



## ML Strategies Update

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## TRANSPORTATION POLICY IN THE 114<sup>TH</sup> CONGRESS

After their overwhelming success in the 2014 mid-term elections, Republicans are preparing to assume their new majority in the Senate, while their House colleagues have secured an expanded majority that exceeds their World War II-era peak. President Obama, who began his presidency with a Democratic majority in the Congress, will now round out his last two years in office with Republican majorities in both the House and Senate. Although on many issues this could make for a difficult two years for the Obama Administration, on transportation policy there is renewed hope for bipartisanship in the new congress.

In the meantime, during the Lame Duck session of the current congress, we anticipate final action on two minor aviation-related bills, creating an Aviation Security Advisory Committee at the Transportation Security Administration (TSA) and setting requirements related to TSA procurement. A third aviation bill that might be acted upon in the Lame Duck revises aviation security service fee requirements.

Transportation Secretary Anthony Foxx has stated that the department will release a 30-year blueprint on the future of transportation by the end of the year. Foxx said the goal of his plan is to steer the country away from a 1950's transportation model which revolved around the Highway Trust Fund to build and maintain highways to a 21<sup>st</sup> Century one which leverages rail and public transportation. He has been quiet on the details, but says the plan will tailor recommendations to the nation's changing landscape, which is urbanizing.

### TRANSPORTATION POLICY ISSUES

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#### Highway Trust Fund

Congress last dealt with the Highway Trust Fund (HTF) in June when it passed a stopgap measure that expires in May 2015, making the HTF a priority for the new congress. The question is whether Congress will pass another short-term extension or a long-term fix. Outgoing Senate Environment and Public Works (EPW) chairwoman Barbara Boxer (D-CA), along with outgoing Transportation and Infrastructure Subcommittee chairman Tom Carper (D-DE), have been working to ensure it will be the latter. They have collaborated with industry, which wants to replenish the fund through a mileage tax, toll increases, or increase to the gas tax. Based on their talks with House Speaker John Boehner (R-OH) and House Budget Committee chairman Paul Ryan (R-WI), they foresee a long-term bill passing the House.

Four Senate committees have jurisdiction over the HTF: the EPW, Banking, Commerce, and Finance Committees. Of the four, EPW has the biggest interest in addressing reauthorization. The incoming EPW chairman, Senator Jim Inhofe (R-OK), and incoming ranking member, Senator Boxer, both have

supported robust transportation projects in the past. Their strong successful collaboration on MAP-21 reauthorization, which passed the committee unanimously, appears to bode well for the trust fund's reauthorization in the 114<sup>th</sup> Congress. The Commerce and Banking Committees will likely follow EPW's lead. Incoming Commerce Committee chairman John Thune (R-SD), who recently met with Secretary Foxx in South Dakota, has said he is open to all pay-fors, including an increase in the gas tax.

The big hurdle for reauthorization is financing. In the Senate, responsibility for funding of the HTF lies with the Finance Committee. Senator Orrin Hatch (R-UT), the incoming chairman, is on record saying he wants to repair the HTF. He supports its user-pay system, but he has ruled out a gas tax increase. Others have proposed closing corporate "loopholes" and/or other tax reform measures that would be revenue raisers or the HTF.

In the House of Representatives, the HTF is not a top priority. The two committees that have jurisdiction over the trust fund, Transportation & Infrastructure and Ways & Means, have indicated a desire to first act on reauthorization of the Federal Aviation Administration (see below) and tax reform, respectively. Transportation and Infrastructure Committee chairman Bill Shuster (R-PA) and incoming Ways and Means Committee chairman Ryan have expressed little interest in replenishing the fund. However, incoming Transportation and Infrastructure ranking member Peter DeFazio (D-OR) has. Expect him to try to try to steer the committee's attention to reauthorization.

### **Federal Aviation Administration Reauthorization**

Chairman Shuster has told the aviation industry that he wants a "transformational" reauthorization bill. Expect him to seek fee reductions and regulatory relief to please industry, which wants to overhaul labor regulations and nix the Environmental Protection Agency's proposed tax on carbon emissions. The big unknown is infrastructure investment. Industry says it needs more money, but it may incur more cuts due to Congress' concern about the NextGen Air Transportation System. The system, which would make America's air traffic control system satellite-based, has the potential to curb air traffic. However, because its implementation has been slow, Congress likely won't invest the money needed for the system to have an impact anytime soon.

The deadline for FAA Reauthorization is September 2015, but Chairman Shuster has indicated that he would like a bill passed before then. To gauge the bill's prospects, watch Representatives Frank LoBiondo (R-NJ) and Sam Graves (R-MO). LoBiondo is Shuster's liaison to labor; if LoBiondo gets labor on board, the reauthorization bill will likely have enough Democratic support to pass. Graves is a friend of industry. If he's on board, so is industry, which together can whip up Republican votes.

### **Amtrak Reauthorization**

The Amtrak Reauthorization bill has stalled in the current congress, despite passing the House unanimously by a voice vote in September. The bill originated in the Transportation and Infrastructure Committee, where Democrats and Republicans struck a compromise in which Amtrak would lose forty percent of its funding but incur no cuts to existing routes. It also satisfied both urban and rural members. Urban members secured funding to make the Northeast Corridor high-speed, connecting DC and Boston via New York, while rural members staved off cuts to long-distance lines that stop in small towns unserved by major airlines. The bill has not spurred the Senate to act. Commerce Committee Chairman Rockefeller and Ranking Member Thune conceded that the bill won't pass in the Lame Duck. If the bill is to pass in the 114<sup>th</sup> Congress, it will likely need some sweeteners for northeast Senators, such as Chris Coons (D-DE) and Richard Blumenthal (D-CT), who strongly support Amtrak.

### **Surface Transportation Board Reauthorization**

The outgoing chairman of Senate Commerce Committee, Senator Rockefeller, and the incoming chairman, Senator Thune, introduced the Surface Transportation Board (STB) Reauthorization Act of 2014 in September. The bill seeks to reduce freight rail delays and backlogs, which have threatened business in rural states, like West Virginia and South Dakota, increases STB's investigative authority to enable the board to conduct investigations before it receives a complaint, and improves alternative dispute resolution practices and fast-tracks important proceedings. Given the bill's importance to South Dakota, expect Thune to push for its passage in the 114<sup>th</sup>, if it doesn't pass in the Lame Duck.

### **Federal Railroad Administration**

Senators Schumer, Blumenthal, and Chris Murphy (D-CT) have accused the Federal Railroad Administration (FRA) of negligence, with Senator Blumenthal calling it a "lawless" and "rogue" agency.

They contend that it should have done more to secure the Metro-North Line, which travels through New York and Connecticut and which had five accidents between May 2013 and March 2014. The senators plan to introduce legislation to force the FRA to toughen its oversight of the nation's rail lines.

### **National Highway Traffic Safety Administration (NHSTA)**

Earlier this year, a six-year NHTSA reauthorization bill was introduced by Senator Claire McCaskill (D-MO), but that legislation has not moved forward. Senate Commerce Committee ranking member John Thune (R-SD) has hinted that he intends to pursue NHSTA reauthorization legislation in the next congress when he assumes the chairmanship. Senator Bill Nelson (D-FL) will serve as ranking member of the committee next year. Senators Thune and Nelson have worked together on legislation related to auto recall and safety issues, perhaps setting the stage for cooperation on a NHTSA reauthorization bill next year. House Energy and Commerce Committee Chairman Fred Upton (R-MI) has not yet indicated whether he will take up reauthorization, but he does plan to introduce auto safety legislation next year.

### **Drones**

Drones, now a staple of many industries such as agriculture, entertainment, and rail, have captured the attention of the DOT. The department's general counsel Kathryn Thomson announced that there will be a rule on drones, but she provided no details on its content or time of release. Expect a rule for the operation of unmanned aircraft systems (UAS) that will address the classification and registration of small UAS, the certification and training of pilots and visual observers, and operational limitations. Although the DOT has started the rule-making process, it may not finalize a rule on drones until 2017.

### **Vehicle-to-Vehicle Communication**

NHTSA has proposed a rule requiring vehicle-to-vehicle (V2V) communication in cars and light trucks by 2019. That communication will have to meet minimum performance requirements, as judged by the quality of V2V devices and messages. Although the rule was just recently announced, progress is already underway. Eight automakers – Ford, General Motors, Honda, Hyundai, Daimler, Nissan, Toyota, and Volkswagen – have started collaborating with the government to develop V2V technology. Though expensive (costing around \$341 to \$350 per vehicle), the government and industry believe V2V technology will save lives.

### **Rail Congestion and Safety**

With grain and coal supplies stranded all over the Midwest, Senators Tammy Baldwin (D-WI), Al Franken (D-MN), and David Vitter (R-LA) urged the Surface Transportation Board last month to initiate a rulemaking process called "competitive switching." Competitive switching allows the STB to order a railroad to switch their customer's freight to a competitor when the lines get crowded. The STB held a hearing on this issue in March, but there has not been any action since. On a related note, Senators Thune and Amy Klobuchar (D-MN) requested a Department of Agriculture economic study on rail backlog in the Upper Midwest. They claim that farmers have lost \$100 million between March and May over the past year due to backlog in the rail system. Senators Maria Cantwell (D-WA) and Heidi Heitkamp (D-ND) requested that the Senate Appropriations Committee invest in a Safe Transportation of Energy Products Fund, citing the accidents that occurred since the Bakken oil boom. Expect the issue of crude-by-rail safety to play into the Keystone XL pipeline politics.

## CONGRESSIONAL COMMITTEES

In the Senate, the Committee on Environment and Public Works has jurisdiction over the major part of the transportation policy, including highways and other traditional transportation issues like bridges and tunnels. Mass transit falls under the jurisdiction of the Senate Banking Committee, while rail and transportation safety issues are handled by the Senate Commerce Committee. The most critical part of transportation reauthorization – funding – is the responsibility of the Senate Finance Committee.

In the House of Representatives, the Committee on Transportation and Infrastructure is responsible for highways, bridges, tunnels, mass transit, and transportation safety, while funding is covered by the Committee on Ways and Means.

The following charts are based on the current membership of these committees. When the new Majority/Minority ratios are set for the new congress, we could see some of these committee members of either party move to other committees, and in some cases Democrats could lose their seat due to a lack of seniority. There will be new Republicans on every committee.

Key:

~~Name~~ denotes a retiring/losing senator

Name denotes a potential incoming chair/ranking member

Name\* denotes a senator up for reelection in 2016

### Senate Committee on Environment and Public Works

The EPW Committee will see current Chairwoman Boxer move to ranking member next year, while Senator Inhofe, a former EPW ranking member, will become chairman.

Democrats	Republicans
<p><b>Barbara Boxer</b>, California *</p> <p>Tom Carper, Delaware</p> <p>Ben Cardin, Maryland</p> <p>Bernie Sanders, Vermont</p> <p>Sheldon Whitehouse, Rhode Island</p> <p>Tom Udall, New Mexico</p> <p>Jeff Merkley, Oregon</p> <p>Kirsten Gillibrand, New York</p> <p>Cory Booker, New Jersey</p> <p>Ed Markey, Massachusetts</p>	<p>David Vitter, Louisiana *</p> <p><b>Jim Inhofe</b>, Oklahoma</p> <p>John Barrasso, Wyoming</p> <p>Jeff Sessions, Alabama</p> <p>Mike Crapo, Idaho*</p> <p>Roger Wicker, Mississippi</p> <p>John Boozman, Arkansas*</p> <p>Deb Fischer, Nebraska</p>

### Senate Committee on Banking, Housing, and Urban Affairs

Senator Richard Shelby (R-AL), a previous ranking member of the Banking Committee, will assume the chairmanship next year. The current chairman, Senator Tim Johnson (D-SD), did not seek reelection, leaving Senator Sherrod Brown (D-OH) as the likely new ranking member. Brown's ascent to ranking member assumes that Senators Chuck Schumer (D-NH) and Bob Mendez (D-NJ), both of whom have more seniority on the committee than Brown, choose to pursue other roles in the new congress.

Democrats	Republicans
<del>Tim Johnson, South Dakota</del> Jack Reed, Rhode Island Chuck Schumer, New York* Bob Menendez, New Jersey <del>Sherrod Brown, Ohio</del> Jon Tester, Montana Mark Warner, Virginia Jeff Merkley, Oregon <del>Kay Hagan, North Carolina</del> Joe Manchin, West Virginia Elizabeth Warren, Massachusetts Heidi Heitkamp, North Dakota	Mike Crapo, Idaho * <del>Richard Shelby, Alabama*</del> Bob Corker, Tennessee David Vitter, Louisiana* <del>Mike Johanns, Nebraska</del> Pat Toomey, Pennsylvania* Mark Kirk, Illinois* Jerry Moran, Kansas* <del>Tom Coburn, Oklahoma</del> Dean Heller, Nevada

### Senate Committee on Commerce, Science, and Transportation

Senator Thune, the current ranking member of the committee, will assume the chairmanship of the Commerce Committee next year, with Senator Bill Nelson (D-FL) becoming the new ranking member. The current chairman, Senator Jay Rockefeller (D-WV) did not seek reelection, and Senator Barbara Boxer, who has more seniority on the committee than Nelson, will continue in her leadership role at the EPW Committee.

Democrats	Republicans
<del>Jay Rockefeller, West Virginia</del> Barbara Boxer, California* <del>Bill Nelson, Florida</del> Maria Cantwell, Washington <del>Mark Pryor, Arkansas</del> Claire McCaskill, Missouri Amy Klobuchar, Minnesota <del>Mark Begich, Alaska</del> Richard Blumenthal, Connecticut* Brian Schatz, Hawaii* Ed Markey, Massachusetts Cory Booker, New Jersey <del>John Walsh, Montana</del>	<del>John Thune, South Dakota*</del> Roger Wicker, Mississippi Roy Blunt, Missouri* Marco Rubio, Florida Kelly Ayotte, New Hampshire* Dean Heller, Nevada Dan Coats, Indiana* Tim Scott, South Carolina* Ted Cruz, Texas Deb Fischer, Nebraska Ron Johnson, Wisconsin*

## Senate Committee on Finance

Senators Ron Wyden (D-OR) and Orrin Hatch (R-UT) will continue to lead the Finance Committee next year but will trade roles next year with Hatch assuming the chairmanship and Wyden moving to ranking member. There is some question of whether Senator Mark Warner (D-VA), the Democrat with the least seniority on the committee, will be able to retain his membership on the committee once the new Republican-Democratic membership ratios are established. There is speculation that Senators Dean Heller (R-NV) and Dan Coats (R-IN) are among the leading candidates for new Republican members of the committee.

Democrats	Republicans
<p>Ron Wyden, Oregon*</p> <p><del>Jay Rockefeller, West Virginia</del></p> <p>Chuck Schumer, New York*</p> <p>Debbie Stabenow, Michigan</p> <p>Maria Cantwell, Washington</p> <p>Bill Nelson, Florida</p> <p>Bob Menendez, New Jersey</p> <p>Tom Carper, Delaware</p> <p>Ben Cardin, Maryland</p> <p>Sherrod Brown, Ohio</p> <p>Michael Bennet, Colorado*</p> <p>Bob Casey, Pennsylvania</p> <p>Mark Warner, Virginia</p>	<p>Orrin Hatch, Utah</p> <p>Chuck Grassley, Iowa*</p> <p>Mike Crapo, Idaho*</p> <p>Pat Roberts, Kansas</p> <p>Mike Enzi, Wyoming</p> <p>John Cornyn, Texas</p> <p>John Thune, South Dakota*</p> <p>Richard Burr, North Carolina*</p> <p>Johnny Isakson, Georgia*</p> <p>Rob Portman, Ohio*</p> <p>Pat Toomey, Pennsylvania*</p>

## House Committee on Transportation and Infrastructure

Chairman Shuster will continue to lead the committee in the new congress. Current ranking member Rep. Nick Rahall (D-WV) was defeated in his bid reelection, leaving Rep. Defazio as the likely top Democrat on the committee next year.

Democrats	Republicans
<p><b>Bill Shuster, Pennsylvania</b>            Don Young, Alaska  <del>Tom Petri, Wisconsin</del>  <del>Howard Coble, North Carolina</del>            Jimmy Duncan, Tennessee            John Mica, Florida            Frank LoBiondo, New Jersey  <del>Gary Miller, California</del>            Sam Graves, Missouri  <del>Shelley Moore Capito, West Virginia</del>            Candice Miller, Michigan            Duncan D. Hunter, California            Andy Harris, Maryland            Rick Crawford, Arkansas            Lou Barletta, Pennsylvania            Blake Farenthold, Texas            Larry Bucshon, Indiana            Bob Gibbs, Ohio            Pat Meehan, Pennsylvania            Richard L. Hanna, New York            Daniel Webster, Florida  <del>Steve Southerland, Florida</del>            Jeff Denham, California            Reid Ribble, Wisconsin            Thomas Massie, Kentucky  <del>Steve Daines, Montana</del>            Tom Rice, South Carolina;            Markwayne Mullin, Oklahoma            Roger Williams, Texas            Mark Meadows, North Carolina            Scott Perry, Pennsylvania            Rodney L. Davis, Illinois            Mark Sanford, South Carolina            David Jolly, Florida</p>	<p><del>Nick Rahall, West Virginia</del>  <b>Peter DeFazio, Oregon</b>            Eleanor Holmes Norton, District of Columbia            Jerrold Nadler, New York            Corrine Brown, Florida            Eddie Bernice Johnson, Texas            Elijah Cummings, Maryland            Rick Larsen, Washington            Mike Capuano, Massachusetts  <del>Tim Bishop, New York</del>  <del>Mike Michaud, Maine</del>            Grace Napolitano, California            Daniel Lipinski, Illinois            Tim Walz, Minnesota            Steve Cohen, Tennessee            Albio Sires, New Jersey            Donna Edwards, Maryland            John Garamendi, California            Andre Carson, Indiana            Janice Hahn, California            Rick Nolan, Minnesota            Ann Kirkpatrick, Arizona            Dina Titus, Nevada            Sean Patrick Maloney, New York            Elizabeth Esty, Connecticut            Lois Frankel, Florida            Cheri Bustos, Illinois</p>

## House Committee on Ways and Means

With the retirement of current Ways and Means Committee Chairman Rep. Dave Camp (R-MI), former vice presidential candidate Paul Ryan was elected the new chairman of Ways and Means earlier this week. Current Ways and Means Committee Ranking Member Sandy Levin (D-MI) will remain in this role for the new congress. Republicans joining the committee in the 114<sup>th</sup> Congress are reported to be Reps. Pat Meehan (R-PA), Kristi Noem (R-SD), Jason Smith (R-MO), and George Holding (R-NC).

Democrats	Republicans
<p><del>Dave Camp, Michigan</del>            Sam Johnson, Texas            Kevin Brady, Texas  <b>Paul Ryan, Wisconsin</b>            Devin Nunes, California            Pat Tiberi, Ohio            Dave Reichert, Washington            Charles Boustany, Louisiana            Peter Roskam, Illinois  <del>Jim Gerlach, Pennsylvania</del>            Tom Price, Georgia            Vern Buchanan, Florida            Adrian Smith, Nebraska            Aaron Schock, Illinois            Lynn Jenkins, Kansas            Erik Paulsen, Minnesota            Kenny Marchant, Texas            Diane Black, Tennessee            Tom Reed, New York            Todd Young, Indiana            Mike Kelly, Pennsylvania  <del>Tim Griffin, Arkansas</del>            Jim Renacci, Ohio</p>	<p><b>Sander Levin, Michigan</b>            Charles B. Rangel, New York            Jim McDermott, Washington            John Lewis, Georgia            Richard Neal, Massachusetts            Xavier Becerra, California            Lloyd Doggett, Texas            Mike Thompson, California            John Larson, Connecticut            Earl Blumenauer, Oregon            Ron Kind, Wisconsin            Bill Pascrell, New Jersey            Joseph Crowley, New York  <del>Allyson Schwartz, Pennsylvania</del>            Danny K. Davis, Illinois            Linda Sánchez, California</p>

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