Congressional Outlook
House

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Even though TEA-21 does not expire for another 3 years, it is not too early to start talking about the issues. Working backwards, we need to have a bill in place by October 2003, and the process will begin to heat up at the beginning of calendar year 2002. Now is the time to start to define the policy issues that will require a lot of thought.

To lead off, let me tell you what the reauthorization process is about and how innovative finance fits in. Because highway, transit, and safety programs are essentially funded through authorizations from the trust fund, the House Committee on Transportation and Infrastructure and our counterparts on the Senate side spend a significant amount of time addressing funding levels.

In large part, and crass though it may seem, what the process ends up being about is how much money we are going to spend and who gets it. There is intense competition between programs. How much are we going to spend on the Interstate system? how much on Indian roads? on research? on corridors? on the border programs? Competition is equally fierce in the matter of who will get that money through the formulas that determine how the money is divvied up. It is a very intense and very political process.

Innovative finance has to compete for attention in this environment. And from that point of view, innovative finance is not free. Innovative finance is not alchemy—you cannot make money out of nothing. If we pass an innovative finance program that requires funding, that means less money for some other program within the highway or transit programs.

The bad news is that you are competing. The good news is that the Federal-Aid Highway Program and transit programs are incredibly popular on Capitol Hill. The huge multiyear authorization bills can serve as an engine to do a lot of other things as well. So though you are competing, the reauthorization process offers you an opportunity.

I should warn you that many on Capitol Hill are generally skeptical about much of innovative finance. Part of the reason dates back to the incredible budget pressures of the early 1990s. ISTEA, the prior authorization, could not be fully funded, and in some instances we saw a tendency toward viewing innovative finance as a means to fill that gap. I think that argument is a losing proposition. Innovative financing needs to be something you do in addition to the regular programs, not a substitute for the proper level of funding.

Another source of skepticism—and one that Jack alluded to—is the pretty poor history of federal credit programs. The Office of Management and Budget puts out a report that catalogs all the federal loan and guarantee programs. If you go through that list, you find default rates of something like 40 to 50 percent. Agricultural loans and some housing loans account for much of this total, but the savings and loan debacle really crystallized the problem.

Next, recognize that many members of Congress are former state or local officials who are pretty familiar with tax-exempt debt financing. They question why Congress has to get involved with innovative financing given that states can already issue tax-exempt bonds. This makes it critical for the innovative financing community to justify the need for the programs it advocates very clearly and crisply.

Another source of concern is the experience in TEA-21 with the SIBs. Many members felt blindsided when suddenly in the middle of reauthorizing the program, they were potentially walking into a huge labor and environmental fight. Surely they will be wary about reopening issues like that.

Finally, members do not tend to hear that much from the innovative finance community. During the reauthorization process we met with half of the state DOTs in one form or another, numerous transit agencies, and many state and local officials. Innovative financing was not a top priority in any of those meetings. It came up in some cases, but it was all but eclipsed by concerns about the formula, funding levels, and environmental streamlining.

On the other hand, the innovative finance community also has some things going for it. Certainly the need is there: almost half of the bridges on the Interstate will have to be replaced or rehabilitated in some form over the next 10 years. As for transit, there is no way that the federal government can finance all the transit new starts projects that are out there through the regular new starts funding program. And you have a good track record to build on: witness GARVEE bonds and SIBs in the NHS Act and TIFIA in TEA-21.

One program that people really have not talked about much is the Interstate toll pilot provision in TEA-21, which would allow a state to impose tolls on an Interstate so long as the proceeds from the tolls would go solely to rehabilitate that segment of the Interstate. I should note that a big reason for those things getting done in TEA-21 was the leadership of Senator Chafee. Dan Corbett also deserves mention; he put in an incredible amount of work to get the TIFIA provision done.

Finally, before the end of this congressional session, there is a good chance we will see an Amtrak or potentially a high-speed rail bond bill, which would allow the issuance of almost $10 billion worth of tax credit bonds for these purposes.

Now to look ahead. I think the first order of business for anyone who cares about these programs is to realize that we are going to have to refight the firewall issue. TEA-21 represented a great achievement in ensuring that the money that comes in to the highway and transit programs is actually spent on the intended purposes. Still, there are many forces in Congress who did not like how that came out or, for that matter, how AIR-21 came out. I think we will get more resistance than ever to reestablish the firewalls, and that will and should be everyone's top priority.

Given the prominence of the firewall issue, I do not anticipate a radical shift in how the programs work. The outlook for innovative finance will depend first and foremost on congressional interest. It will also depend on the Department of Transportation's priorities. These innovative financing initiatives present very complicated programmatic, policy, and budgetary questions. I do not think I can overstate how much work goes into these proposals. So if the department really wants to do something and puts in the effort in a targeted fashion, I think there is a good chance that something will happen. But if they do not and instead we see a range of ideas coming in from different interest groups, the likelihood of legislative action on the innovative finance front will be a lot lower.

That is my crystal ball. We on the Hill do want to be helpful and welcome the opportunity to sit down with anyone who has some thoughts to share. As my final comment, I first would like to underscore that removing impediments to the use of existing funds—for example, allowing states to deposit existing funds into SIBs or otherwise using existing funds in a new, creative way—is easier than trying to establish new programs that require additional funds. As I have said before, the competition is very intense.

I hope to hear from you. The subject matter is complex and raises some very technical budgetary issues, so now is none too soon to start working on this. I wish you good luck.