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FEDERAL UPDATE

Highway Trust Fund Solvency Key to Surface Transportation Reauthorization

Funding for transportation-related historic preservation activities will be determined by major proposals to overhaul how transportation programs are funded in the future in the next surface transportation reauthorization bill. Considerable debate has already taken place over new funding mechanisms to either supplement or take the place of current revenues from the federal gasoline tax, which is no longer providing adequate revenue to the Highway Trust Fund, the primary engine for surface transportation funding in the nation. Deep divisions between transportation authorizing committees in the House and Senate are further complicating matters, as the House is ready to move forward with a permanent authorization for the next six years while the Senate is abiding by the Obama administration's wishes to delay any permanent reauthorization for another 18 months in order to tackle health care reform.

On that note, the Senate Commerce, Science and Transportation Committee approved by voice vote on Tuesday a draft bill that would reauthorize the safety titles of the current surface transportation law (PL 109-59) for 18 months. The committee has jurisdiction over the National Highway Traffic Safety Administration, the Federal Motor Carrier Safety Administration and the Transportation Department's enforcement of hazardous-materials regulations. The committee's action follows that of the Environment and Public Works Committee, which approved a draft bill of its own July 15th that would authorize about \$41 billion in fiscal 2010 and \$20.5 billion in fiscal 2011 for highway and bridge programs. However, the federal Highway Trust Fund is expected to be in the red as soon as August. The Senate Finance Committee outlined a transfer of \$26.8 billion from the general Treasury earlier in the week to keep the fund solvent for the next 18 months, as well as find offsets before a long-term extension can be sent to the White House. However, chairman Oberstar is seeking only a temporary extension of \$3 billion to keep the Trust Fund limping along for a few weeks until the Transportation and Infrastructure Committee can finish its work on the long-term reauthorization bill in the fall and before the end of the fiscal year. In addition, the Senate Banking, Housing and Urban Affairs Committee, the third committee in the Senate with jurisdiction over the transportation issues, approved by voice vote its section of the 18-month extension of the reauthorization bill on Thursday.

Long-Term Funding of Highway Trust Fund

The House Ways & Means Subcommittee on Select Revenue Measures held a hearing on Thursday to examine long-term funding solutions for the Highway Trust Fund. Subcommittee chairman Richard Neal (D-MA) convened several panel of witnesses, including Transportation and Infrastructure chairman James Oberstar (D-MN), ranking member John Mica (R-FL), and Subcommittee on Highways and Transit chair Peter DeFazio (D-OR). Oberstar noted that just taking into account current obligations under the existing authorization, a gap

of \$144 billion exists in revenue needed to meet future surface transportation needs and demands over the next six years.

Ranking member Mica cited statistics that show the long-term viability of the gasoline tax as a revenue source for the Fund is not feasible, and suggested that the gas tax be abolished in favor of a 7.5% flat tax that establishes both a floor and a cap on the amount of revenue that would be generated under this new scheme. In addition, Mica stated that the funding mechanism would need to evolve to include some sort of fee based on vehicle miles traveled (VMT), along with other revenue raising measures such as increasing the cap on private activity bonds, creation of both state and a National infrastructure banks, and increased use of tolling. Subcommittee chair DeFazio expanded on Mica's suggestions by advocating that the gas tax be indexed to construction cost inflation, the enactment of a \$1 per barrel excise tax on a crude oil, as well as a .2% fee on financial trades involving speculative crude oil trades in the financial markets.

Subcommittee panel member, Rep. Earl Blumenauer (D-OR), also touted a demonstration program in the House-approved energy bill that would move ahead with a funding mechanism for the Highway Trust Fund based on VMT in Oregon.

FLTFA Reauthorization Will Aid in Preserving Cultural and Historic Resources on Public Lands

Rep. Martin Heinrich (D-NM) intends to introduce a reauthorization of the "Federal Lands Transaction Facilitation Act" (FLTFA) this week with Rep. Cynthia Lummis (R-WY) as an original co-sponsor. The Federal Lands Transaction Facilitation Act was originally enacted in 2000 and directs the revenues generated from the sale of nonessential Bureau of Land Management (BLM) lands to an account for purchases of critical in-holdings and adjacent tracts from willing sellers in federally designated areas managed by the BLM, the U.S. Forest Service, the U.S. Fish and Wildlife Service, and the National Park Service in the western United States. FLTFA embodies the concept of "land for land," using the proceeds from sales of "non-essential lands" to acquire other key lands. Since FLTFA's enactment in 2000, the Secretaries of Interior and Agriculture have approved over \$57 million toward protecting more than 13,600 acres under the program. Funding from the sales of these non-essential lands will be used to facilitate the purchase of other relevant and important public lands and sites, such as the historic Wallace Ranch in Canyon of the Ancients National Monument, for example.

House Panel Hold Hearing on Seeking Permanent Protections from Future Mining Claims Around Grand Canyon

On Tuesday, July 21st, the House Natural Resources Committee, Subcommittee on Public Lands held a hearing on the "Grand Canyon Watersheds Protection

Reauthorization
of Key Lands
Transaction Bill
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Interior
Department's

Cessation of Uranium Mining Claims Around Grand Canyon to Yield Benefits for Culturally-Sensitive Properties in Neighboring Conservation System Lands

Act of 2009," which would withdraw the Tusayan Ranger District and Federal land managed by the Bureau of Land Management in the vicinity of Kanab Creek and in House Rock Valley from location, entry, and patent under the mining laws. The National Landscape Conservation System's Vermilion Cliffs National Monument is in the vicinity of these lands. The National Trust is closely following mining reform as it affects historic and cultural resources located in the Conservation System and public lands in general.

In advance of the hearing, the Interior Department announced the previous day it was temporarily barring the filing of new mining claims, including for uranium, on nearly one million acres near the Grand Canyon. Under the Federal Register notice, the land is being set aside for two years so the department can study whether it should be permanently withdrawn from mining activity and covers 633,547 acres under the control of the U.S. Bureau of Land Management and 360,002 acres in Kaibab National Forest.

This past June, Arizona Senators John McCain(R) and Jon Kyl (R) sent a letter to House Public Lands Subcommittee chairman Raul Grijalva discouraging him from pursuing the Grand Canyon Watersheds Protection Act, which would permanently protect lands around the Grand Canyon from future mining claims. However, chairman Grijalva released a statement after the hearing and noted that "that the pressures placed on the Grand Canyon and its resources by exploding demand for uranium constituted an emergency" and that the Obama Administration's decision to "segregate nearly 1 million acres of critical lands adjacent to the Park to conduct a thorough study of the appropriateness of allowing mining on these lands" is appropriate in order to provide "permanent protection for this national treasure."

Senior Advisor for Sustainable Housing and Communities Named at HUD

HUD Appointee Poticha Brings Wealth of Experience to Senior Advisor Position on Sustainable Housing and Communities

Reconnecting America President and CEO Shelley Poticha has been appointed Senior Advisor for Sustainable Housing and Communities at the U.S. Department of Housing and Urban Development (HUD). Shelley has been President and CEO of the national nonprofit Reconnecting America since 2004, where she has become a national leader for the reform of land use and transportation planning and policy. In that role she has helped stimulate a national conversation about the role of transit in shaping communities and making them more sustainable and affordable, and has been a tireless advocate for diverse and inclusive neighborhoods—which also happens to be a goal high on preservationists' list of priorities.

Poticha is expected to advise HUD Deputy Secretary Ron Sims on sustainability issues through HUD's Office of Sustainable Housing. This office will be charged with providing technical and policy support for energy, green building and integrated housing and transportation programs at HUD and around the nation as well as manage the department's key relationships with other

federal agencies.

The preservation community is hopeful that Poticha could be a key ally in the Administration and possible advocate for enhancing the sustainability of older and existing buildings and historic communities. Poticha is also co-chair of the T4 America transportation coalition, of which the National Trust is a member.

Senate Panel Holds Hearing on Bill to Preserve and Protect Historic Lighthouses

Lighthouse Stewardship Bill Would Authorize \$20 Million Pilot Program to Protect and Preserve Historic Lighthouses in 31 States

On July 22, the Senate Committee on Energy and Natural Resources Subcommittee on National Parks held a hearing to discuss a number of bills, including S. 715, the "National Lighthouse Stewardship Act of 2009." The measure would authorize \$20 million for a three-year pilot grant program to protect and preserve historic lighthouses in 31 states that have National Seashore or Lakeshore coastline. Proponents of the measure say the pilot program would help the 31 coastal states identify a process that would work for all lighthouse rehabilitation projects rather than many different approaches from state to state.

However, opponents such as Senator Richard Burr (R-NC) argue that "the federal government is not the right entity to do it...because we are out of money right now" and it "is unclear what benefit this program would have for taxpayers." He encouraged Dr. Kirk L. Lindquist, who testified in favor of the bill and is a member of the Michigan Lighthouse Project, "to explore other mechanisms to fund the program." Dr. Lindquist referred to the Save America's Treasures (SAT) program as an example of an already existing federal program from which some lighthouse rehabilitation projects may be eligible to receive funds.

STATE AND LOCAL UPDATE

Community Investment Act Amendments May Yield Benefits for Historic Preservation in Connecticut

CIA Amendments in Connecticut May Yield More Revenue for Historic Preservation Programs Funded by Land Recording Fees

The Connecticut Community Investment Act has been amended by a bill (S. 891) signed by Governor Jodi Reil in support of the state's dairy industry by changing the grant formula for the state's Community Investment Account (CIA), which is funded by a land-recording fee. Under the former grant structure, the money was divided in four equal portions of 25 percent each to the Connecticut Commission on Culture & Tourism (CCT) for heritage preservation, the Connecticut Housing Finance Authority (CHFA) for affordable housing, the Department of Environmental Protection (DEP) for municipal open space and the Department of Agriculture for agriculture viability grants and farmland preservation. The amended CIA allots 20 percent each to the CCT, CHFA and DEP and will use the remaining 40 percent for quarterly

payments to dairy farmers to help them stay in business.

The four-year annual average of CIA funds received by historic preservation is \$3.9 million, but this amount goes up or down in any given year depends on changes in the economy. If, for instance, the housing market starts to make a comeback but interest rates remain low, the state could see another round of mortgage re-financing which, in turn, would cause a lot of land record filings and generate numerous recording fees. Anytime a land record change is filed, the fee (\$40) is charged regardless of the value of refinanced mortgage or land values documented by the change. Because the amount of revenue generated each year is not entirely predictable, the CCT is cautious in granting funds until such time that they have the cash in-hand. Over the four years, CCT has granted approximately \$7.6 million to non-profits and municipalities for historic preservation and cultural tourism. CCT also uses these funds for their own general operations.

Ohio Governor Signs Tax Credit Amendments into Law

Two amendments passed in the state's budget bill signed by Governor Ted Strickland this week ensuring that Ohio's historic preservation tax credit (HTC) program will continue to work for Ohio citizens. Introduced by Senator Kirk Schuring (Canton), the two sets of statutory budget amendments will serve as a national model for spurring HTC-related development and include a special allocation of tax credits, as well as a state HTC-loan guarantee program.

Ohio's Historic Tax Credit programs are a continuing success story with HTC-approved projects representing over \$1 billion in construction costs and generating hundreds of millions in increased State and local taxes. In addition, for each \$1.00 of Ohio HTC, \$5.44 of private funding and federal tax credits is expected to be leveraged.

Rhode Island Enacts Consumer Protection Law Benefitting Historic Property Owners

After a year-long effort, statewide organizations in Rhode Island are celebrating Governor Donald Carcieri's approval of an unprecedented consumer protection law requiring the National Grid power company to consult with property owners before installing or relocating gas meters on house exteriors. While advocates in other states have launched campaigns for similar protections, Rhode Island is the first to enact a law that gives rights to owners of both historic and non-historic property in the face of powerful utility companies. The National Trust brought Rhode Island's efforts to national attention, charging that exterior gas meters mar the integrity of historic homes and communities, and threaten Rhode Island's valuable historic heritage. Other preservation groups such as the Providence Preservation Society, Newport Restoration Foundation, and Preserve RI also actively rallied behind community and legislative efforts.

Ohio Governor Signs Two Significant Amendments to State's Historic Rehabilitation Tax Credit into Law

Historic Property Owners Given Say in Placement of Exterior Gas Meters on Residential Property

