

TRANSPORTATION WEEKLY

UPDATE - DEBT CEILING PLANS HAVE SIMILAR DISCRETIONARY SPENDING CAPS - NO MORE HIGHWAY AND TRANSIT FIREWALLS

TUESDAY, JULY 26, 2011 - 2:45 A.M.

Last night, both House Speaker John Boehner and Senate Majority Leader Harry Reid introduced separate plans for increasing the statutory ceiling on federal debt which also provide for reductions in spending designed to provide political cover for enough members to vote for the debt ceiling.

While much of the public debate is on how the two plans differ (fed by President Obama's prime-time speech last night, backing the Reid plan, and Speaker Boehner's televised response), upon review of the two bills, the remarkable thing is how closely they resemble each other.

Consider the following:

****Both plans would institute new statutory caps on discretionary spending for each of the next ten fiscal years. The total amount of the caps in the Boehner and Reid plans (excluding wars and emergencies) is virtually identical: \$1.043 trillion (Boehner) vs \$1.045 trillion (Reid) in FY 2012, and \$11.260 trillion (Boehner) vs. \$11.262 trillion (Reid) over ten years (all in terms of discretionary budget authority). The ten-year numbers are roughly \$1.2 trillion below the amount that President Obama proposed in his budget in February. The 2012 numbers are \$23-25 billion higher than the corresponding numbers in the Ryan budget that passed the House earlier this year and from which the Appropriations Committee has been working.**

****Both plans would increase the debt ceiling immediately upon enactment - a \$2.7 trillion increase entirely up front in the case of the Reid bill, versus a more complicated provision to provide a \$2.5 trillion increase in steps (\$400 billion as early as the date of enactment, \$500 billion as early as 60 days after that; and another \$1.6 trillion later on, with the final \$2.1 trillion all subject to Congress being given time to pass joint resolutions disapproving the increases, which the President would then veto).**

****Both plans would create identical Joint Select Committees on Deficit Reduction which will report proposed legislation for further deficit cuts by December 2, 2011. That legislation would then be exempt from filibuster in the Senate and would have to be voted on by both chambers of Congress, without any amendments being allowed, by Christmas.**

There are some differences between the Boehner and Reid bills (Reid adds another \$100 billion in miscellaneous mandatory savings; Boehner adds requirements for votes in both chambers on a constitutional balanced budget amendment; the deficit reduction targets for the Joint Select Committee are slightly different in each bill; and the two bills define "security" spending differently for a cap subcategory in 2012 and 2013), but the similarities are much more glaring than are the differences.

The two bills can be read here:

Boehner bill

<http://tinyurl.com/3u985fj>

Reid bill

<http://tinyurl.com/3vq72fh>

From a transportation perspective, one thing both the Boehner and Reid bills have in common is that they finish the job of undoing a key legacy of the TEA21 surface transportation law by creating new discretionary spending caps that do not have separate categories for highway and mass transit spending. After the 1990 budget summit agreement created the first discretionary spending caps, transportation leaders noticed that the caps had the natural effect of restraining the growth of spending on highway and transit programs below the levels set in the 1991 ISTEA law. So the 1998 TEA21 law amended budget law to carve out separate discretionary categories for highways and mass transit, which the Appropriations Committees then (grudgingly) respected.

Neither the Boehner bill nor the Reid bill creates any separate discretionary category for highways and transit, which means that those programs will have to fight for their discretionary budget authority under the non-security cap (in 2012 and 2013) or the overall cap (in 2014-2021). The Boehner bill even goes further and amends sec. 250 of the Gramm-Rudman-Hollings law to erase all traces of the changes made by TEA21 and its successor laws; the Reid bill leaves some language in place but it doesn't really matter since the new spending cap does not refer to the language left behind by TEA21. (House Republicans had already repealed the House rule enforcing the TEA21 highway and transit category spending levels in their new rules package seven months ago.)

However, there is one key difference between the new Boehner-Reid caps and the old caps that were in place from 1991-2003: the new caps restrict budget authority only, not outlays. This means that contract authority from the Highway Trust Fund (which is not subject to a discretionary budget authority cap but is subject to a discretionary outlay cap, under current scorekeeping rules) cannot trigger a discretionary sequester under the Boehner-Reid caps, so the discretionary caps will have less effect on those programs. However, general fund support for mass transit will now be completely fungible with all other non-security spending. (Though the protections for general fund transit were lessened when the last set of statutory caps were allowed to expire in 2003.)

The House is set up to vote on the Boehner plan on Wednesday (as an amendment to an unrelated Senate bill, which will allow Reid to bring up the plan in the Senate more quickly (if the Boehner plan passes the House, and if Reid decides to take up the Boehner plan, both of which are far from certain)). Reid filed his plan in the Senate last night as an amendment to the sense-of-the-Senate bill on the debt ceiling, and took steps to make sure that no other amendments could be offered, but Reid did not file cloture on his plan, so the procedural situation in the Senate is still up in the air.

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