



AGENDA

Legislative and Communications Committee Meeting

Committee Members

Michael Hennessey, Vice Chairman
Laurie Davies
Barbara Delgleize
Tim Shaw
Gregory T. Winterbottom

Orange County Transportation Authority
Headquarters
550 South Main Street
Board Room – Conf. Room 07
Orange, California

Thursday, January 17, 2019 at 9:00 a.m.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Committee may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

All documents relative to the items referenced in this agenda are available for public inspection at www.octa.net or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

Call to Order

Pledge of Allegiance

Director Winterbottom

1. Public Comments

Special Calendar

2. Conference Call with State Legislative Advocate Moira Topp Moira Topp/Lance M. Larson

An update of legislative items in Sacramento will be provided.



Consent Calendar (Item 3)

All items on the Consent Calendar are to be approved in one motion unless a Committee Member or a member of the public requests separate action or discussion on a specific item.

3. Approval of Minutes

Approval of the minutes of the Legislative and Communications Committee meeting of November 15, 2018.

Regular Calendar

4. State Legislative Status Report Kristin Essner/Lance M. Larson

Overview

An amendment is proposed to the Orange County Transportation Authority's 2019-20 State Legislative Platform to co-sponsor legislation related to toll enforcement policies. An update is provided regarding the Innovative Clean Transit regulation adopted by the California Air Resources Board, which requires transit agencies to purchase zero-emission buses. An overview is provided of a Legislative Analyst Office report and recommendations on addressing climate change in transportation planning and programs. A verbal update will be provided on the Governor's proposed Fiscal Year 2019-20 state budget.

Recommendation

Amend the 2019-20 Orange County Transportation Authority State Legislative Platform to co-sponsor legislation to clarify roles and responsibilities related to toll enforcement policies to allow for interoperability between toll facilities while affirming user privacy protections.



5. Federal Legislative Status Report

Dustin J. Sifford/Lance M. Larson

Overview

An update is provided on the 2019 appropriations process and nominations to the Department of Transportation. A summary of a hearing on surface transportation reauthorization is also included.

Recommendation

Receive and file as an information item.

Discussion Items

6. Chief Executive Officer's Report

7. Committee Members' Reports

8. Closed Session

There are no Closed Session items scheduled.

9. Adjournment

The next regularly scheduled meeting of this Committee will be held at **9:00 a.m. on Thursday, February 21, 2019**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.



MINUTES

Legislative and Communications Committee Meeting

Committee Members Present

Shawn Nelson, Chairman
Michael Hennessey, Vice Chairman
Barbara Delgleize
Al Murray
Tim Shaw
Gregory T. Winterbottom

Staff Present

Darrell E. Johnson, Chief Executive Officer
Ken Phipps, Deputy Chief Executive Officer
Laurena Weinert, Clerk of the Board
Sara Meisenheimer, Deputy Clerk of the Board
Cassie Trapesonian, Associate General Counsel
OCTA Staff and members of the General Public

Committee Members Absent

Laurie Davies

Call to Order

The November 15, 2018 regular meeting of the Legislative and Communications Committee was called to order by Committee Vice Chairman Hennessey.

Pledge of Allegiance

Director Shaw led in the Pledge of Allegiance.

1. Public Comments

No public comments were received.

Special Calendar

2. Conference Call with State Legislative Advocate Moira Topp

Moira Topp, Sacramento Advocate, reported on the following:

- Post-election results:
 - In the Assembly seat – 57 Democrat and 23 Republicans seats
 - In the Senate seat – 28 Democrats and 12 Republicans seats
- Assembly Republicans elected a new leader, Assembly Member Marie Waldron (R-Escondido).
- No changes have been made to the Senate leadership positions.
- Assembly and Senate will come back to be sworn in on December 3, 2018.
- Legislature will come back on January 7, 2019 and all the Constitutional officers and the Governor will be sworn in.
- The new Governor has announced two appointments: Ann O’Leary as the Governor’s chief of staff and Ana Matosantos, as his cabinet secretary.



2. (Continued)

- In policy news, the Legislative Analyst's Office released their fiscal outlook for 2019-20, where a \$15 billion surplus is quoted on top of the constitutionally required rainy day fund which sits at \$14 billion. The outlook also projects \$2 billion in expenditures.
- The State budget will be released on January 10, 2019.
- The Governor announced Josh Groban as his nominee for the California Supreme Court.

A discussion ensued regarding:

- The rainy day fund and where the new money is coming from.
- Unfunded pension liability and \$800 million out of the \$2 billion for expenditures is for petition obligation.
- An overview on Proposition 6 and what will happen going forward since it failed.

Consent Calendar (Item 3)

3. Approval of Minutes

A motion was made by Director Delgleize, seconded by Director Shaw, and declared passed by those present, to approve the minutes of the Legislative and Communications Committee meeting of October 18, 2018.

Committee Chairman Nelson and Director Murray were not present to vote on this item.

Regular Calendar

4. Orange County Transportation Authority 2019-20 State and Federal Legislative Platforms

Lance Larson, Executive Director of External Affairs, provided opening comments and introduced Dustin Sifford, Senior Government Relations Representative, who reported on the following:

- The final drafts of the revised 2019-20 Orange County Transportation Authority (OCTA) State and Federal Legislative Platforms were sent out to 500 stakeholders and OCTA also met with different committees for input.
- Summary of changes to the State and Federal Legislative Platforms.



4. (Continued)

A discussion ensued regarding:

- How staff does not yet recommend pursuing sponsor legislation.
- Parameters of Senate Bill (SB) 1 on the federal and congressional side on the reauthorization of the Highway Trust Funds and transportation reauthorization.

A motion was made by Director Delgleize, seconded by Director Winterbottom, and declared passed by those present, to:

- A. Adopt the revised 2019-20 Orange County Transportation Authority State and Federal Legislative Platforms.
- B. Direct staff to distribute the adopted platforms to elected officials, advisory committees, local governments, affected agencies, the business community, and other interested parties.

Committee Chairman Nelson was not present to vote on this item.

5. Status Report of State Legislation Enacted in 2018

Lance Larson, Executive Director of External Affairs, provided opening comments and introduced Jaymal Patel, Associate Government Relations Representative, who reported on the following:

- At the end of the 2018 legislative session, 1,200 bills were sent to the Governor's desk, 1,016 were signed and 201 bills were vetoed. Of those bills signed into law, 88 of those bills were of interest to OCTA and are included in Attachment A of the Staff Report.
- Update on all the bills that OCTA took a position on in the last two years of the legislative session.
- Overview of the following bills that were signed into law: Assembly Bill (AB) 1912, SB 1119, SB 502, and Senate Constitutional Amendment 20.

Kristin Essner, Manager of State and Federal Relations, gave an overview on AB 344, which failed, and OCTA opposed.

Following the discussion, no action was taken on this receive and file information item.



6. Performance Evaluation of Sacramento Legislative Advocate, Platinum Advisors, LLC

Kristin Essner, Manager of State and Federal Relations, reported on the following:

- The annual performance rating for Platinum Advisors, LLC (Platinum) is excellent.
- Highlights on SB 1119 and SB 502.
- Several bills related to zero-emissions buses were not successful, and OCTA anticipates that many of these bills will be taken up next year.
- Last year, Platinum helped OCTA sponsor the state auditor's report related to online sales and the impacts on local transportation fund revenues.

A discussion ensued regarding:

- OCTA and Platinum will take part in the orientation process for the new Legislature members to be sworn in, an open-door policy, and the focus on new Legislature members will be in December and January.
- Encourage Platinum and Ms. Topp to relay OCTA's concerns and get information imparted to the new Legislature members before January 1, 2019.

Following the discussion, no action was taken to receive and file the staff evaluation as an information item and provide any additional comments.

Discussion Items

7. Chief Executive Officer's Report

Darrell E. Johnson, Chief Executive Officer, reported on the following:

- The full funding grant agreement for the OC Streetcar Project is half way through the 30-day congressional review period and will end on November 28th. On Friday, November 30th, at 10:00 a.m., in Santa Ana, an event with the Federal Transit Administration will start the construction kick-off.
- On Saturday, November 17th at the Trabuco Rose Preserve, OCTA will host an open space family hike at 9:00 a.m. This will give the public an opportunity to explore the 396-acre open space property. Then on Sunday, November 18th, OCTA will host an equestrian ride at the same property for the horse-riding community at 10:00 a.m.
- Next Thursday and Friday, OCTA's administrative offices will be closed and everyone was wished a Happy Thanksgiving.



7. (Continued)

- This is likely to be the last Legislative and Communications Committee meeting of the year and Committee Chairman Nelson and Director Murray's last committee meeting of year. They were recognized and thanked for their hard work and service on this committee and the Board of Directors.

8. Committee Members' Reports

Committee Chairman Nelson reflected on his eight and a half years at OCTA, the transition of the new 2019 delegation, and complimented OCTA for the relationships made in Sacramento and Washington, D.C.

Director Murray thanked staff and his colleagues for his time at OCTA and emphasized the respect he has towards OCTA. Director Murray also encouraged everyone to continue to make a difference in the community.

9. Closed Session

There were no Closed Session items scheduled.

10. Adjournment

The meeting adjourned at 9:47 a.m.

The next regularly scheduled meeting of this Committee will be held at **9:00 a.m. on Thursday, December 20, 2018**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.

ATTEST

Michael Hennessey
Committee Vice Chairman

Sahara Meisenheimer
Deputy Clerk of the Board



January 17, 2019

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: State Legislative Status Report

A handwritten signature in blue ink, appearing to be "DEJ", is written over the "From:" line and extends into the "Subject:" line.

Overview

An amendment is proposed to the Orange County Transportation Authority's 2019-20 State Legislative Platform to co-sponsor legislation related to toll enforcement policies. An update is provided regarding the Innovative Clean Transit regulation adopted by the California Air Resources Board, which requires transit agencies to purchase zero-emission buses. An overview is provided of a Legislative Analyst Office report and recommendations on addressing climate change in transportation planning and programs. A verbal update will be provided on the Governor's proposed fiscal year 2019-20 state budget.

Recommendation

Amend the 2019-20 Orange County Transportation Authority State Legislative Platform to co-sponsor legislation to clarify roles and responsibilities related to toll enforcement policies to allow for interoperability between toll facilities while affirming user privacy protections.

Discussion

Proposed Sponsor Legislation: Toll Facility Interoperability and Enforcement

Current state statute provides guidance for how toll facility operators, including the Orange County Transportation Authority (OCTA), process toll violations and communicate information with other toll operators and customers. Many of these provisions were first enacted in 2010 with the passage of SB 1268 (Chapter 489, Statutes of 2010) and revised again in 2013 with the passage of AB 179 (Chapter 375, Statutes of 2013). Both bills were introduced to include protections to prevent the selling or otherwise disclosing of personally identifiable information, unless explicitly provided for under statute, while also ensuring that toll operators could efficiently enforce policies on their respective facilities.

Since the passage of these bills, federal law has required toll operators nationwide to develop policies to ensure interoperability between facilities, allowing customers to seamlessly drive between facilities without establishing different accounts. To abide by federal law, toll operators must be able to share necessary information with other toll operators to process tolls and penalties, including the location of the toll collection and license plate information.

While the intent of the Legislature in enacting SB 1268 and AB 179 was to adapt to the newest technology, many of the provisions of the statute do not explicitly reflect more recent technology adaptations, including expanded cashless toll collection systems, toll subscriptions completed online and subsequent use of emails or apps to communicate toll facility usage and issue customer agreements, and the ability to use devices other than transponders for toll collection. Code sections, therefore, need to be updated to reflect the more widespread use of these methods of communication and collection.

Many other common practices and reoccurring issues also need clarification in statute, including the enforcement of toll penalties for rental cars, the use of third-party contractors for toll penalty collections, and the ability for toll operators to notify customers of public safety or travel alerts. As with many bills, there were mistakes in citations that need to be corrected to allow for consistent enforcement practices statewide. This includes the proper citation for toll evasion penalties and the section which is referenced for toll violations.

OCTA is the operator of the 91 Express Lanes and is in the process of constructing a second express lane facility as part of the Interstate 405 Improvement Project. The ability to clarify current statutes is critical for the operations of OCTA's facilities to ensure the enforcement of existing toll policies and interoperability with adjacent facilities, including those operated by the Riverside County Transportation Commission and the Transportation Corridor Agencies. Staff is therefore recommending that the 2019-20 OCTA State Legislative Platform be amended to include a principle to co-sponsor legislation to clarify the roles and responsibilities related to toll enforcement policies to allow for interoperability between toll facilities while affirming customer privacy protections. If approved, OCTA will co-sponsor this legislation with other toll operators within the state, including the Metropolitan Transportation Commission/Bay Area Toll Authority.

California Air Resources Board Adopts Innovative Clean Transit Regulation

In 2000, the California Air Resources Board (ARB) first issued the fleet rules for transit agencies, mandating large transit agencies with over 200 buses to reduce overall nitrous oxides (NOx) and particulate matter emissions based on two different fuel paths: the alternative fuel path or the diesel fuel path. Also put in

place under the initial ARB regulations was a purchase requirement for zero-emission buses (ZEBs), which mandated those transit agencies following the alternative fuel path to have 15 percent of their purchase and lease agreements be ZEB starting in 2012. This same requirement applied to those agencies opting for the diesel fuel path starting in 2011.

In July 2009, the ARB deferred the ZEB purchase requirement with a recommendation to first establish technology performance metrics that could be used to assess the commercial readiness and trigger a future purchase requirement. This deferral largely resulted from the advocacy of the California Transit Association (CTA) and its member agencies, including OCTA.

In December 2017, ARB released the Innovative Clean Transit (ICT) Regulation Discussion Document (ICT Discussion Document), which focused largely on purchase requirements for ZEB technology. The ICT Discussion Document included expedited ZEB purchase requirements on all transit agencies within the state, with the goal of achieving fully zero-emission fleets by 2040. While previous iterations of a ZEB purchase requirement were limited to larger urban buses, the ICT Discussion Document applied requirements to all transit buses, including those used for paratransit service. These requirements were directed at all transit agencies, regardless of size, and all transit buses, including cutaways. After multiple workshops and discussions related to the ICT Discussion Document, in August 2018, the ARB released the Proposed ICT Regulation, which required the following:

- By July 1, 2020, each transit agency must submit a Board of Directors-adopted plan for converting an agency's fleet to 100 percent zero-emission buses by 2040.
- Abide by purchase requirements starting in 2023. In 2023, the requirement would be 25 percent, in 2026 it would be raised to 50 percent, and 100 percent would be required in 2029 and after. The 2023 requirement could be delayed by up to two years if statewide purchase targets are reached.
- The phasing in of cutaway buses and articulated buses starting in 2026, or when the buses complete federally required testing.
- Starting on January 1, 2020, the purchase of renewable fuel when renewing fuel contracts.
- Starting on January 1, 2020, the purchase of low NOx engines, when a new bus is purchased.
- Annual reporting requirements of compliance with the above.

The Proposed ICT Regulation also included scenarios where an agency can request an extension or exemption from the purchase mandates and provisions which allow for early action credit, a multi-agency joint ZEB compliance option, and a zero-emission mobility option where a transit agency can receive credit

through a zero-emission mobility service provided through bicycles or zero-emission vehicles.

Since the Proposed ICT Regulation was released, CTA and its member agencies have continued to advocate for further refinements, focusing on the need for clear technology and economic benchmarks to be included in the regulation to ensure the ZEBs operate to the standards of existing technology, preventing a disruption in transit service. As part of this effort, CTA requested that if the technology does not meet those benchmarks there should be an automatic suspension in the regulatory purchase mandates. In addition, CTA and its member agencies advocated for continued access to ARB incentive funds after the purchase mandates are enforced, while also partnering to seek further funding opportunities by the State Legislature. These requests are outlined in OCTA's comment letter to the ARB dated November 18, 2018 (Attachment A).

On December 14, 2018, the ARB unanimously adopted the ICT Regulation. A summary of the regulation is included as Attachment B. While the regulation did not explicitly include the CTA proposed amendments, it did include several refinements, including an improved definition of "purchase," more realistic statewide purchase goals for 2021 and 2022, and an additional exemption where a transit agency can request a temporary exemption from the purchase mandate due to financial hardship if the transit agency cannot offset the incremental cost of purchasing a ZEB when compared to the cost of a conventional internal combustion engine bus. Most importantly, the ARB also included language within the adopted regulatory resolution that the ARB will complete a technology and cost analysis of the regulation prior to any purchase mandate being enforced. While this does partially address CTA's request for continued benchmark analysis, because this language was not included in the actual regulation, work will need to be continued to ensure future members of the ARB enforce this provision.

Going forward, ARB plans on hosting several workshops to guide implementation of the regulation, including a symposium in February 2019 to discuss technology availability and funding opportunities. CTA is also sponsoring legislation in 2019 to help mitigate any electricity cost increases associated with the regulation and seek further funding for implementation. OCTA staff will be bringing a report to the February 4, 2019, Executive Committee to outline a strategy for the agency's compliance with the regulation, including the development of the required plan for fleet conversion by 2040.

Legislative Analyst's Office Report on California's Climate Policies in the Transportation Sector

On December 21, 2018, the Legislative Analyst's Office (LAO) published a report entitled, "Assessing California's Climate Policies – Transportation." The LAO report, required by AB 398 (Chapter 135, Statutes of 2017), examines the effects of California's greenhouse gas emissions (GHG) policies intended to reduce GHG emissions from the transportation sector. Currently, the transportation sector accounts for 39 percent of GHG emissions, which has increased in recent years due to a range of factors, including, but not limited to, state policies, economic conditions, and an increase in vehicle miles traveled (VMT). These assumptions are also outlined in ARB's SB 150 (Chapter 646, Statutes of 2017) Progress Report published in November 2018. This ARB report analyzes the progress made toward meeting the regional SB 375 (Chapter 728, Statutes of 2018) GHG emissions reduction targets, which found that California is not on track to meet GHG goals given the increase in VMT per capita, vehicle ownership, job opportunities, housing costs, and other economic challenges.

The LAO report provides an overview of the many state policies and programs in effect to increase the use of low carbon fuels, reduce VMT, and reduce emissions from light-duty vehicles and heavy-duty vehicles, including transit buses. Programs such as the Clean Vehicle Rebate Project, the Hybrid and Zero-Emission Truck and Bus Voucher Incentive Program, and the ZEV fueling infrastructure funding programs provide incentives to reduce the costs of adopting lower-emission technologies and are targeted towards the consumers of fuel, while other initiatives such as Clean Car Standards and the Low Carbon Fuel Standard increase the costs of using higher-emission technologies and are targeted towards vehicle manufacturers and fuel producers. However, the report finds that the overall effects of these programs on GHG emissions are largely unclear. It is mentioned that the wide range of programs create coordination challenges, are relatively costly, and result in interactions whereby emissions reductions from one policy could be offset by increases in emissions from other policies.

As a result, the LAO identifies potential areas for future research and issues for the Legislature to consider. Specifically, the LAO provides that the Legislature may want to consider facilitating consistent evaluation of state climate policies, funding additional research on the relationship of state and federal policies, and limiting GHG policies to those that achieve its policy goals most cost effectively. The LAO also recommends that the Legislature might also want to consider whether it is necessary to have multiple programs funding similar types of activities such as the several programs that support charging infrastructure. In addition, regarding SB 375 GHG targets, the LAO mentions that the Legislature could add more incentives or penalties for Metropolitan Planning Organizations

to ensure they achieve their targets, consider changing state law to remove some discretion over local land use decisions that reduce VMT, and potentially consider road congestion pricing. Staff will monitor these recommendations and will provide updates as needed to the OCTA Board of Directors.

Governor's Proposed Fiscal Year 2019-20 State Budget

As required by the state constitution, the Governor's proposed budget for fiscal year 2019-20 is required to be introduced by January 10, 2019. While a memo outlining the proposed budget has been provided to the OCTA Board of Directors, a verbal update will be included as part of the January 17, 2019, meeting of the OCTA Legislative and Communications Committee.

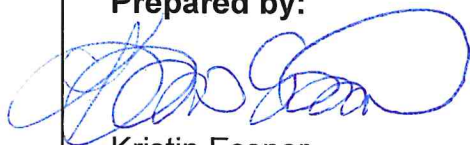
Summary

A recommendation is included to sponsor legislation related to toll enforcement and interoperability policies. An update is provided on a regulation related to zero-emission buses. An overview is provided of a Legislative Analyst's Office report on climate change policies and the transportation sector. A verbal update will be provided on the state budget.

Attachments

- A. Letter from Darrell E. Johnson, Chief Executive Officer, Orange County Transportation Authority, to Ms. Mary Nichols, dated November 26, 2018, Proposed Amendments to the Innovative Clean Transit Regulation
- B. California Air Resources Board: Innovative Clean Transit Regulation Summary
- C. Orange County Transportation Authority Legislative Matrix

Prepared by:



Kristin Essner
Manager, State and Federal Relations
External Affairs
(714) 560-5754

Approved by:



Lance M. Larson
Executive Director,
External Affairs
(714) 560-5908



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CHIEF EXECUTIVE OFFICE

Darrell E. Johnson
Chief Executive Officer

November 26, 2018

Ms. Mary Nichols
Chair
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

Subject: Proposed Amendments to the Innovative Clean Transit Regulation

Dear Chair Nichols:

The Orange County Transportation Authority (OCTA) welcomes the opportunity to offer comments on the most recent amendments proposed to the California Air Resources Board's (ARB) Innovative Clean Transit (ICT) Regulation. These amendments, dated November 9, 2018, improve upon previous versions of the proposed ICT regulation. While progress has been made, OCTA continues to have concerns about the proposal's lack of clear benchmarks in the regulation to ensure that the technology and costs match the regulation's assumptions, and the absence of a viable funding source that would help agencies meet the purchase requirement.

Since the ARB Meeting on September 28, 2018, various technical changes were made to the regulation in response to concerns expressed by transit agencies. OCTA specifically supports the strengthening of the early compliance waiver, the additional temporary exemptions, and clarification of the definition of a zero-emission bus purchase. OCTA is hopeful for more improvements like these to allow for a sensible implementation of zero-emission bus technology.

Unfortunately, the recent amendments do not address OCTA's primary concerns with the proposed ICT regulation. The proposed regulatory language still does not identify adequate funding for agencies to meet the purchase mandate, which could be partially addressed if the regulation explicitly authorized ARB incentive programs to be available through the life of the regulation. The regulatory language also does not include explicit benchmarks to ensure that the buses transit agencies will be mandated to purchase will meet the operational needs of the agency and will not require a shifting of financial resources that could adversely impact transit riders. For your reference, OCTA has voiced these concerns in previous letters to the ARB, dated January 22, 2018; May 14, 2018; and September 24, 2018, as well as in public comments at the September ARB Board Meeting. OCTA encourages amendments be developed to address these concerns before the regulation is put forward for adoption.

Ms. Mary Nichols
November 26, 2018
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While the recent amendments are constructive, additional improvements are necessary to allow for the expansion of zero-emission technology in an economically sustainable manner. If you or your staff have any questions regarding OCTA's concerns with the proposed ICT regulation, please contact Kristin Essner, Manager of State and Federal Relations, at (714) 560-5754 or kessner@octa.net.

Sincerely,



Darrell E. Johnson
Chief Executive Officer

DJ:ds
Attachment

c: Members, California Air Resources Board
Richard Corey, Executive Officer, California Air Resources Board
Steve Cliff, Deputy Executive Officer, California Air Resources Board
Jack Kitowski, Chief, Mobile Source Control Division, California Air Resources Board
Shirin Barfjani, Air Pollution Specialist, Mobile Source Control Division, California Air Resources Board
Yachun Chow, Manager, Zero Emission Bus Truck and Bus Section, California Air Resources Board
Platinum Advisors, LLC

California Air Resources Board: Innovative Clean Transit Regulation Summary

Applicability: All transit agencies that own, operate, lease, rent, or contract with another entity to operate buses with a Gross Vehicle Weight Rating (GVWR) over 14,000 lbs in California. This does not include:

- Vehicles that operate on rails or trolleybuses
- Caltrans, Caltrain, Amtrak, or any local school district
- Cutaway buses that have a GVWR between 14,000 and 26,000 lbs., articulated buses, double decker, or over-the-road buses. These buses will be integrated the latter of either January 1, 2026, or when they meet Altoona bus testing and Orange County Bus Cycle requirements.

Zero-Emission Bus (ZEB) Rollout Plan: Each transit agency's Board of Directors must approve a plan through the adoption of a resolution, and submit to the Executive Officer of the California Air Resources Board (ARB). Large transit agencies must submit the plan by July 1, 2020. The plan is to include details related to:

- How the agency intends to fully transition to ZEB by 2040, without early retirement of conventional internal combustion engine buses.
- Identification of ZEB technology the agency plans to deploy.
- A schedule for construction of associated facilities and infrastructure, including details about location, type, and timeline.
- A schedule for ZEB and conventional internal combustion engine bus purchases and lease options, including bus type, fuel type, number of buses.
- A schedule for conversion of convention internal combustion engine buses to ZEB, if any.
- A plan for how the agency plans to deploy ZEBs in disadvantaged communities.
- A training plan and schedule for ZEB operators and maintenance/repair staff.
- Identification of potential funding sources.

Purchase Requirement:

Prior to Any Purchase Requirement: Executive Office to provide the ARB with a comprehensive review of program readiness at least one year prior to the implementation of any purchase requirement. The review is to analyze several factors including cost, performance, reliability, incentive funding availability, infrastructure requirements, job creation and training programs, deployment of ZEB buses and related technology, and availability and barriers to deployment of ZEBs.

A similar annual report is to be provided by the Executive Officer on status of implementation, including information about above factors.

January 1, 2023: Large fleets with over 100 buses would need to ensure **25 percent** of total new buses purchases in each calendar must be ZEB.

January 1, 2026: Small and Large Fleets would have to meet a **50 percent** purchase requirement.

January 1, 2029: **100 percent** purchase requirement for all fleets.

- New bus purchases does not include: purchase of used buses, ZEBs converted from convention internal combustion engine buses, and purchase of cutaway buses, over-the-road buses or articulated buses (until commercially available, or January 1, 2026, whichever is later).

- A bus purchase means the transit agency has identified, committed and encumbered funds and executed one of the following: (1) A written “notice to proceed;” or (2) a written purchase agreement that specified the date when the bus manufacturer is to proceed with the work to manufacture the bus; or (3) a signed written lease agreement between the transit agency and a bus manufacturer or sales representative for a new bus to be placed in revenue service for a contract term of five years or more.
- Must retain a new bus for at least 5 years to count towards purchase requirements.

Waiver of Purchase Requirements:

2023 Bus Purchase Requirement: Waived if transit agencies statewide have at least 850 ZEBs purchased or in active bus fleets by December 1, 2020.

2024 Bus Purchase Requirement: Waived if transit agencies statewide have at least 1,250 ZEBs purchased or in active bus fleets by December 1, 2021.

If both the 2020 and 2021 statewide targets are met, the 25 percent purchase requirement would not be implemented until 2025.

Purchase Requirement Early Action Credits:

Fuel cell bus purchased before December 31, 2017, and still in fleet as of January 1, 2018: 2:1

Fuel cell bus placed in service between January 1, 2018 and December 31, 2022: 1:1

Battery electric buses purchased before December 31, 2017 and still in service as of January 1, 2018: 1:1

- Credits expire on January 1, 2029, but can be used to meet any of the purchase requirements previous to then.

Each electric trolleybus placed in service between January 1, 2018, and December 31, 2019, receives one-tenth of a bonus credit that expires by December 31, 2024.

Joint ZEB Compliance Option:

Multiple transit agencies can petition the ARB Executive Director to implement a joint ZEB deployment within a region, where they would comply as if they were one joint agency, submitting one annual report. To do this, the agencies would have to jointly comply with the number of ZEB purchases the partners would otherwise have to purchase individually, which they could jointly fund through a common MPO, RTPA, air district, air basin, or the agencies share joint infrastructure. Various other requirements must be met, including submitting a joint rollout plan.

Zero-Emission Mobility Option:

A transit agency can opt into this option in lieu of making a ZEB purchase requirement if the following requirements are met:

- The program provides a zero-emission mobility service through bicycles or zero-emission vehicles with a GVWR of 14,000 lbs or less.
- Program is operated by the transit agency or contractor to transit agency.
- Transit agency is able to track and record zero-emission passenger miles for each vehicle.
- A large transit agency must achieve 320,000 zero-emission passenger miles per year to be eligible for a mobility credit.

To opt-in to the program, the transit agency must provide the ARB Executive Director with various information including a description of the vehicles to be used, documentation to show who will operate the services, and the method of collecting accurate zero-emission passenger miles per vehicle.

One zero-emission credit is equivalent to the operation of one ZEB. To calculate zero-emission credits, the following rules apply:

- A multiplier of 3 is to apply with quantifying zero-emission passenger miles from a bicycle
- Divide total zero-emission passenger miles in each calendar year by 320,000 (for large transit agencies).
- If the same credits are maintained in each calendar year, they will continue to count as a credit

Extensions or Exemptions from ZEB Purchase Requirements:

ARB Executive Officer can provide a 1-year extension based on specific situations. A request for an extension for a specific calendar year must be submitted to the ARB Executive Director by November 30th of that calendar year. The covered situations include:

- If a delay in bus delivery is caused by the bus manufacturer
- If a delay in bus delivery is caused by setback of construction schedule, including the inability to finalize zero-emission bus infrastructure in time to operate the purchased buses. Such circumstances include space limitations which may require a transit agency to purchase new rights-of-way or construct new facilities, change of a general contractor, delays obtaining power from a utility, delays obtaining construction permits, natural disaster, or archeological discovery of historical or tribal resources under the California Environmental Quality Act.
 - If the issue cannot be addressed within the extension period, an exemption can be requested until the agency's next purchase cycle.
- When available ZEBs at the end of battery or fuel stack warranty period cannot meet a transit agency's daily mileage need. The transit agency must prove that the bus cannot meet the "daily operational needs for any bus in the existing fleet."

An exemption from the purchase requirements may be requested in the following situations:

- When a required ZEB bus type of the applicable weight class based on GVWR is unavailable for purchase. A ZEB is considered unavailable if the bus has not completed Altoona testing or received an Orange County Bus Cycle report, cannot be configured to meet ADA requirements, or the physical characteristics of the bus would violate any federal, state or local law, regulation or ordinance.
- When a required ZEB type cannot be purchased by a transit agency due to financial hardship. This is restricted to situations where a fiscal emergency has been declared under resolution by a transit agency's Board of Directors. A transit agency must demonstrate it cannot offset the incremental cost of purchasing all available zero emission buses when compared to the cost of the same type of conventional bus, or a transit agency can demonstrate that it cannot offset the managed, net electricity cost for depot charging electric buses when compared to the fuel cost of the same type of conventional internal combustion engine buses.
- Because of space constraints for necessary charging equipment.

Report to ARB: The Executive Director is to annually report back to the ARB on the progress of implementation, including use of exemptions, and suggest any adjustments that may be warranted.

Renewable Fuel Requirements:

Starting January 1, 2020, large transit agencies are required to purchase renewable fuels when diesel or natural gas contracts are renewed.

Low-NOx Engine Purchase Requirement:

Starting January 1, 2020, when conventional internal combustion engine bus purchases are made, transit agencies must purchase the bus with a low-NOx engine if the engine has been commercially available for at least two years and the engine has been certified to the lowest level of NOx emissions at the time of purchase for the bus and fuel type.

- Early action credit for low NOx engines purchased previous to the requirement.
- Only applies to areas that do not meet federal NOx requirements.

Reporting and Recordkeeping Requirements:

Starting March 31, 2021, and continuing every year through March 31, 2050, each transit agency will be required to annually report by March 31st of that year, a compliance report.

- Initial report is due March 31, 2021 which includes number and information of active buses in the agency's fleet as of December 31, 2017.
- Following reports must detail the following:
 - Transit agency information: location, National Transit Database id number, MPO, etc.
 - Information on each bus purchased, owned, operated, leased or rented including vehicle information such as make, model and curb weight; information on engine and propulsion system; information on bus purchases; and information on converted buses.
 - Information related to a zero-emission mobility option, if transit agency opts to participate
 - Low-NOx engine compliance, if the agency is subject to the requirements.
 - Renewable fuel usage, including date purchased, fuel contract number, and effective date, if transit agency subject to associated requirements.
- Each agency subject to the reporting requirements must maintain copies of the following records:
 - Records of all purchased, leased, rented, or operated conventional combustion engine buses, ZEBs, and converted buses including: every notice to proceed, bus purchase contracts, lease agreements, documentation to show ownership transfer, documentation to show that a bus was converted to a ZEB, copy of vehicle registration, and proof of bus delivery date.
 - If using the zero-emission mobility option, records of zero-emission miles generated by eligible vehicles and bicycles.
 - Low-NOx engine purchase records
 - Fuel contracts for renewable fuel compliance
- A transit agency must make available any required records to the ARB within 10 calendar days of its request to audit.
- A transit agency must maintain the records for three years after the bus is retired, ownership is transferred or the fuel contract expired.



Orange County Transportation Authority Legislative Matrix

2019 State Legislative Session

BILLS BEING MONITORED

CA AB 11	AUTHOR: Chiu [D] TITLE: Community Redevelopment Law INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Authorizes a city or county or two or more cities acting jointly, to propose the formation of an affordable housing and infrastructure agency by adoption of a resolution of intention. Provides for a governing board of the agency. Requires the agency to submit an annual report, and final report of any audit undertaken to its governing body. Requires the governing board of an agency to designate an appropriate official to prepare a proposed redevelopment project plan.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY Planning
CA AB 40	AUTHOR: Ting [D] TITLE: Zero-Emission Vehicles: Comprehensive Strategies INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Requires the State Air Resources Board to develop a comprehensive strategy to ensure that the sales of new motor vehicles and new light-duty trucks in the state have transitioned fully to zero-emission vehicles by 2040.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: Environment
CA AB 51	AUTHOR: Gonzalez [D] TITLE: Employment Discrimination: Enforcement INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Prohibits a person from, as a condition of employment, continued employment, the receipt of any employment-related benefit, or as a condition of entering into a contractual agreement, prohibiting an applicant, employee, or independent contractor from disclosing sexual harassment in the workplace, or opposing any other lawful practice, or from exercising any right or obligation or participating in any investigation or proceeding with respect to unlawful harassment or discrimination.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: Employment Terms and Conditions

CA AB 62	AUTHOR: Fong [R] TITLE: State Government: Fiscal: Transparency INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Enacts the Budget Transparency Act of 2019. Modifies the transparency component to require information regarding all state expenditures, including the amount, the type, and a description of each state expenditure. Requires the Internet Web site to be interactive, searchable, regularly updated, and include specified features, including information on each state expenditure.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: State Budget
CA AB 71	AUTHOR: Melendez [R] TITLE: Independent Contractors and Employees INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Requires a determination of whether a person is an employee or an independent contractor to be based on a specific multifactor test, including whether the person to whom the service is rendered has the right to control the manner and means of accomplishing the result desired.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: Employment Terms and Conditions
CA AB 145	AUTHOR: Frazier [D] TITLE: High-Speed Rail Authority: Senate Confirmation INTRODUCED: 12/13/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Provides that the members of the High-Speed Rail Authority appointed by the Governor are subject to appointment with the advice and consent of the Senate.</p> STATUS: 12/13/2018 INTRODUCED. CATEGORY: Rail
CA AB 146	AUTHOR: Quirk-Silva [D] TITLE: State Highways: Property Leases: County of Orange INTRODUCED: 12/14/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Authorizes the Department of Transportation to lease airspace under a freeway, or real property acquired for highway purposes, in the County of Orange, that is not excess property, to a city located in the County of Orange, the County of Orange, a political subdivision of the state whose jurisdiction is located in the County of Orange, or another state agency for purposes of an emergency shelter or feeding program, subject to certain conditions.</p> STATUS: 12/14/2018 INTRODUCED. CATEGORY: Other

CA AB 147	AUTHOR: Burke [D] TITLE: Use Taxes: Collection: Retailer Engaged in Business INTRODUCED: 12/14/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Specifies that a retailer engaged in business in this state, for purposes of sales tax collection, includes any retailer that, in the preceding calendar year or the current calendar year, has a cumulative sales price from the sale of tangible personal property for delivery in this state that exceeds \$500,000.</p> STATUS: 12/14/2018 INTRODUCED. CATEGORY: Funding
CA ACA 1	AUTHOR: Aguiar-Curry [D] TITLE: Local Government Financing: Affordable Housing INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Creates an exception to the 1 percent limit on the ad valorem property tax rate on real property that would authorize a city or county to levy an ad valorem tax to service bonded indebtedness incurred to fund the construction, reconstruction, rehabilitation, or replacement of public infrastructure or affordable housing, if the proposition proposing that tax is approved by 55% of the voters of the city or county.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: Funding
CA ACA 2	AUTHOR: Nazarian [D] TITLE: State Tax Agency INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: ASSEMBLY SUMMARY: <p>Abolishes the State Board of Equalization and instead requires the Legislature to create a state tax agency by statute for purposes of carrying out those powers, duties and responsibilities previously vested in the State Board of Equalization. Authorizes the Legislature to vest all powers, duties, and responsibilities in a single state tax agency or separately in multiple state tax agencies.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: Funding
CA SB 1	AUTHOR: Atkins [D] TITLE: Environmental, Public Health, and Workers Defense Act INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: SENATE SUMMARY: <p>Enacts the California Environmental, Public Health, and Workers Defense Act, which prohibits a state or local agency from amending or revising its rules to be less stringent than the federal baseline standards pertaining to environmental protection.</p> STATUS: 12/03/2018 INTRODUCED. CATEGORY: Environment

CA SB 5	AUTHOR: Beall [D] TITLE: Local-State Sustainable Investment Incentive Program INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: SENATE SUMMARY: Establishes the Local-State Sustainable Investment Incentive Program, which would be administered by the Sustainable Investment Incentive Committee. Authorizes a city, county, city and county, joint powers agency, enhanced infrastructure financing district, affordable housing authority, community revitalization and investment authority or transit village development district to apply to the Committee to participate in the program and authorizes Committee to approve or deny applications for projects. STATUS: 12/03/2018 INTRODUCED. CATEGORY: Funding
CA SB 25	AUTHOR: Caballero [D] TITLE: Environmental Quality Act: Qualified Opportunity Zones INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: SENATE SUMMARY: Establishes procedures for the administrative and judicial review of the environmental review and approvals granted for projects located in qualified opportunity zones that are funded by qualified opportunity funds or moneys from the Greenhouse Gas Reduction Fund. STATUS: 12/03/2018 INTRODUCED. CATEGORY: Environment
CA SB 43	AUTHOR: Allen [D] TITLE: Carbon Taxes INTRODUCED: 12/03/2018 DISPOSITION: Pending LOCATION: SENATE SUMMARY: Requires the State Air Resources Board in consultation with the Department of Tax and Fee Administration, to submit a report to the Legislature on the results of a study to propose and determine the feasibility and practicality of a system to replace the tax imposed pursuant to the Sales and Use Tax Law with an assessment on retail products sold or used in the state based on the carbon intensity of the product to encourage the use of less carbon-intensive products. STATUS: 12/03/2018 INTRODUCED. CATEGORY: Funding

CA SB 50	<p>AUTHOR: Wiener [D]</p> <p>TITLE: Planning and Zoning: Housing Development</p> <p>INTRODUCED: 12/03/2018</p> <p>DISPOSITION: Pending</p> <p>LOCATION: SENATE</p> <p>SUMMARY:</p> <p>Requires a city or county to grant upon request an equitable communities incentive when a development proponent seeks and agrees to construct a residential development that satisfies specified criteria, including, among other things, that the residential development is either a job-rich housing project or a transit-rich housing project.</p> <p>STATUS:</p> <p>12/03/2018 INTRODUCED.</p> <p>CATEGORY: Planning</p>
CA SB 59	<p>AUTHOR: Allen [D]</p> <p>TITLE: Automated Vehicle Technology: Statewide Policy</p> <p>INTRODUCED: 12/19/2018</p> <p>DISPOSITION: Pending</p> <p>LOCATION: SENATE</p> <p>SUMMARY:</p> <p>Establishes the policy of the state relating to automated vehicles in order to ensure that these vehicles support the state's efforts to, among other things, reduce greenhouse gas emissions and encourage efficient land use. Requires the Office of Planning and Research in the Governor's office, in coordination with the State Air Resources Board, to convene an automated vehicle interagency working group of specified state agencies to guide policy development for automated vehicle technology.</p> <p>STATUS:</p> <p>12/19/2018 INTRODUCED.</p> <p>CATEGORY: Other</p>



January 17, 2019

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

An update is provided on the 2019 appropriations process and nominations to the Department of Transportation. A summary of a hearing on surface transportation reauthorization is also included.

Recommendation

Receive and file as an information item.

Discussion

Appropriations Update

As part of the “minibus” appropriations process, the President has signed bills to fund a portion of government operations for federal fiscal year 2019. Five of the 12 appropriations bills have been signed into law thus far. Unfortunately, the transportation funding bill has not yet been enacted. As such, the Department of Transportation was funded as part of a continuing resolution through December 7, 2018. On December 6, 2018, the President signed another short-term continuing resolution through December 21, 2018, after it passed both the House and Senate by voice vote.

On December 19, 2018, the Senate passed a continuing resolution by voice vote that would fund those agencies subject to the continuing resolution through February 8, 2019. The following day, the President indicated he would not sign the Senate-passed bill. The House then amended the seven-week continuing resolution to include \$5.7 billion for border security and approximately \$8 billion in disaster aid. The amended continuing resolution passed the House by a vote of 217-185. The Senate did not pass this measure, nor any other legislation to fund the agencies subject to the continuing resolution, before midnight on December 21, 2018. As a result, those agencies subject to the continuing

resolution, including the Department of Transportation, began shutdown procedures.

On January 3, 2019, the 116th Congress was sworn in with no resolution to the partial government shutdown. That day, the House of Representatives voted on two measures to reopen those agencies experiencing a lapse in appropriations. The first bill would have funded six of the seven remaining appropriations subcommittees for the remainder of the fiscal year, which would include the transportation funding bill. The second bill made the Department of Homeland Security subject to a continuing resolution through February 8, 2019. This bill included the \$1.3 billion of existing border funding and not the substantial increase in border funding that was the initial controversy in the funding negotiations. These measures passed 241-190 and 239-192, respectively. Later that same day, the President formally threatened to veto both bills, leaving Congress with no clear path forward on reopening the closed federal agencies.

As of the writing of this staff report, no legislation had been enacted to reopen those agencies closed due to a lapse in appropriations, which includes the Department of Transportation. A short-term continuing resolution does not directly affect most federal transportation programs since many of them are classified as directly related to the protection of life and safety of the public, although over one-third of the employees at the Department of Transportation are subject to furlough. The plan for the lapse in appropriations, released on December 19, 2018, is as follows:

- Air traffic controllers continued to operate, as did critical airline safety inspections and new aircraft registrations, according to statements made by the Federal Aviation Administration.
- The Transportation Security Administration continued to operate in airports across the country so that air travel would not be affected.
- The Federal Highway Administration and Federal Motor Carrier Safety Administration, which regulates trucking, continued their operations.
- Amtrak planned to continue its normal operations under a short-term shutdown, according to a spokeswoman.
- Work developing rules for self-driving cars, investigating vehicle safety defects, crash testing, enforcement efforts, and some research projects at the National Highway Traffic Safety Administration were all halted, according to the plan.

- Most functions of the Federal Transit Administration would cease, including the flow of federal funds through grants, contracts, and reimbursements to local and regional transit agencies. In the near-term, none of the Orange County Transportation Authority's projects or programs will be affected.
- Railroad inspectors and accident investigators at the Federal Railroad Administration remained at work.

Staff will provide a verbal update with the latest information pertaining to the partial government shutdown.

Hearing on Surface Transportation Reauthorization

On November 28, 2018, the Senate Committee on Environment and Public Works held a hearing entitled, "Addressing America's Surface Transportation Infrastructure Needs." The senators and witnesses discussed the need to avoid a series of short-term extensions and pass a surface transportation reauthorization bill that provides certainty to the transportation sector for years to come. The hearing also focused on the policy issues pertaining to the structural revenue deficit of the Highway Trust Fund. Notably, there was a discussion about the importance of projects like the Road User Charge West effort, to which California is a member, in finding a long-term solution to funding federal transportation programs. The senators and witnesses also discussed the need to address climate change, including through the deployment of new technologies, to ensure the long-term operability of our nation's infrastructure.

Nominations to the Department of Transportation

On January 3, 2019, the President nominated Nicole R. Nason, Assistant Secretary of the Bureau of Administration at the State Department, to serve as Administrator of the Federal Highway Administration. The nomination comes over a year after Paul Trombino withdrew his name from consideration for the same post. Nason previously served as Administrator of the National Highway Traffic Safety Administration and as Assistant Secretary for Government Affairs at the Department of Transportation. Nason's nomination awaits action in the Senate.

Summary

Updates are provided on the appropriations process, nominations to the Department of Transportation, and a surface transportation reauthorization hearing.

Attachments

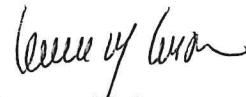
- A. Potomac Partners DC, Monthly Legislative Report – November 2018
- B. Potomac Partners DC, Monthly Legislative Report – December 2018

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Potomac Partners DC

Monthly Legislative Report – November 2018

November Advocacy Meetings

Senator Dianne Feinstein (D-CA) – We met with staff in Senator Feinstein's office to invite the Senator or her staff to attend the groundbreaking for the OC Streetcar. We also followed up on ways to improve the CIG process.

Congressman Mario Diaz-Balart (R-FL) – We met with Congressman Diaz-Balart and his staff this month to discuss the THUD appropriations process and the timeline for a final spending package in December. We also discussed the possibility of congressionally directed spending in the appropriations bills for FY20. Congressman Diaz-Balart intends to remain on the THUD Subcommittee as Ranking Member.

Senate Banking Committee – We met with senior staff on the Senate Banking Committee to discuss TIFIA reform issues and legislation introduced by Senators John Cornyn (R-TX) and Tim Kaine (D-VA). We also discussed ways to streamline TAM and System Safety Plans and followed-up to provide feedback on our discussions.

Congressman Lou Correa (D-CA) – We met with Congressman Correa and his senior staff to invite the Congressman and his staff to the OC Streetcar's groundbreaking at the end of the month. We also discussed ways to work with the new OC Congressional delegation to ensure that they are fully briefed on the needs of OCTA and the region. We also discussed the possibility of congressionally directed spending the new year.

Congresswoman Grace Napolitano (D-CA) – We met with senior staff in the office of Congresswoman Napolitano to discuss next steps for bus safety legislation. We also discussed the aviation fuel tax issue that could be introduced by House Democrats and the possibility for including in an infrastructure bill next year. We also discussed committee assignments and possible candidates for Subcommittee leadership on the House T&I Committee in the 116th session.

House Transportation and Infrastructure Committee Staff – We met with senior majority staff on the House T&I Committee to discuss the possibility of a lame duck infrastructure proposal. We also discussed what they expect to see in a Democrat infrastructure bill in the 116th Session of Congress and the possible return of congressionally directed spending for infrastructure projects.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal's senior staff to invite the Congressman and his staff to attend the OC Streetcar's groundbreaking at the end of the month. We also discussed what to expect in the next

session of Congress and the possibility of including favorable language in any major infrastructure legislation.

Senator John Cornyn (R-TX) – We met with staff in Senator Cornyn's office to discuss the Senator's TIFIA legislation. We discussed the timeline for the bill in the lame duck session and whether they expect to make any changes to the legislation in the next session.

House Committee on Appropriations, Surveys and Investigations (S&I) Staff – Along with OCTA staff we met with House Appropriations (S&I) Staff. S&I is the committee's analytic and investigative arm and operates as a non-partisan entity that provides oversight, investigations, and evaluation of issues and programs at the request of the Committee's majority and minority leaders. All analyses are produced for sole use by the Committee. The House Committee on Appropriations Majority office asked S&I to conduct a study on the Federal Transit Administration's (FTA) Capital Investment Grant (CIG) program. We provided an overview of OC Street and the process and timeline for the FFCA.

FY19 Appropriations and Budget Update

In September, Congress passed a total of five appropriations bills for Fiscal Year 2019. Three of these bills were passed as a minibuss package ([H.R. 5895](#)) that included Energy and Water, Legislative Branch, and Military Construction-Veterans Affairs. The two remaining bills were also packaged as a minibuss ([H.R. 6157](#)) including Defense and Labor-Health and Human Services-Education (LHHSE) appropriations. The Defense-LHHSE appropriations bill also included a Continuing Resolution (CR) to extend funding for the seven appropriations bills that Congress was unable to pass before the end of the fiscal year on September 30th. The Continuing Resolution provides funding at FY18 enacted levels until December 7th.

The White House and Congressional appropriators are working on a deal to pass at least some of the remaining seven appropriations bills and potentially attach a continuing resolution (CR) to extend funding for any remaining bills. Details of this deal, and which bills would be passed, have yet to emerge and will likely not become public until sometime in the first week of December. The main points of contention in the spending negotiations are due to the President's request for a minimum of \$5 billion for a Southern Border wall and disbursements to sanctuary cities and states.

Democrats do not support the increase funding for a border wall. Senate Democrats, however, did approve in the Senate Homeland Security bill \$1.6 billion for border wall funding, but said that this would be the highest amount they would support in this year's spending package. The THUD appropriations bill does seem to have bi-partisan support and at the times of this report does seem likely to be one of the bills included in a year-end spending package.

Tax Extenders Legislation

In addition to finalizing the appropriations bills, another priority for GOP leaders in the House is a passage of a tax bill. During the last week of November, House Republicans unveiled a 297-page tax bill that they hope to pass before the end of the year and the start of the new Congress. The bill (found [HERE](#)) includes tax extenders that did not make it into the GOP's tax overhaul (HR 1) earlier this year such as the extension of the alternative fuels excise tax credit. The full text of the extension of excise tax credits relating to alternative fuels is included below:

SEC. 134. EXTENSION OF EXCISE TAX CREDITS RELATING TO ALTERNATIVE FUELS.

(a) EXTENSION.—

- (1) **IN GENERAL.**—Sections 6426(d)(5) and 6426(e)(3) are each amended by striking “December 31, 2017” and inserting “December 31, 2018”.
- (2) **OUTLAY PAYMENTS FOR ALTERNATIVE FUELS.**—Section 6427(e)(6)(C) is amended by striking “December 31, 2017” and inserting “December 31, 2018”.
- (3) **EFFECTIVE DATE.**—The amendments made by this section shall apply to fuel sold or used after December 31, 2017.

(b) **SPECIAL RULE FOR 2018.**—Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2018, and ending on December 31, 2018, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

Other provisions would provide new tax incentives for small businesses and start-ups, and address technical issues in the tax reform legislation passed this session (HR 1). The bill will need Democratic support to pass the Senate. Senate GOP leaders may decide to tether some of the key House tax bill provision to the year-end spending package mentioned above in order to garner more House GOP support for a deal.

Capital Investment Grant (CIG) Funding Announcements

At the end of the month, the Federal Transit Administration announced a total of \$281 million in additional FY18 disbursements to five transit projects in the Capital Investment Grants (CIG) program. For FY18 the OC Streetcar was allocated \$98.9 million by the FTA and received a signed FFGA this month. FTA Acting Administrator K. Jane Williams said that the FTA will continue to evaluate and advance projects in the CIG program.

Congressional Leadership in the 116th Congress (2019-2020)

For the 116th Congress (2019-2020) that convenes on January 3rd. A link to the House legislative calendar can be found [here](#).

During the week of November 12th, the Senate and House Republicans elected their leaders for the next session. Those leaders include the following:

Senate Majority, Republicans

- **Senate Majority Leader:** Sen. Mitch McConnell (R-KY)
- **Republican Whip:** Sen. John Thune (R-SD)
- **Republican Conference Chairman:** Sen. John Barrasso (R-WY)
- **Policy Committee Chairman:** Sen. Roy Blunt (R-MO)
- **Republican Conference Vice Chairman:** Sen. Joni Ernst (R-IA)

House Minority, Republicans

- **House Minority Leader:** Rep. Kevin McCarthy (R-CA)
- **House Minority Whip:** Rep. Steve Scalise (R-LA)
- **Chair, House Republican Conference:** Rep. Liz Cheney (R-WY)
- **Vice-Chair, House Republican Conference:** Rep. Mark Walker (R-NC)
- **Secretary, House Republican Conference:** Rep. Jason Smith (R-MO)
- **Chair, National Republican Congressional Committee:** Rep. Tom Emmer (R-MN)

Senate Minority, Democrats

- **Senate Democratic Leader and Chair of the Conference:** Sen. Charles Schumer (D-NY)
- **Democratic Whip:** Sen. Dick Durbin (D-IL)
- **Assistant Democratic Leader:** Sen. Patty Murray (D-WA)
- **Chair of Policy and Communications Committee:** Sen. Debbie Stabenow (D-MI)
- **Vice Chair of the Conference:** Sen. Elizabeth Warren (D-MA)
- **Vice Chair of the Conference:** Sen. Mark Warner (D-VA)
- **Chair of Steering Committee:** Sen. Amy Klobuchar (D-MN)
- **Chair of Outreach:** Sen. Bernie Sanders (I-VT)
- **Vice Chair of Policy and Communications Committee:** Sen. Joe Manchin (D-WV)
- **Senate Democratic Conference Secretary:** Sen. Tammy Baldwin (D-WI)

During the last week of the month House Democrats elected their slate of leaders for the next congress, pending full elections on the floor of the House in January. Democrats nominated Congresswoman Nancy Pelosi (D-CA) to be the new Speaker of the House by a vote of 203-32. Her nomination came despite reservations from a number of her caucus Members and Members-elect who have expressed a desire for new leadership. Congressman Steny Hoyer (D-MD) was also elected the new Majority Leader in the 116th. Rep. James Clyburn (D-SC) will serve as the party whip, while Rep. Hakeem Jeffries (D-NY) will serve as Democratic Caucus Chairman.

The Democratic and Republican steering committees in each chamber are in control of making final decisions regarding who will lead each committee in the new session. In the Senate, there is expected to be very little turnover with a few exceptions. For instance, Senator Grassley (R-IA) has indicated that he would like to lead the Senate Finance Committee that was previously chaired by retiring Senator Orin Hatch (R-UT). That move leaves the chairmanship for the Senate Judiciary Committee open, for which Senator Graham (R-SC) has expressed interest.

Regarding the Transportation Committees in the new session, Senator Thune will be forced to give up his gavel on the Senate Commerce, Science and Transportation Committee as he becomes Senate Majority Whip. That Chairmanship would likely fall to Senator Wicker (R-MS). The ranking Member of the Committee will likely be Senator Cantwell (D-WA) who will replace Senator Nelson (D-FL) who lost his re-election bid to incoming Senator Rick Scott (R-FL). Senator Wicker said this month that he would consider raising the federal gas tax to pay for a large infrastructure bill if President Trump decides to use the gas tax as an infrastructure pay-for.

In the House Rep. Peter DeFazio (D-OR) will likely become the new Chairman of the full House T&I Committee, with Rep. Sam Graves (R-MO) chosen the last week of November as the Ranking Member. Congressman Jeff Denham (R-CA), another Republican in the running for the top GOP spot on the Committee, lost his race for reelection in November. Rep. Denham was also the Chairman of the Railroad and Hazardous Materials Subcommittee. We will continue to meet with members of the House T&I Committee, the Senate Commerce Committee, and the new Orange County Delegation to discuss OCTA legislative priorities and projects for 2019. As mentioned above, a large infrastructure package in addition to a return to congressionally directed infrastructure spending are already being discussed for this next Congress.

Other changes in committee leadership in the House are briefly outlined below:

House Committees

House Appropriations Committee: Ranking Member Nita Lowey (D-NY) is expected to take control of the House Appropriations Committee as the senior Democratic appropriator. At the end of the month it was announced that Congresswoman Kay Granger (R-TX) would take the full committee's Ranking Member position for Republicans. Subcommittee assignments will likely follow in the next couple of weeks. Commerce, Science, and Justice Subcommittee Chairman John Culberson (R-TX) will not be returning in 2019 after losing his reelection race, along with Homeland Security Subcommittee Chairman Kevin Yoder (R-KS). Another Republican appropriator who will not be returning is Rep. David Young (R-IA) and potentially Rep. David Valadao's (R-CA) who race is undecided as they continue to count ballots with most recent margins putting him behind.

House Agriculture Committee: Current Ranking Member Collin C. Peterson (D-MN) is expected to become the Chairman of the House Agriculture Committee in January. It is

likely that current Chairman Conaway (R-TX) will choose to remain on the Committee as Ranking Member to continue work on the 2018 Farm Bill if an extension becomes necessary.

House Armed Services: Ranking Member Adam Smith (D-WA) is the most likely candidate to become Chairman of the House Armed Services Committee, with Current Chairman Mac Thornberry (R-TX) remaining on the Committee as Ranking Member.

House Budget Committee: will likely be led by Rep. John Yarmuth (D-KY) with current Chairman Steve Womack (R-AR) becoming the Ranking Member.

House Education and Workforce Committee: will likely be chaired by current Ranking Member Bobby Scott (D-VA). Rep. Virginia Foxx (R-NC) is the current Chairman and is the most likely candidate for the Ranking Member position.

House Financial Services Committee: Current Ranking Member Maxine Waters (D-CA) is expected to become the next Chairwoman of the Committee. For Republicans, the top post on the committee, seems likely to fall to Rep. Patrick McHenry (R-NC) who announced his intent to run for the position.

House Foreign Affairs Committee: Ranking Member Elliot Engel (D-NY) is expected to become the new Chairman of the full committee. Current Homeland Security Committee Chairman Mike McCaul (R-TX) is expected to become the Ranking Member.

House Homeland Security Committee: Rep. Bennie Thompson (D-MS) has served eight terms on the homeland Security Committee, serving as both Ranking Member and Chairman since the Committee was elevated to standing status in 2005. It is not yet clear who will take the Ranking Member position since current Chairman Mike McCaul is seeking the top GOP spot on the Foreign Affairs Committee.

House Judiciary Committee: Rep. Jerry Nadler (D-NY) is expected to become Chairman of the House Judiciary Committee in the 116th session. Chairman Robert Goodlatte (R-GA) is retiring this year so the Ranking Member position is not yet clear. In the running are for the Ranking Member position are Reps. Steve Chabot (R-OH) and Doug Collins (R-GA).

House Rules Committee: will most likely be led by Rep. Jim McGovern (D-MA). Current Chairman Pete Sessions (R-TX) will not be returning to Congress after a major upset loss in the midterm elections so it is unclear who will take the Ranking Member position.

House Committee on Science, Space and Technology: The new Chairman is expected to be Rep. Eddie Bernice Johnson (D-TX), the current Ranking Member. It is not yet clear who will become the Committee's Ranking Member.

House Veterans Affairs Committee: will most likely be led by current Ranking Member Tim Walz (D-MN), with current Chairman Phil Roe (R-TN) becoming the Ranking Member.

House Ways and Means Committee: Current Ranking Member Richard Neal (D-MA) is expected to become the Chairman of the committee, replacing Kevin Brady (R-TX). Infrastructure spending and protecting health insurance for pre-existing health care conditions are among the top priorities for in the incoming Chairman.

Senate Committees

Senate Appropriations Committee: Sen. Richard Shelby (R-AL) will remain on as Chairman, with Sen. Patrick Leahy (D-VT) also remaining on the Committee as Vice Chairman.

Agriculture, Nutrition, and Forestry Committee: Sen. Pat Roberts (R-KS) will remain the Committee Chairman, with Sen. Debbie Stabenow (D-MI) also remaining on the Committee Ranking Member.

Banking, Housing, and Urban Affairs Committee: Sen. Mike Crapo (R-ID) will remain the Committee Chairman, with Sen. Sherrod Brown (D-OH) remaining on the Committee as Ranking Member.

Budget Committee: Mike Enzi (R-WY) will remain the Committee Chairman, with Bernie Sanders (I-VT) also remaining on the Committee as Ranking Member.

Energy and Natural Resources Committee: Sen. Lisa Murkowski (R-AK) is likely to remain the Committee Chairman. Sen. Cantwell will likely become Senate Commerce Ranking Member, leaving this RM position dependent on other committee assignments.

Foreign Relations Committee: Sen. Bob Corker (R-TN) will remain the Committee Chairman, with Sen. Bob Menendez (D-NJ) likely to stay on as the Committee's Ranking Member.

Health, Education, Labor and Pensions Committee: Sen. Lamar Alexander (R-TN) will remain the Chairman of the Committee, with Sen. Patty Murray (D-WA) possibly remaining as the Ranking Member of the Committee.

Small Business and Entrepreneurship Committee: Sen. Jim Risch (R-ID) will remain the Committee Chairman, with Sen. Ben Cardin (D-MD) remaining on the Committee as Ranking Member.

Veterans' Affairs Committee: Sen. Johnny Isakson (R-GA) will likely remain the Committee's Chairman, with Sen. Jon Tester (D - MT) remaining the Committee Ranking Member.

Armed Services Committee: Sen. James Inhofe (R - OK) will likely remain on the Committee as Chairman, with Sen. Jack Reed (D - RI) remaining the Committee Ranking Member.

TIFIA Reform Legislation

On November 15th, Senators John Cornyn (R-TX) and Tim Kaine (D-VA) introduced [S. 3631](#) – *Revitalizing American Priorities for infrastructure Development RAPID Act*, a bill that seeks to improve the Transportation Infrastructure Finance and Innovation (TIFIA) program. The bill seeks to encourage more participation in the TIFIA program by expediting projects that meet certain specifications. USDOT only approve three TIFIA loan applications in 2018 totaling \$1.8 billion, which is less than half of the new loan authority authorized by the FAST Act. Despite efforts by the President and Congress to bolster the TIFIA program with additional funding, there are not enough qualified projects to take advantage of the program, which has caused a carryover of unused funds from prior years to accumulate. The Office of Management and Budget estimates that this carryover could be used to make \$18 billion in new TIFIA loans, but there are not enough qualified applications. By streamlining the application process and raising the project threshold, Senators Cornyn and Kaine are hoping to encourage greater participation in the program and pave the way for additional reforms that will align the program's implementation with the intent of congress.

According to Senator Cornyn, the legislation would make a number of notable changes to streamline TIFIA:

Eligibility Requirements

In order to be eligible for federal assistance under TIFIA, an application's senior debt obligations must obtain investment grade ratings from at least two nationally recognized credit rating agencies. The process of securing these ratings can be a lengthy and expensive, which may not always be necessary for low-risk projects. The *RAPID Act* would raise this threshold for securing multiple credit rating agency opinions from \$75 million to \$150 million, reducing the overall review timeline and potentially encouraging greater participation in the program.

Expedited Application Process

The *FAST Act* required USDOT to establish a "fast-track" application process for projects that meet certain criteria. Unfortunately, this streamlined process has been underutilized and has not met congressional intent. The *RAPID Act* would add the new criteria to the streamlined application process, increasing the likelihood that the Build America Bureau will be comfortable moving qualifying projects through the process expeditiously.

Process Reports and Status Updates

The bill would increase overall transparency in the process by ensuring applicants, the general public, and Congress are well-informed regarding projects seeking TIFIA assistance by requiring USDOT to publish status reports online.

While this bill may not be enacted this year, we do expect this similar legislation to be re-introduced next session and possibly be included in a future infrastructure or surface transportation authorization bill.



Potomac Partners DC

Monthly Legislative Report – December 2018

December Advocacy Meetings

Senator Dianne Feinstein (D-CA) – We met with staff in Senator Feinstein's office to thank the Senator for her support of the OC Streetcar and her efforts to expedite the FFGA at the FTA. We discussed the status of the FY19 appropriations bills and the likelihood for a deal to end the partial government shutdown.

Congressman Mario Diaz-Balart (R-FL) – We met with Congressman Diaz-Balart and his staff multiple times this month to discuss the THUD appropriations process and the ongoing negotiations for a spending package. We discussed the impact a government shutdown would have on DOT operations and the timeline for a possible compromise. We also discussed the possibility of congressionally directed spending in the appropriations bills for FY20. Congressman Diaz-Balart intends to remain on the THUD Subcommittee as Ranking Member.

Senate Banking Committee – We met with senior staff on the Senate Banking Committee to follow-up on TIFIA reform issues and legislation introduced by Senators John Cornyn (R-TX) and Tim Kaine (D-VA). We discussed what to expect in the 116th Session of Congress and the priorities of the Committee, including their take on a possible infrastructure package. We also discussed ways to streamline TAM and System Safety Plans and followed-up to provide feedback on our discussions.

Congressman Lou Correa (D-CA) – We met with Congressman Correa and his senior staff to discuss the new Orange County delegation and ways to bring them up to speed on OCTA's priorities for 2019. We also discussed the possibility of congressionally directed spending in the new year and possible action on a new infrastructure package in 2019.

Congresswoman Grace Napolitano (D-CA) – We met with senior staff in the office of Congresswoman Napolitano to discuss next steps for bus safety legislation. We also discussed the aviation fuel tax issue that could be introduced by House Democrats and the possibility for inclusion in an infrastructure bill next year. We also discussed committee assignments and possible candidates for Subcommittee leadership on the House T&I Committee in the 116th Session.

House Transportation and Infrastructure Committee Staff – We met with senior GOP staff on the House T&I Committee to discuss new staff assignments and key issues for 2019. We also discussed the ongoing government shutdown and the likely effects that would be seen at DOT as it relates to key programs.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal's senior staff to invite the Congressman and his staff to attend the OC Streetcar's groundbreaking at the end of the month. We also discussed what to expect in the next session of Congress and the possibility of including favorable language in infrastructure legislation.

Senator John Cornyn (R-TX) – We met with staff in Senator Cornyn's office to discuss the Senator's TIFIA legislation. We discussed the timeline for the bill in the lame duck session and whether they expect to make any changes to the legislation in the next session.

House Committee on Appropriations – We met with GOP staff on the House Appropriations Committee to discuss the timeline for a spending package or Continuing Resolution. We also discussed the likelihood of a partial government shutdown in December and the outlook of negotiations during the holiday break.

FY19 Appropriations and Shutdown Update

A Continuing Resolution funding 7 of the 12 appropriations bills expired without another extension on December 21st, starting what has become a 12-day shutdown with no end in sight. Unlike the shutdown in 2013 which affected every department and agency, this shutdown only affects the following agencies and departments:

Agriculture-FDA

- FDA
- Agriculture Department
 - Agricultural Marketing Service
 - Agricultural Research Service
 - Animal Plant Health Inspection Service
 - Farm Service Agency
 - Food Safety and Inspection Service
- Commodity Futures Trading Commission

Commerce-Justice-Science

- Commerce Department
 - Census Bureau
 - National Oceanic and Atmospheric Administration
 - Patent and Trademark Office
- NASA
- Justice Department
 - FBI
 - Drug Enforcement Administration
 - Bureau of Alcohol, Tobacco, Firearms & Explosives

Financial Services-General Government

- Treasury Department

- Internal Revenue Service
- Executive Office of the President
- Federal Judiciary
- Federal Communications Commission
- General Services Administration
- Federal Trade Commission
- Office of Personnel Management
- Small Business Administration
- Securities and Exchange Commission
- U.S. Postal Service

Homeland Security

- Homeland Security
 - Customs and Border Protection
 - Coast Guard
 - Federal Emergency Management Agency (FEMA)
 - Transportation Security Administration
 - U.S. Immigration and Customs Enforcement

Interior-Environment

- Environmental Protection Agency
- Interior Department
 - Bureau of Indian Affairs
 - Bureau of Land Management
 - National Park Service
 - U.S. Fish and Wildlife Service
 - U.S. Geological Survey
- U.S. Forest Service
- Indian Health Service
- Smithsonian Institution

State-Foreign Operations

- State Department
- Democracy Fund
- Millennium Challenge Corporation
- Peace Corps
- U.S. Agency for Global Media
- U.S. Agency for International Development

Transportation-HUD

- Transportation Department
 - Federal Aviation Administration
 - Federal Highway Administration
 - Federal Railroad Administration

- Federal Transit Administration
- Maritime Administration
- Housing and Urban Development Department

The Department of Transportation began shutdown procedures on December 21st and according to their contingency plan (found [HERE](#)), about two-thirds of the department's 50,000 employees will remain on the job. Essential employees that have not been furloughed include Air Traffic controllers, critical airline inspectors, TSA Agents, trucking regulators, Amtrak, and railroad inspectors and crash investigators. However most of the functions provided by the Federal Transit Administration (FTA) will be suspended and the FTA will not continue any of its unfunded core agency functions including grants, cooperative agreements, contracts, purchase orders, travel authorizations, or documents obligating funds.

Next Steps

House Democrats are planning to pass two bills as early as Thursday, January 3rd that may be a minibus package of the six remaining bills for the remainder of FY19 (found [HERE](#)), and another separate CR (found [HERE](#)) that will extend funding for the Department of Homeland Security, through February 8th. It is also possible that the House will consider a third bill later in the week that includes a clean CR that the Senate already passed at the end of December.

The minibus package to be introduced by House Democrats on January 3rd includes funding for the Transportation and Housing and Urban Development (HUD) appropriations bill. The legislation would provide \$71.4 billion in discretionary funds, \$1.1 billion above FY18 enacted levels, and \$23.3 billion above the President's request. The measure includes an additional \$49 billion in mandatory funding from aviation and fuel taxes, according to the Democrats' summary.

It would continue funding Better Utilizing Investments to Leverage Development, or BUILD grants, formerly known as TIGER grants. It would also provide new direction to the administration on how funds should be dispersed. The measure's funding is similar to the THUD bill included in a Senate-passed fiscal 2019 minibus spending bill (H.R. 6147 from the 115th Congress).

Department of Transportation (DOT)

The bill would provide \$86.5 billion in budgetary resources for the Transportation Department. The major divisions of the department would be funded, according to the Democrats' summary, as follows:

- Federal Highway Administration (FHWA): \$49.3 billion, \$1.8 above FY18 enacted.
- Federal Aviation Administration (FAA): \$17.7 billion, \$300 million below FY18 enacted.
- Federal Transit Administration (FTA): \$13.5 billion, \$33 million above FY18 enacted

- Federal Railroad Administration (FRA): \$2.8 billion, \$323 million less than FY18 and \$1.8 billion more than requested.
- National Highway Traffic Safety Administration (NHTSA): \$956 million, \$9 million above FY18 enacted.
- Maritime Administration (MARAD): \$818 million, \$162 million below FY18 enacted and \$121 million more than requested.
- Federal Motor Carrier Safety Administration (FMCSA): \$667 million, \$178 million below FY18 enacted.
- Pipeline and Hazardous Materials Safety Administration (PHMSA): \$105 million, same as FY18 enacted.

Senate Majority Leader McConnell (R-KY) said that the Senate will not pass any legislation that the President does not support. The White House's most recent request for border wall funding, that the President would approve, is a minimum of \$2.1 billion. This is slightly above the \$1.6 billion approved by Senate Democrats in September.

On Wednesday, January 2nd, President Trump invited congressional leaders from both parties to a White House meeting to discuss spending legislation and the President's request for border wall funding. According to Members we spoke to after that meeting, no deal on border wall funding has been reached.

Tax Extenders Legislation

On December 20th, the House passed [H.R. 88](#) – *The Retirement, Savings, and Other Tax Relief Act of 2018*, also known as the tax extenders bill. The bill included tax extenders that did not make it into the GOP's tax overhaul (HR 1) earlier this year such as the extension of the alternative fuels excise tax credit. The full text of the extension of excise tax credits relating to alternative fuels is included below:

SEC. 134. EXTENSION OF EXCISE TAX CREDITS RELATING TO ALTERNATIVE FUELS.

(a) EXTENSION.—

- (1) IN GENERAL.—Sections 6426(d)(5) and 6426(e)(3) are each amended by striking “December 31, 2017” and inserting “December 31, 2018”.
- (2) OUTLAY PAYMENTS FOR ALTERNATIVE FUELS.—Section 6427(e)(6)(C) is amended by striking “December 31, 2017” and inserting “December 31, 2018”.
- (3) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold or used after December 31, 2017.

(b) SPECIAL RULE FOR 2018.—Notwithstanding any other provision of law, in the case of any alternative fuel credit properly determined under section 6426(d) of the Internal Revenue Code of 1986 for the period beginning on January 1, 2018, and ending on December 31, 2018, such credit shall be allowed, and any refund or payment attributable to such credit (including any payment under section 6427(e) of such Code) shall be made, only in such manner as the Secretary of the Treasury (or the Secretary's delegate) shall provide. Such Secretary shall issue guidance within 30 days after the date of the enactment of this Act providing for a one-time submission of claims covering periods described in the preceding sentence. Such guidance shall provide for a 180-day period for the submission of such claims (in such manner as prescribed by such Secretary) to begin not later than 30 days after such guidance is issued. Such claims shall be paid by such Secretary not later than 60 days after receipt. If such Secretary has not paid pursuant to a claim filed under this subsection within 60 days after the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621 of such Code.

Other provisions would provide new tax incentives for small businesses and start-ups, and address technical issues in the tax reform legislation passed this session (HR 1). The bill was not taken up by the Senate before the end of the year. Senate leaders expressed willingness to revisit the legislation in the new session, but it is unclear if this will be a priority for a Democrat controlled House.

Capital Investment Grant (CIG) Funding Announcements

At the end of the month, the Federal Transit Administration announced a total of \$281 million in additional FY18 disbursements to five transit projects in the Capital Investment Grants (CIG) program. For FY18 the OC Streetcar was allocated \$98.9 million by the FTA and received a signed FFGA this month. FTA Acting Administrator K. Jane Williams said that the FTA will continue to evaluate and advance projects in the CIG program.

PTC Implementation Update

On Friday December 21st, the Federal Railroad Administration announced a total disbursement of \$46 million for the implementation of Positive Train Control (PTC) for 11 projects in 10 states. Metrolink was one of the recipients, receiving up to \$3.15 million to increase capacity and reduce headways and alternative vendor analysis. This project will include a study for leveraging PTC to increase capacity and reduce headways, software development, PTC component upgrades, and/or corridor infrastructure upgrades to support the future implementation of Higher Reliability and Capacity Train Control (HRCTC) along Metrolink's congested Orange County Line from Los Angeles Union Station to Oceanside.

On December 31st, the FRA announced all 41 railroads required by Congress to implement PTC are on track to meet critical deadlines. According to the Department of Transportation's review of railroad self-reporting, as of the third quarter of 2018, the percentage of track segments completed is 94% for freight railroads and 77% for passenger. This compares to 20% for freight and 13% for passenger as of the third quarter of 2016. 2018 yielded many positive results and highlighted great collaboration between industry and government.

Congressional Leadership in the 116th Congress (2019-2020)

The 116th Congress (2019-2020) convened on January 3rd. A link to the House legislative calendar can be found [HERE](#).

The Republican and Democratic caucuses have held their caucus elections to determine who will lead their respective parties in the new session. The results of these elections are not official until formal leadership elections are held in January, but the names below are the most likely leaders for the 116th Congress, with many of the names being publicly announced by their respective steering committees. Rep. Nancy Pelosi (D-CA) was elected Speaker of the House, despite a protest vote against her speakership from a few

Democrats. The entire Orange County delegation voted for Rep. Nancy Pelosi for Speaker.

HOUSE LEADERSHIP

MAJORITY (Democrats)	MINORITY (Republicans)
House Speaker: Rep. Nancy Pelosi (D-CA)	House Minority Leader: Rep. Kevin McCarthy (R-CA)
Majority Leader: Rep. Steny H. Hoyer (D-MD)	House Minority Whip: Rep. Steve Scalise (R-LA)
Majority Whip: Rep. James E. Clyburn (D-SC)	Chair, House Republican Conference: Rep. Liz Cheney (R-WY)
Assistant Democratic Leader: Rep. Ben Ray Lujan (D-NM)	Vice-Chair, House Republican Conference: Rep. Mark Walker (R-NC)
Democratic Caucus Chair: Rep. Hakeem Jeffries (D-NY)	Secretary, House Republican Conference: Rep. Jason Smith (R-MO)
Democratic Caucus Vice Chair: Rep. Katherine M. Clark (D-MA)	Chair, National Republican Congressional Committee: Rep. Tom Emmer (R-MN)

HOUSE COMMITTEES

COMMITTEE	CHAIRMAN	RANKING MEMBER
Agriculture	Collin C. Peterson (D-MN)	Michael Conaway (R-TX)
Appropriations	Nita Lowey (D-NY)	Kay Granger (R-TX)
Armed Services	Adam Smith (D-WA)	Mac Thornberry (R-TX)
Budget	John Yarmuth (D-KY)	Steve Womack (R-AR)
Education and Workforce	Bobby Scott (D-VA)	Virginia Foxx (R-NC)
Energy and the Commerce	Frank Pallone, Jr. (D-NY)	Greg Walden (R-OR)
Ethics	Ted Deutch (D-FL)	Susan Brooks (R-IN)
Financial Service	Maxine Waters (D-CA)	Patrick McHenry (R-NC)
Foreign Affairs	Elliot L. Engel (D-NY)	Michael McCaul (R-TX)
Homeland Security	Bennie Thompson (D-MS)	Mike Rogers (R-AL)
House Administration	Zoe Lofgren (D-CA)	Rodney Davis (R-IL)
Judiciary	Jerry Nadler (D-NY)	Doug Collins (R-GA)
Natural Resources	Raul M. Grijalva (D-AZ)	Rob Bishop (R-UT)
Oversight & Government Reform	Elijah E. Cummings (D-MD)	Jim Jordan (R-Ohio)
Rules	Jim McGovern (D-MA)	Rob Woodall (R-GA)
Science, Space and Technology	Eddie B. Johnson (D-TX)	Frank Lucas (R-OK)
Small Business	Nydia M. Velázquez (D-NY)	Steve Chabot (R-OH)
Transportation and Infrastructure	Peter DeFazio (D-OR)	Sam Graves (R-MO)
Veterans' Affairs	Mark Takano (D-CA)	Phil Roe (R-TN)
Ways and Means	Richard E. Neal (D-MA)	Kevin Brady (R-TX)
Intelligence	Adam Schiff (D-CA)	Devin Nunes (R-CA)

SENATE LEADERSHIP

MAJORITY (Republicans)	MINORITY (Democrats)
Senate Majority Leader: Sen. Mitch McConnell (R-KY)	Senate Minority Leader: Sen. Charles Schumer (D-NY)
Republican Whip: Sen. John Thune (R-SD)	Democratic Whip: Sen. Dick Durbin (D-IL)
Republican Conference Chairman: Sen. John Barrasso (R-WY)	Assistant Democratic Leader: Sen. Patty Murray (D-WA)
Policy Committee Chairman: Sen. Roy Blunt (R-MO)	Chair of Policy and Communications Committee: Sen. Debbie Stabenow (D-MI)
Republican Conference Vice Chairman: Sen. Joni Ernst (R-IA)	Vice Chair of the Conference: Sen. Elizabeth Warren (D-MA)

SENATE COMMITTEES

COMMITTEE	CHAIRMAN	RANKING MEMBER
Agriculture, Nutrition, and Forestry	Pat Roberts (R-KS)	Debbie Stabenow (D-MI)
Appropriations	Richard Shelby (R-AL)	Patrick J. Leahy (D-VT)
Armed Services	James Inhofe (R-OH)	Jack Reed (D-RI)
Banking, Housing, and Urban Affairs	Mike Crapo (R-ID)	Sherrod Brown (D-OH)
Budget	Mike Enzi (R-WY)	Bernie Sanders (I-VT)
Commerce, Science, and Transportation	Roger Wicker (R-MS)	Maria Cantwell (D-WA)
Energy and Natural Resources	Lisa Murkowski (R-AK)	Joe Manchin III (D-WV)
Environment & Public Works	John Barrasso (R-WY)	Thomas Carper (D-DE)
Finance	Chuck Grassley (R-IA)	Ron Wyden (D-OR)
Foreign Relations	Marco Rubio (R-FL) Jim Risch (R-ID)	Bob Menendez (D-NJ)
Health, Education, Labor, and Pensions (HELP)	Lamar Alexander (R-TN)	Patty Murray (D-WA)
Homeland Security and Governmental Affairs	Ron Johnson (R-WI)	Gary Peters (D-MI)
Indian Affairs	John Hoeven (R-ND)	Tom Udall (D-NM) (Vice)
Judiciary	Lindsey Graham (R-SC)	Dianne Feinstein (D-CA)
Rules and Administration	Roy Blunt (R-MO)	Amy Klobuchar (D-MN)
Select Committee on Ethics	Johnny Isakson (R-GA)	Chris Coons (D-DE) (Vice)
Select Committee on Intelligence	Richard Burr (R-NC)	Mark Warner (D-VA) (Vice)
Small Business and Entrepreneurship	James E. Risch (R-ID)	Benjamin L. Cardin (D-MD)
Special Committee on Aging	Susan M. Collins (R-ME)	Bob Casey (D-PA)
Veterans' Affairs	Johnny Isakson (R-GA)	Jon Tester (D-MT)

TIFIA Reform Legislation

On November 15th, Senators John Cornyn (R-TX) and Tim Kaine (D-VA) introduced [S. 3631](#) – *Revitalizing American Priorities for infrastructure Development RAPID Act*, a bill that seeks to improve the Transportation Infrastructure Finance and Innovation (TIFIA) program. While the bill was not considered on the floor before the end of the session, Senator Cornyn’s office expects to reintroduce the legislation in the new year. It is possible that the legislation could be included into a larger infrastructure package that House Transportation and Infrastructure Committee Chairman Peter DeFazio (D-OR) is expected to begin crafting in the new session.

According to Senator Cornyn, the legislation would make a number of notable changes to streamline TIFIA:

Eligibility Requirements

In order to be eligible for federal assistance under TIFIA, an application’s senior debt obligations must obtain investment grade ratings from at least two nationally recognized credit rating agencies. The process of securing these ratings can be a lengthy and expensive, which may not always be necessary for low-risk projects. The *RAPID Act* would raise this threshold for securing multiple credit rating agency opinions from \$75 million to \$150 million, reducing the overall review timeline and potentially encouraging greater participation in the program.

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Process Reports and Status Updates

The bill would increase overall transparency in the process by ensuring applicants, the general public, and Congress are well-informed regarding projects seeking TIFIA assistance by requiring USDOT to publish status reports online.

Department of Transportation Issues Two New Policies on Regulatory Reform

On December 20th, the Department of Transportation (DOT) issued a new order setting forth new policies and procedures governing the development and issuance of regulations by the DOT that applies to all DOT regulations. The order will require regulations to be designed to minimize burdens and reduce barriers to market entry whenever possible and will require two regulations to be revoked for every new regulation passed, in line with President Trump’s Executive Order to reduce regulatory burden. It will also require regulations to be periodically reviewed to ensure they remain cost-effective and cost-justified.

The order also creates the Regulatory Reform Task Force (RRTF) to evaluate proposed and existing regulations and make recommendations to the Secretary regarding their promulgation, repeal, replacement, or modification. The full order can be found [HERE](#).

New Subcommittee on Infrastructure Rejected by House Democrats

House Democrats voted on January 2nd to not create an infrastructure subcommittee on the Ways and Means Committee despite support from Congressman Earl Blumenauer (D-OR). The House Ways and Means Committee already has the maximum number of subcommittees so the new addition would have required a waiver, which was not included in the new rules package. Supporters of the new subcommittee said that they will continue to work with leadership to find resources for a bipartisan infrastructure package.