



National Beat

6/2/23

Congress

Debt Limit: The debt limit issue has reached a boiling point as both chambers of Congress try to reach a deal approved by President Biden before June 5th (i.e., the current borrowing authority termination date). On May 28th, President Biden and House Speaker McCarthy announced an agreement on a draft bill altering the debt limit to avoid a default scenario ([read here](#)). The bill passed in the House of Representatives around 10:00 PM on Wednesday, May 31st. The bill was passed in the Senate on Thursday, June 1st, now it awaits President Biden's signature.

The draft bill rescinds various unobligated discretionary COVID-19 pandemic funds. Transportation program funding is not *majorly* affected. However, multiple programs are rescinded, and aviation programs are affected the most. Key points of the draft legislation include:

COVID-19 Pandemic Aid: the draft bill makes targeted, line-item cuts to multiple unobligated pandemic-related funds across different programs. Mass transit funding from the COVID-19 pandemic aid is still protected. Specifically, a White House summary of estimates of rescissions and protected priority program states that **~\$3.1 billion** in unobligated USDOT transit grants are protected from rescissions. However, various transportation programs and accounts with unobligated funds have been permanently rescinded. Most notably, FHWA's **Highway Infrastructure Programs of Division M of PL 116-260** ([See Page 656](#)) have been removed. A White House summary of estimated rescissions notes that the FHWA Highway Infrastructure Program's rescission amount is **~\$2.2 billion**. Other rescissions include USDOT Office of the Secretary salaries and expenses from the CARES Act, Airport Improvement Program funds from the CARES Act, various Airport relief funds from the ARP, and Amtrak funds from the ARP ([View the White House summary of rescissions and protected programs here](#)).

Note: FHWA has signaled that there are **~1.6 billion in unobligated funds that will be rescinded if they are not obligated before the enactment of the bill**. The HIP-CRRSAA funds are far more flexible than traditional highway funds, covering both highways and transit and capital and operating expenses. FHWA's guidance memo on the program has useful summaries of the eligibilities, which include traditional highway or transit capital projects eligible under the Surface Transportation Program ([read FHWA's guidance here](#)):

"Eligible Activities and Requirements: HIP-CRRSAA funds may be obligated for activities eligible under 23 U.S.C. 133(b). At the discretion of the State, such

Association of Metropolitan Planning Organizations (AMPO)

4300 Wilson Blvd.
Arlington, VA 22203
(202) 449-1993

funds may also be used for HIP-CRRSAA Special Authority purposes (Section III.B.) or may be transferred to public tolling agencies or a ferry system that provides a public transportation benefit (Section III.C.) as provided in HIP-CRRSAA.”

Funds may also be used for **highways and transit operations costs, including for State DOTs or local governments:**

“Operations: The HIP-CRRSAA Special Authority provides for direct funding of operations costs. Operations costs may include, but are not limited to, labor costs, administrative costs, costs of utilities, and rent, for the highway surface transportation operations of State DOTs or local governments.”

“Eligible Activities: Examples of the scopes of projects that may be funded under the HIP-CRRSAA Special Authority include, but are not limited to: preventive maintenance on non-Federal-aid highways, routine maintenance on any public road, State DOT operations costs (not otherwise Federal-aid reimbursed, such as indirect costs), State DOT personnel costs (not otherwise Federal-aid reimbursed, such as indirect costs), debt service payments for highway surface transportation facilities (not otherwise Federal-aid reimbursed), and transit operating costs for local public agencies.”

Debt Limit: the draft bill **stops the statutory limit on public debt until January 1, 2025.**

There is no specific dollar amount set for the debt ceiling, the level may shift to a new amount on January 2, 2025 (i.e., including debt generated up until that point). **Non-discretionary spending is unaffected** by the draft bill. Fiscal Year (FY) 2024 and 2025 spending caps are included in the bill; annual caps on discretionary appropriations are reinstated (i.e., from the Budget Control Act of 2011). Spending is categorized by defense and non-defense spending, with added exemptions on non-defense spending. The overall **base is cut by ~1.0% (-\$12.5 billion)** from the FY 2023 level. Defense spending has a **~3.3% (\$28.0 billion) increase**, while non-defense spending faces a **5.4% (-\$40.2 billion) decrease**. The draft bill also notes that in Congressional Appropriations, the existing twelve appropriation bills for FY 2024 must pass by January 1, 2024. If an appropriation bill is not passed by the deadline, it is then subject to an automatic sequestration reduction of 1.0% (i.e., the government share is reduced to 99% of its 2023 level). This will also apply to FY 2025. Infrastructure, Investment, and Jobs Act (IIJA) Spending ([see page 16](#)) programs that received advanced appropriations or are funded out of the Highway Trust Fund remain largely unaffected. However, various **unobligated programs under IIJA that are still subject to the annual appropriations process are affected** (e.g., Healthy Streets Program, Active Transportation Infrastructure Investment Program, etc.).

Environmental Permitting Rules: the draft bill also affects the National Environmental Policy Act (NEPA) with critical updates to permitting rules to address project delays for both fossil fuel and clean energy programs. The House of Representatives Republicans used negotiations to further energy aims and minimize permitting rules that constrict energy projects. Overall, the deal would **address delays in both fossil fuel and clean energy projects**. The legislation would impose a **two-year time limit on Environmental Impact Statements and a one-year time limit for Environmental Assessments** under NEPA. It would also place added limits on

Association of Metropolitan Planning Organizations (AMPO)

4300 Wilson Blvd.
Arlington, VA 22203
(202) 449-1993

environmental review processes for new energy grid projects/studies and add energy storage projects to the list of infrastructure programs covered by FAST-41. The draft bill also calls for a **lead federal agency to conduct environmental reviews** in a publicly accessible, standing document. It would also require that agencies list fewer alternatives for the siting of projects for more efficient and accurate modeling of environmental impacts in a project area. Interestingly, it would allow agencies to **create and/or share a different agency's NEPA exemption** rule if there is a notably low environmental impact. The bill would also **allow developers to use court intervention** if deadlines are missed. It also allows corporations to assume greater responsibility in running individual environmental reviews. The draft bill includes a new provision to **expedite permitting of the Mountain Valley Natural Gas Pipeline** that expands through West Virginia toward the East Coast. Changes to NEPA appear to be embraced within the transportation and infrastructure industry.

House of Representatives Transportation and Infrastructure (T&I) Committee: On May 23rd, eighteen surface and maritime transportation bills in review under the House of Representatives T&I committee have been approved. Overall, these bills make various policy alterations to maritime shipping law, federal authority over supply chain management, and heavy-duty vehicle law. These provisions work to overcome lasting supply chain inefficiencies and support more effective critical infrastructure investments by removing some regulatory barriers ([learn more about the package of bills here](#)).

On May 22nd, **Senator Tom Carper**, Chairman of the Senate Environment and Public Works Committee (EPW) announced that he will not be seeking re-election at the end of his term ([read his announcement here](#)). Before leaving office, Senator Carper noted that he is prioritizing implementing key portions of the Bipartisan Infrastructure Law, with specific attention on clean energy tax provisions in the Inflation Reduction Act (IRA). Senator Carper's exit from office opens a seat for a new Senate Democrat on the EPW Committee.

USDOT

USDOT recently shared **estimates related to the August redistribution of obligation limitation** with the Divisions last week. **MPOs are encouraged to contact their Division and/or State DOT** for more information.

On Wednesday, May 31st, the National Highway Traffic Safety Administration (NHTSA) proposed a rule to **mandate automatic emergency braking systems** in all new light vehicles ([read here](#)). The proposed rule is a part of USDOT's National Roadway Safety Plan. Automatic emergency braking systems would drastically reduce vehicle and pedestrian crashes. This proposed rule is prompt, considering increased pedestrian fatalities (i.e., over the past decade pedestrian fatalities have increased by ~53%). NHTSA predicts the mandate would prevent ~360 deaths and over 24,000 injuries annually.

On Wednesday, May 31st, FTA published a notice of proposed **updates to the National Public Safety Plan** (NSP) ([read the draft here](#)). FTA has issued a request for comments (RFC), open to the public until

Association of Metropolitan Planning Organizations (AMPO)

*4300 Wilson Blvd.
Arlington, VA 22203
(202) 449-1993*

July 31st ([access the RFC announcement here](#)). The NSP update includes revisions to address new requirements from IIJA to further advance transit safety.

On May 26th, The US Government Accountability Office (GAO) published a report ([read here](#)) surrounding **USDOT's Reconnecting Communities program**. The Reconnecting Communities program seeks to reconnect communities that lack access to opportunity and/or have been historically harmed by past transportation decisions (e.g., highspeed roadways bisecting neighborhoods). The report highlighted that the program falls short of expectations and does not directly align with leading practices. The report offers recommendations to address lasting programmatic issues, particularly in the realm of goal setting, alternatives, land equity, community engagement, and evaluation. GAO makes three key recommendations: (1) establish solid performance measures for aims, (2) assess data and evaluate project results, and (3) find means to make scalability decisions. USDOT agreed with the GAO's evaluation and is establishing an action plan, whether it be corrective or halting the program beyond its pilot phase.

On May 24th, GAO released a report ([read here](#)) detailing recommendations for USDOT to improve **strategic planning and data collection efforts for US tourism**. Predating this report, the FAST Act set requirements for state and local transportation organizations to evaluate the potential of transportation projects to enhance tourism. This motion resulted in the creation of USDOT's National Travel and Tourism Infrastructure Strategic Plan for FY 2020—2024 ([read here](#)). GAO's findings show that IIJA, which calls for a comprehensive update of the strategic plan, does not meet the mark in goal setting and data collection standards. GAO makes two primary recommendations: (1) develop specific goals on tourism in the plan, and (2) create a strategy to obtain more data on tourism needed to improve the plan. USDOT concurred with the recommendation.

SCOTUS

On May 25th, the Supreme Court of the United States (SCOTUS) released a decision on the ***Sackett v. EPA case*** ([read here](#)). This decision will impact the Environmental Protection Agency (EPA) and US Army Corps of Engineers (USACE) new **Waters of the United States (WOTUS) rule** as the SCOTUS decision alters the original definition of "wetland" ([read here](#)). Currently, the WOTUS rule is in effect in twenty-three states and Washington D.C. SCOTUS found that the Clean Water Act (CWA) purview only affects wetlands with a "continuous surface connection" to waterways in the US. This overturns the "significant nexus" rule, which held more ambiguous classifications of wetland connections to waterways. The former significant nexus rule's loose language made it difficult to determine which wetlands were included under the CWA. The ruling narrows the scope of the CWA and minimizes EPA's authority to regulate wetlands under the CWA. House T&I Committee members Sam Graves and David Rouzer released a statement of support ([read here](#)), applauding the SCOTUS decision after filing a joint resolution of disapproval in early February.

National Transportation News

On May 24th, Minnesota Governor, Tim Walz, signed a \$72 billion transportation bill to improve funding for transportation projects ([learn more here](#)). The bill includes provisions to align the state gas tax to inflation: annual updates to match cost increases. The bill also includes dedicated funding

Association of Metropolitan Planning Organizations (AMPO)

*4300 Wilson Blvd.
Arlington, VA 22203
(202) 449-1993*

for a Transit Rider Investment Program (TRIP). TRIP new positions to improve the transit experience for users (i.e., user support, fare checks, code enforcement, connection to social services for unhoused individuals, etc.). The bill also decriminalizes fare evasion to minimize police presence. Public transit receives an added boost in this bill, with a 0.75% sales tax increase in the Twin Cities to fund various transit and active transportation projects. The bill also creates a new inter-jurisdictional team to improve transit operations (i.e., routes, timing, fleet management, etc.) to improve overall ridership.

Nationwide, public transit ridership has dropped since the COVID-19 pandemic. The American Public Transportation Association (APTA) released an analysis in early March 2023 of public transit ridership for the fourth quarter of 2022 ([read here](#)). Unsurprisingly, APTA's findings show that low-income populations and people of color were the largest users of public transit. Historically, marginalized populations lack sufficient access to quality public transportation. In tandem, low-income communities and communities of color have lower car ownership and often rely on public transit for travel. APTA's findings have propelled some transportation authorities to rethink their public transit service approach. Pittsburgh Regional Transit (PRT) has shifted resources and routes toward low-income neighborhoods. PRT has added more weekend and off-peak hour services to these communities. Additionally, PRT has offered discounted fares to lessen the cost burden facing low-income users ([learn more here](#)). PRT's approach is just one of many national examples of the transportation sector's shifts towards equity-centric programming.

Congressional Hearings & Markups

On [May 30th at 3:00 PM](#), the House Committee on Rules held a hearing to discuss the Fiscal Responsibility Act of 2023 (i.e., the federal debt limit draft bill).

On [May 24th at 10:00 AM](#), the House T&I Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing examining the National Emergencies Act and its designation of "emergencies" and funding associated with such declarations.

On [May 23rd at 10:00 AM](#), the House T&I Committee held a markup and voted to approve eighteen bills surrounding supply chain issues to improve efficiency and remove unnecessary regulatory barriers.

On [May 22nd at 4:00 PM](#), the House Committee on Rules held a hearing to discuss the new EPA Heavy-Duty Vehicle Emissions Standards and address various disapproval resolutions (e.g., [S.J. Resolution 11](#)).

Association of Metropolitan Planning Organizations (AMPO)

*4300 Wilson Blvd.
Arlington, VA 22203
(202) 449-1993*