

WSTPC NATIONAL ISSUES BULLETIN

May, 2005

*An e-mail service for members of the Western States Tourism Policy Council by WSTPC Washington, DC, Representative Aubrey King (202.251.6845), who can provide more details on any of the issues reported here. Comments or suggestions are always welcome. **New information since the last National Issues Bulletin is in bold.***

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Reauthorization of Federal Highway Program

On May 11, the Senate by a 76-22 veto-proof vote defeated a point of order that would have stripped language from S. 3, the reauthorization bill, increasing transportation spending to \$295 billion. This leaves the Senate on a collision course with the House and the Administration that are supporting a \$284 reauthorization. Final Senate passage of S. 3 is likely on May 12 or May 13.

This latest action continued the momentum shown on May 9, when the Senate moved towards passage of a highway reauthorization bill with higher funding than either the Administration or the House of Representatives has approved, with the addition of the Grassley-Baucus amendment to the "manager's package," which is the version of S. 3, the Senate reauthorization bill that will be have to be voted on by the full Senate. This amendment provides for a five-year reauthorization, in comparison with the six-year reauthorization approved by the Administration and the House of Representatives. The amendment provides five-year contract authority of \$251 billion in contract authority and \$251.9 billion in guaranteed spending. This is equivalent to approximately \$295 billion guaranteed for six years -- more than \$11 billion higher than the House figure of \$284 billion over six years. Highway spending will increase \$8.9 billion and public transportation by \$2.3 billion.

A week before this Senate action, DOT Secretary Mineta warned that the increase being considered by the Senate would "bankrupt" the Federal Highway Trust Fund, and reminded that President Bush "made it clear that he would veto any bill that increases the top line figure beyond the \$284 billion that has already been

overwhelmingly approved by the House of Representatives and the Senate Committee on Environment and Public Works."

Even if the higher level passes the Senate, it will still have to be approved by the conference committee. That conference will be subject to heavy pressure from the House leadership to avoid a bill that will be targeted for a veto. The final figure -- whether or not we have a veto along the way -- will probably be closer to the \$284 billion but it will take until mid-summer or early fall to get it done. It is possible that a compromise may be struck midway between the House and Senate figures, or around \$290 billion.

The sixth extension of TEA-21 expires May 31st, and a final bill seems unlikely before then.

On March 10, 2005, by a vote of 417-9, the U.S. House of Representatives passed H.R. 3, The Transportation Efficiency Act – a Legacy for Users, known as TEA-LU, a six-year reauthorization of the Federal highway program. On March 17, 2005, the Senate Environment and Public Works Committee approved the highway portion of a counterpart bill, S. 732. The House Bill would spend \$284 billion over six years on both highway programs and mass transit, while the Senate EPW Committee sets aside \$191 billion for highways over five years. The Administration has indicated it will approve surface transportation funding at the \$284 billion level approved by the House *provided that the amount of funding for demonstration projects is held down. (It might be noted that at this time we are talking not about a six-year reauthorization but really no more than a 4-5 year reauthorization since its effective date will be retroactive to 10/1/03, when TEA-21 expired, and the reauthorization will actually end on 9/30/09. This means that the next reauthorization cycle (TEA?) will begin in little more than two years.)*

Programs directly beneficial to tourism and recreation would receive substantial increases under both House and Senate bills. Following are the House and Senate Committee amounts, compared to the amounts authorized under TEA-21. Transportation Enhancements: Senate more than \$700 million; House more than \$600 million; TEA-21 \$590 million. Scenic Byways: Senate less than \$35 million pre year; House as much as \$60 million per year; TEA-21 \$26.5 million. Recreational Trails: Senate as much as \$54 million per year; House \$110 million; TEA-21 \$50 million. National Park Roads: Senate as much as \$285.8 million per year; House as much as \$225 million; TEA-21 \$165 million. Federal Lands Highways: Senate \$267.9 million per year; House as much as \$300 million; TEA-21 \$246 million.

In addition, a new category of Recreation Roads is proposed by the Administration at \$50 million per year, with 68 percent allocated to Forest Highways and the balance to BLM, Corps of Engineers and Bureau of Reclamation. The Senate bill authorizes \$44.7 million per year but the House bill does not include this program. This is a particularly significant proposal since it would for the first time authorize Forest Highways to be funded from the Federal Highway Trust Fund.

For a final reauthorization bill to succeed, major challenges will still have to be overcome, with the major interrelated hurdles being (1) achieving the funding levels desired by Congress while ensuring that both donor states (who pay more into the highway trust fund than they receive Federal highway payments) and donee states (who receive more than they pay in) receive increased funding, and (2) restricting the sharp growth in demonstration projects, which have mushroomed from less than two dozen thirty years ago to more than 3,315 in TEA-LU, which authorizes \$11.1 billion for such projects over six years, as much as \$2.5 billion per year. Now consuming nearly 20% of highway expenditures, these demonstration projects reduce flexibility to meet other highway goals.

National Outdoor Recreation Policy Act

The WSTPC continues to work with the American Recreation Coalition and other recreation industry organizations to draft and advocate a National Recreation Policy Act. This would establish for the first time a national commitment to development of a recreation policy for the country. The bill itself would make no substantive changes in recreation policies or programs, but it could result in a sea change in the emphasis given to recreation on the Federal lands. It would accomplish three major goals:

- (a) It would “declare a national policy regarding the management and use of lands and waters administered by Federal agencies to provide the American public with abundant, high-quality and diverse recreational opportunities to enhance (1) public health and welfare, (2) appreciation of natural resources and the environment, and (3) economic benefits associated with outdoor recreation for gateway, rural and other communities;”
- (b) It would direct the Secretary of the Interior to lead an interagency effort to prepare within 12 months “a national recreation strategy that identifies statutory and regulatory impediments to providing and facilitating a diversity of recreational opportunities on Federally-managed lands and waters, and appropriate means to increase the quantity and quality of recreation opportunities available to the public;” and
- (c) It would establish an ongoing Federal Recreation Inter-Agency Coordinating Council, with state and local government officials and others from the industry as advisors, to improve coordination of recreation programs and policies and implement the national recreation strategy.

On February 9th, the WSTPC joined other industry organizations in explaining this significant legislation to key staff on Capitol Hill. Resistance is expected from environmental organizations that will object to the emphasis this legislation gives recreation and perhaps from some Federal land agencies that do not see recreation as a major part of their mission.

The draft bill is supported by at least 24 recreation trade associations although some have expressed concern that it would favor some modes of recreation over others. Most environmental and conservation organizations have not endorsed it. The Department of the Interior apparently has reservations about the need for national legislation and would prefer solving any problems through administrative actions.

Efforts are underway to get this legislation introduced in Congress in June, during Great Outdoors Month.

Travel and Tourism in Homeland Security Policies

An April 19, 2005, meeting at the Department of Homeland Security produced encouraging results that promise improved interaction between DHS and the travel and tourism industry. Participating in this meeting were the Western States Tourism Policy Council, the Southeast Tourism Society, the American Bus Association, the National Tour Association, and the American Society of Travel Agents, who have formed a coalition to follow-up on implementation of the Porter Amendment passed by Congress last year. The 4/19 meeting produced several noteworthy results and commitments. It was agreed that the two priority areas of homeland security concern for the coalition are (1) facilitation of international travel, especially issues presented by the US VISIT Program, the approaching biometric passport deadline for visa waiver countries and the approaching requirement for passports by all travelers across the Canadian and Mexican borders (including U.S. citizens); and (2) security for special events like large meetings and conventions, entertainment and sports venues.

Both sides made commitments. Mr. Fonts pledged to put the travel and tourism industry in direct contact with Elaine Dezorski, Acting DHS Assistant Secretary for Policy and with Justin Oberman, DHS Assistant Administrator for National Risk Assessment at the Transportation Security Administration. TaraLyn Riordan is to be our ongoing contact.

Mr. Fonts explicitly promised he would "be an advocate" for travel and tourism in the DHS and to work closely with the industry going forward.

The Coalition pledged in response to Mr. Fonts' request, to provide data about the importance of Canadian and Mexican travel to the industry. This will be especially helpful in analyzing the impact of the requirement by 2008 that all cross-border travelers have passports for ID purposes.

With other industry organizations, the WSTPC has been actively working with the Department of Homeland Security to ensure efficient and expeditious implementation of the new statutory directive from the 108th Congress that the Special Assistant to the Secretary for the Private Sector, who reports directly to the Secretary of Homeland Security, must take responsibility for coordinating and consulting on issues related to the travel and tourism industries with the DHS Directorate of Border and Transportation Security, the DHS Office of State and Local Government Coordination and Preparedness and the Department of Commerce Assistant Secretary for Trade Development. This statutory directive was proposed by Representative Jon Porter (R-NV) and the WSTPC

was one of the half dozen major tourism organizations that successfully lobbied for its passage.

Public Lands Appropriations

The House Appropriations Committee on 5/10/05 completed action on the Interior Appropriations Bill. The operations budget for the National Park Service will be increased for FY '06, with \$1.8 billion allotted, \$20 million above the Bush Administration's request and \$71 million over FY '05. The bill also provides for NPS fixed costs such as pay increases, an item that previously came out of operating budgets. However, the overall allocation for the Park Service is down \$137 million from last year to \$2.2 billion. The bill would provide \$444 million for NPS backlog maintenance, well below the \$1.1 billion the Administration requested as part of its effort to devote nearly \$5 billion over 5 years to fund the backlog.

For other Interior agencies, the Bureau of Land Management and Fish and Wildlife Service would receive modest cuts under the committee report. BLM would receive \$1.8 billion, a \$62 million decrease from FY '05, while FWS would receive \$1.3 billion, a \$26 million decrease from last year.

The Forest Service took a major hit with a proposed \$499 million decrease below FY '05, but at \$4.2 billion, that is \$182 million above the administration's request. The bill would include \$128 million for agency forest health initiatives and \$76 million for state fire assistance grants. The administration had requested \$50 million for the grants. Forest Service hazardous fuels reduction would receive \$492 million, even with the administration's request and a \$30 million increase over the FY '05 enacted level. The Payment in Lieu of Taxes program would receive \$230 million, an increase over FY '05 (\$227 million) and \$30 million over the administration request. But land acquisition projects in the Land and Water Conservation Fund would take a major hit, with a \$43 million appropriation, enough to fund administrative costs, some land exchanges and emergency acquisitions, but no new planned projects for FY '06. The panel passed a bill that provided zero dollars for new LWCF projects last year, but \$255 million was eventually included in the omnibus FY '05 spending bill for land acquisition.

On the more positive side, the Forest Service recreation program received modest increases, with recreation management rising to \$265.2 million, up from \$257.3 million in the FY 05 budget and in the President's proposal, and Forest Service Trails allocated \$75.7 million, the same as the FY 05 budget but an increase of \$12 million over the President's request.

Senate appropriations decisions come next.

Facilitation of International Travel

Biometric Passports for Visa Waiver Countries. By October 1, 2005, all visa waiver countries must issue passports with biometric identification. The original statutory deadline was October 1, 2004, but last year the WSTPC and other industry organizations were successful in convincing Congress to extend the deadline twelve months. It now appears highly unlikely that many visa waiver countries will be able to comply with the new deadline (as the industry expected last year when it argued for a two year extension). Most of the major countries, such as the U.K. Japan and Germany, are not expected to be able to meet the current deadline. Although the visa waive countries are trying to comply, technical obstacles are proving difficult hurdles. The WSTPC has joined other industry organizations in working to obtain another extension. This will be a formidable task because of expected stiff resistance in Congress. Meetings have been held with key staff of the Senate Judiciary Committee staff and will begin in the next few weeks with House Judiciary Committee staff.

In an April letter from House Judiciary Committee Chairman James Sensenbrenner (R-WI) to Franco Frattini, European Union Commissioner for Justice and security, who had earlier written the chairman asking that the deadline be extended until at least August, 2006, Sensenbrenner warned that such an extension was "unlikely" at a time of continued security fears in the U.S. and added that: "I strongly suggest that the European Commission plan without the expectation that there will be an extension of the deadline." In response, the European Commission in Brussels said that it was "concerned and disappointed" by the Sensenbrenner letter and a spokesman for Commissioner Frattini raised the specter of retaliation against U.S. travelers to Europe by stating that: "Reciprocity is a standard consideration when deciding whether or not to give visa exemption to a country."

There are some recent more positive signs regarding the biometric passport deadline. One is that the White House appears to be engaged in the issue now at the highest staff levels with the goal of heading off the October deadline. Communications have occurred between the W.H. and Congressional leadership. The other encouraging sign is that House Judiciary Chairman Sensenbrenner appears to re softening slightly because he has suggested a willingness to accept a lesser biometric identification than has been previously discussed. In short, he is suggesting that a high resolution, tamper-proof digital photo on the passport would be acceptable instead of a micro chip with finger print ID. It is not clear that the VW countries will find this agreeable, but it at least indicates some give in the Sensenbrenner position. He remains otherwise intractable, however, and we believe he will be insistent until the end. The industry hope is that the deadline will be extended considerably in advance of October to allow international travel planning and industry marketing to proceed normally.

Passports for Western Hemisphere Travel. On another international travel issue, concern is growing over the potential impact on U.S.-Canadian and U.S.-Mexican travel of a new requirement that all travelers, including U.S. citizens, must begin by 2008 to provide

passport identification. On April 14, 2005, President Bush expressed concern over the prospect that this new requirement may “disrupt the honest flow of traffic” and said he had told the Departments of State and Homeland Security to see if more flexibility could be exercised. **Senators Olympia J. Snowe (R-ME), Susan Collins (R-ME) and Norm Coleman (R-MN) have strongly objected to the impact of the new passport ID rule on U.S.-Canadian travel and Coleman promises to introduce legislation allowing alternative proofs of identification.**

Machine Readable Passports. Effective 6/26/05 all travelers from visa waiver countries must have machine readable passports or they will not be allowed to enter the U.S. Carriers transporting anyone without a MR passport will be subject to a \$3300 fine per individual violation. This is the implementation of a requirement in The Immigration and Nationality Act that originally set 10/1/03 as the MR deadline but the deadline was extended and until now one-time waivers were granted VW travelers. In a conference call today, we are assured by DHS and the State Department that the 6/26 deadline will be enforced. Apparently all VW countries now issue MR passports but the problem will be with travelers with older passports that are not MR. The number of such travelers has steadily fallen but there are still about 100 travelers per day from VW countries without MR passports -- about one percent of all VW travelers. DHS and the State Department are requesting the industry to help get this message out to international travelers.

Gateways Bill

Representative George Radanovich (R-CA) reintroduced H.R. 585, the Gateway Communities Cooperation Act, in the first business week of the 109th Congress. After falling just short of the Senate finish line in the closing hours of the last two Congresses, a strong effort will be made to gain House passage early in the 109th Congress to allow maximum time for Senate consideration. The WSTPC is meeting with key Senate staff to urge support for this legislation.

It is expected that H.R. 585 will be brought up for a vote on the floor of the House of Representatives within the next few weeks.

Recreation Fee Program

The WSTPC is now working with the Federal land agencies as they are developing guidelines for implementation of the ten-year new recreation fee authority passed by Congress in 2004. Several interagency working groups have been formed to develop implementation guidelines for the new fee program. At a February 11 meeting at the Department of Interior with the interagency working group developing the newly authorized America the Beautiful Pass, the WSTPC urged the agencies to recognize the potential for this fee program to be more than just a source of revenue, but also a public information and marketing tool. The WSTPC also emphasized the importance of developing regional, intergovernmental passes and of working closely with state tourism offices and gateway communities in developing coordinated marketing campaigns

combined with administration of the fee program. In a March 21, 2005, communication to Department of the Interior Director of External and Intergovernmental Affairs Kit Kimball, the WSTPC joined three other allied tourism and recreation organizations in urging that all interagency fee working groups meet with private and intergovernmental organizations to discuss the potential promise and ramifications of the new fee program.

The WSTPC has since discussed the ramifications for tourism and recreation of new fee guidelines with staff on the interagency working groups.

Tax Credits for National Parks Introduced

Legislation has been introduced in Congress to authorize taxpayers to contribute \$1 or more to a National Park Centennial Fund from tax overpayments or from an annual tax payment form. The Senate bill, S. 886, was introduced by Senator John McCain (R-AZ) and a House counterpart bill, H.R. 1124, has been introduced by Representatives Mark Souder (R-IN) and Brian Baird (D-WA). Although no estimate has yet been made about the amount of money expected to be raised from such a tax credit, a recent national poll indicated enough people would be willing to pay a tax of \$20 or more for maintenance and operations in the national parks to produce \$650 million. Congressional approval would be complex because, as tax legislation, these bills would have to be approved by the Senate Finance Committee and the House Ways & Means Committee, as well as the Senate Energy Committee and the House Resources Committee, and would also likely stimulate concerns from the appropriations committees because they would be excluded from any control over the amount raised.