**DOT Unveils Details* of Proposed Administration Bill**…

*...as the reality closes in that any multi-year surface transportation bill is increasingly unlikely to be passed before the coming mid-term elections.*

The Administration's draft bill – released last week -- is being dubbed as the GROW AMERICA Act (the Generating Renewal, Opportunity, and Work with Accelerated Mobility, Efficiency, and Rebuilding of Infrastructure and Communities throughout America Act) (!)

For all its stirring of discussion on a myriad of important policy issues, this proposed legislation demonstrates at a core level that the revenue necessary for any such bill is nearly impossible to add up in a way that is both fiscally plausible and politically palatable in the current moment. The "details" the Administration is providing come with an important asterisk (*), denoting the blank slate it ascribes to something called "corporate tax reform," the very pillar on which the rest of the proposed bill is supposed to stand. As such, the funding plan is not considered to be a serious proposal, but rather a place-holder designed to prompt a "dialogue" with Congress on funding, while encouraging others to come up with something that is more politically realistic in this election year.

Thus, it should not be surprising that attention in Congress is now turning more quickly to what can be done to merely shore up and extend current programs for a few more months to the end of the year, a quite heavy lift in and of itself. A punt of this limited nature will require Congress to come up with about $10 billion in new revenue before the election—probably difficult, but doable. By contrast, the administration's proposed four-year bill – offering a myriad of cat-nip-attractive policy and spending "wish-fors" -- requires a "pay-for" of $150 billion in new revenue, which is nothing less than pie-in-the-sky territory in the current political and legislative environment.

In assessing the Administration's draft bill -- released last week in 350 pages of proposed legislative language and an additional 100 pages of section-by-section explanatory prose -- it is important for the larger transportation community to come to grips first-and foremost with the transportation funding conundrum which the bill itself so clearly exposes.

The Administration has proposed a bill that is being praised for proposing to authorize four years of spending that totals up to $87 billion more over four years than what would be spent if the bill just maintained current program levels – levels that the coming other proposed bills (House and Senate) are likely to limit themselves to try to do. Thus the GROW AMERICA Act enables the Administration to boast, for example, that it favors (over four years):

- A net 38 percent increase over current spending levels
- $199 billion for highways and highway safety – a 22 percent increase
- $72 billion for transit – a 70 percent increase
- $19 billion for rail programs

- $10 billion for a new multi-modal freight program

These include, for example:

- ✓ A TIGER grant program funded at $1.25 billion per year
- ✓ A new FAST grant program funded at $1 billion per year
- ✓ Expanding highway funding to “green stormwater infrastructure activities”
- ✓ Creating a new program for projects on tribal lands, national parks and forests
- ✓ Creating a new Critical Immediate Investments Program funded at $13.4 billion
- ✓ A Highway Safety Improvement Program funded at $10.1 billion over four years
- ✓ A TIFIA program funded at $4 billion over four years
- ✓ Raising the national cap on Private Activity Bonds from $15 billion to $19 billion
- ✓ A new Bus Rapid Transit program funded at 2.2 billion over four years
- ✓ Transit Capital Improvement Grants funded at $11 billion for four years
- ✓ Bus and rail improvements funded at an additional $5 billion per year
- ✓ Positive Train Control implementation aid funded at $2.35 billion over four years

Yet all of this falls away like so much stardust absent a realistic deficit-neutral funding mechanism, which the proposed bill simply does not have, and which Congress shows no sign of being able to produce, whether through its own initiative or in any remotely conceivable near-term negotiation with the Administration. More may be known on this score when the Senate Finance Committee meets this week for a hearing on transportation funding and financing issues.

The Administration claims its bill is fully paid for and will not add to the deficit because it is based on using $150 billion of revenues from corporate tax reform ($63 billion of which would be needed to maintain current spending levels over four years, then allowing a four-year increase in transportation spending of $87 billion above those levels). Sounds nice. Now turn to page 234 and read the 15 pages of the bill’s Title VII: Amendments to the Internal Revenue Code.

What you will find is not only a glimpse of the fantasy-land fiscal foundation on which the whole bill stands, but also the series of radical structural changes the Administration envisions for the Highway Trust Fund. Such long-term changes reflect Administration policy priorities starkly at odds with any traditional view of the federal-aid program. Such historically pregnant changes – many will argue -- have no business being included in a bill that by definition is eschewing any attempt to propose a long-term (beyond-four years) sustainable funding fix for the Nation's transportation programs.

Here are some details that are important to know, even considering that the bill's revenue plan is largely academic, and has literally zero chance of passing:

## **The Administration's Proposed Corporate Tax Reform "Pay-For"**

The Administration's proposed transportation bill makes no mention of corporate tax reform—none. Rather it merely assumes corporate tax reform will be passed concurrently as a separate stand-alone bill or bills, and that it will generate $150 billion in revenue over ten years that can and should be used for transportation over the first four years on a one-time basis. The details of the specific tax reforms involved are nowhere to be found in any of the Administration's explanatory documents on the transportation bill.

As a side note, tax reform generally is a highly contentious issue in Washington containing many moving parts and alternative scenarios. When the Republican chairman of the House Ways and Means committee laid out a very detailed tax reform proposal (individual and corporate) less than two months ago – also with a revenue set-aside for transportation -- it was immediately clear that the Administration did not support it, and that it had little chance of passing Congress anytime soon. Meanwhile the Administration has offered no detailed proposal on its own ideas, but mostly conveys generalities about closing loopholes on big oil companies and incentivizing the repatriation of overseas corporate profits—ideas than have been bandied about for years without gaining enough bipartisan political traction to come close to being passed into law.

Another big aspect of any tax reform proposal is its potential impact on lowering current tax rates. Most tax reform advocates want to see any revenues generated used to lower rates, not to pay for additional spending, whether on transportation or anything else.

The Administration's proposed transportation bill provides no mechanism for corporate tax reform revenue to be funneled into the Trust Fund on a pay-as-you-go basis, similar to what happens with gas tax or related user fee revenue.

Instead, the bill simply authorizes a straight General Fund (GF) transfer (a deficit-inducing-bailout) of $150 billion spread out at $37.5 billion per year for each of four years. (This amounts to four-year GF transfer totals of $74.4 billion for Highways; $51.55 billion for Transit; $19.05 billion for Rail; and $5 billion for Multimodal). The bill merely assumes that -- in all --this $150 billion will be generated somehow over ten years, and that such ten-year revenue will (on paper) pay for the spending authorized during the four years of the bill. In this respect, the scenario is quite similar to what Congress did to fund MAP-21. In that case two years of mostly deficit spending was deemed to be "paid for" with ten years of revenues projected to come from a series of complicated and largely inscrutable tax code changes.

Under the Administration's GROW AMERICA proposal now, at the conclusion of the four years, the $150 billion in GF transfers will have been spent, having added significantly to current year deficits. Then in theory, it will take another six years of tax reform revenue collections to balance the federal books as to the spending included in the four-year transportation bill. Meanwhile the Trust Fund – at the four-year mark -- would then face an ever deeper revenue hole with no structured way -- from this bill – on how to fill it.

The Administration's bill also makes no accommodation for the (at least) several billions of dollars that the Administration itself says will be needed to bail out the looming Highway Trust Fund shortfalls now certain to occur this summer before the end FY 2014.

## The Administration's Proposed Transformation of the Highway Trust Fund

The Administration's transportation bill essentially proposes to destroy the Highway Trust Fund as we know it – a mechanism based primarily on gas tax and related user fee revenues to pay for two accounts (Highways and Transit) on a quasi pay-as-you go basis.

It proposes instead to replace it with a new Transportation Trust Fund with four accounts (Transit, Highways, Rail and Multimodal) to be paid for with a combination of traditional gas tax user fee revenue and General Fund revenue.

The Transit and Highway Accounts would be funded with a combination of gas tax user fee revenue and specified General Fund transfers.

The Rail and Multimodal Accounts would be funded exclusively through General Fund transfers.

The General Fund transfers contemplated in the bill – as noted --are not paid for concurrently during the four years of the bill by any dedicated tax revenue, but rather are deemed paid for through $150 billion in transitional revenue from corporate tax reform projected to be accrued over ten years assuming such tax reform (still undefined in its particulars) is concurrently passed through separate legislation.

Meanwhile, such non-emergency General Fund transfers would institutionalize a clear and largely irrevocable break with the traditional user fee link to transportation funding, thus departing significantly from one of the core recommendations contained in almost all of the major studies in recent years addressing the long-term transportation funding dilemma.

In addition, the Administration signals a subtle but clear message in that (in the sequence of the bill's text) the creation of the Transit Account under the new Transportation Trust Fund precedes the creation of the Highway Account, denoting a proposed new order of priority in federal transportation programs.

Meanwhile the creation of the new Rail and Multimodal accounts would expand Trust Fund obligations in ways that would essentially further signify the death of the original Highway Trust Fund and the user fee pay-as-you-go principles on which it was based.

## The Administration's Proposed End to the Ban in Interstate Tolling

In another highly significant proposed change related to funding, the Administration's bill proposes to end the ban on tolling the Interstate highways.  Such a ban has been in integral part of the federal-aid highway program since its inception.  Ending the ban – and allowing the states to impose such tolls if they choose -- would no doubt open a Pandora's box of political angst in the states, pitting fiscally-strapped transportation agencies against widespread public sentiment – and expectations -- against such tolls.

The question will be asked, "If gas tax revenues paid for the construction of the Interstates, then why can't gas tax revenues pay for Interstate maintenance and upkeep?"  The honest answer will not be conducive to calming public concerns about out-of-control federal programs and about the decline of fiscally responsible federal spending policies.

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