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Surface Transportation Policy Project's Electronic Update

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May 21, 2004; Volume X, Issue 6

## TEA-21 Legislation Again on Track as Senate Appoints Conferees

Before adjourning for the Memorial Day recess, the U.S. Senate May 20 gave its approval to the appointment of 21 Senators who will negotiate with House transportation leaders over the details of TEA-21 renewal legislation.

The U.S. House of Representatives departed for the recess without completing action on their conferees, deferring its final decision on who will represent the House until Congress reconvenes June 2.



Senate Majority Leader Bill Frist (R-TN) and Minority Leader Tom Daschle (D-SD) have been working throughout May to reach an agreement on how to proceed to the selection of conferees, with each concerned about establishing ground rules on how to proceed to conference and how decisions would be made throughout the conference committee process.

Frist, for his part, did not want to lock down on the Senate's \$319 billion program total, seeking to honor his commitment to the Bush Administration to avoid a Presidential veto fight. Daschle sought to ensure that Democratic Senators would be included in any funding decisions on the bill and would be full partners in the conference process and policy decisions on the legislation.

In the end, the agreement that the Senate leaders struck affirms the interests of both sides, with specific assurances that no Senate conference report agreement would go forward to the Senate floor unless bipartisan leaders agree to sign the report. The agreement sidesteps any final decision on the total funding. The agreement affirms longstanding Congressional commitments to bipartisan decision-making, which in the transportation policy area laid the foundation for ISTEA in 1991 and TEA-21 in 1998.

Bipartisanship is crucial to a full and balanced debate on key issues that will be before the conference committee, particularly in the environmental area where highway industry and other interests have characterized key protections for

communities and critical resources as simply project impediments, hoping to explain away continuing public dissatisfaction with and concerns about ongoing transportation practices and investment choices.

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### **Total Funding Level Pivotal Issue for Conferees**

Reaching an agreement on the six-year funding level remains the dominant issue before the conferees. Funding levels in the bill strongly influence and frame many of the choices before the conferees as they seek resources for program and project interests as well as improvements in their respective state's rate of return on highway dollars from the trust fund (i.e. donor/donee issue).

The appointment of the Senate conferees went forward without resolving the funding question, which continues to be the dominant factor in determining whether a bill is completed during this Congress. The Bush Administration is strongly adhering to its \$256 billion request, emphasizing that it provides for growth in the program while restraining overall federal spending. It is estimated that TEA-21 provided about \$218 billion over the last six fiscal years.

In contrast, the Senate approved a \$319 billion total program commitment in its "SAFETEA" legislation (S. 1072), with the Senate voting overwhelmingly to approve the measure. However, it is notable that the Senate floor debate on S. 1072 was already underway when the Bush Administration issued its strong statement for the \$256 billion spending level. Senate leaders were unable to revisit the funding levels without substantial disruption and delay on the bill, choosing instead to move forward despite the Administration's objections.

In the House, the process was dominated by the Administration's insistence that spending in the bill be constrained, forcing House transportation leaders to abandon their \$375 billion package and approve a \$275 billion program (now estimated at \$284 billion). Many House members, however, are publicly supportive of the Senate's higher funding levels.

Reaching a final agreement on TEA-21 renewal this year clearly turns on the ability of all sides to accommodate these varying positions and move to a compromise on total funding. Ultimately, Congress can decide to confront the President and deliver a larger bill that the President is forced to veto, which Congress must vote to override.

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### **Key Senate Leaders Tapped as TEA-21 Conferees**

Among the 11 Senate Republicans and 10 Senate Democrats that will defend the Senate's legislation on TEA-21 renewal are some of the chamber's top leaders. In fact, three of the top

four Senate leaders and a former Senate Majority Leader will be conferees. They are: Senate Majority Whip Mitch McConnell (R-KY), Senate Minority Leader Tom Daschle (D-SD), Senate Minority Whip Harry Reid (D-NV) and former Senate Majority Leader Trent Lott (R-MS).

Leading the Senate conferees is Senate Environment and Public Works Committee Chairman James M. Inhofe (R-OK). He will be joined by other Senate Environment and Public Works Committee members – Senators Christopher S. Bond (R-MO), John Warner (R-VA), George Voinovich (R-OH), James M. Jeffords (I-VT), Bob Graham (D-FL), Joseph Lieberman (D-CT), and Barbara Boxer (D-CA). Other panel members include Reid and Senator Max Baucus, who also joins the conference as the Ranking Minority Member of the Senate Finance Committee.

The top four Republicans on the Senate Finance Committee are conferees: Chairman Charles E. Grassley (IA), Orrin Hatch (R-UT), Don Nickles (R-OK) and Lott. Nickles was also named given his role as Chairman of the Senate Budget Committee, with Senator Kent Conrad (D-ND) appointed as the Ranking Minority Member from the budget panel. Representing the Senate Commerce, Science and Transportation Committee will be Chairman John McCain (R-AZ) and Ranking Minority Member Ernest Hollings (D-SC). Finally, Senate Banking Committee Chairman Richard C. Shelby (R-AL) and Ranking Member Paul Sarbanes (D-MD) were also appointed conferees. In total, five different committees and the Senate leadership are represented among the conferees.

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### **[TEA-21 Operates Under Short-Term Extension](#)**

Until the conference committee completes its work, transportation agencies and others continue to operate under an extension of current law and appropriations levels for the current fiscal year. In late April, Congress approved and the President signed another extension law that allows two months of spending (2/12 of FY'04 appropriations levels) under current TEA-21 rules. This third extension will expire June 30, forcing another decision by Congress at that time.

It is now assumed that conferees will not have time to reach final agreement on a six-year bill by this deadline, forcing action on another short-term extension to allow conferees to finish up an agreement. If the conferees can reach an agreement, a longer-term extension that carries current law into the next fiscal year (e.g. 15 months) will be considered.

For now, the real target date for completing action on the bill is July 23, the date Congress is scheduled to recess for the party conventions before returning after Labor Day, although there are other scenarios that suggest final action in the fall before the election or in a post-election session. Successful action by

the conferees, however, in meeting this deadline will be driven by timely decisions on the funding levels for the program.

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*Transfer is written and edited by the staff of the Surface Transportation Policy Project. Readers are invited to reprint newsletter items; proper citation is appreciated. If you are not currently subscribed, please visit <http://www.transact.org/transfer/sign.asp>. Be sure to include your full mailing address and name of your organization, phone and fax numbers. For comments and suggestions about Transfer's content, e-mail us at [transfer@transact.org](mailto:transfer@transact.org).*