

APWA Washington REPORT

May 2003

INTERGOVERNMENTAL

FY04 Budget

\$2.2 TRILLION BUDGET RESOLUTION TRIMS PROPOSED TAX CUT

The House and Senate agreed to a budget resolution which reduces the House tax cut proposal to \$550 billion and sets total federal spending at \$2.2 trillion in 2004. The House version of the budget resolution had included a tax cut of \$726 billion over 11 years, the Senate version a tax cut of \$350 billion.

The compromise sets out a two track process for enacting the tax cut into law, allowing the Senate tax bill to total \$350 billion and the House bill to total \$550 billion. The budget resolution, however, directs that the conference agreement on the tax bill will total \$550 billion.

The budget resolution caps total discretionary spending at \$784 billion, \$400 billion for defense and \$384 billion for non-defense programs. Its revenue and spending provisions would produce a record federal budget deficit of \$385 billion in 2004.

(Discretionary spending is what Congress and the President must decide to spend for the next year through the 13 annual appropriations bills; mandatory spending includes entitlements such as Social Security, Medicare, veteran's benefits, interest on the national debt, government securities payments, and Congress and the President may act to change the spending.)

The conference agreement dropped a Senate provision to provide an additional \$3 billion for wastewater and drinking water infrastructure, keeping funding at \$2.2 billion in fiscal year 2004, but it split the difference between House and Senate versions for transportation spending. The conference agreement permits authorizations for highways and transit programs over the next six years to total \$282 billion, putting in place the funding levels for reauthorization of TEA-21. The resolution, however, includes a provision allowing that level to rise should a means be found to increase revenues to the Highway Trust Fund. The Senate had agreed to \$311 billion for highways and transit in its version; the House had agreed to \$254 billion.

The budget resolution, which is supposed to be completed by April 15 of each year, does not have the force of law but serves as blueprint for the appropriations process. Lawmakers approved the budget April 11, 2003, meeting their goal of having it completed by the deadline. Congress did not pass a budget resolution last year, resulting in a budgetary stalemate, which ended with the passage of a massive 2003 omnibus spending bill in February 2003, more than four months after the start of the current fiscal year.

National Public Works Week

11 GOVERNORS DECLARE NATIONAL PUBLIC WORKS WEEK

Governors in 11 states--Arkansas, California, Delaware, Iowa, Missouri, New Hampshire, Nevada, North Carolina, Oregon, Virginia and Washington have officially proclaimed May 18-24, 2003 as National Public Works Week. The proclamations recognize the hard work and dedicated efforts of public works officials in their states by declaring National Public Works Week. APWA has contacted Governors in all 50 states; additional proclamations are expected.

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APWA worked with Chapter Presidents or Representatives in each of these states to secure the proclamation from the Governor. Chapters involved were, to date, the Arkansas Chapter, Delaware chapter, Iowa chapter, Missouri chapter, Nevada chapter, New England Chapter, North Carolina chapter, Oregon chapter, Sacramento, CA chapter the VA/DC/MD chapter and the Washington state chapter.

Energy Bill

ANWR, RENEWABLE ENERGY INCENTIVES INCLUDED IN HOUSE-PASSED BILL

The House of Representatives passed a comprehensive energy bill to expand the production of renewable fuels, allow oil exploration in Alaska's Arctic National Wildlife Refuge (ANWR) and boost tax incentives for the production of fossil fuels and renewable energy sources. The bill, H.R. 6, the Energy Act of 2003, is estimated to cost nearly \$20 billion over 10 years.

The bill includes a mandate to double the production of ethanol to five billion gallons by 2015 and repeals the oxygenate standard for reformulated gasoline. It authorizes \$1.7 billion for the Bush Administration's Hydrogen Initiative aimed at promoting a hydrogen-powered economy by 2040. In addition, it ends the current ban on oil drilling in ANWR but restricts exploration to a 2,000-acre area.

Omnibus energy legislation was expected to be debated on the Senate floor the second week of May, and debate is expected to last three weeks or more. The energy bill approved by the Senate Energy and Natural Resources Committee the week of April 28, 2003 will be combined with a \$15.7 billion bill passed April 2, 2003 by the Senate Finance Committee. The legislation includes provisions on electricity regulation, incentives for oil and gas production, coal research and development, loans to underwrite nuclear power plants and renewable energy and conservation. Efforts to include a provision allowing drilling in ANWR in a Senate bill are expected to face stiff resistance.

The House and Senate each passed comprehensive energy legislation in the last Congress, but a conference committee was unable to reconcile differences between the two bills.

TRANSPORTATION

TEA-21 Reauthorization

AS TEA-21 EXPIRATION DATE DRAWS CLOSER, NO BILLS YET INTRODUCED

Although anticipated for weeks now, no legislation to reauthorize the Transportation Equity Act for the 21st Century (TEA-21) has been introduced in the House of Representatives or in the Senate.

The Administration's proposal, the Safe and Flexible Transportation Efficiency Act of 2003 (SAFETEA), is expected in the coming weeks, although no date has been set. House and Senate Committees are expected to introduce their bills in June or July 2003. TEA-21 expires in less than five months on September 30, 2003.

Chair of the Senate Environment and Public Works Committee, James Inhofe (R-OK), indicated recently that he plans to mark up his bill in June. He is reportedly drafting a bill to fund the highway program at \$255 billion over six years, a level higher than the budget resolution. In addition, his bill will include language to expedite the project delivery process and include changes to transportation conformity process timeframes. *For more information contact Jim Fahey in APWA's Washington Office at 202-408-9541 or jfahey@apwa.net.*

Reauthorization Process for TEA-21

LEGISLATION BEGINS AT COMMITTEE-LEVEL, ENDS WITH PRESIDENTIAL SIGNATURE

The legislative process for reauthorizing the Transportation Equity Act for the 21st Century (TEA-21) has been under way now for at least 18 months.

Congressional committees have been holding hearings, and the Administration has met with interested stakeholders throughout this time to collect information and views. The next steps in the process will see the work of the last 18 months transformed into a reauthorized surface transportation law. Over the next several months, this process will be involved, but here is a brief description of what it will look like.

- The House Transportation and Infrastructure Committee (Don Young R-AK, Chair) has jurisdiction over TEA-21's programs and will be the principal drafter of the bill in the House of Representatives.

- Tax issues relating to TEA-21's programs will be decided by the House Ways and Means Committee (William Thomas R-CA, Chair).
- Once bills are approved by committee, legislation will go to the House floor for debate and a vote by the full House of Representatives.

A similar process will be followed in the Senate, the primary difference being that jurisdiction is more divided:

- The Senate Finance Committee (Charles Grassley R-IA, Chair) will decide tax issues.
- The Senate Environment and Public Works Committee (James Inhofe R-OK, Chair) will address highway programs.
- The Senate Banking, Housing and Urban Affairs Committee (Richard Shelby R-AL, Chair) will address public transportation.
- The Senate Commerce, Science and Transportation Committee (John McCain R-AZ, Chair) will address motor carrier and safety issues.
- As in the House, the full Senate also will debate and vote on reauthorization legislation from the committees.

Once bills are approved in the House and Senate, a conference committee composed of various House and Senate members from the committees involved in writing the legislation will be appointed to reconcile differences between the two bills. When all differences are worked out, the legislation will go back to the House and Senate for final approval and then will be sent to the President for enactment or veto.

The various Committee chairs with jurisdiction over TEA-21 reauthorization have indicated that they would like to have their bills decided by their respective House and Senate bodies before the start of the August recess. This would allow time for a conference committee to meet during September to work out differences in time for the President to sign a bill into law by September 30th.

Updates on reauthorization will continue to appear in the *APWA Washington Report*, on infoNow Communities and in the Hot Topics section of APWA's website. APWA's policy on reauthorization, reauthorization talking points plus other helpful information is posted on APWA's government affairs webpage, www.apwa.net/govtaffairs

APWA's TEA-21 Key Message

TALKING POINTS POSTED ON APWA WEBSITE

The APWA TEA-21 Reauthorization Task Force has prepared a series of brief talking points for member and chapter use as the TEA-21 reauthorization process and debate move forward in the months ahead.

The talking points are drawn from APWA's official policy statement on reauthorization and focus on three priority areas: funding, project delivery process streamlining and flexibility.

They are posted in PDF format on APWA's government affairs webpage, www.apwa.net/govtaffairs. Once on the Government Affairs page, look for TEA-21 Reauthorization Talking Points [PDF] in the upper left hand corner. You will need your member ID number for access.

Reauthorization of TEA-21 is an APWA advocacy priority. The \$218 billion, six-year law expires September 30, 2003. Legislation from the Administration and House and Senate Committees is expected over the coming weeks.

Work Zone Safety

AMENDMENT PROPOSED TO RULE DURING CONSTRUCTION PROJECTS

An amendment to highway work zone regulation requiring states to consider safety and traffic mobility issues while a construction project is in planning stages is being proposed by the Federal Highway Administration (FHWA). The proposed change is the outgrowth of the increasing number of deaths in work zones in 2001--1,079.

The notice of the proposed rulemaking appeared in the May 7 Federal Register (68 FR 24,384). Comments are due on or before September 4, 2003. To submit comments, write to the Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street SW, Washington, DC 20590.

Fast Lanes

BILL WOULD AUTHORIZE TOLLS TO PAY FOR ADDITIONAL HIGHWAY LANES

Bipartisan legislation has been introduced in the House of Representatives to require the US Department of Transportation to create a program for adding highway lanes to the existing Interstate system through tolls.

The Freeing Alternatives for Speedy Transportation Act (FAST), HR 1767, would permit states and public or private groups to collect fees to finance construction of additional lanes on the Interstate Highway system if those lanes will reduce traffic congestion. The bill was introduced by Representatives Mark Kennedy (R-MN) and Adam Smith (D-WA). Senator Wayne Allard is expected to introduce the bill in the Senate shortly.

The legislation is posted on the APWA Legislative Action Center:
<http://capwiz.com/apwa/issues/bills/?bill=2102176>

AIR-21 Reauthorization

SENATE BILL WOULD BOOST AIRPORT FUNDS TO \$3.6 BILLION BY 2006

The Senate Commerce, Science and Transportation Committee has approved a three-year bill to reauthorize federal aviation programs due to expire September 30, 2003.

The legislation approved by voice vote would increase funding for the Airport Improvement Program (AIP) from its current level of \$3.4 billion to \$3.6 billion by 2007, for a total \$10.5 billion over three years.

The Investment and Revitalization Vision Act (AIR-Vision), S 824, authorizes a total of \$43.5 billion. It provides \$23.2 billion for Federal Aviation Administration operations, \$8.9 billion for Federal Aviation air traffic control systems and \$900 million for research, engineering and development. Other provisions would:

- streamline the process for approving and constructing airport capacity improvements;
- create a \$500 million grant mechanism, the Aviation Security Capital Fund, for funding costs to implement security at airports;
- fund the Essential Air Service program at \$125 million annually;
- reauthorize the Small Community Air Service Development Pilot Program for \$27.5 million annually. (This program is designed to assist certain small communities to enhance air service.)

An amendment was adopted to double from 12 to 24 the number of long-haul slots at Washington, DC's Washington Reagan National Airport, which could prove controversial when the bill reaches the Senate floor, predicted in May.

AIR-Vision was introduced by Senate Commerce Committee chair John McCain (R-AZ) and is cosponsored by Commerce Committee Ranking Member Ernest Hollings (D-SC), Aviation Subcommittee Chair Trent Lott (R-MS) and Ranking Member John Rockefeller (D-WV).

The Bush Administration released its four-year aviation reauthorization plan, FLIGHT-100 in March. Details of the House bill were unavailable at the writing of this article, but House Aviation Subcommittee Chair John Mica (R-FL) said his priorities include increasing funding for the AIP, streamlining project delivery, funding security needs and expanding air service to small communities.

Small Community Air Service

GRANTS AVAILABLE TO IMPROVE AIR SERVICE TO SMALL COMMUNITIES

The U.S. Department of Transportation (DOT) is accepting applications to receive grants under a program to help smaller communities enhance their airline service, the Small Community Air Service Development Program. A total of \$20 million is available this second year of the program for grants to help communities address their local air service problems, such as high fares and insufficient levels of service. The department may award grants to up to 40 communities, no more than four of which may be from the same state. Last year, DOT received 180 proposals and awarded \$20 million for 40 programs in 38 states.

Eligible projects include subsidies and financial incentives to air carriers, studies and marketing programs. In considering the grant proposals, DOT will give priority to those communities that:

- have high airfares compared to other communities;
- contribute financially to the project from sources other than airport revenues.
- have established or will establish a public/private partnership to improve their air service;

- and submitted proposals that will benefit a broad segment of the public by providing greater access to the national transportation system.

Applications for grants are due June 30, 2003. The department's request for proposals is available on the Internet at <http://dms.dot.gov> docket number OST-2003-15065. Community proposals also will be filed on this docket. Information on 2002 grant recipients is available at docket OST-2002-11590.

Transportation Operations

NEW REPORT ON TRAFFIC OPERATIONS AND FREEWAY MANAGEMENT AVAILABLE

The Federal Highway Administration (FHWA) has announced the availability of a report summarizing the state-of-the-practice and state-of-the-art associated with the operation and proactive management of traffic on freeway, expressway, and toll road facilities.

Transportation professionals involved with, or responsible for, decisions in any phase in the life cycle of a freeway facility such as managers and people who directly or indirectly support freeway facilities at state, county, or local agencies; toll, turnpike, or port authorities; or metropolitan planning organizations are the target audience for the report.

This report can be accessed on the FHWA Freeway Management and Traffic Operations web page at <http://ops.fhwa.dot.gov/Travel/traffic/freetraffic.htm> or through the ITS Electronic Document Library at <http://www.its.dot.gov>.

Transportation Conformity

NEW BROCHURE EXPLAINS CONFORMITY PROCESS

The Federal Highway Administration (FHWA) has created a brochure that provides a basic explanation of the transportation conformity process to assist stakeholders.

Under the 1990 Clean Air Act Amendments, the U.S. Department of Transportation cannot fund, authorize, or approve Federal actions to support programs or projects which are not first found to conform to the Clean Air Act requirements. The FHWA and the FTA jointly make conformity determinations within air quality nonattainment and maintenance areas to ensure that Federal actions conform to the "purpose" of State Implementation Plans (SIPs).

Copies of the brochure will soon be available at <http://www.fhwa.dot.gov/environment/conform.htm> or contact Gary Jensen at (202) 366-2048 or gary.jensen@fhwa.dot.gov.

Truck Safety

DOT ISSUES REVISED HOURS-OF-SERVICE RULE

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) has announced the first substantial change to the hours-of-service rules (HOS) since 1939. The new rules allow:

- drivers to drive 11 hours after 10 consecutive hours off-duty; drivers may not drive beyond the 14th hour after coming on-duty, following 10 hours off-duty.
- short-haul truck drivers – those drivers who routinely return to their place of dispatch after each duty tour and then are released from duty – may have an increased on-duty period of 16 hours once during any seven-consecutive-day period.

The current rule allows 10 hours of driving within a 15-hour on-duty period after eight hours of off-duty time. Drivers may not drive after their 15th hour on duty in a workday or after 60 hours on-duty in seven consecutive days or 70 hours on-duty in eight consecutive days.

The FMCSA estimates the new rule will save up to 75 lives and prevent as many as 1,326 fatigue-related crashes annually.

FMCSA and its state enforcement partners will begin enforcing the final rule beginning Jan. 4, 2004.

The final rule may be viewed at <http://www.fmcsa.dot.gov> or by searching for docket number FMCSA-97-2350 at <http://dms.dot.gov>.

ENVIRONMENT

Budget Resolution

FY04 BUDGET DOES NOT INCLUDE ADDITIONAL WATER INFRASTRUCTURE FUNDING

Wastewater and drinking water infrastructure would receive no additional funding under a compromise version of the Fiscal Year 2004 budget resolution approved by Congress.

The Senate's version of the budget resolution passed March 26, 2003 would have doubled the funding for water and wastewater infrastructure to \$5.2 billion. The House budget resolution passed March 21, 2003 did include additional dollars for water infrastructure.

The House and Senate compromised April 11, 2003 and passed the conference report, without the additional funds, setting the funding level for the Drinking Water SRF at \$850 million and the Clean Water SRF at \$1.3 billion. The resolution sets a spending framework of \$2.2 trillion for the FY04 fiscal year.

Solid Waste

PROPOSAL REVISING SOLID WASTE DEFINITION BEING CONSIDERED BY WHITE HOUSE

The Office of Management and Budget (OMB) is currently reviewing a draft proposal put forth by the Environmental Protection Agency (EPA) that would revise the definition of solid waste in order to encourage more recycling. It is expected to lead to deregulation of some waste material which is now subject to Resource Conservation and Recovery Act (RCRA) regulations.

EPA is developing the rule in response to an April 2000 decision by the US Court of Appeals for the District of Columbia Circuit Court on the applicability of RCRA rules to waste that is recycled. EPA has called the proposed rule a priority, saying it expects its scope to be broad and to address materials undergoing reclamation. Currently, under RCRA, a material must be a hazardous waste to be classified as a solid waste.

The rule is likely to propose a definition for continuous industrial process distinguishing between discarded materials and materials that remain in use in a continuous industrial process. OMB has 90 days to consider the rule. After the 90 days, the rule will go back to EPA and then placed on the Federal Register for a formal comment period. *For additional information, contact: Harriet Emerson at hemerson@wvu.edu or call 800-624-8301 ext. 5549.*

Air Quality

EPA PROPOSES RULE TO REDUCE EMISSIONS FROM NON-ROAD DIESEL VEHICLES

The U.S. Environmental Protection Agency (EPA) has proposed to dramatically reduce emissions from non-road diesel engines used in construction, agricultural and industrial equipment. The proposal would take effect for new engines starting as early as 2008 and be fully phased in by 2014.

EPA is proposing to reduce emissions of soot, known as particulate matter (PM), and nitrogen oxides (NOx) from today's engines by more than 90 percent. When fully phased in, annual reductions will be 825,000 tons of NOx and 125,000 tons of PM. EPA estimates that non-road diesel engines currently account for about 44 percent of diesel PM emissions and about 12 percent of NOx emissions from mobile sources nationwide, and in some urban areas the percentage is greater.

The public is invited to comment. Written comments must be submitted by August 20, 2003. Public hearings will be held in New York on June 10, Chicago on June 12 and Los Angeles on June 17, 2003. *EPA's proposal, related documents and information about the public hearings are available at www.epa.gov/nonroad.*

SMALL CITIES/RURAL COMMUNITIES

Small Community Water Systems

TRAINING INSTITUTE TO OFFER WATER/WASTE/EMERGENCY EXPERTISE

Four days of intensive training on such topics as drinking water or wastewater regulations, managing small community water systems, security for drinking water systems, emergency response planning, onsite alternative wastewater treatment technology, and related sessions that can help assistance providers, local officials, and others involved with small communities do their jobs will be offered in Morgantown, West Virginia, July 29-August 1, 2003, at the National Environmental Training Center for Small Communities' (NETCSC) Fourth Annual Institute.

Entitled "Protecting Public Health: Water and Wastewater Solutions for a New Era," the Institute program details are now available. For information contact Sandy Miller, at 800-624-8301, ext. 5536 or smiller2@wvu.edu. For Institute updates or electronic copy, see the NETCSC web site at www.netc.wvu.edu.

Wastewater Security

GUIDE AVAILABLE FOR SMALL COMMUNITIES

NETCSC has released a new resource to help small communities improve the security of their wastewater treatment facilities. "Protecting Your Community's Assets: A Guide for Small Wastewater Systems" can be used as a self-assessment and security planning tool and as a resource for security training. For more information, go to.

<http://www.lgean.org/html/whatsnew.cfm?id=582>

Rural Facts

STATE POPULATION, EARNINGS, POVERTY LEVELS, ETC DATA AVAILABLE ON WEB

The US Department of Agriculture Economic Research Service provides a service containing frequently requested data for each state and for the total US. The data include population, per capita income, earnings per job, poverty rates, employment, unemployment, farm and farm-related jobs, farm commodities and much more. Go to

<http://www.ers.usda.gov/StateFacts/> to get this information.

EMERGENCY MANAGEMENT/ DISASTER MITIGATION

First Responder Funds

BUSH SIGNS \$79 BILLION SUPPLEMENTAL; INCLUDES \$2.23 BILLION FOR FIRST RESPONDERS

Barely three weeks after requesting it, President Bush signed into law April 16, 2003 a \$79 billion supplemental spending bill (HR 1559) to pay for the cost of war in Iraq and additional items. The bill provides \$2.5 billion for Iraq relief and reconstruction.

The new law also provides \$3.9 billion for the Homeland Security Department, \$3.5 billion in aid to airlines, \$275 million for supplementary unemployment benefits for aviation workers, \$369 million for international food aid programs, \$100 million for veterans' health care and \$110 million for an agricultural research laboratory in Ames, Iowa.

The funds for homeland security include \$713 million for covering costs of Operation Liberty Shield; \$783 million for high priority activities including \$375 million for border and port security and \$235 million for airports to install new security measures.

The bill also includes \$2.23 billion for the first-responder program. The program will be broken down into three separate grants. A total of \$1.3 billion will be directed for basic grants distributed to the states via the Patriot Act formula, requiring that no less than 80 percent of the funds go to local governments within 45 days of the bill's enactment. A total of \$200 million is available for critical infrastructure grants to states, also distributed according to a formula in the Patriot Act. No less than fifty percent would be required to go to local governments within 45 days. Finally, \$700 million is available as grants to high threat, high density urban areas.

Homeland Security

BALTIMORE MAYOR NAMED TO HEAD USCM TASK FORCE

APWA sent a letter to Mayor Martin O'Malley of Baltimore, congratulating him on his recent appointment to chair the US Conference of Mayors Homeland Security Task Force, which focused on securing first-responder funding for cities. The letter expressed APWA's support for the task force and outlines the public works role in emergency response.

Mayors have been seeking a stronger federal partnership and additional funding for local homeland security efforts since the September 11th attacks.

Contributors to this month's Washington Report were: Beth Denniston, Jim Fahey and Heather McTavish.
The APWA Washington Report is edited by Beth Denniston.