



August 12, 2011

Congress continues to be on recess until after Labor Day and the President has said he has no plans to bring them back in session.

Budget Deal/Debt Ceiling

As part of the recent deal to increase the debt ceiling and cut spending, Congress agreed to create a deficit reduction "Supercommittee" made up of three House Republicans and three Democrats and three Senate Republicans and three Democrats. The committee is tasked with identifying additional specific spending cuts or revenue increases worth at least \$1.5 trillion by November 23. If the Committee fails to produce the cuts or Congress does not approve them by December 23, then about \$1.2 trillion in additional spending reductions will be taken in automatic across-the-board cuts with 50% coming from defense programs and 50% coming from domestic programs, including many key infrastructure programs.

This week the House and Senate leadership announced the members of the new Joint Special Committee. They include:

- Senator Patty Murray (D-WA) – Chair of the Democratic Senatorial Campaign Committee (DSCC) and more importantly, Chair of the Senate THUD (DOT) Appropriations Subcommittee.
- Senator Max Baucus (D-MT) – Chair of the Senate Finance Committee and member of the Environment & Public Works Committee (has jurisdiction over highway authorization legislation).
- Senator John Kerry (D-MA) – Chair of the Senate Foreign Relations Committee and member of the Commerce and Finance Committees.
- Senator Jon Kyl (R-AZ) – Senate Minority Whip who is retiring at the end of this term.
- Senator Pat Toomey (R-PA) – a freshman and member of the Banking and Commerce Committees, which have jurisdiction over transit, rail, safety and aviation legislation, and the Budget Committee. He voted against the debt ceiling increase.
- Senator Rob Portman (R-OH) – a freshman and member of the Budget and other committees and former OMB director in the Bush Administration.
- Rep. Jeb Hensarling (R-TX) - Chair of the House Republican Conference.
- Rep. David Camp (R-MI) - Chair of the House Ways & Means Committee.
- Rep. Fred Upton (R-MI) – Chair of the House Energy & Commerce Committee.
- Rep. Chris Van Hollen (D-MD) – Ranking Democrat on the House Budget Committee.
- Rep. Jim Clyburn (D-SC) - Assistant Democratic Leader and most senior House African American.
- Rep. Xavier Becerra (D-CA) - Vice Chair of the House Democratic Caucus and member of Ways & Means Committee.



Murray and Hensarling have been named co-chairs of the Joint Special Committee. Interestingly, none of the Senate "Gang of Six" was named to the committee.

In one piece of good news, the non-security discretionary spending caps for FY'12 and FY'13 established in the Budget Control Act of 2011 are actually higher than the spending levels previously set in the Ryan House FY'12 Budget Resolution. The Budget Act provides \$34.8B over the Ryan budget level for FY'12. That could give the House appropriators a little more wiggle room when they start to draft the FY'12 DOT Appropriations bill in September. In the Senate, the higher spending cap was automatically deemed to substitute for the Senate FY'12 Budget Resolution since the Senate never passed one of its own.

Surface Transportation Authorization

Contrary to published reports, Senator Max Baucus (D-MT), chair of the Senate Finance Committee, is not yet prepared to identify a source for the additional \$12B needed to fund the Senate Environment & Public Works Committee's two-year surface transportation authorization bill. Discussions are still underway to find additional funding which committee Republicans would be willing to support and that would permit Chairman Barbara Boxer (D-CA) to move forward with her bill which would keep highway and transit programs funded at approximately current levels for two years - FY'12 and FY'13.

At this point it appears to be impossible to pass a multi-year bill by the September 30 expiration of the short-term SAFETEA-LU extension. Further complicating matters, Congress will have only 12 legislative days in September to pass a new extension. While the previous seven extensions have been non-controversial and free of extraneous policy provisions, the recent disastrous experience with the extension of the short-term FAA bill has surface transportation supporters very concerned that the extension bill could become highly politicized.

In fact, House T&I Committee Chairman John Mica (R-FL), who continues to insist he will only support a six-year authorization bill that lives within the existing Trust Fund revenues, vowed recently to "... use every lever possible, on the FAA bill, on the highway bill, on the Coast Guard bill – whatever it takes to get a long-term authorization bill. I'm hoping similar controversy [to the FAA debate] can be avoided, but again my responsibility is to pass a long-term bill".

Of additional concern are recent comments by tax activist Grover Norquist who indicated that he is considering whether to lead a Tea Party effort to block the extension of the federal gas tax, claiming it is a tax increase. Norquist has strong support among House Republicans, particularly the 87 freshmen, for his "no new taxes" pledge.

Also of concern is a bill that fourteen Republican Senators have introduced, S. 1446, which would allow state DOTs to "opt-out" of the federal-aid highway and transit programs. States that opted-out would no longer pay a federal gas tax and would not be required to



comply with federal mandates or restrictions. Support for “devolution” of the surface transportation program by some members of Congress, particularly those from “donor” states who pay more into the Trust Fund than they receive in return, is not new, but it could take on more significance in light of the bitter tax and spending debate going on in Congress.

On July 29, the Obama Administration announced new fuel economy standards for cars and light trucks in an effort to reduce carbon emissions. However, according to ARTBA, raising the fuel standard to 54.5mpg will mean the loss of more than \$65B to the Highway Trust Fund between 2017 and 2025. This announcement puts even more urgency on identifying new sources of revenue for the Trust Fund and moving away from dependence on the gas tax.

FAA Authorization

As previously reported, shortly after Congress left town for its August break, the Senate, which never formally adjourned, passed the House version of the FAA authorization short-term extension by Unanimous Consent (UC). This allowed furloughed FAA employees to go back to work, AIP construction funds to continue to flow, and aviation taxes to be collected, but only until September 16 when the 21st short-term extension expires. At a conference this week in Texas, House T&I Committee Chairman John Mica (R-FL) said that a multi-year FAA bill will pass in the few days remaining before the September 16 expiration, but did not say how this would be accomplished.

A bill has been introduced in the House to give FAA employees back wages for the two weeks they were off the job. However, there is no way of reimbursing the thousands of contract construction workers who were laid off and the IRS has said it will not seek to retroactively collect the approximately \$420M in lost tax revenue to repay the Aviation Trust Fund. The limitations on Essential Air Service (EAS) subsidies that were the spark that ignited the House-Senate stand-off will likely be waived administratively by US DOT Secretary LaHood in most instances.

Six Senate Democrats have sent a letter to House Speaker John Boehner (R-OH) urging him to appoint House members to a conference committee with the Senate to resolve the differences in the two versions of a multi-year FAA authorization bill.

TIGER Grant Announcement and Webinars

In today’s Federal Register US DOT released the [final Notice of Funding Availability](#) for the NII/TIGER grants as a follow up to the July 1 Interim Notice. DOT will be holding a series of on-line Webinars on various aspects of the TIGER grant application process. All of the webinars listed below will be held from 1:00 - 2:30 PM EDT. There are no registration fees



for these sessions, however because space is limited advance registration is required and available by clicking on the Webinar topic listed below:

August 17th - [Benefit Cost Analysis](#)
August 22th - [Project Readiness/NEPA](#)
August 24th - [Public Private Partnerships & TIFIA](#)
August 30th - [MARAD Port Outreach](#)

The following previous Webinars have been archived and are available for review over the next several months. (NO registration required)

2010 - [Benefit/Cost Analysis Practitioner's Workshop](#) - ARCHIVED
July 18th - [How to Compete for TIGER Seminar](#) - ARCHIVED
July 27th - ["Talking Freight"](#) - ARCHIVED

Here is a [link](#) to the July 1 Interim Notice of Funding Availability (NOFA) for the FY'11 TIGER grants and here is a [link](#) to additional information about the TIGER program. Pre-applications for the \$527M in funding are due to US DOT by October 3.

New Starts/Small Starts FY'13 Funding Requests

For transit New Starts and Small Starts projects that wish to be included in the FTA FY'13 New Starts and Small Starts Annual Report, FTA has published FY'13 Reporting Instructions and templates, which can be found [here](#). An updated Standard Cost Category (SCC) workbook can be found [here](#). Note the following deadlines for submission of materials needed for inclusion in the annual report:

September 2, 2011 - Travel forecasts, operating and maintenance cost methodologies, and service annualization factors, as detailed in Section IV of the Reporting Instructions.

September 12, 2011 - A complete set of project justification and local financial commitment templates as well as the land use and financial supporting documentation described in Section V of the Reporting Instructions.

Additional information and materials can be found on the PB Transportation Update website at www.PBTransportationUpdate.com
