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September 13, 2011

House and Senate Leaders Agree on Deal for Six-Month SAFETEA-LU Extension; President Obama Unveils Jobs Proposal; Joint Select Committee on Deficit Reduction Holds First Meeting; House Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies (THUD) Advances Bill for Fiscal Year (FY) 2012; Continuing Resolution Expected As Early As This Week

Congress returned to Washington from its August district work period last week and immediately commenced action on multiple fronts that impact public transportation programs.

Late Friday, September 9 House Speaker John Boehner (R-OH) and Senate Majority Leader Harry Reid (D-NV) reached agreement on the Surface and Air Transportation Extension Act of 2011, which extends the authorization of transit and highway programs at current levels for six months through March 31, 2012. If passed, this will be the eighth extension of SAFETEA-LU, the surface transportation authorizing law. The bill also extends Highway Trust Fund expenditure authority and federal motor fuels taxes for the same length of time. The bill is considered “clean” and does not make program or policy changes.

The legislation, H.R. 2887, was approved today in the House by a voice vote. Because legislators have tied the surface transportation and the Federal Aviation Administration (FAA) extensions together, the bill must be signed into law before September 16 when the current FAA extension expires in order to avoid another partial shutdown of aviation programs. The Senate is now expected to take up the bill under expedited procedures in order to meet the Friday deadline. However, Senate rules do provide the opportunity for individual senators to slow consideration and at press time there remained some question as to whether Majority Leader Reid would be able to meet the impending Friday deadline for FAA programs due to objections over transportation enhancement spending.

The bill provides \$24.78 billion in contract authority from the Highway Trust Fund of which \$4.18 billion is for Federal Transit Administration (FTA) formula and bus programs. The Capital Investment Grant program (New Starts/Small Starts) is funded at \$800 million. Although the bill extends contract authority at current levels, the final amount spent will be determined within the appropriations process. Last week, the House Appropriations Subcommittee on Transportation, Housing and Urban Development, and Related Agencies (THUD) approved the FY 2012 THUD Appropriations bill providing drastically reduced spending levels for Highway Trust Fund/Mass Transit Account programs (see section on appropriations below).

Although the Senate Environment and Public Works (EPW) Committee unanimously approved a four-month extension to SAFETEA-LU last Thursday, agreement between House and Senate leaders for the six-month surface and four-month aviation extension was reached and announced on Friday. Chairman Barbara Boxer announced her support for the six-month extension, while also expressing concern about the bill’s \$3.1 billion reduction in highway funding, the effect of a rescission included in the FY 2011 appropriations law.

Jobs Legislation and the Joint Select Committee on Deficit Reduction

President Barack Obama unveiled an outline of his \$447 billion American Jobs Act proposal in front of a rare joint session of Congress last Thursday evening, of which infrastructure investment is a major component. The White House formally transmitted its legislative proposal to Congress late Monday afternoon.

A section-by-section analysis is here:

http://www.whitehouse.gov/sites/default/files/American_Jobs_Act_Sectional_Analysis.pdf

The full text of the President’s proposed American Jobs Act can be found here:

http://www.whitehouse.gov/sites/default/files/American_Jobs_Act.pdf

The American Jobs Act contains \$50 billion for immediate surface transportation investment, with \$9 billion dedicated to public transportation; \$2 billion for intercity passenger rail service; \$4 billion for high-speed rail; and \$5 billion for the

multimodal Transportation Investment Generating Economic Recovery (TIGER) and Transportation Infrastructure Finance and Innovation Act (TIFIA) programs.

The President's proposal also includes \$10 billion for a National Infrastructure Bank (NIB), modeled after a Senate proposal championed by Senators John Kerry (D-MA) and Kay Bailey Hutchison (R-TX). The NIB would operate independently of any federal agency and finance projects of regional and national significance, generally at least \$100 million in size. Eligible project types include transportation, water, and energy infrastructure. The NIB would issue loans and loan guarantees for projects that have a clear public benefit, meet rigorous economic, technical, and environmental standards, and are backed by a dedicated source of revenue.

In his remarks urging Congress to move quickly in passing the American Jobs Act, President Obama called on the Joint Select Committee on Deficit Reduction, created as part of the agreement to raise the debt ceiling, to find additional savings to offset the cost of his plan. The bipartisan, bicameral committee met for the first time Thursday morning since its establishment under the Budget Control Act of 2011. The Joint Select Committee is tasked with developing legislation that will reduce the deficit by up to \$1.5 trillion through FY 2021. The Joint Committee must vote to approve its 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. If passage does not occur, across-the-board spending cuts will be automatically implemented.

House THUD Appropriations Subcommittee Acts on FY 2012 Appropriations Bill; Continuing Resolution To Be Introduced As Early As This Week

On Thursday, September 8, the House Appropriations THUD Subcommittee approved legislation to set spending levels for federal transportation programs for FY 2012. The bill contains \$55.15 billion in funding for Department of Transportation (DOT) discretionary programs and Department of Housing and Urban Development (HUD) programs. This total is \$217 million less than FY 2011 and \$12.75 billion less than the \$67.9 billion provided in FY 2010. The House appropriators reduced spending from the Highway Trust Fund and Mass Transit Account to levels identified by the Congressional Budget Office (CBO) as sustainable through current fuel tax receipts. As a result, federal spending on transit formula and bus grants is reduced to \$5.2 billion, a 38 percent reduction from the FY 2011 total of \$8.34 billion. This level is consistent with the House Budget Resolution and the six-year authorization plan put forth by Transportation and Infrastructure Committee Chairman John Mica (R-FL). The Capital Investment Grants (New Starts/Small Starts) program is reduced by about three percent from FY 2011 spending to \$1.554 billion. That level, however, is a \$450 million reduction from FY 2010 enacted levels -- which is a 22.2 percent decrease over two years.

In its press release, the House Appropriations Committee did state that if authorization legislation is enacted that provides higher funding levels than what is currently in its draft bill from a solvent Highway Trust Fund, it would appropriate the increased funding. While the six-month extension does provide higher funding levels, this will not change the projected dates of when the Highway Trust Fund is expected to be unable to meet its obligations in a timely manner. This is expected to occur sometime during FY 2013 for the Mass Transit Account and toward the end of FY 2012 or the beginning of FY 2013 for the Highway Account.

The bill also contains language directing that no funds may be made available for Full Funding Grant Agreements for projects with more than a 50 percent federal share. The bill provides no funding for the FTA energy efficiency and greenhouse gas reduction grant program. The bill maintains funding for the Washington Metropolitan Area Transit Authority (WMATA) at \$150 million, but zeroes out the National Infrastructure Investments (TIGER) program account. This program received \$528 million in FY 2011 and \$600 million in FY 2010. In addition, an amendment by Congressman John Carter (R-TX) was approved that would allow transit systems to use up to four percent of their allowances under the program for fuel costs, while capping the total amount of \$5307 program funds used for fuel costs to \$200 million nationwide.

The appropriations bill also prohibits the Departments of Transportation (DOT) and Housing and Urban Development (HUD) from using any appropriated dollars to fund programs that pertain to the Sustainable Communities Initiative, which includes interagency coordination between DOT, HUD, and the Environmental Protection Agency (EPA).

Among Federal Railroad Administration (FRA) programs, the subcommittee bill does not provide any funding for high-speed and intercity passenger rail programs and makes significant cuts to Amtrak's operating budget. While the bill provides \$898.9 million for Amtrak Capital Grants, a \$24.1 million reduction from FY 2011 levels, it cuts operating subsidies by nearly 60 percent to \$227 million -- a reduction of \$336 million. The bill also contains language prohibiting the use of operating funds for any state-supported trains. According to a statement from Amtrak, the funding cut would eliminate nearly 150 weekday state-supported trains and impact more than nine million passengers this year.

House Preparing Continuing Resolution

Late yesterday, House Appropriations Committee Chairman Harold "Hal" Rogers (R-KY) indicated that his committee is preparing a Continuing Resolution (CR) to fund federal government programs beyond the end of the fiscal year, which ends

on September 30. While the details of the CR are still under negotiation, Chairman Rogers indicated the CR will be introduced as early as this week.

The CR is a must-pass bill that is necessary to fund federal operations and thereby prevent a government shutdown until all appropriations legislation for FY 2012 can be enacted. Currently, the House Appropriations Committee has moved on 11 of the 12 annual appropriations bills – with six bills having cleared the House – while the Senate has passed only one appropriations bill.

ACTION ALERT

APTA members are asked to contact their elected officials and ask for their support for robust and long-term investments in public transportation

– Urge your senators to support the clean, six-month extension of SAFETEA-LU that was approved by the House.

o State that policy decisions over future funding of federal surface transportation programs should be made through the consideration of surface transportation authorizing legislation.

o Remind your representatives that a well-funded, multimodal six-year surface transportation authorization bill is what the public transportation industry needs over the long-term.

o 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.

– Ask your congressional delegation to support appropriations for federal public transportation programs at current levels and restore funding for high-speed and intercity passenger rail programs.

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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