



International Right of Way Association Weekly Update

Monday, November 20, 2017

Trump Administration

- White House senior staff publicly announced last week what readers of this update have known for months—that the Administration has prepared a 70-page document laying out the principles of its infrastructure proposal.
<http://thehill.com/policy/transportation/360567-white-house-congress-begin-crafting-infrastructure-bill>

Congress

- The House of Representatives passed its tax reform bill on Thursday, with 227 Republicans voting in favor and 13 Republicans joining 192 Democrats voting to oppose the measure. Across the Capitol, the Senate Finance Committee wrapped up its consideration of the Senate version of the bill. The full Senate will consider the measure after Thanksgiving. <https://www.cnbc.com/2017/11/16/house-republicans-pass-tax-reform-bill.html>; <http://clerk.house.gov/evs/2017/roll637.xml>

Analysis

- While most attention from the White House has been focused on tax reform and trade policy over the last couple of weeks, White House infrastructure staff have been meeting with Members of Congress in both Chambers to discuss infrastructure policy. While the core of the Administration's proposal remains intact, there are two big questions that remain unanswered, both of which are major priorities for Congress. First, the White House has not yet indicated that the infrastructure proposal will address the underlying solvency issues with the Highway Trust Fund, which will result in a cliff of over \$20 billion after the expiration of the FAST Act in 2020. Second, the White House has not indicated how it plans to offset the \$200 billion in direct federal spending the proposal will include.
- The Highway Trust Fund solvency issue has been the single-greatest constraint on infrastructure legislation over the last eight years, and Congress will be skeptical of any Administration proposal that ignores this problem. Nossaman experts have been told by senior staff on Capitol Hill that Members of Congress have been gently reminding the White House that the Highway Trust Fund cliff comes in 2020, which is an election year.

Resolving the issue before election politics make any progress impossible can only happen if the solution is included in the Administration's infrastructure proposal.

- The second issue, relating to how to offset or "pay for" the \$200 billion in direct spending, is perhaps an even more difficult issue. The Administration and Republican leaders in Congress have, so far, kept tax reform and infrastructure separate. The purpose for this is to use all potential savings/allowable deficit increases for tax policies, instead of diverting some of that to offset an infrastructure proposal. This means that the infrastructure proposal will need to include new offsets or add even further to the deficit, both of which are extremely difficult to accomplish politically.
- Historically, it takes Presidential leadership to achieve a meaningful funding increase for infrastructure. (The last increases to the gas tax were accomplished under Presidents Reagan and Clinton.) If the White House continues to use the mantra that funding is Congress's job, without the President championing a particular offset solution, Congress will be left to sort out a myriad of potential options without a champion. It is unlikely, in this scenario, that Congress would be able to find an additional \$200 billion outside of tax reform to pay for the President's infrastructure proposal.
- And keep in mind that infrastructure will require Democratic support, at least in the Senate, so the \$200 billion figure is likely to increase significantly as a result of those negotiations.
- All of this presumes that tax reform moves forward as the President and Republican leaders in Congress have planned, but that may not be a safe assumption. One Republican Senator has already expressed opposition to the current draft of the Senate tax reform bill, and several others are on the fence. If the Senate cannot advance its version of tax reform next week after returning from the Thanksgiving recess, then the entire political calculus changes.