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Home

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Finance

Health

Taxes

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Law

Opinion

Hopes for Long-Term Transportation Bill are Fading

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With federal transportation spending outpacing tax receipts by some \$1.25 billion a month, the cash balance of the Federal Highway Trust is drawing perilously close to the point where the U.S Department of Transportation will be obliged to institute cash management strategies -- such as slowing down or delaying state reimbursements -- to keep the Trust Fund account solvent.

Based on current spending and revenue trends, this point -- a cash balance of \$4 billion in the Highway Account -- will be reached in late July, according to the latest U.S. DOT estimate. However, CBO estimates

that "both the highway account and the transit account will end the end of the fiscal year with a positive balance," according to an April 14 memo from the Congressional Budget Office (Subject: CBO's Highway Trust Fund Runs, April Baseline)

Of more serious concern is what will happen at the end of the fiscal year (September 30) when the existing surface transportation program is set to expire. While it is virtually certain that Congress will not allow the program to lapse, it is far from clear what form Congressional action will take.

The transportation stakeholders and the Senate Environment and Public Works (EPW) Committee are pressing for a six-year reauthorization funded at the current spending level of \$54 billion a year plus inflation. They contend a multi-year bill is essential to implement large-scale multi-year projects, and they are warning that failure to maintain current spending levels will oblige states to tighten their belts, cut back on planned construction projects, and forego any new capital investment. The EPW Committee marked up a proposed six-year bill on May 15, admittedly not a final product, because the transit and safety titles of the bill still await action by the Senate Banking and Commerce committees, respectively.

Enacting a multi-year reauthorization at current spending levels faces long odds in this election year. At bottom, it comes down to how much money can be raised to supplement the regular annual Trust Fund income of \$39 billion (\$34 billion credited to the Highway Account and \$5 billion to the Transit Account). And at this point, the answer is far from clear.

Searching for Funds . . .

A six-year surface transportation measure would require roughly \$330 billion to maintain current FY 2014 spending levels (an average of \$55 billion a year including inflation). Trust Fund revenue and interest over the same period are projected to bring in only \$234 billion, according to the latest (April 2014) Congressional Budget Office estimate. This would leave a staggering funding gap of \$96 billion (or \$108 billion -- \$18 billion a year -- according to Sen. Barbara Boxer of California, chairman of the Senate EPW Committee). How such huge sums of money could be raised on a short notice in this tax-averse, deficit-conscious Congress, remains unanswered.

"The hunt has been under way for the last year and a half to find a funding mechanism to fund our infrastructure needs," House Speaker John Boehner (R-OH) told reporters on February 27. "I wish I could report to you that we've found it, but we haven't."

Nor has the Senate been any more successful in its search for extra funds. At a May 6 hearing on

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"Funding and Financing of Highways and Transit," members of the Finance Committee (which is responsible for coming up with the funding for the transportation bill drafted by the EPW Committee) gave no indication of their thinking, other than agreeing on the "dire" consequences of inaction.

Much of the testimony at that hearing focused on the financial tools (TIFIA, Private Activity Bonds, Build America Bonds) and on public-private partnerships, suggesting that the Committee will give significant weight to the role of private financing in its future deliberations. But as to federal funding, no concrete solutions were offered either for the immediate future -- how to replenish the Trust Fund when it runs dry later this year; or for the long term -- how to place the Trust Fund permanently on a sound financial footing.

... But Finding Few Answers

The most straightforward solution -- increasing and indexing the federal gas tax -- a proposal recently resuscitated by Rep. Earl Blumenauer (D-OR) and endorsed by the U.S. Chamber of Commerce, has not been widely accepted as an option. "I'm going to be very honest with you, I don't see support for raising the gas tax," Sen. Boxer told the audience at a February 26 AASHTO legislative briefing.

Talk of increasing the gas tax remains anathema in Congress for a good reason: a Gallup poll in April 2013 found two-thirds of Americans opposed to a gas tax hike even if it went toward infrastructure improvements. Nor has the White House changed its negative stance on this matter. Even progressives are ambivalent because of the gas tax hike's regressive nature.

Another solution -- using general funds to supplement Highway Trust Fund revenue -- has been severely limited by the bipartisan budget agreement negotiated between Sen. Patty Murray (D-WA) and Rep. Paul Ryan (R-WI) in late December 2013. This agreement requires any General Fund transfers into the Highway Trust Fund to be fully offset during the year in which the transfer occurs (In MAP-21, some "pay-for's" were spread over a period of up to 10 years, provoking much criticism). General fund transfers are "not a sustainable formula for the future," said Sen. John Thune (R-SD) the ranking Republican on the Senate Commerce Committee, reflecting a widely held view in both Houses.

"We have transferred more than \$50 billion of general fund money into the Highway Trust Fund (HTF) to maintain funding levels, making a mockery of having a self-sustained trust fund", wrote Sen. Bob Corker (R-TN) to the Senate leadership on May 14. He went on to say that he could not support a multi-year reauthorization bill unless the bill either increases user fees to match spending levels, reduces spending to match HTF revenues, or offsets HTF spending that exceeds revenues by reducing other government spending by an equal amount.

A third solution -- a wider use of highway tolling -- has proven to be an increasingly popular tool to fund major highway and bridge projects, says IBTTA. Existing toll roads in 28 states generate more than \$10 billion a year in revenue --nearly one-third of the annual federal gas tax revenues. The Administration has given a big boost to tolling in its proposed transportation bill by offering to allow states to toll existing interstates. But revenues from tolling flow into individual state treasuries or those of toll road authorities and do not augment federal transportation revenue or enhance the long-term solvency of the Highway Trust Fund.

A fourth approach -- a proposal advocated by the White House and embraced by the US DOT in its legislative transportation proposal sent to Congress on April 29 -- is to use transition revenue generated from corporate tax reform tied to a repatriation of overseas corporate profits. The details of the proposed tax reform have not been released by the Administration, and Congressional leaders in both Houses have dismissed the proposal as vague and premature.

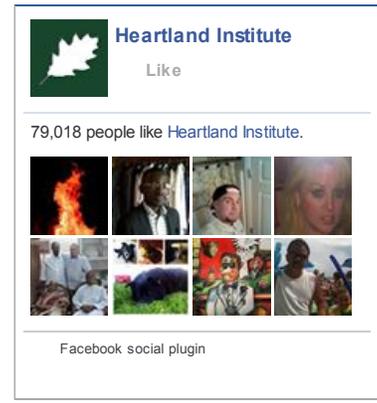
A comprehensive tax overhaul is "not something that's going to happen this year," said Senate Minority Leader Mitch McConnell. House GOP leaders have declined to endorse a corporate tax reform plan or to commit to a vote. Sen. Orrin Hatch, the top Republican on the Finance Committee has likewise expressed opposition to this idea.

In sum, tax reform as a source of revenue for transportation is dead, at least for this session of Congress.

Which leaves most observers agreeing with Sen. Johnny Isakson (R-GA) and several of his Senate colleagues that a short-term bill extending the current transportation program (MAP-21) into next year and funded with a relatively modest general funds appropriation, is probably the most one can expect from this deeply divided Congress, whose attention is singularly focused on the upcoming November election -- and whose Senate Majority Leader, Harry Reid (D-NV) himself reportedly does not want to bring up the controversial EPW bill to a vote before the election.

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