THE BOND BUYER

Is the third time the charm for a 2019 infrastructure bill?

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WASHINGTON — A proposed infrastructure bill has floated around for the last two years, but those in the transportation industry believe 2019 could serve as a unique window to finally push it through.

With a multi-billion gap to fill and the Fixing America's Surface Transportation Act expiring in 2020, lawmakers and industry professionals alike are looking for ways to fund infrastructure for the long haul. A long-term infrastructure funding bill would be welcomed by the municipal market because it would provide a level of certainty about the federal government's financial commitments to states and localities as well as potentially create new infrastructure projects that could be financed with tax-exempt bonds.

"In the last year or two, infrastructure is right up there on the top of the national agenda and it normally is not," said Joung Lee, policy director at the American Association of State Highway and Transportation Officials. "As long as there is this bipartisan prioritization of infrastructure, relative to all the other obviously important issue areas, I remain optimistic that this is something that can actually get done."

Lee added that a major obstacle in the last two years was funding and said infrastructure was overshadowed by the tax bill. AASHTO asked Congress if they could fix the ailing Highway Trust Fund and make it more sustainable while working on its tax legislation, but it didn't pull through.

The HTF is a federal account fueled by federal gas and diesel fuel tax revenue. The majority of its spending is in the form of grants to state and local governments for their surface transportation projects, and some issuers use those anticipated disbursements to back Grant Anticipation Revenue (Garvee) bonds. The HTF has been bleeding money for years because the federal gas tax has not been raised since 1993 and more fuel efficient and alternative fuel vehicles are requiring less fuel for the same miles traveled.

Lee said AASHTO also asked Congress to find fiscal space within the tax bill to fund an infrastructure bill, which didn't happen. Part of the challenge last year, he said was that infrastructure placed in the top three alongside a tax bill and healthcare initiatives, but was a far second from the tax bill.

"This is really infrastructure's turn to shine and get that bipartisanship towards a revenue solution," Lee said.

Rep. Peter DeFazio will be the new incoming chair of the Transportation and Infrastructure Committee in 2019 and plans to have a bill up and ready in the first six months.

DeFazio, an Oregon Democrat,has sponsored what he called A Penny for Progress bill which would index gas prices to inflation to provide $500 billion in infrastructure investment.

To pay back the 30-year treasury bonds the bill would authorize, DeFazio proposed indexing gas and diesel taxes by about one cent per year, with a cap of 1.5 cents per year.

In its first year, the bill could create an additional $630 million for formula and discretionary freight programs, $3.2 billion for the Surface Transportation Block Grant Program and $85 million for the Transportation and Infrastructure Finance and Innovation Act.

The investment represents a 30% increase over current funding levels.

In the end, it will be up to the Ways and Means Committee to pass it, DeFazio said at the Atlantic Summit on Infrastructure and Transportation conference in December.

Thirty-one states have increased the gas tax since 2012, Sen. Chris Van Hollen (D., Md.) said at an Environment and Public Works Committee in November.

Between 2016 and 2025, investment needs across 10 infrastructure areas total $3.3 trillion. However, planned investment into infrastructure is $1.8 trillion, leaving a $1.4 trillion investment gap, according to the American Society of Civil Engineers.

"Despite these growing needs, federal investment in transportation and water infrastructure has declined substantially from almost 6% of total federal spending in the 1960s to only 2.5% by 2017, said AASHTO President Carlos Braceras at the committee hearing.

Sen. Tom Carper noted that he, Committee Chairman Sen. John Barrasso and other committee members met with President Donald Trump in 2018 to talk about transportation and infrastructure.

Carper (D., De.) suggested to the president to restore the purchasing power of traditional user fees and index the gas tax at four cents a year for four years.

“He cut me off,” Carper said. “He said that’s not enough. It ought to be 25 cents a gallon and it should be now. He said I know there will be a lot of political pushback for that, but I’ll take the heat for that.”

Braceras then added a gas tax could fund transportation for the next 20 years.

“Here we’ve learned from both sides of the aisle, presumably even from the President of the United States that if we want to rebuild roads and bridges and infrastructure, we have to come up with some revenue solutions to actually pay for this,” Sen. Roger Wicker said.

Sen. Earl Blumenauer told the Bond Buyer he was convinced that infrastructure action would start to unfold in the first couple of months in 2019.

After speaking with the American Trucking Association, Blumenauer (D., Ore.) said he was comfortable with increasing the gas tax.

“The truckers pay almost half the road revenues,” Blumenauer said. “They’re willing to pay. Let’s bring people in, hear what’s happened and put it together right.”

Blumenauer supports legislation that would raise gas and diesel taxes by 15 cents over three years and index both to inflation, according to his site.

“I want to get rid of the gas tax after we adjust it and replace it with a vehicle miles traveled fee because a gas tax won’t work in 10 years because we’ll have more autonomous vehicles that will all be electric,” Blumenauer said.

Ken Bentsen, president of the Securities Industry and Financial Markets Association said he sees an opportunity in an upcoming infrastructure package to expand the allowable uses of private activity bonds and lift their issuance caps. Such a change, which the muni market has sought for years, would provide muni issuers more flexibility and potentially boost the number of deals coming to market.

Bentsen added that 2019 could see the return of some kind of direct-pay bonds, like the previous Build America Bonds which reimbursed issuers 35 cents for every dollar of interest they paid on the bonds.

Sacramento Area Council of Governments Executive Director James Corless said during a recent Senate Environment and Public Works Committee meeting that if Congress doesn't increase federal funding, that they were going to see "more pressure for leveraging additional funds through public-private partnerships."

At the same time, Corless warned lawmakers not to think of P3s as a substitute for federal funding.

"I don't think a public-private partnership is a way to generate revenue that is just sort of sitting out there, mythically waiting on the sidelines — it's a way to manage risk," Corless said. "That's the real value of P3's, it manages risks."

American Public Power Association Senior Government Relations Director John Godfrey said that if Congress does act in 2019, it will be similar to the Problem Solvers Caucus infrastructure report released in 2018. In the report, the caucus proposed maintaining the federal tax-exempt status for municipal bonds and private activity bonds, while increasing the private activity bond cap and incentivizing states to adopt P3's.

Congress would add proposals to update the tax treatment of municipal bonds, Godfrey said.

"I think if Congress does act, it will probably be along those lines and something that takes a bit from every place," Godfrey said.

The American Association of Port Authorities' focus in 2019 will be on reforming its Harbor Maintenance Tax, said Public Affairs Director Aaron Ellis.

The 1986 tax is collected on import goods coming in from overseas. Currently, there is a 0.125% tax on goods imported, Ellis said.

"It raises about $1.8 billion a year for harbor maintenance," he said. "Over the years, the money has been diverted, well it goes into the general fund unfortunately so the money has been diverted elsewhere in a lot of cases."

When they can't maintain the ports to stay at certain depths and widths, then bigger ships can't get in and shippers have to use smaller ships which is more expensive. Port authorities have worried that U.S. ports who fall behind on that kind of maintenance could lose business to ports in Canada or elsewhere.

The association wants to see all of the funding go back to the ports and no additional taxes.

From a surface transportation perspective, AAPA Director of Freight and Surface Transportation Policy John Young said he is optimistic for 2019.

Young wants to build off the FAST Act. Overall, he wants more flexibility in funding mechanisms, such as the recent Better Utilizing Investments to Leverage Development (BUILD) grants released in December.

Ports got about 15% of the projects overall to help with highways that lead up to the ports and bridges.

“We’re supportive of increased funding,” Young said. “It creates eligibility for freight projects. Certainly, we want to see the RRIF (Railroad Rehabilitation and Improvement Financing) program and TIFIA (Transportation Infrastructure Finance and Innovation Act) programs be stronger tools for ports. We will continue to work with legislators, making sure that that eligibility is there.”

During the Environment and Public Works Committee meeting at which Corless also testified, Vice President of the Associated General Contractors of America Robert Lanham said finding funding is a priority.

“I think we’ve stretched too far with too little and we’re not completing things,” he said.