



July 22, 2011

Congress and the White House still have not agreed on a plan to increase the federal debt ceiling and that is holding up progress on many critical pieces of legislation including virtually all of the FY'12 appropriations bills and the surface transportation reauthorization bill. Congress had planned to stay in session this weekend in an effort to show the public that they will not rest until the budget/debt deal is done, but without an agreed upon deal to vote on, there is not much for them to do, so both bodies opted to return to their districts as usual for the weekend.

Yesterday, the House passed the so-called "cut, cap and balance" bill by a mostly party-line vote of 234 to 190. The bill would cut federal spending by more than \$100B in FY'12, cap future spending at 19.9% of GDP and require Congress to pass a Balanced Budget constitutional amendment before it would agree to raise the debt ceiling. This morning the Senate defeated the bill 51 to 46.

So now it is back to the main business at hand, increasing the debt ceiling before August 2 when the US Government will no longer be able to meet all its financial obligations. It is still unclear if they can reach agreement on an all encompassing deal that would include tax increases, spending cuts, and entitlement reform or will have to settle for something more modest. If it looks like some sort of deal is at hand, the White House may agree to a very short-term extension of the debt limit for a week or ten days or perhaps even until Congress returns from its August recess after Labor Day. The Congressional Budget Office (CBO) says it will take them at least two weeks to "score" the budget impacts of any potential deal.

One of several budget plans under consideration was developed by the bipartisan Senate "Gang of Six". Here is a [link](#) to a summary of its proposal. Note on the bottom of page 3 and the top of page 4 where it says, "Tax reform must be estimated to provide \$1 trillion in additional revenue to meet plan targets and *generate an additional \$133B by 2021, without raising the gas tax, to ensure improved solvency of the Highway Trust Fund*". No one seems to be clear exactly what this means, or how it will comport with the requirement that Trust Funds must be financed with "user fees", but it is reassuring that the issue of transportation investment is not being forgotten.

## Surface Transportation Reauthorization

The process of passing a multi-year surface transportation bill took a few steps forward this week as well as a few steps backwards. The Senate Environment & Public Works Committee unveiled an outline of its proposed two-year highway title and held a hearing at which numerous stakeholder groups praised their approach, but at the same time, the



House T&I Committee postponed the formal introduction and any action on its six-year bill until after the August recess.

The bipartisan leadership of the EPW Committee led by Senator Barbara Boxer (D-CA) released a three-page outline of a two-year (FY'12 and FY'13) \$109B bill. Here is a [link](#) to the outline. At the hearing this week, Boxer said she wants to markup the bill in committee before the August recess, but that seems unlikely to happen because Republicans on the committee won't agree to act on the bill until the \$12B estimated funding shortfall is addressed, potentially as part of resolving the broader budget/deficit deal. Here is a [link](#) to the hearing testimony presented by stakeholders including AASHTO, labor, Highways Users Alliance, the Mayor of Los Angeles, a highway supplier and the NRDC, as well as a video of the hearing.

The Senate highway bill, "Moving Ahead for Progress in the 21<sup>st</sup> Century (MAP-21)", differs greatly from the House reauthorization proposal in many ways (\$109B over two years versus \$230B over six years), but there are also many similarities in the policy reforms they propose – at least as much as one can tell from the rather vague summaries that have been released. Both bills consolidate numerous highway programs, eliminate earmarks, institute performance standards, emphasize innovative financing including funding the TIFIA loan program at \$1B per year, accelerate project delivery by streamlining aspects of the NEPA process, and provide states more flexibility in terms of funding and regulatory requirements.

House T&I Committee Chairman Mica continues to react to criticism from Democratic members and stakeholder groups about the sharp cuts in funding for highway and transit programs in his six-year reauthorization proposal. He issued a rebuttal [press release](#) and sent a very blunt letter to the US Chamber of Commerce in response to ~~the concerns~~ raised about the proposed 34% cut in transportation funding.

The delays in House and Senate action on a longer term bill make it likely that a final bill will not be signed into law by the September 30 expiration of the current short term extension of SAFETEA-LU. Therefore, another extension will have to be passed that will certainly include steep program funding cuts and possibly controversial policy "riders" that could complicate the process – see FAA Authorization section below.

## FY'12 Appropriations

The House has taken some action on nine of the twelve FY'12 federal agency spending bills. The Senate has acted only on one. It now appears that little or no action will take place on the remaining bills until after the August recess while Congress debates the budget/debt ceiling deal. Despite originally scheduled mark-up dates for the DOT appropriations bill in the House, all activity has been postponed until after Labor Day. The delay makes it likely that Congress will not be able to complete some or all of the FY'12 funding bills by the



October 1 start of the new fiscal year, once again requiring passage of a temporary Continuing Resolution (CR).

## FAA Reauthorization

The current short-term extension of the FAA authorization bill expires today. This week the House passed the 21<sup>st</sup> short-term extension through September 16, however, unlike most of the other extensions, this one is not “clean”. House T&I Committee Chairman John Mica (R-FL) opted to include a highly controversial provision regarding the Essential Air Service (EAS) program that will make it extremely difficult, if not impossible, for the Senate to pass the bill. The EAS program provides federal subsidies to small, rural airports. The House provision would cut off subsidies to 13 airports, including three airports of keen interest to critical Democratic Senate leaders – Senators Max Baucus (D-MT), Chair of the Finance Committee, Harry Reid (D-NV) Majority Leader and John D. Rockefeller (D-WV), Chair of the Commerce Committee which has jurisdiction over the FAA bill.

The issue has become extremely contentious as evidenced by a [letter](#) Senate Commerce Committee Chairman Rockefeller wrote to Mr. Mica stating that, “if you truly have no authority to make final decisions on the FAA bill...allow me to negotiate directly with your colleagues who can make decisions” and “any consequences resulting from such action [an FAA shutdown] will fall squarely on your shoulders”. Mica then issued a [press release](#) blaming the likely shutdown on the Senate.

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As of 3:00 pm on July 22, the Senate adjourned for the weekend without passing the FAA extension bill after Democrats were unable to get enough votes to send a “clean” bill back to the House and Republicans were unable to achieve passage with the House EAS rider attached. As a result, the FAA will be forced to begin to shutdown as of midnight tonight furloughing as many as 4,000 FAA employees (except for air traffic controllers and safety inspectors), suspending Airport Improvement Program (AIP) grants and other expenditures from the Aviation Trust Fund and terminating collection of the ticket tax. The FAA has already begun to issue stop work orders on airport construction projects at the height of the summer construction season. Late this afternoon, US DOT Secretary Ray LaHood issued a [press release](#) expressing his disappointment about Congress’ lack of action and outlining some of the implications of the shutdown. More on this issue early next week.

Additional information and materials can be found on the PB Transportation Update website at [www.PBTransportationUpdate.com](http://www.PBTransportationUpdate.com)

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