year:
  - A well-funded long-term bill
  - A sustainable revenue solution for the Highway Trust Fund
  - Increasing and prioritizing formula-based federal funding to states
  - Increasing flexibility, reducing program burdens and improving project delivery

- Supporting and ensuring state DOT's can harness innovation and technology
- We will also need to be mindful of what was included in the bipartisan Senate highway reauthorization bill last year—the America's Transportation Infrastructure Act—and the House's Moving Forward Act from this past July—which was passed on a party line basis—and make sure AASHTO is able to fully and clearly articulate the state DOTs' policy positions on new federal program elements prioritized in both bills: in particular, climate change, carbon reduction, infrastructure resiliency, and bridge programs.

### **COVID Relief Package and Direct Backstop Aid to State DOTs**

- Since April of this year, we have heard many times from you that help is needed to offset transportation revenue losses due to COVID-19.
- To that end, with your help and outreach, we have asked Congress for an immediate, stabilizing “backstop” funding which is critical to prevent cancellations and delays of transportation projects, as well as to prevent increased job losses in both the public and private sectors.
- In July we updated our funding request to Congress for \$37 billion over five years, including \$16 billion just for FY 2020.
- We have also made it clear that the AASHTO request is separate and distinct from the request for assistance from the nation's Governors. The state DOTs are looking for assistance in meeting the gap from the loss of dedicated user fees, while the Governors are seeking assistance in meeting the gap in state General Fund revenues.
- This short-term infusion to prevent atrophying of state DOTs' institutional capacities is critical in order for them to be in a position to implement the new long-term reauthorization bill when the time comes next year.
- Even after six-plus months since the passage of the CARES Act at the end of March, however, there is much less positive developments on the Hill on COVID relief compared to what we saw in the FAST Act extension.
- As has been the holding pattern since May, this next COVID package centers around the following areas of needs:
  - Paycheck Protection Program renewal
  - Unemployment Insurance extension
  - Health Care \$ for testing, vaccines

- Funding for schools
- State & Local revenue relief
- Cash disbursements to individuals
- Sector-based relief for industries like airlines & restaurants
- Liability protection for businesses
- Over the summer, the House Democrats tried to bridge their \$3.4 trillion dollar HEROES Act from May with the Senate Republicans' \$1 trillion HEALS Act from July.
- But as you have seen in the news, unfortunately, the two parties drifted further apart in the intervening weeks to the point where there was a complete breakdown in talks by the middle of August for about a month.
- The Senate Republicans' \$1 trillion package fell apart just among the majority caucus due to lack of support, so Majority Leader McConnell after Labor Day introduced a \$500 billion package that was promptly blocked by the Senate Democrats for going further away from what they wanted to see.
- This past Monday night, the House Democrats returned the volley by shaving off about \$1 trillion from the original HEROES Act. This new package included the following state, local and transportation specific aid:
  - \$257B for states, territory, and tribal governments
  - \$179B for local governments
  - \$13.5B for airports
  - \$28.3B for airlines (Payroll support program)
  - \$1.4B for Amtrak
  - \$32B for transit
- What you'll notice here is that there is zero dollars for state DOT aid in the latest House package, which compares to \$15 billion for state DOTs in the original HEROES Act.
- Unfortunately, it look like the broad needs for a strong federal response including for state DOTs have morphed from striving for meaningful action to a simple messaging umbrella—namely to shield vulnerable members of Congress in leading up to November 3<sup>rd</sup>.
- I think we still have the window in the coming days and weeks to continue to push for direct state DOT aid.
- And we're grateful for the continued push from individual state DOTs over the last six months.

- While the challenge remains steep, we need to make sure Congress continues to hear about the state DOTs' needs loud and clear.