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LEGISLATIVE Alert

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



September 1, 2011

Authorizing Law and Gas Tax Set to Expire September 30; Obama Urges Swift Passage of Clean Extension; Deficit Super Committee Begins Deliberations

On Wednesday, August 31 President Barack Obama held a press conference to urge Congress to pass a clean extension of surface transportation authorizing law (SAFETEA-LU), emphasizing the need to preserve and create jobs by investing in infrastructure. Congress returns from its August district work period next week, with only eleven legislative days on the calendar before the most recent extension of the SAFETEA-LU law and the federal motor fuels taxes authorized under that law expire on September 30, the last day of Fiscal Year (FY) 2011. President Obama will also address a joint session of Congress to present his proposals to grow the economy and create jobs.

Future Congressional action on a long-term extension of surface transportation law will almost certainly be influenced by the creation of a bipartisan, bicameral Joint Select Committee on Deficit Reduction. That committee is tasked with the goal of reducing the deficit by \$1.5 trillion over the period through FY 2021. The Joint Committee must vote to approve deficit reduction recommendations by November 23, 2011, and a vote on passage of the Joint Committee bill must occur in the House and Senate on or before December 23, 2011. Should Congress fail to pass the recommendations of the Joint Committee, additional across-the-board spending cuts are automatically implemented through a sequestration process and adjustment of the security and non-security spending caps.

The Joint Select Committee is required to hold its first meeting by September 16 to begin developing a legislative proposal to reduce the federal budget deficit by at least \$1.2 trillion over the next ten years. The Joint Select Committee is preparing by reviewing the conclusions of previous groups that have examined the federal budget deficit, including the National Commission on Fiscal Responsibility and Reform (Known as the Simpson-Bowles Commission after its co-chairs). This commission released its recommendations in December of 2010, recommending increase in federal infrastructure investment and an increase in the current gas tax to pay for the increased investment.

Authorizing Committees Plan Dual Track Action on Authorizing Extension and Long-Term Authorization Bills

The current extension of federal surface transportation authorizing law, SAFETEA-LU, is due to expire on September 30, along with the federal motor fuels taxes which support SAFETEA-LU programs from the Highway Trust Fund and Mass Transit Account. Senate Environment and Public Works (EPW) Chairman Barbara Boxer (D-CA) recently announced her intention to introduce and mark up on Thursday, September 8, a clean, four-month extension to SAFETEA-LU at current funding levels through the end of January. This length of time would presumably give Congress time to adopt the recommendations of the Joint Select Committee for long-term deficit reduction and for the House and Senate to reach agreement on a new authorization bill. The Senate Banking, Housing and Urban Affairs Committee, which has jurisdiction of federal public transportation programs, is expected to produce a four-month extension that will be added to the EPW Committee's bill.

House Transportation and Infrastructure Chairman John Mica (R-FL) has signaled that he will support a short term extension so that transit and highway programs do not expire, although the Chairman has not indicated what funding levels he would support. Because extension of the gas tax is a revenue raising measure, the legislation must originate in the House. While there may be some opposition to extending the gas tax by conservative Republicans, recent indications are that the House leadership will support extension of the existing gas tax along with the extension of the federal transit and highway programs.

As discussed in previous legislative alerts, Chairman Mica has proposed a six-year authorization bill that sets spending at levels constrained by current Highway Trust Fund revenues. The revenue-constrained spending level is approximately \$230 billion over six years (approximately a 34 percent cut from SAFETEA-LU) for transit and highway programs. In the Senate, Chairman Boxer has proposed a \$109 billion two-year bill, which funds transit and highway programs at current levels, adjusted for inflation. The Congressional Budget Office (CBO) has estimated that the revenues flowing into the Highway Trust Fund and Mass Transit Account will be insufficient to meet obligations in a timely manner towards the end of FY 2012 for the Highway Account and sometime in FY 2013 for the Mass Transit Account.

There is a \$12 billion gap between Highway Trust Fund revenues and the \$109 billion two-year authorization bill that Chairman Boxer has proposed. If Senate Finance Committee Chairman Max Baucus (D-MT) can find a way to make up the difference,

Chairman Boxer tentatively plans to mark up her two-year proposal on September 15. Republicans on the EPW Committee, led by Ranking Member James Inhofe (R-OK) do not want to move ahead with a markup on an authorization bill without funding in place. The Senate Banking Committee is also expected to follow through with a subsequent markup of transit programs, should the Senate EPW Committee take action on the federal highway programs.

Update on FY 2012 Appropriations

When Congress returns from its August district work period, it also faces a looming deadline of September 30 to complete or temporarily extend the federal appropriations that fund government operations, including federal transportation programs, through FY 2012. To date, the House of Representatives has completed action on six out of twelve appropriations bills, and the Senate has completed consideration of only one. The Transportation, Housing and Urban Development, and Related Agencies Appropriations bill for FY 2012 has yet to be considered at any level in either the House or the Senate.

The recent agreement to raise the debt ceiling resulted in a slight increase in the domestic discretionary spending levels available to the Appropriations Committees for FY 2012 above the levels adopted under the House FY 2012 Budget Resolution. This additional discretionary spending will be reallocated to the appropriations subcommittees once Congress returns from recess, but it is not known which subcommittees may benefit from the increased allocations. Further, these new discretionary spending limits do not have any bearing on programs funded from the Highway Trust Fund or the Mass Transit Account. Trust Fund spending is considered mandatory, and not discretionary, spending. Trust fund spending levels are generally dictated by the amount of revenues deposited into the Highway Trust Fund. Due to the time constraints of the legislative calendar, it is anticipated that an agreement on a continuing resolution (CR) or omnibus appropriations package will be made to continue to fund government programs, rather than adopting individual appropriations bills.

Call For Action

Contact your representatives to urge a clean extension of SAFETEA-LU, in addition to an extension of the gas tax.

- Describe the problems that states, communities, businesses and their employees will confront without consistent, reliable funding.
- Emphasize that public transportation investment will preserve and create jobs in your community and all along the supply chain.
- Remind them to support a robust, long-term, multimodal surface transportation authorization bill.

Urge your congressional delegation to support appropriations for federal public transportation programs, at a minimum, at current FY 2011 levels.

- Urge them to allow decisions over future funding of federal surface transportation programs to be made through the consideration of surface transportation authorizing legislation.

For questions on these issues, please contact Brian Tynan of APTA's Government Affairs Department at (202) 496-4897, or btynan@apta.com.

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