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To: RAILCET
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Subject: Blog -- The Deficit, Super Committee and Highway/Transit Trust Fund Options

August has not been quiet in Washington. The deficit deal was struck and a “supercommittee” with enormous power to further reduce the deficit has been named. The economy threatens a double dip recession and the public is very unhappy and restive. With the unemployment rate stubbornly high, President Obama appears ready to call for a new stimulus plan which may involve transportation investment. Republican Eric Cantor (Va) responded, “We must put an end to policy uncertainty driven by this administration. That means stopping discussions of new stimulus spending with money we simply do not have.”¹ Clearly, the President will have some difficulty in selling the merits of pairing short term stimulus spending and long term deficit reduction. A big question for us is how will this impact federal transportation investment in general and rail spending in particular.

In September there will be pressure in the House and Senate to address the Surface Transportation Act with its Highway/Transit trust fund investment issues. The Debt Act impact? The spending cuts contained in the Debt Limit Act are indirect. The limits imposed are annual caps on broad categories of discretionary spending and do not cover spending from the highway/transit trust fund. However, it is clear Congress will not permit deficit spending by the trust fund. If nothing changes that puts the trust fund, based on gas tax revenues, at about 30% below earlier SAFETEA-LU levels and at less than half of what the states say they need to prevent further deterioration.

The House has passed a budget for fiscal year 2012—the Senate has not. The Highway/Transit trust fund battle will revolve around the House passed budget which holds trust fund spending to a baseline of about \$27 billion per year which is generated by the gas tax. This number is contained in the Mica draft of the STA which he hopes to report out in September. Mica insists on a 6 year bill to give the states certainty and says they will simply have to “do more with less.” He has a number of reforms proposed in his bill to give the states flexibility and expedite projects.

The Senate “bipartisan agreement” in the Environment and Public Works Committee proposes to raise contract authority to about a \$43 billion annual baseline similar to the SAFETEA-LU authorized levels. The bi-partisan agreement calls for a 2 year bill and CBO estimates a cost of \$12 to \$13 billion a year over gas tax receipts. Thus the Senate number requires a tax increase or a general appropriations bail-out which has not been identified. Thus a new source of trust fund spending must be found to meet the Senate bipartisan agreement -- or America will face a 30% reduction in federal transportation infrastructure investment as proposed in the House. The

¹ “President Plans Address on job creation and debt reduction”, *Washington Post*, p. 2, August 18, 2011

strong rumor is that Senate Finance Chair Baucus identified an offset that would clear the \$12-\$13 billion 2 year offset needed for the Senate bill. While there is much pressure for a 6 year bill, the estimates are a \$75 billion bailout would be required. A stand-alone offset at that level is not likely. Majority Leader Reid has said he hopes to give the bi-partisan bill Floor time in September. Thus the odds favor a 2 year bill at a higher number or a 6 year bill at a lower number. Given the state of the economy, is it possible to reach a “grand bargain” on an accelerated transportation investment program for the longer term?

To rephrase the question, is it possible to come up with a more substantial transportation investment program in the teeth of growing deficits **and** a possible new recession? This is where the Debt Limit Act comes into play. It is a mechanism that **could** address both issues while showing that government can work. The 12 Member Joint Select Committee is charged with cutting the deficit an additional \$1.2 trillion in exchange for the next deficit ceiling increase. If the Select Committee works well it could be enormously powerful. The House and Senate vote on the Committee plan is up or down by a simple majority with no amendments. If the Plan is defeated there will be automatic across the board spending cuts over nine fiscal years with half coming from defense and half non-defense. The Committee is evenly divided by Democrats and Republicans and House and Senate. The appointees are expected to toe the party line on the critical issues. With stakes so high both politically and for the economy the potential for stalemate is huge.

However, other powerful forces are at play. In the face of the struggling economy, job paralysis and the downgrading of America’s triple-A credit rating (due in large part to the governmental gridlock and the failure to truly come to grips with the deficit) there will be enormous counter pressure to produce a workable plan. Public sympathy for Congress is gone. As the economy continues to stumble or worse, another political melt down could spell disaster for incumbents of both parties. Earlier this month, New York Times/ABC poll found 82% of Americans disapprove of the way Congress is doing its job. It is the lowest Congressional rating since polling began and Republicans are taking a heavier hit than Democrats (72% disapproval for Republicans – 66% disapproved of Congressional Democrats while 47% disapproved Obama’s handling of the crisis).

The NYT/ABC poll also indicated that most Americans believe the priority should be creating jobs over cutting spending (62% to 29%).

Despite Republican hostility to tax increases, the Select Committee has the authority to engage in “tax reform” to produce revenues as a part of its package. Washington wisdom is the Committee will deadlock on this issue. However, if Committee members are bold, a “tax reform” could be proposed that would generate revenues that could be applied to both deficit reduction **and revenue neutral increased infrastructure investment.**² Their question is—would any Republican on the supercommittee support such a move?

² Comment – A revenue neutral program is the key. The gas tax itself as a revenue source is in need of reform. This would be a “tax reform” and the supercommittee would be an excellent forum. A particularly innovative proposal was put forward this month by former Republican Governor and HHS Secretary Tom Ridge and Democratic Senator Bill Bradley in a Carnegie Report. It would create a “Security Fee” on each barrel of oil in addition to a gas tax. A \$5 fee on \$100 per barrel of oil, for example, would raise \$28 billion a year. They include a

In the face of the Ryan House passed 2012 Budget, such a scenario would be highly controversial and could be normally expected to hit a wall in the House. But—it takes a simple Select Committee majority vote to move a comprehensive bill to the House and Senate Floors. There is a November/December deadline. If the supercommittee increased tax revenues enough to raise trust fund spending ceilings or agreed to any other arrangement to increase revenues by eliminating “unjust” deductions through tax reform, it would take one Republican on the Committee to create a majority and get the bill to the Floor of the House and the Floor of the Senate.

In the Senate there would likely be a majority for such a plan. In the House a number of “infrastructure Republicans” might support the idea of increased transportation investment -- so long as it is budget neutral through a tax reform offset. There would be strong support both from labor and business. The Chamber of Commerce, the construction organizations, unions, AASHTO, the US Conference of Mayors, the National Governors Association among many others support additional user fees to not only maintain our infrastructure but to enhance and improve it. In fact, the Simpson -Bowles Deficit Commission, charged solely with deficit reduction, called for 15 cents per gallon gas tax increase dedicated only to the trust fund, not deficit reduction, “so Americans can invest in more roads, rail, bridges and infrastructure.”

A strategy along these lines will take a plan, advocates and pro-active lobbying. Several factors would need to come into play. A Champion for the idea would need to be found.³ The states (AASHTO and the Governors), who are very frustrated at the lack of a long term trust fund commitment, would need to be behind the plan. A powerful group headed by the Chamber of Commerce and the construction trades would need to fall in behind the plan and aggressively lobby for it.

With the bitter partisan atmosphere and complexities of getting something through Congress, I would normally say this is Mission Impossible. However, political pressure is building to produce jobs. Transportation investment is a good way to do that. Further, this supercommittee bill will be so enormous, complex and controversial that the transportation

“price stabilization mechanism” so that when the barrel price goes up the per gallon gas tax goes down to protect the consumer but produce the same funding level. “Here’s a Tax that Ends Pain at the Pump,” by Bill Bradley, Tom Ridge, David Walker, *Bloomberg*, August 2, 2011

³ Comment – While the supercommittee members are expected to be ideologically rigid, it is impossible to know how all individual members of the supercommittee will come down on a transportation and rail infrastructure jobs proposal which is reasonably small potatoes in the big picture. However, such a proposal must start in the Senate. Senator Patty Murray (D-Wash) chairs the Senate supercommittee group. While she was probably appointed because she is a strong opponent of reducing Social Security or Medicare benefits, she is also a strong supporter of transportation and rail. Senator Max Baucus is Chair of the Senate Finance Committee as well as ranking on the EPW Committee and is a part of the Senate bipartisan agreement to increase highway/transit trust fund spending beyond levels generated by the gas tax. As a Montana boy, Baucus has never supported gas tax increases—so other reforms would need to be in the mix. Murray and Baucus would need to be champions of this idea. The key in the House will be Ways & Means Chair David Camp. He can be expected to staunchly oppose tax increases. However, Camp and Baucus have worked together on tax reform issues in the past. Camp has also stated that “everything is on the table.”

infrastructure issues may be dwarfed by the massive spending cuts and tax reforms across the entire government.

The reality is there is now a Joint Select Committee or supercommittee. It is the only place in the near term where changes can be made in tax law that will sustain the trust fund at current or increased levels over a multi-year period. We will never again in the foreseeable future have a mechanism that will get a bill to the Floor of the House and Senate where it can be approved by a simple majority without amendment. It may be our only chance to break the existing deadlock. If we do not break the deadlock we will probably see additional short term trust fund extensions from this fall through 2013.