Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

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October 8, 2013

SUMMARY OF SUBJECT MATTER

TO: Members, Panel on 21st Century Freight Transportation
FROM: Staff, Panel on 21st Century Freight Transportation
RE: Panel Hearing on "Funding the Nation's Freight System"

PURPOSE

The Panel on 21st Century Freight Transportation will meet on Thursday, October 10, 2013, at 1:00 p.m., in 2167 Rayburn House Office Building to receive testimony related to the ways in which freight projects can be funded. At this hearing, the Panel will receive testimony on the various proposals on ways to raise new revenue and use existing revenue more wisely in the funding of freight infrastructure projects across the Nation. The Committee will hear from the Honorable Sean T. Connaughton, Secretary of the Virginia Department of Transportation; Leif Dormsjo, Deputy Secretary of the Maryland Department of Transportation; Robert D. Atkinson, President of the Information Technology and Innovation Foundation; Jack L. Schenendorf, Of Counsel for Covington and Burling, LLP; and David Seltzer, Principal for Mercator Advisors.

BACKGROUND

A safe, efficient, and reliable intermodal freight transportation network is critical to the Nation's long-term economic health and competitiveness. Unfortunately, the Congressionally-established National Surface Transportation Policy and Revenue Commission found that over the last several decades, investment in the Nation's freight network has not kept pace with the needs of the increasingly global economy. These investments are generated through a combination of public and private sources.

Highways

The landmark Federal-Aid Highway Act of 1956 (P.L. 84-627) authorized a 41,000-mile National System of Interstate and Defense Highways and established the Highway Trust Fund. The revenues capitalizing the Highway Trust Fund are collected primarily from users of the highway system through federal taxes on fuels and various taxes on trucks.

Since the enactment of this legislation, funding from the Highway Trust Fund (HTF) has been provided to states via formula for the planning and construction of key highway projects that enable the movement of freight. Most highway-related freight projects, as well as some freight rail and freight intermodal projects, are currently eligible to receive funding under one or more existing Federal surface transportation programs. Many large freight projects, however, are multimodal in scope, and some aspects of these projects may be ineligible for funding from the HTF. This puts project sponsors in the position of having to cobble together funding for large multimodal freight projects from a variety of different sources.

The HTF is also facing a significant revenue shortfall, raising questions about the ability of the HTF to be able to sustain current investment levels. In recent years, outlays from the HTF have been significantly greater than the amount of revenues collected in highway user fee revenues. As a result, between fiscal year 2008 and fiscal year 2014, Congress has transferred approximately $54 billion from the General Fund to maintain the solvency of the HTF. This HTF solvency issue is expected to continue, with CBO projecting that the HTF will face a cash deficit of $126 billion over fiscal year 2012 to fiscal year 2023.

Harbor Maintenance Trust Fund

The Harbor Maintenance Trust Fund (HMTF) is also a source of funding for freight projects. This trust fund is capitalized by revenues raised by the Harbor Maintenance Tax (HMT). The HMT, an ad valorem tax, is collected on maritime imports and is assessed at a rate of 0.125 percent of cargo value ($1.25 per $1,000 in cargo value). The tax revenues are deposited into the HMTF from which Congress appropriates funds for dredging harbor channels. In recent years, HMTF annual expenditures appropriated for harbor maintenance have remained relatively flat.

Transportation Investment Generating Economic Recovery (TIGER)

The Transportation Investment Generating Economic Recovery (TIGER) discretionary grant program is funded through the General Fund of the Treasury and administered by the Department of Transportation (DOT). The TIGER program was originally created as part of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and is a competitive grant program whereby DOT distributes appropriated funds for transportation infrastructure projects around the Nation. The TIGER program has been funded every year since its inception in 2009.

Under DOT's TIGER grants, many freight projects have successfully received funding. However, due to the demand and structural limitations of the TIGER program as well as the large expense of many key freight transportation facilities, the dollar amount of each grant under TIGER is generally insufficient to fund individual freight projects in significant measure. As such, the TIGER program is helpful in bringing freight projects online, but without additional resources is insufficient as a means of funding for such facilities, in and of itself.

Similar in many ways to the TIGER program is the Projects of National and Regional Significance (PNRS) program authorized by Congress in the Moving Ahead for Progress in the 21st Century Act (MAP-21). This program provides competitive grant funding for high-cost surface transportation projects that provide significant national and regional economic benefits and increase global competitiveness. MAP-21 authorized $500 million for the PNRS program from the General Fund for fiscal year 2013. As such, the PNRS program is subject to annual appropriations and has not yet received funding.

Transportation Infrastructure Finance and Innovation Act (TIFIA) program

Another tool that project sponsors have in funding large-scale infrastructure projects is the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, which is capitalized at $1 billion in fiscal year 2014. The TIFIA program provides federal credit assistance to project sponsors through low interest-rate loans. Through participation in the TIFIA program, federal funds can be leveraged to provide greater purchasing power for large transportation facilities.

Surface Transportation Commissions

In 2005, Congress passed the Safe, Accountable, Flexible, and Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU; P.L. 109-59). Recognizing the importance of reliable funding for public infrastructure, Congress included provisions in SAFETEA-LU to create two commissions to study the issue of transportation infrastructure financing and revenue generation.

These two commissions—the National Surface Transportation Infrastructure Financing Commission and the National Surface Transportation Policy and Revenue Study Commission—made numerous findings, including policies that apply specifically to freight transportation projects. Both called for significant increases in transportation infrastructure investment from both the public and private sectors, and explored a variety of means to generate this additional revenue. Some of the new revenue ideas studied by these commissions, and others, had freight specific elements, including a transportation surcharge to existing customs duties, a freight waybill tax, a vehicle-miles-traveled tax that includes weight and load considerations, a container fee, increases to the Harbor Maintenance Tax, increases to the fuel tax, a national trade gateway corridor fee, and a maritime goods movement user fee.

State Transportation Funding Packages

Many states are also faced with inadequate funding to address their transportation needs. As a result, some states have recently passed measures to increase state revenue for transportation projects.

One such state was Virginia. In May 2013, Virginia Governor Bob McDonnell signed a statewide transportation funding plan that he had worked with the state legislature to develop. The proposal, HB 2313, “Virginia’s Road to the Future,” raises revenue through a variety of sources including: eliminating the excise taxes on gasoline and diesel and replacing them with sales taxes on gasoline and diesel; increasing the state sales tax; and imposing a fee on alternative fuel vehicles. The plan is expected to provide approximately $6 billion in additional transportation funding (more than $3.4 billion in additional statewide transportation funding, more than $1.5 billion in additional funding for Northern Virginia, and more than $1 billion in additional funding for Hampton Roads) over the next five years.

Public Private Partnerships

In addition to the public grant funding, individual states have begun using public-private partnerships (PPPs) to stretch governmental contributions to large freight transportation projects. A recent PPP at the Port of Baltimore provides a prime example of a freight transportation facility that was brought online as a result of cooperative planning and development between private industry and governmental entities.

In January 2010, the Maryland Port Administration and a private port operator entered a 50-year lease and concession agreement for the Seagirt Marine Terminal at the Port of Baltimore. Under the agreement, the port operator is responsible for daily operations and the construction of a new 50-foot berth, including four ship-to-shore cranes. The port operator will also make hundreds of millions of dollars of capital improvements to the terminal. After making an annual payment to the Maryland Port Authority, the port operator will receive the net revenues from the business developed by the expanded terminal facility.

WITNESS LIST

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