



# **AGENDA**

## ***Legislative and Communications Committee Meeting***

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### **Committee Members**

Laurie Davies, Chair  
Lisa A. Bartlett, Vice Chairwoman  
Barbara Delgleize  
Michael Hennessey  
Gene Hernandez  
Tim Shaw  
Gregory T. Winterbottom

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

**Thursday, January 16, 2020 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](http://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 Hernandez

#### **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**

Approve the minutes of the Legislative and Communications Committee meeting of November 21, 2019.

### **Regular Calendar**

#### **4. State Legislative Status Report**

Alexis Leicht/Lance M. Larson

##### **Overview**

An update is provided on the High-Speed Rail Project. A recommendation is included to authorize staff to engage in discussions with relevant stakeholders to advocate for investment in rail improvements in Southern California. A verbal update will be provided on the Governor's proposed fiscal year 2020-21 state budget.

##### **Recommendation**

Authorize staff to engage in discussions related to use and timing of funding for the High-Speed Rail project and seek opportunities to allow for investment in Southern California rail improvements.

#### **5. Federal Legislative Status Report**

Dustin J. Sifford/Lance M. Larson

##### **Overview**

Updates are provided on the appropriations process, enacted legislation that affects rolling stock procurements, and oversight of discretionary grants.

##### **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 20, 2020**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room - Conference Room 07, Orange, California.



**Committee Members Present**

Laurie Davies, Chair  
Lisa A. Bartlett, Vice Chairwoman  
Michael Hennessey  
Gene Hernandez  
Tim Shaw

**Staff Present**

Darrell E. Johnson, Chief Executive Officer  
Ken Phipps, Deputy Chief Executive Officer  
Laurena Weinert, Clerk of the Board  
Gina Ramirez, Deputy Clerk of the Board  
James Donich, General Counsel  
OCTA Staff and members of the General Public

**Committee Members Absent**

Barbara Delgleize  
Gregory T. Winterbottom

**Call to Order**

The November 21, 2019 regular meeting of the Legislative and Communications (L&C) Committee was called to order by Committee Chair Davies at 9:02 a.m.

**Pledge of Allegiance**

Director Hennessey led in the Pledge of Allegiance.

**1. Public Comments**

There were no public comments received.

**Special Calendar**

There were no Special Calendar matters.

**Consent Calendar (Item 2)**

**2. Approval of Minutes**

A motion was made by Director Hennessey, seconded by Director Hernandez, and declared passed by those present, to approve the minutes of the L&C Committee meeting of October 17, 2019.



## **Regular Calendar**

### **3. Status Report of State Legislation Enacted in 2019**

Lance Larson, Executive Director of External Affairs, provided opening comments and introduced Kristin Jacinto, Manager of State and Federal Relations, who introduced Alexis Leicht, the new Associate Government Relations Representative. Ms. Jacinto reported on the following:

- An update on all the bills that the Orange County Transportation Authority (OCTA) took a position on this legislative session.
- The Governor had a similar veto percentage of 16.5 percent to what Governor Brown did in his last year of office.
- Senate Bill (SB) 277 was vetoed by the Governor.
- Overview of the following bills that were signed into law and OCTA supported: Assembly Bill (AB) 147, AB 252, and a sales tax exemption for zero emission buses.
- Two-year bills that continue to move forward are: SB 664 and SB 526.
- Ms. Jacinto noted that an error was found on page seven, paragraph five of the Staff Report. OCTA has an oppose position on SB 732.

A discussion ensued regarding how critical SB 732 is because the South Coast Air Quality Management District (SCAQMD) is looking into creating a district for sales tax and how OCTA needs continue to monitor the bill. Mr. Larson, Executive Director of External Affairs, provided comments on the Board Members of the SCAQMD and assured that OCTA will do a lot of outreach.

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

### **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:

- This is the second version of the State and Federal Legislative Platforms and one of the biggest changes was to adjust the sponsor bill section.
- The toll operation bill, SB 664, will remain as a sponsor bill and the Active Transportation Program sponsor bill language will be removed.
- In the State Legislative Platform, it is recommended that language is added due to the Governor's recent Executive Order and the Safe Affordable Fuel-Efficient Vehicle Rule.

**4. (Continued)**

- In the Federal Legislative Platform, two minor changes are being recommended: to revise the language on the implementation of positive train control and broaden the provision on grade separations.

A motion was made by Director Hennessey, seconded by Director Hernandez, and declared passed by those present, to:

- A. Adopt the revised 2019-20 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.

**5. Performance Evaluation of Federal Legislative Advocate, Potomac Partners, DC**

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

- This is the first year OCTA staff is evaluating the services provided by Potomac Partners, DC (PPDC).
- Since 2003, OCTA has contracted with PPDC for federal legislative advocacy services.
- The annual performance rating for PPDC is “very good” based on responsiveness, advancing OCTA’s positions and policies, and assisting in building cooperative relationships with members of Congress and the Administration.
- PPDC worked very hard on achieving the following:
  - Streamlining the Transportation Infrastructure Finance and Innovation Act (TIFIA) process;
  - Continuing to work on cleaning up the language for the use of revenues from aviation fuel;
  - Obtaining support for grant applications; and
  - Consistently scheduling OCTA into meetings with new delegation members.
- Next year, PPDC will work closely on making decisions related to surface transportation reauthorization.
- In regards to streamlining the TIFIA language, OCTA received support from Senators Cornyn and Feinstein and the delegation in Orange County led by Representative Rouda.

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



**6. Performance Evaluation of State Legislative Advocate, Platinum Advisors, LLC**

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

- Background on the firm Platinum Advisors, LLC (Platinum) which includes the services of Moira Topp, who serves as the lead legislative advocate for OCTA.
- The annual performance rating for Platinum is rated excellent based on efforts.
- Highlights on SB 664, AB 147, AB 252, and SB 277.
- Platinum and Ms. Topp represented OCTA on SB 526, a two-year bill which provided changes to the SB 375 greenhouse gas emission reduction process for transportation agencies.
- Ms. Topp was able to establish new relationships with the delegation and most recently arranged the new Secretary of Transportation to meet with OCTA staff.
- Next year, it is anticipated that several bills related to how agencies operate their toll systems, enforce them, and give out penalties will be implemented. SB 664 will also continue to be a priority for OCTA.

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

**Discussion Items**

**7. Chief Executive Officer's Report**

Darrell E. Johnson, CEO, reported on the following:

- An update was given on the continuing resolution in Washington, D.C. The federal appropriations process is still ongoing. However, the House voted to pass a continuing resolution to fund the government for all the agencies and departments through December 20, 2019.
- This weekend crews will be installing the pre-cast concrete girders for the Bolsa Chica bridge for the Interstate 405 (I-405) Improvement Project. Closures will be from 11:00 p.m. to 7:00 a.m. on:
  - Friday, November 22<sup>nd</sup> at the Bolsa Chica Road, the southbound I-405, and the southbound Bolsa Chica on-ramp and; on
  - Saturday, November 23<sup>rd</sup> at Bolsa Chica Road, the northbound I-405, the southbound Bolsa Chica on-ramp, and the eastbound California State Route 22 off-ramp to Garden Grove Boulevard.
  - The public will be notified through all OCTA regular channels.

### **7. (Continued)**

- A closure for the Interstate 5 (I-5) Central Project will include the 17<sup>th</sup> Street off-ramp from the northbound I-5 for approximately 55 hours for paving and striping activities. This closure is scheduled on Friday, November 22<sup>nd</sup> at 10:00 p.m. through Monday, November 25<sup>th</sup> at 6:00 a.m. to realign the ramp with the newly constructed roadway. The public will be notified through all OCTA regular channels.
- OCTA's Connect Orange County-Los Angeles Transit Study is currently underway. This week, OCTA began its public outreach to transit riders traveling between Orange and Los Angeles counties. In the next couple of weeks, survey teams will visit key bus stops and locations to gather rider feedback.
- This is the final Legislative and Communications Committee of the year and everyone was thanked for their hard work and for tackling tough issues this year.
- Mr. Johnson, CEO, wished everyone a safe and Happy Thanksgiving holiday and stated that OCTA's administrative offices will be closed next Thursday, November 28<sup>th</sup> and Friday, November 29<sup>th</sup> for the holiday.

### **8. Committee Members' Reports**

Director Hernandez asked if there have been any complaints on the project shutdowns. Mr. Johnson, CEO, commented that there have been complaints, and OCTA tracks about 150 comments per month for the I-405 Improvement Project which is extremely low. He added that different OCTA channels of communication to the public is helpful.

Director Shaw asked if people are using the Waze application to avoid the construction. Mr. Johnson, CEO, confirmed that OCTA does have a partnership with Waze on the I-405 Improvement Project to populate specific detours. He added that Apple and Google maps do show more real time information and data.



**9. Closed Session**

There were no Closed Session items scheduled.

**10. Adjournment**

The meeting adjourned at 9:33 a.m.

The **9:00 a.m. Thursday, December 19, 2019**, meeting of the Legislative and Communications Committee was cancelled.

The next regularly scheduled meeting of this Committee will be held at **9:00 a.m. on Thursday, January 16, 2020**, at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room – Conference Room 07, Orange, California.

ATTEST

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Laurie Davies  
Committee Chair

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Gina Ramirez  
Deputy Clerk of the Board



**January 16, 2020**

**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 "DJ", is written over the "From:" line of the memo.

**Overview**

An update is provided on the High-Speed Rail Project. A recommendation is included to authorize staff to engage in discussions with relevant stakeholders to advocate for investment in rail improvements in Southern California. A verbal update will be provided on the Governor's proposed fiscal year 2020-21 state budget.

**Recommendation**

Authorize staff to engage in discussions related to use and timing of funding for the High-Speed Rail project and seek opportunities to allow for investment in Southern California rail improvements.

**Discussion**

**California High-Speed Rail Authority Update**

The California High-Speed Rail Project was approved by the voters through Proposition 1A (2008), a \$9.9 billion bond, and it is supplemented by other funding sources, including \$3.5 billion in grants secured through the federal government and an appropriation of 25 percent of the State's cap-and-trade program annual proceeds. The project has experienced significant cost increases since 2008 that have resulted in an estimated \$50 billion funding gap to complete Phase I of the project, which would run from San Francisco to Anaheim.

In the 2019 State of the State speech, Governor Gavin Newsom signaled a shift in California's approach to the High-Speed Rail Project. Specifically, the Governor announced his intention to utilize the existing funding to complete the segment of the project between Merced and Bakersfield, while also continuing work on the environmental reviews for the remainder of Phase I, which includes



segments from San Francisco to San Jose and Burbank to Anaheim. It was unclear when later phases of the project would be completed or how they would be funded.

In response to the Governor's announcement, the Federal Railroad Administration (FRA) announced its intention to cancel a \$929 million federal grant appropriated in 2009. In the letter (Attachment A), the FRA argued that the California High-Speed Rail Authority (CHSRA) has failed to meet the terms of the cooperative agreement entered into with the FRA when the grant was executed. The FRA has also considered legal options to get back another \$2.5 billion federal grant that the CHSRA has already spent on the project. On March 4, 2019, the CHSRA responded to the FRA in a letter included as Attachment B. In this letter, the CHSRA explains how the agency is focused on meeting the conditions laid out in the federal grant agreement. Specifically, the letter discussed the progress made on the project, which includes 119 miles of construction, and the advancing of environmental permits. In addition, the letter notes that the CHSRA fulfilled its commitment to fully expend the other \$2.5 billion in federal funds discussed in connection with the FRA's letter.

#### California High-Speed Rail Side-By-Side Analysis of Three Regions

Given the increased uncertainty about when investments will be made within Southern California, certain members of the California Legislature have advocated for expedited investments in the Burbank-to-Anaheim segment of the project. On June 3, 2019, Assembly Member Tom Daly (D-Anaheim) sent a letter to the CHSRA supporting the motion made on May 21, 2019, by the CHSRA Board of Directors (Board) to provide a side-by-side analysis of the Central, Bay Area, and Los Angeles/Anaheim high-speed rail corridors (Attachment C). Assembly Member Daly argued that with more than 22 million residents in Southern California and amidst recent commitments to provide greater transparency regarding the high-speed rail project, it would be most productive to thoroughly analyze the three regions comparatively.

On October 15, 2019, the CHSRA Board received an update on this side-by-side interim analysis, comparing potential high-speed rail service options in these three regions. Preliminary findings in this report include the following: incremental ridership benefits will be significantly higher if all connecting services are concurrently improved with the Burbank-Anaheim high-speed rail section; both Northern California and Southern California regional benefits can only be realized with concurrent new regional capital investment; and, in the Central Valley, early high-speed rail services will create significant value. The final report is expected to include detailed projections for ridership, revenue, capital expenditures, construction schedule, and operating costs. It is expected that the report will be finalized in early 2020.

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**Assembly Committee on Transportation: Oversight Hearing, Review of the California High-Speed Rail Project**

On August 6, 2019, Metrolink received a request from the CHSRA to provide information regarding investments that could be made in the Southern California rail network that would benefit future high-speed rail deployment within the Burbank-to-Anaheim corridor. This information was to be used to inform CHSRA's corridor comparison analysis. Metrolink identified approximately \$7 billion in capital projects and \$2.5 billion in rolling stock deployments which would allow for the Burbank-to-Anaheim corridor to initiate a high-speed rail ready service. Metrolink's project list is included as Attachment D. Metrolink found that these investments would help operating efficiencies and benefit the Los Angeles-San Diego-San Luis Obispo Rail Corridor by providing additional capacity, flexibility, and reliability. In addition, the investments would provide several benefits such as attracting new customers, reducing greenhouse gas emissions, and reducing vehicle miles traveled.

Metrolink also discussed interest from private sector entities to fund certain portions of the various high-speed rail projects in California, such as the project being pursued by DesertXpress Enterprises, an affiliate of Virgin Trains USA. On October 23, 2019, DesertXpress Enterprises acquired a \$3.2 billion bond from the California Infrastructure and Economic Development Bank to assist in constructing a high-speed train from Victorville to Las Vegas. The funding will go toward the 135 miles of project within the state of California and is expected to be complete in 2023. This project is unrelated to and funded differently from the High-Speed Rail project, but demonstrates alternative funding availability that may exist.

As funding and regulatory hurdles have arisen, the Assembly Transportation Committee set out to discuss whether or not the project can meet its intended purpose and to evaluate how future investment decisions should be made. On November 12, 2019, the Assembly Transportation Committee held an oversight hearing on the California High-Speed Rail Project. Of particular interest, members and panelists discussed federal environmental review challenges, recommendations of the State Auditor, and various analyses of potential investment strategies for completing the project. Metrolink's input aforementioned was a critical component of this discussion, noting the benefits of investing in the Burbank to Anaheim corridor.

**High-Speed Rail Track and Systems Bid Request Correspondence**

Most recently, on December 9, 2019, the FRA sent a letter (Attachment E) to the CHSRA disapproving the release of its track and systems bid, arguing that it is inconsistent with the requirements set forth in the cooperative agreement the

CHSRA signed with FRA. Specifically, FRA has not approved a contingency plan for the financing, building, and operating of the line. Furthermore, the letter stated that it is premature for the CHSRA to undertake another design-build contract because of delays on the current construction contract.

CHSRA responded in a letter (Attachment F), on December 10, 2019, by detailing its efforts to engage with the FRA. The letter also addresses the FRA's claim that the project cannot move forward until its first plan is approved. CHSRA states that they submitted this plan in 2016 and again in 2019, arguing that the FRA has refused to act. The letter also reiterates the time constraints attached to federal funds, mentioning they do not have the luxury to wait. Additionally, they discuss that board actions and policies have set forth a plan to implement a fully electrified rail. To that end, they see no inconsistencies. The FRA has said they will review CHSRA's response letter. On December 10, 2019, the CHSRA Board approved the track and systems bid request.

#### Engagement in Timely Investment Conversations in Southern California

The timing to engage in ongoing discussions regarding how funding for high-speed rail in California will be used and the timing for such is critical. It is appropriate to ensure the Orange County Transportation Authority (OCTA) is at the table if funding becomes available in order to promote regional benefits and invest in improvements within Orange County and Southern California. OCTA's 2019-20 State Legislative Platform requires staff to "monitor and evaluate plans and progress of high-speed rail and its funding." Staff is recommending that additional authorization be provided to allow staff to provide input on how funding can be used in Southern California to provide rail improvements that would afford immediate regional mobility benefits.

#### Governor's Proposed Fiscal Year 2020-21 State Budget

As required by the state constitution, the Governor's proposed budget for fiscal year 2020-21 is required to be introduced by January 10, 2020. While a memo outlining the proposed budget has been provided to the OCTA Board, a verbal update will be included as part of the January 16, 2020, meeting of the OCTA Legislative and Communications Committee.

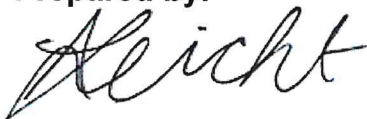


**Summary**

An update is provided on the High-Speed Rail Project. A request is made to authorize staff to engage in conversations with stakeholders to advocate for investment in the Southern California segments to provide robust, regional benefits. A verbal update will be provided on the state budget.

**Attachments**

- A. Letter from Ronald L. Batory, Administrator, Federal Railroad Administration, to Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority, dated February 19, 2019, re: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01
- B. Letter from Brian P. Kelly, Chief Executive Officer, California High-Speed Rail Authority, to Jamie Rennert, Director, Office of Program Delivery, Federal Railroad Administration, dated March 4, 2019, re: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01
- C. Letter from Assembly Member Tom Daly (D-Anaheim) to Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority, dated June 3, 2019, re: High-Speed Rail Study for Southern California
- D. Getting Southern California High Speed Rail-Ready with an investment in Metrolink's Burbank to Anaheim Corridor
- E. Letter from Juliana Shu Barnes, Project Manager, Federal Railroad Administration to Brian Kelly, Chief Executive Officer, California High-Speed Rail Authority, dated December 9, 2019, re: FRA Review of Draft TS 01 Request for Proposal Terms and Conditions
- F. Letter from Brian P. Kelly, Chief Executive Officer, California High-Speed Rail Authority to Juliana Barnes, Project Manager, Federal Railroad Administration, dated December 10, 2019
- G. Orange County Transportation Authority Legislative Matrix

**Prepared by:**

Alexis Leicht  
Associate Government Relations Representative,  
Government Relations  
(714) 560-5475

**Approved by:**

Lance M. Larson  
Executive Director,  
Government Relations  
(714) 560-5908



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

February 19, 2019

Mr. Brian Kelly (via electronic mail to [brian.kelly@hsr.ca.gov](mailto:brian.kelly@hsr.ca.gov))  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento, California 95814

Subject: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01

Dear Mr. Kelly,

This letter provides notice to the California High-Speed Rail Authority (CHSRA) that the Federal Railroad Administration (FRA) intends to terminate Cooperative Agreement No. FR-HSR-0118-12-01-01 (Agreement) effective March 5, 2019. Following termination, FRA also intends to promptly de-obligate the full \$928,620,000 obligated under the Agreement.

FRA has determined that CHSRA has materially failed to comply with the terms of the Agreement and has failed to make reasonable progress on the Project (as defined in the Agreement), significantly endangering substantial performance. Considering this determination, FRA intends to exercise its right to terminate the Agreement, consistent with Section 23 of the Agreement.<sup>1</sup> FRA's determination is based on many factors, including:

- CHSRA's failures relating to required State expenditures necessary to advance the Project according to the Project's schedule.
  - CHSRA has failed to achieve the State contribution rates described in its quarterly Funding Contribution Plan (FCP). For example, CHSRA committed to a \$141.8 million State contribution to advance final design and construction activities in December 2018, but reported only \$47.9 million of actual expenditures in that month. This almost \$100 million difference shows not only CHSRA's inability to deliver State contributions as outlined in the FCP, it is also an example of CHSRA's failure to advance construction work and expend funds at a pace necessary to complete the Project according to its schedule. Other months show the same shortfall of expenditures as compared to the State contribution commitment.

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<sup>1</sup> Section 22902(a) of Title 49 (Previously codified at 24402(a) of Title 49) authorizes the Secretary of Transportation to require terms, conditions, and other requirements that the Secretary deems necessary or appropriate on grants awarded under Section 301 of the Passenger Rail Investment and Improvement Act of 2008, which is one of the authorized programs included in the High-Speed Intercity Passenger Rail grant program. Additionally, 49 CFR § 18.43(a), provides the general authority for Federal awarding agencies to terminate awards if the grantee "materially fails to comply with any term of [the] award, whether stated in a Federal statute or regulations, an assurance, a notice of award, or anywhere else."



- Based on CHSRA Board of Directors reports, FRA has determined that CHSRA will not complete the Project by 2022, the end of the Agreement's period of performance.
  - FRA's evaluation of the various documents submitted to FRA, or publicly available (e.g., CHSRA's 4th Quarter 2018 Summary Schedule and CHSRA's February 2019 Finance and Audit Committee reports) shows CHSRA cannot complete the Project by 2022.
  - When compared against the amount of funds expended, the pending contractual completion dates show CHSRA is failing to make the type of sustained progress necessary to meet the 2022 deadline. For example, according to CHSRA's February 2019 Finance and Audit Committee report on Construction Package (CP) 4, the contractor has expended 25.1% of the contract price but approximately 86.5% of contract's period of performance has elapsed, demonstrating that CHSRA is not advancing construction work at the pace necessary to maintain the Project's schedule. Numerous prior quarterly reports reflect the same failure to expend contract dollars consistent with the contract period of performance.
- CHSRA's failure to submit required critical grant deliverables adequate to demonstrate CHSRA is effectively managing delivery of the Project. Such deliverables include Funding Contribution Plans.
  - CHSRA has failed to provide FRA with timely and satisfactory financial reports and other related deliverables. Without these deliverables, CHSRA has not demonstrated that it is making reasonable progress or effectively managing the Project. For example, since 2016, FRA has found over 40 reports and deliverables are delinquent or do not contain the type of information or level of detail necessary to allow FRA to oversee CHSRA's performance of the Project; this represents a very large portion of the reports and deliverables due over that timeframe. A portion of these delinquent or unsatisfactory deliverables are also required by Cooperative Agreement No. FR-HSR-0009-10-01-06; however, they generally show CHSRA's repeated failure to meet its obligations to FRA.
- Based on findings from FRA's oversight and monitoring, CHSRA has failed to take the appropriate corrective actions to ensure delivery of the Project.
  - FRA has regularly communicated its concerns on the above issues to CHSRA through: routine monitoring with CHSRA staff; individual meetings with CHSRA leadership; Quarterly Executive Meetings; and feedback on the Authority's reports and deliverables as part of FRA's routine business practice. CHSRA has consistently failed to take the appropriate corrective actions.

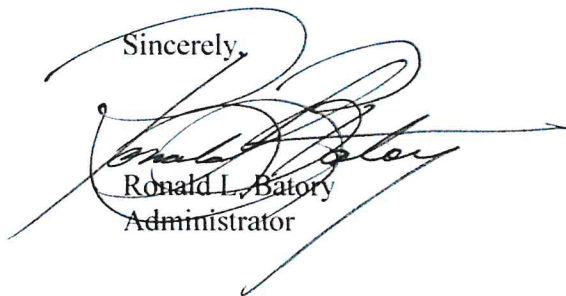
- FRA identified areas of interest in the 2017 annual monitoring (e.g., failure to develop and submit to FRA realistic Project schedules and budgets based on past performance and trends). During its most recent November 2018 monitoring, FRA found that CHSRA failed to satisfactorily address those areas of interest.

Reinforcing FRA's concerns about CHSRA's past performance, and the likelihood CHSRA will deliver on its obligations, is the significant change in the State of California's plans for its high-speed rail system. As described in the Agreement and in the various CHSRA applications for Federal financial assistance, the Project is a component part of the larger high-speed rail system that would, ultimately, connect San Francisco in the north and Los Angeles and Anaheim in the south. During his recent State-of-the-State address, Governor Newsom presented a new proposal that represents a significant retreat from the State's initial vision and commitment and frustrates the purpose for which Federal funding was awarded (i.e., an initial investment in the larger high-speed rail system).

If you believe there is information showing that: (1) CHSRA has satisfied its commitments and obligations under the Agreement; (2) is making reasonable progress to deliver the Project; and (3) that the Governor's announcement does not constitute a fundamental change in the purpose of the overall project for which Federal funding was awarded, FRA will take that information into consideration prior to taking any final action regarding termination of the Agreement. You may submit any such information before March 5, 2019, to Ms. Jamie Rennert, FRA's Director of Program Delivery at [jamie.rennert@dot.gov](mailto:jamie.rennert@dot.gov).

FRA reserves its rights under all other grant or cooperative agreements with CHSRA and is exploring all available legal options, including termination of Cooperative Agreement No. FR-HSR-0009-10-01-06 and the recovery of the Federal funds expended under that Cooperative Agreement.

Sincerely,



Ronald L. Batory  
Administrator

By e-mail to: [brian.kelly@hsr.ca.gov](mailto:brian.kelly@hsr.ca.gov)

cc: The Honorable Gavin Newsom  
Governor  
State of California

The Honorable Brian C. Annis  
Secretary  
California State Transportation Agency





March 4, 2019

**BOARD MEMBERS**

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CHAIR

**Thomas Richards**  
VICE CHAIR

**Ernest M. Camacho**

**Daniel Curtin**

**Bonnie Lowenthal**

**Nancy Miller**

**Lynn Schenk**

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**Honorable Jim Beall**

**Brian P. Kelly**  
CHIEF EXECUTIVE OFFICER

**GAVIN NEWSOM**  
GOVERNOR



Ms. Jamie Rennert  
Director, Office of Program Delivery  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Subject: Notice of Intent to Terminate Cooperative Agreement No. FR-HSR-0118-12-01-01

Dear Ms. Rennert:

I am responding on behalf of the California High-Speed Rail Authority ("CHSRA") to Ronald Batory's February 19, 2019 notification that the Federal Railroad Administration ("FRA") intends to terminate Cooperative Agreement No. FR-HSR-0118-12-01-01 ("FY10 Agreement" or "Agreement") and de-obligate the \$928,620,000 obligated under the Agreement effective March 5, 2019.

I urge the FRA to reconsider the precipitous and unjustified action it is contemplating. Termination of the FY10 Agreement would be unwarranted, unprecedented, and legally indefensible, and it would gravely harm a historic project on which the FRA and the CHSRA have collaborated productively for nearly a decade.

As detailed below, the CHSRA is meeting its commitments under the FY10 Agreement and Cooperative Agreement No. FR-HSR-0009-10-01-06 (the "ARRA Agreement"). The CHSRA is making reasonable progress on the Project.<sup>1</sup> And, far from abandoning the ultimate vision of a California high-speed rail system running from northern to southern California, Governor Newsom is proposing billions of dollars in additional state funding to expand the initial construction project in the Central Valley required by the ARRA Agreement. This expanded system will connect three of the largest cities in the Central Valley (Merced, Fresno, and Bakersfield), providing service to millions of individuals and transforming the economy of one of the nation's most economically distressed regions, as well as providing important transit connectivity to Los Angeles, the Bay Area, and Sacramento. The threatened termination of funding, by contrast, would cause massive disruption, dislocation, and waste, damaging the region and endangering the future of high-speed rail in California and elsewhere in the nation.

Accordingly, the FRA should reconsider the rash and unlawful action it is contemplating and instead engage in reasoned and structured discussion with the CHSRA of its concerns. The FRA's threat to terminate funding under the FY10 Agreement on two weeks' notice is a sharp departure from the productive, collaborative relationship previously enjoyed by the FRA and the CHSRA. In light of that relationship, and the disruption and waste that abrupt termination of the Agreement would cause, we owe it to the residents of the Central Valley, state and federal

<sup>1</sup> Unless otherwise indicated by context, "Project" refers to Tasks 1 through 10 listed in the FY10 Agreement and the ARRA Agreement.



taxpayers, and the nation as a whole to continue cooperating on our historic and transformative high-speed rail project.

### EXECUTIVE SUMMARY

The February 19, 2019 notification letter from Mr. Batory (the "Notice") asserts that the CHSRA has materially breached the FY10 Agreement based on four factors. But none of the conduct identified by the Notice constitutes a material breach of the Agreement, and the Notice's assertions of additional unidentified breaches are contradicted by the FRA's previous acknowledgements that the CHSRA has been complying with the essentially identical terms of the ARRA Agreement.

For example, although the Notice asserts that the CHSRA has failed to make required expenditures, the only shortfall that it identifies is the failure to meet projected design and construction expenditures in December 2018. Deviations from projected expenditures are, however, routine in any large construction project, and nothing in the FY10 Agreement makes such a deviation a breach, much less a material one.

Moreover, far from asserting any prior material breaches, the FRA repeatedly has acknowledged that the CHSRA was complying with its obligations. Under the ARRA Agreement, the FRA was permitted to release funds only if the CHSRA was complying with the Agreement. Nevertheless, the FRA released all the ARRA funds, making over 450 separate payments to the CHSRA from March 2011 to September 2017, when the account closed, thereby acknowledging the CHSRA's compliance with its spending (and other) obligations.

The Notice's other assertions of non-compliance are similarly unsupported. While the Notice concludes that the CHSRA will not complete the Project by the end of 2022, the only documents cited in support of this conclusion expressly state that the Project will be completed by then. Even more fundamentally, the Notice does not point to any "time is of the essence" clause or other provision in the Agreement making completion by 2022 material. The Notice similarly fails to identify any specific deliverables that the CHSRA has failed to satisfy, much less to explain why such failures would be material and cannot be cured. Finally, contrary to the Notice's assertion, the CHSRA has not failed to take any corrective action required by the FRA: indeed, the FRA has notified the CHSRA of only one corrective action, which the CHSRA completed.

The Notice also asserts that the CHSRA has failed to make reasonable progress on the Project. Here again, the Notice's assertion is belied by the FRA's prior conduct. In addition to prohibiting the release of funds absent compliance, the ARRA Agreement prohibited the release of funds unless the CHSRA was making adequate and timely progress. As a consequence, when FRA released funds under that Agreement from March 2011 through September 2017, it necessarily acknowledged that the CHSRA was making reasonable progress. Moreover, nothing in the Notice suggests that the CHSRA has stopped doing so. To the contrary, in the last year the CHSRA has made important progress in completing the Project. Indeed, there are now 24 active or completed construction sites in the Central Valley, employing more than 2,600 workers, who are realigning roads and utilities, building bridges, viaducts, and crossings, as well as grading roads and constructing embankments.

California has not changed the overall purpose of its High-Speed Rail Plan, nor has it frustrated the purpose of the Agreement. To the contrary, Governor Newsom has reiterated his support for the vision of his predecessors. He is, however, focused on completing the current project in the Central Valley and maximizing the benefits of that project. Far from frustrating the purpose of the Agreement, he is proposing to expand the construction contemplated by the Agreement so that the first building block of

the high-speed rail program will bring the benefits of high-speed rail to three of the largest cities in the Central Valley and three of the fastest growing counties in California.

The threatened termination of the FY10 Agreement on two weeks' notice is a sharp and wasteful departure from the FRA's fruitful collaboration with the CHSRA, which is necessary to complete any large infrastructure project. If this abrupt termination occurs, the FRA will not only endanger the historic project on which it has collaborated for nearly a decade; it also will set a troubling precedent that may undermine future infrastructure projects funded through state-federal partnerships. Accordingly, the CHSRA urges the FRA to reconsider its contemplated action or, at a minimum, to engage in structured discussions to share facts, clarify misunderstandings, and resolve disagreements.

## **DISCUSSION**

### **I. THE CHSRA HAS NOT MATERIALLY BREACHED THE FY10 AGREEMENT**

The Notice asserts that the CHSRA has materially breached the terms of the FY10 Agreement based on four specified factors.<sup>2</sup> The Notice, however, fails to identify any material breaches and thus fails to provide any legitimate ground for terminating the Agreement for non-compliance.

#### **A. The CHSRA has Committed and Spent More Than Sufficient State Funds for the Project**

The first factor specified in the Notice is the failure to make required State expenditures. The Notice, however, identifies only one specific shortfall: the CHSRA's expenditure of \$47.9 million rather than the \$141.8 projected on final design and construction in December 2018. It is true that the last quarterly Funding Contribution Plan projected design and construction expenditures of \$141.8 million in December 2018, and that only \$47.9 million was actually spent. But nothing in the FY10 Agreement required a \$141.8 million expenditure in December 2018 or that the CHSRA meet its expenditure projections each month.

Projections are just estimates for a given period. A deviation from such estimates is not a material breach. In any civil infrastructure project, the exact pace of the final design and construction activities varies over the duration of the project. If the projected progress in one month does not match the actual progress, the pace of the progress in subsequent months can be accelerated. This is especially true with delays early in a project when critical path items are being constructed because such delays may delay the commencement of others. But later noncritical path items can be accelerated to make up for the lost time and bring the project back on schedule.

The Notice's assertion that the current pace of state expenditures breaches the FY10 Agreement is also puzzling because CHSRA is not yet making expenditures under the FY10 Agreement. The FY10 Agreement funds the final set of tasks needed to complete the Project. The rest of the funding for the Project is being provided by the State and by the ARRA Agreement. Although the federal money granted under the ARRA Agreement was exhausted in September 2017, when the ARRA appropriation account closed, the CHSRA is still in the process of spending \$2.5 billion in matching state funds under the ARRA Agreement.

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<sup>2</sup> The Notice states that the FRA's assertion of material breach is based on "many" factors, but only identifies four areas of noncompliance. The CHSRA cannot respond to allegations concerning factors that have not been identified, and it would be fundamentally unfair for the FRA to terminate the Agreement based on factors that it has not given the CHSRA a chance either to contest or to cure.



Far from finding that the State materially breached the terms of the ARRA Agreement, the FRA repeatedly has recognized the CHSRA's compliance with that agreement. Under Section 7(b) of the General Provisions in Attachment 2 of the ARRA Agreement, the FRA may authorize release of funds only if it receives adequate documentation of a cost *and* the CHSRA is "complying with its obligations" under the ARRA Agreement. Pursuant to this provision, the FRA made over 450 separate payments to CHSRA from March 2011 through September 2017, thereby acknowledging that the CHSRA has been complying with its obligations.

Moreover, California is well ahead of schedule in meeting its matching obligation under the ARRA Agreement. As of December 2018, the CHSRA has submitted for FRA approval \$970 million in state matching funds, which is 39% of California's \$2.5 billion match requirement. As only 26% of the period for achieving this match has expired, California is plainly on track to meet its state match funding obligation under the ARRA Agreement. Furthermore, in 2018 the CHSRA committed an additional \$3.1 billion in state funding toward the Project, which would result in a total State contribution of 71% of the Project's cost. Thus, the State has committed to more than its fair share of the Project, and there has been no breach of the State's spending obligations.

**B. The CHSRA Remains Committed to Completing the Project by December 31, 2022**

The second factor identified by the Notice is that the CHSRA will not complete the Project by December 31, 2022. Here again, the facts identified by the Notice fall short.

The Notice asserts that the FRA's evaluation of various documents shows that the CHSRA cannot complete the Project by the end of 2022. But the only documents that the Notice identifies are CHSRA's Fourth Quarter 2018 Summary Schedule and its February 2019 Finance and Audit Committee reports. Far from showing that the Project will not be completed by 2022, the Fourth Quarter 2018 Summary Schedule shows that most work on the Project will be completed by March 2022 and the four final tasks by the end of that year. The Notice's reliance on the 2019 Finance and Audit Committee Reports is equally misplaced. According to the monthly report that the committee received this February, the construction packages in the Central Valley will be completed by December 31, 2020, August 31, 2021, March 31, 2022, and December 31, 2022.

Completing these packages on this schedule will be challenging. But as most recently outlined at the February 19, 2019 Finance and Audit Committee meeting with the public in attendance, the CHSRA acknowledges the risks to the project schedule that must be monitored and mitigated to keep the Project on track. The Authority is therefore implementing strategies to meet those challenges, and its Chief Operating Officer has set out the construction expenditure plan required to meet the December 31, 2022 deadline as well as creating cross-functional Strike Teams to clear project work sites, establishing teams to resolve commercial contractor charges and claims, and appointing an Executive COO and a Deputy COO focused solely on increasing construction productivity. The Notice does not—and cannot—explain why despite these actions the CHSRA cannot complete the Project by the end of 2022.

The FRA also notes one report submitted to the CHSRA's Finance and Audit Committee shows that a contractor has expended only 25.1% of a contract price even though 86.5% of the contract period has elapsed. But this report concerns "Construction Package 4," which is just one of four contract packages. The Notice offers no reason to believe that a delay in the completion of this one aspect of the Project will prevent completion of the overall Project by December 31, 2022, which is still more than three years away. Indeed, as the FRA knows, the CHSRA has been in active negotiations to correct the completion date for that contract package consistent with completion of the overall Project by the end of 2022.



Even more fundamentally, the Notice does not explain why a delay in completion of the overall Project would constitute a material breach of the FY10 Agreement. The Agreement contains no "time is of the essence" provision. Nor does the Agreement's termination provision state that failure to achieve 100% completion by the end of 2022 constitutes grounds for termination. To the contrary, Section 23.c of the General Provisions in Attachment 2 of the Agreement states that "[e]xpiration of any Project time period established for this Project does not, by itself, constitute an expiration or termination of this Agreement."

It is also surprising to us that the FRA is now finding the Project hopelessly and fatally delayed, because the agency has refused for nearly a year to take simple actions that would accelerate the Project. In June 2018, the CHSRA applied to conduct environmental reviews under the National Environment Policy Act concurrent with our robust state environmental review process. As staff at the United States Department of Transportation as well as the FRA have acknowledged, this simple measure would save months in project review (as well as millions of dollars in redundant expenses). Nevertheless, the FRA has not acted on our application, and, to make matters worse, since last August it has failed to conduct even the most routine review and approval of documents necessary to advance the environmental clearance process. The FRA should not point to delays, assert that future deadlines will be missed, and abandon the Project when it has failed to take simple steps to reduce delays.

The need to amend an interim schedule does not suggest or establish that a project cannot be completed or that its ultimate value will be diminished, and it certainly provides no reason to terminate the FRA's participation in a multi-billion-dollar project. The FRA should be working with the CHSRA on ways to limit those delays and expedite completion of the Project. Large design-build public transportation projects encounter scores of challenges and therefore require persistence, creativity, and inter-agency cooperation.

### **C. The CHSRA Is Meeting Its Obligations to Submit Deliverables**

The Notice asserts that the CHSRA has failed to submit "critical grant deliverables," including Funding Contribution Plans. In particular, it asserts that the FRA has found over 40 reports and deliverables either delinquent or lacking sufficient information. This is the first time that the FRA has identified deliverables as an issue so major that it might justify termination of the FY10 Agreement, and because the Notice fails to identify any particular report or deliverable, much less the deficiency in it, the CHSRA is not in a position to respond fully to this concern at this time. Nonetheless, it is clear that these asserted deficiencies do not justify termination of the Agreement.

*First*, a lack of sufficient information in deliverables is no basis for declaring a material breach, much less termination, because such deficiencies are obviously curable.

*Second*, while the Notice asserts that the FRA has found 40 reports and deliverables deficient since 2016, the FRA previously recognized that there were no material deficiencies before September 2017. As noted above, until the ARRA Agreement funds were exhausted in September 2017, the FRA approved payments under that agreement, thereby acknowledging that CHSRA was in compliance with the agreement. As the deliverables under the ARRA Agreement overlap with those under the FY10 Agreement, there could not have been any material breach of the latter concerning deliverables prior to September 2017. Moreover, nothing in the Notice suggests that any deficiencies since that time are any different in kind or number than those before.

*Third*, the CHSRA has made substantial submissions to the FRA. In total, it has delivered to the FRA 121 documents and plans specifically identified in the Agreements, including detailed reports, environmental documents, design plans, and other plans. The CHSRA is unaware of any deliverables

that have not been submitted other than four that were due at the end of last year, which the CHSRA has been unable to deliver because of the government shutdown and the FRA's subsequent delay in providing routine guidance concerning the content of those documents requested by the CHSRA.

While some other deliverables have been delayed, many of the delays were also attributable to the FRA. For example, environmental deliverables were delayed when the FRA ceased all work on environmental approvals pending resolution to the CHSRA's NEPA Assignment request. Other deliverables, such as the Interim Service Development Plan, were delayed while the CHSRA awaited guidance on the content of those documents, and still others such as the Program Management Plan were delayed because the FRA changed the guidance it provided or requested additional information. Because the Notice fails to identify the deliverables it contends were deficient, it is impossible to say how many of the deficiencies asserted by the FRA are attributable to its own action or inaction.

**D. The CHSRA Has Not Failed to Take Corrective Actions or Respond to The FRA's Monitoring**

Finally, the Notice asserts that the CHSRA has consistently failed to take appropriate corrective action. That is simply false. Under the procedures established by the FRA, if the FRA determines that a corrective action is required, it is supposed to issue a finding and a notice of the corrective actions required, usually in its monitoring reports. The FRA has issued only one such finding and notice under the ARRA and FY10 Agreements. That was in a 2014 review related to the CHSRA's oversight of a contractor's compliance with permit requirements, and the CHSRA promptly implemented a corrective action plan, which resolved the matter.

The FRA's own reports confirm that, contrary to the Notice's suggestion, the CHSRA has not failed to take corrective actions. The last monitoring report CHSRA received from the FRA was dated February 12, 2018, and the summary table of items requiring corrective action in the report is empty.

The Notice asserts that the FRA identified areas of interest in the 2017 annual monitoring review, which the CHSRA failed to satisfactorily address. This does not support the Notice's assertion that the CHSRA has failed to take corrective actions because *the FRA never notified the CHSRA that corrective action was required.*

Moreover, contrary to the Notice's suggestion, the CHSRA has spent considerable time and effort responding to issues raised in the FRA's annual monitoring reviews. Indeed, every year the FRA and the CHSRA conduct a Site Monitoring Review, which includes a one-day site review at the CHSRA's Sacramento headquarters office and three days in the Central Valley reviewing each construction package (this includes a one-day site tour of the construction packages). This week-long review covers multiple topics and involves every aspect of the program from grant management to construction oversight, providing the CHSRA and the FRA an opportunity to review issues that have arisen over the year and ongoing future needs and concerns. There has never been a suggestion before that the CHSRA fails to address the issues raised by the FRA or has failed to satisfactorily address them.

The Notice offers only one example of a supposed failure to respond to its monitoring: the CHSRA, it asserts, has not developed "realistic Project Schedules and budgets based on past performance and trends." In fact, however, the CHSRA has made extensive efforts to update and improve its scheduling and budgeting process. For example, in June 2018, as part of its business plan process, the CHSRA completed an updated baseline cost estimate and budget to complete the work underway, an updated schedule for completion, and an implementation plan for passenger service and completion of the federal grant agreement.



In addition, numerous examples of the CHSRA responding to the FRA concerns can be cited. For example:

- **Staff Capability and Capacity**—In response to the FRA's suggestion that the CHSRA reorganize staff to facilitate project delivery and fill key positions with project delivery experts, in August 2017, the CHSRA created a new Program Delivery Office, restructured to focus on program delivery and made improvements in its governance and decision-making structure to improve internal communications.
- **Internal Processes**—In response to the FRA's suggestion to implement a control system addressing Program Management Plan requirements, the CHSRA established a Program Management and Oversight branch and implemented a more formalized process of configuration management and change control.
- **Service Development Planning**—In response to the FRA's suggestion that the CHSRA explain the independent utility of the Central Valley portion of the high-speed rail program, the CHSRA contracted with an Early Train Operator consultant, which evaluated different service options, including a Merced to Bakersfield approach, that were discussed in the CHSRA's 2018 Business Plan and will be discussed further in a report to the Legislature in May 2019.
- **Right-of-Way Acquisitions**—In response to the FRA's suggestion to increase the pace of right-of-way acquisitions, the CHSRA stepped up its acquisitions so, for example, acquisitions for Construction Package 4, increased from 39% complete in 2017 to 80% by December 2018. For all Construction Packages, 74% of the property needed has been delivered to the design-build contractors.

Here again, the Notice has failed to show any material breach of the terms of the FY10 Agreement that could justify termination of the Project.

## II. THE CHSRA IS MAKING REASONABLE PROGRESS ON THE PROJECT

In addition to asserting that the CHSRA materially breached its commitments and obligations under the Agreement, the Notice contends that the CHSRA is not making reasonable progress on the Project. That is also wrong.

Since the CHSRA has not yet accessed FY10 Agreement funding as it spends down the required State matching dollars, progress must be measured against the ARRA Agreement. In releasing funds under the ARRA Agreement, however, the FRA has acknowledged that the CHSRA has been making reasonable progress. In addition to prohibiting payments absent compliance, the ARRA Agreement prohibited payments unless the CHSRA was "making adequate and timely progress toward Project completion." As the FRA made over 450 payments under the ARRA Agreement from March 2011 through September 2017, the CHSRA must have been making adequate progress into at least the third quarter of 2017.

Nothing in the Notice shows that progress has materially stalled since then. To the contrary, CHSRA has continued to make substantial progress. Indeed, at this point:

- 90% of the design work on the Project has been completed, and 74% of the rights of way have been delivered to the CHSRA's contractors;
- There are more than 24 active or completed construction sites in the Central Valley;

- State Route 99 has been realigned, and the realignment of other roads as well as utilities is in progress;
- Two overhead crossings, a bridge, and a viaduct have been completed; two other viaducts as well as a trench in Fresno are in progress; and abutments for bridges and ponds are being constructed;
- Over 44 miles of grading and embankment work is either finished or in progress; and
- In total, the Project has employed more than 2,600 workers in the Central Valley, involved 488 small businesses, and achieved nearly \$6 billion in economic output.

Overall, the CHSRA has made significant progress on multiple sections in the Central Valley portion of the high-speed rail program concurrently to more quickly deliver statewide mobility and environmental benefits. In light of these significant and visible achievements, it is critical for both the FRA and the CHSRA, as stewards of the significant taxpayer funds invested so far, to complete the Project. Otherwise, we risk both failure and the unthinkable abandonment of a partially completed Project that would not be fit for the purpose for which the taxpayers have made this investment.

### **III. CALIFORNIA HAS NOT CHANGED THE OVERALL PURPOSE OF THE HIGH-SPEED RAIL SYSTEM**

The Notice's final objection is that Governor Newsom, in his recent State of the State Address, changed the overall goal for High-Speed Rail in California and made a proposal that frustrates the purpose for which federal funding was awarded. Nothing could be further from the truth.

In his State of the State Address, Governor Newsom expressly confirmed that he shares that ambitious vision for high-speed rail of his predecessors Governors Brown and Schwarzenegger. Moreover, as I made clear in a recent memorandum to the chairman of the High-Speed Rail Authority, the Authority's ultimate goal remains a high-speed rail system that connects San Francisco to Los Angeles/Anaheim and that eventually will reach north to Sacramento and south to San Diego. The Governor merely identified a pragmatic, near-term focus, which is to "get trains on the ground" in the Central Valley and to lay the foundation for the San Francisco to Los Angeles/Anaheim service. Like all mega-infrastructure projects, the California high-speed rail system will be completed in building blocks with each block placed in service upon completion with future funding and construction eventually expanding the system to its ultimate extent.

Far from frustrating the purpose of the FY10 and ARRA grants, the Governor's focus expands that purpose and maximizes the utility of the first building block in the high-speed rail program. These grants are for construction of the initial portion of the high-speed rail system, and they require the CHSRA to construct a 119-mile segment from Poplar Avenue, approximately 15 miles north of Bakersfield, to Madera. Governor Newsom is proposing to expand this project by 50 miles—with California bearing the expense of doing so—to reach south into downtown Bakersfield and north to Merced, so that this initial segment will connect three of the largest cities in the Central Valley (Merced, Fresno, and Bakersfield), three major universities and three of the fastest growing California counties, as well as providing important transit connectivity to the Altamont Corridor Express (ACE) and Amtrak traveling to the Bay Area and Sacramento and to bus services traveling from Bakersfield to Los Angeles.

This expansion will make the initial building block of the high-speed rail program more immediately productive, which furthers, rather than frustrates, the purpose of the federal grants. The expanded Central Valley project also furthers the ultimate goal of a statewide high-speed rail system by ensuring that the first step in California's high-speed rail system brings tangible benefits that will encourage extension to the San Francisco Bay area and then to the Los Angeles basin.



#### **IV. THE THREATENED TERMINATION OF THE FY10 AGREEMENT IS A SHARP AND UNFORTUNATE DEPARTURE FROM PRIOR PRACTICE**

In addition to being unjustified, the FRA's sudden threat to end the Project on two weeks' notice is a sharp—and wasteful—departure from its fruitful collaboration until now with the CHSRA.

For nearly a decade, the CHSRA and the FRA have been working together toward our common goal of achieving the first true high-speed rail system in the United States. A project of this magnitude faces challenges at every stage, from planning, funding, environmental review, and acquisition of private property to the physical challenges of construction that cannot be fully predicted or addressed until dirt is actually moved. Consequently, the cooperation and, at times, patience of numerous agencies and municipalities is required. Until now, the CHSRA and the FRA have enjoyed such cooperation including, among other things, amending the ARRA Agreement six times to accommodate various changes.

Together, the agencies have overcome numerous hurdles since the original execution of the grant agreements in 2010 and 2011. For example, in 2012, after litigation challenging the Project was filed, the FRA and the CHSRA renegotiated the ARRA grant terms to allow a tapered match payment arrangement whereby the federal ARRA funds would be used first to pay for capital costs until fully expended, which occurred in September 2017, followed by state match until the full match amount is spent. Similarly, in late 2013, as the same litigation was on appeal, the FRA and the CHSRA mutually agreed to slow down the project construction, pending the results of the appeal or access to alternative state matching funds. And the FRA and the CHSRA continued to cooperate under a tapered match arrangement to assure the full use of the federal ARRA funds prior to the September 2017 statutory deadline.

While much remains to be done, we are proud of the progress we have made. Terminating the FY10 Agreement now, especially without providing the CHSRA a fair and reasonable opportunity to be heard, would have grave consequences. Especially if paired with the clawback that the Notice threatens, termination would create uncertainty over the future of a project that has created 2,600 jobs in the Central Valley, a region that has struggled economically, and ultimately may leave that area strewn with unfinished bridges, overpasses, and viaducts.

This termination, should it go forward, also would set a troubling precedent that would undermine future infrastructure projects nationwide. Especially given the precipitous manner in which termination and withdrawal of funds has been threatened, the termination would cast doubt on the reliability of the federal government as a partner in delivering on *its* funding commitments. As a result, states may be unwilling to join the federal government in investing billions of dollars on future infrastructure projects, leaving the federal government with the unenviable choice of funding those projects itself or leaving them undone.

I urge the FRA and the Federal Government to focus on the important goal we have set together for California and the rest of the nation: to complete the first building block of a statewide high-speed rail system. That goal was established in partnership with the FRA in 2010 and 2011 when the ARRA and FY10 grant funds were awarded. Since that time, California has appropriated matching state funds, including Proposition 1A and Greenhouse Gas Reduction funds. Thus, based on the best available estimates the state and federal funds needed to satisfy capital costs to complete Central Valley construction, including right of way acquisition, construction management, environmental mitigation, final design, construction, and interim service, have all been committed or identified. Moreover, extensive construction is already underway. The FRA should not step away and waste all of these efforts.

At a minimum, in light of the massive disruption and waste that an abrupt termination would cause, I ask the FRA to agree to engage in a sincere effort to work through the issues raised in the Notice and save the



Ms. Jamie Rennart  
March 4, 2019  
Page 10

nearly decade of collaboration on our historic high-speed rail project. Before any precipitous and potentially irreparable action is taken, the FRA should specify the deficiencies that the Notice only vaguely references and give the CHSRA an opportunity to respond to them individually and, where justified and still live, to discuss ways in which to cure or mitigate them. We also should engage in a meaningful discussion of how such issues may be cured in a more prompt and productive fashion without endangering a multibillion dollar project employing thousands of workers. And, finally, before concluding that the Project cannot be completed and abandoning it, the FRA officials should come to California and inspect the Project so that they can see for themselves both the great progress that has been made and the devastating harm that abandoning the Project at this stage would cause.

Please contact us so that we can begin to make these arrangements as soon as possible and remove any cloud over the Project. We owe it to taxpayers to continue our cooperation on this historic endeavor and to act in good faith as stewards of the funds spent and to be spent in the Agreement.

#### CONCLUSION

Based on the above, I urge the FRA to decide that the FY10 Agreement should not be terminated or, at a minimum, that it defer any final termination decision and meet constructively with the CHSRA to resolve any and all issues of concern and preserve the historic Project on which we have cooperated for so long.

Thank you for your consideration.

Respectfully,



Brian P. Kelly  
Chief Executive Officer

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**TOM DALY**  
ASSEMBLYMEMBER, SIXTY-NINTH DISTRICT

COMMITTEES  
CHAIR: INSURANCE  
TRANSPORTATION  
GOVERNMENTAL ORGANIZATION  
VETERANS AFFAIRS

June 3, 2019

Mr. Brian Kelly, Chief Executive Officer  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento, CA 95814

**Re: High-Speed Rail Study for Southern California**

Dear Mr. Kelly:

On May 21, 2019, the High-Speed Rail Authority approved a motion by Director Camacho, which asked staff, through the Early Train Operator (ETO), to provide a side-by-side comparison analysis of the Central Valley, Bay Area and Los Angeles/Anaheim high-speed rail corridors.

During Director Camacho's remarks, he listed components of the analysis to include ridership, greenhouse gas savings, congestion relief, near term benefits, completion date, and any potential for private investment and local matching funds. Studying these points can be very productive.

The "2019 Project Update Report" included work conducted by the ETO, which had been tasked with studying ridership and costs of interim service options for both the Bay Area and the Central Valley.

Absent from this analysis was a study of the Los Angeles/Anaheim region. Over 22 million Californians, 55 percent of the state's population, reside within the Southern California region. As our state takes a fresh look and commits to providing greater transparency in regards to the high-speed rail project, I think it is crucial that Los Angeles/Anaheim is included in the study and a side-by-side comparison of the three regions is provided.

I look forward to your response and any additional information you can provide in regards to the high-speed rail study of the Los Angeles/Anaheim region.

Sincerely,

A handwritten signature in blue ink that reads "Tom Daly".

Tom Daly  
Assemblymember, 69<sup>th</sup> District

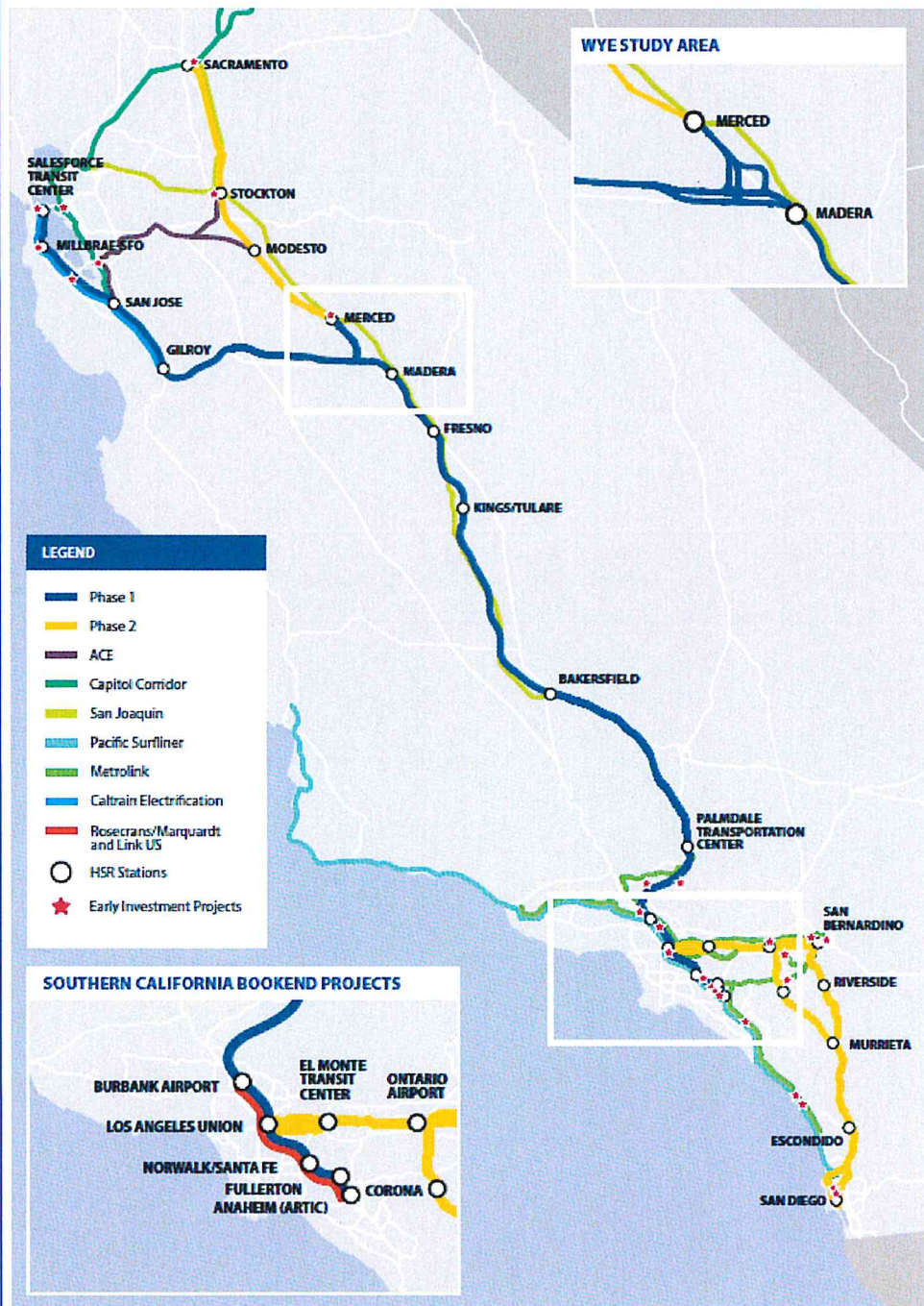






## Getting Southern California High Speed Rail-Ready with an Investment in Metrolink's Burbank to Anaheim Corridor

### STATEWIDE BOOKEND AND CONNECTIVITY



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## Appendix 1: Southern California Optimized Rail Expansion (SCORE) Complete Project List

**Cover Image Source:** California High-Speed Rail Connectivity and Bookend Investments Fact Sheet  
[https://www.hsr.ca.gov/communication/info\\_center/factsheets.aspx](https://www.hsr.ca.gov/communication/info_center/factsheets.aspx)



## Executive Summary

The California High-Speed Rail Authority (CAHSR) Board of Directors met on July 16, 2019, during which Director Ernesto Camacho requested that CAHSR staff perform a side-by-side comparison of the Central Valley, the Bay Area, and the Los Angeles Corridor. As a result, the Southern California Regional Rail Authority (Metrolink) received a request from CAHSR on August 6, 2019 to provide information regarding investments that could be made in the Southern California rail network that would benefit future High-Speed Rail deployment. Those investments and their present-day and future benefits are provided in the attached report.

Metrolink is the nation's third largest commuter rail system with **538** total route miles, serving six Southern California counties with a cumulative population of **21.5 million people**. Currently, Metrolink customers ride an average of 36 miles one-way and remove more than **9 million car trips** annually, equating to a **28% reduction** in traffic volume during the peak hour in peak direction on parallel freeways. The result is an annual Vehicle Miles Traveled (VMT) reduction of over **335 million miles** in Southern California. That reduction will only grow with Metrolink's vision to double ridership by 2023 and provide 30-minute, bidirectional service throughout the system by the 2028 Olympic Games. As a joint powers authority that relies on member agency contributions, it is critical to leverage state and federal investment to realize the vision.

<b>Metrolink Today</b>	
Annual Ridership (FY 2019)	11.9 million
Annual VMT Reduced	335 million +
Time Saved vs. Driving I-5	Up to 54 minutes
Annual Greenhouse Gases Reduced	130,000 metric tons
<b>Metrolink Tomorrow</b>	
Annual Ridership (FY 2028)	20 million +
Annual VMT Reduced	500 million +
Time Saved vs. Driving I-5	Up to 84 minutes
Annual Greenhouse Gases Reduced (average annual 2024-2028)	207,000 + metric tons

California High Speed Rail is looking to make key investments in the Burbank – Anaheim Corridor in Southern California that will benefit the statewide service when it begins to operate in the future. Metrolink and its Member Agencies are currently spending \$1.8 billion on the Corridor through the Southern California Optimized Rail Expansion (SCORE) Program. Metrolink has identified approximately \$9.4 billion<sup>1</sup> in capital projects and rolling stock deployments needed for the Corridor. A phased delivery strategy reduces that need in the short term to \$3.5 - \$5.5 billion by 2024, which would allow the Burbank to Anaheim Corridor to initiate a high-speed rail ready service and enhance **connectivity with multiple existing services throughout Southern California**. This investment will lay the groundwork for CAHSR and help to reduce VMT along with greenhouse gas (GHG) and criteria pollutant emissions, while providing attractive zero emissions rail choices for the traveling public and for visitors to California.

Investments in this corridor will help operating efficiencies related to facilitating 130 train movements in the corridor each weekday, including 80 freight trains and 50 passenger trains on a corridor of regional and national significance. These investments also will benefit the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor immediately by providing additional capacity, flexibility and reliability, while also providing these same benefits to CA HSR when it begins to operate. Finally, private entities like Virgin Trains have expressed interest and the potential for **private funding** in this

<sup>1</sup> \$7 billion for capital projects; \$2.5 billion for ZEV rolling stock and facilities.

corridor, further demonstrating the benefits of investments in the Burbank – Anaheim Corridor and making this a unique opportunity for California.

In summary, investment in the Burbank – Anaheim Corridor enables immediate mobility improvement in Southern California by strengthening the backbone of the entire system and creating the capacity to accept additional systemwide improvements that enable high-frequency services throughout the day, while simultaneously making Southern California high-speed rail ready. State investment in the Burbank – Anaheim Corridor also has the potential to unlock significant **federal funding** and pave the way for **private investment** in Southern California.

Director Camacho’s motion recognizes the ridership, congestion relief, GHG reductions and other near-term benefits early investment in Northern and Southern California can provide in conjunction with ongoing investment in the Central Valley. The Metrolink Burbank – Anaheim Corridor stands ready to maximize the early benefits of state, federal, local funding, and potential private fund sources to deliver high-speed rail ready infrastructure to get faster congestion relief, greenhouse gas emissions reductions, and mitigate the impacts of climate change. The future is now.



## Metrolink Overview

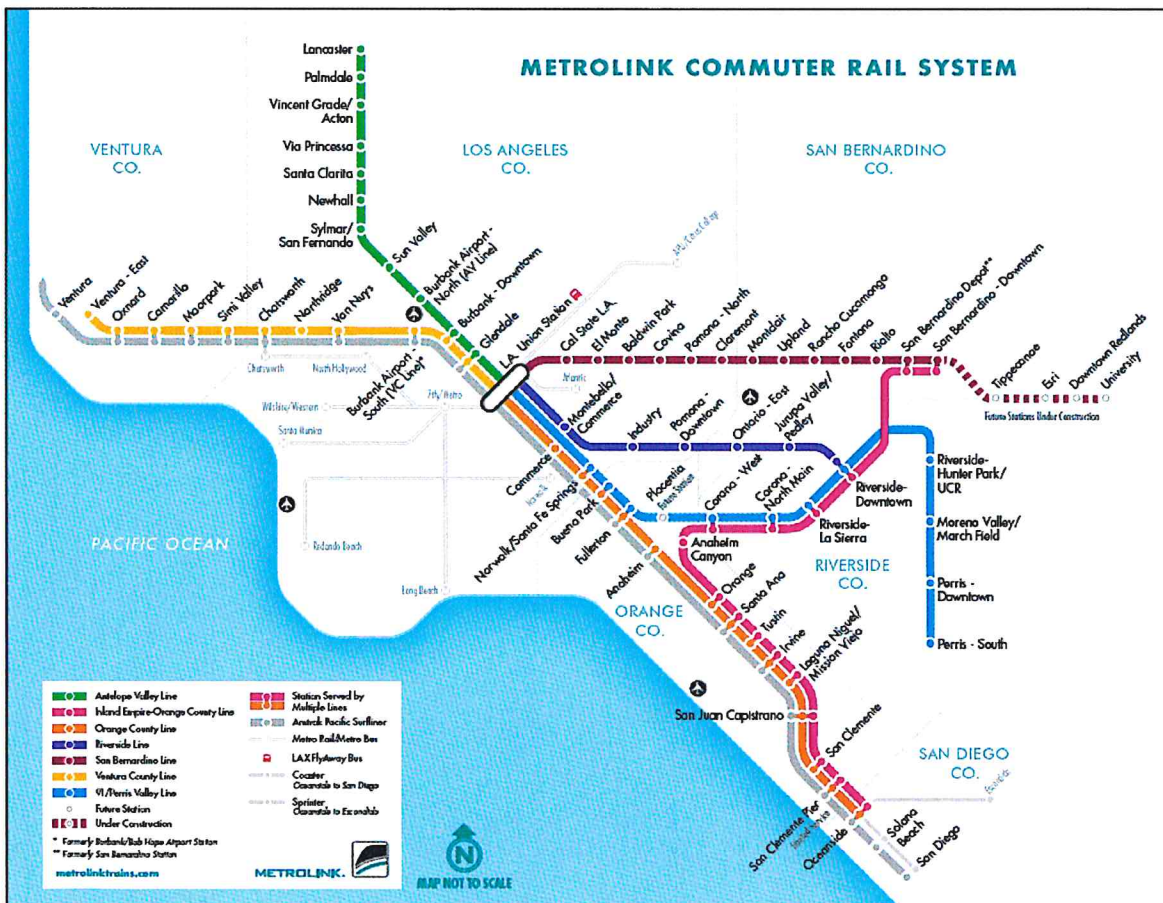
Metrolink is the nation's third largest commuter rail system, based on its **538** total route miles, serving six Southern California counties with a cumulative population of **21.5 million people** – over half of California's total population. Over the next 15 years, these counties are forecasted to add **one million people**, while also meeting the State's ambitious greenhouse gas (GHG) reduction and housing goals. Commuter rail service is an important resource to connect our region's affordable housing to key economic job centers.

Here are a few key statistics:

- **11.9 million** annual riders in Fiscal Year 2019;
- **81%** of weekday trips are work-related, reducing traffic volume during the peak hour in peak direction by up to **28%** on parallel freeways such as the 5, 10, 57, 101, 134, 215, 710 freeways– some of the most congested roadways in the nation;
- **60%** of Metrolink riders travel across county lines;
- Metrolink eliminates **130,000 metric tons** of greenhouse gas (GHG) emissions annually; and
- Metrolink eliminates **335,080,746** vehicle miles traveled (VMT) per year from area roadways.

Approximately **15 million people** live within five miles of Metrolink's **62 stations** throughout Southern California. Our average trip length is **36 miles** and **85% of our riders** have access to a car, but choose commuter rail, making a Metrolink trip an avoided freeway trip. Despite its impact, Metrolink does not yet have the infrastructure investment needed to achieve its full congestion relief potential.

Figure 1: Metrolink System Map

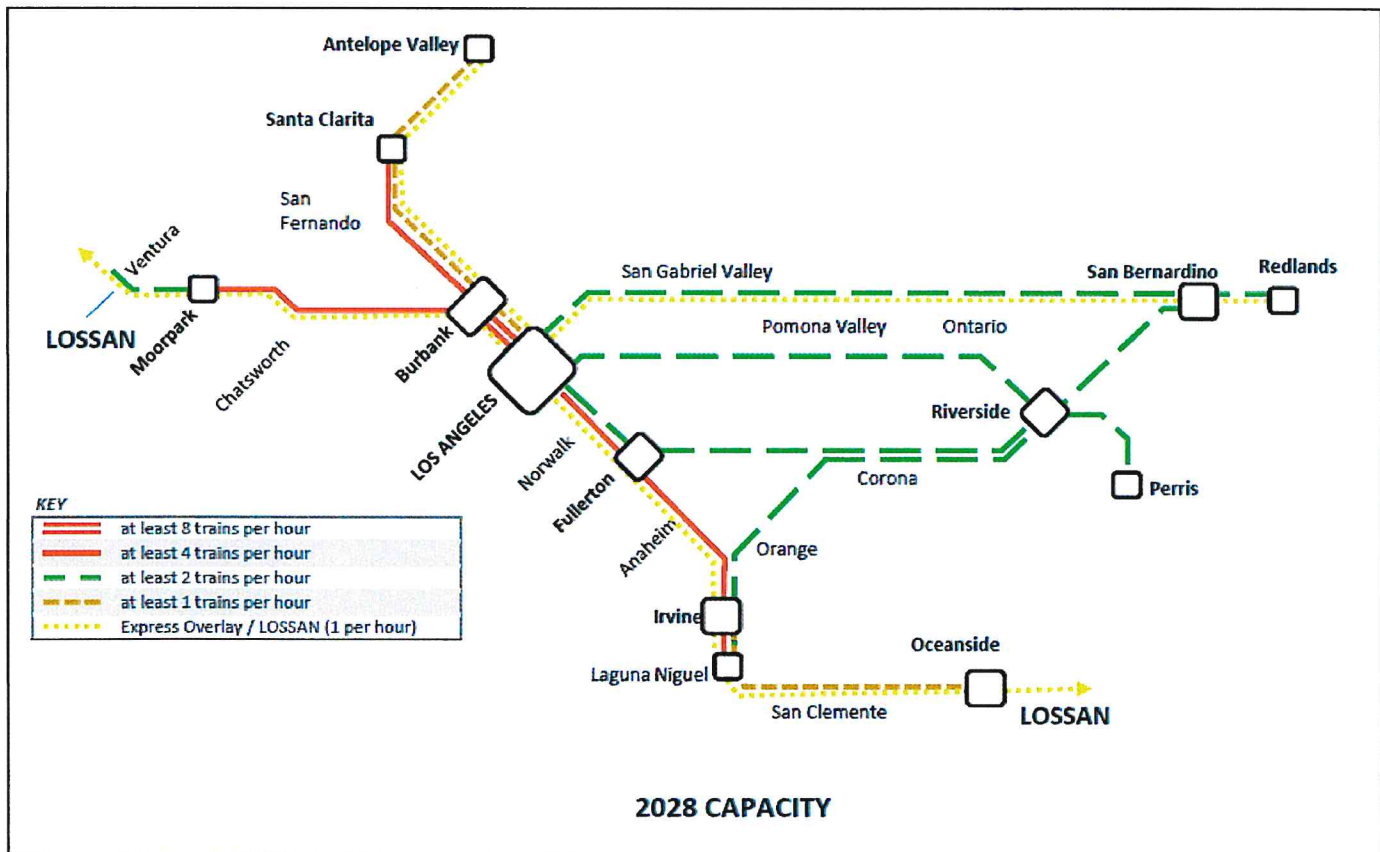


## A Vision for Metrolink

The Chief Executive Officer's overall vision for Metrolink is to double system ridership in five years. Achieving that goal will require trains reliably arriving at least every 30 minutes, with higher performance trainsets that will include deployment of zero emission vehicles (ZEV). Realizing the vision will require targeted investments in the Southern California Optimized Rail Expansion (SCORE) program, along with additional investments in the 45-mile Burbank – Anaheim Corridor, and the introduction of ZEV trainsets in the Burbank – Anaheim Corridor by the time Southern California hosts the 2028 Olympics.

The corridor between Burbank and Anaheim is shared with Amtrak, freight rail and, in the future, with California High-Speed Rail. The aforementioned investments support the long-term State investment in the California High-Speed Rail System and growth in state-supported Amtrak service; benefits the nationally significant freight corridors emanating from the Ports of Los Angeles and Long Beach; and is consistent with State's Transportation Plan 2040 Vision, the 2018 State Rail Plan, the 2018 High Speed Rail (HSR) Business Plan and the Southern California Association of Governments' Sustainable Communities Plan.

Figure 2: SCORE Vision for 2028





## Integrating Statewide Service within Southern California

The 2018 California High Speed Rail Business Plan (Business Plan) identifies the approximately 45-mile rail corridor connecting Burbank-Los Angeles-Anaheim as one, "...of regional and statewide significance and critical to supporting the Southern California economy." The Burbank – Anaheim Corridor connects significant California residential and commercial markets, along with tourist, entertainment, cultural and business destinations. The Corridor also provides strategic connections across the Southern California network, and is fundamental to the rail operator partnerships between Metrolink, Burlington Northern Santa Fe Railway (BNSF), Union Pacific Railroad (UPRR), Los Angeles – San Diego – San Luis Obispo Rail (LOSSAN), California High-Speed Rail and our Member Agencies who are working together to address regional mobility needs.

The Business Plan further articulates the following as consistent with California High-Speed Rail objectives and principles, citing the need to invest in, *"...vital, high-priority projects in Southern California along the Burbank to Los Angeles to Anaheim corridor that improve freight, local and regional passenger rail service, enhance transit connections, improve safety, and accommodate the introduction of high-speed rail service in Southern California."*

The cover image shows the Burbank – Anaheim Corridor in the context of the California High-Speed Rail Phase 1, which is scheduled to deliver high-speed rail to Southern California by 2033, replacing the planned interim bus service between Bakersfield and Burbank. The Figure also illustrates the connectivity between HSR and Metrolink and the Amtrak Pacific Surfliner, which underscores the importance of readying the regional network to receive the influx of HSR passengers starting in 2033. Investing in the Burbank – Anaheim Corridor also helps to accomplish the Business Plan mobility and environmental goals to:

- "Use 100 % renewable energy to power the electrified system."
- "Eliminate the equivalent of 322,000 passenger vehicles from roads and highways each year."
- "Realize 189 lbs. of GHG reductions for each rider."

State investment in the Burbank – Anaheim Corridor has the potential to unlock new federal investments from programs like the Federal Transit Administration (FTA) Core Capacity Program, which requires a one-to-one match for funding provided.

## Realizing the Vision in the Burbank – Anaheim Corridor

Metrolink and its Member Agencies are currently spending \$1.8 billion on the Corridor through the Southern California Optimized Rail Expansion (SCORE) Program. Accomplishing the vision for the region by opening up capacity in the Burbank – Anaheim Corridor will require an estimated \$9.4 billion in capital improvements and rolling stock deployments. Additional investment in the corridor would allow Metrolink to address approximately \$50 million in State of Good Repair needs, and would provide the resulting physical safety, capacity and reliability improvements including:

- 90 total miles of double track infrastructure
- 50 total miles of triple track infrastructure
- 33 total miles of four-track infrastructure
- 12 additional sidings
- 15 at-grade crossing upgrades and grade separations
- 44 zero-emissions trainsets deployed
- New and modernized maintenance facilities

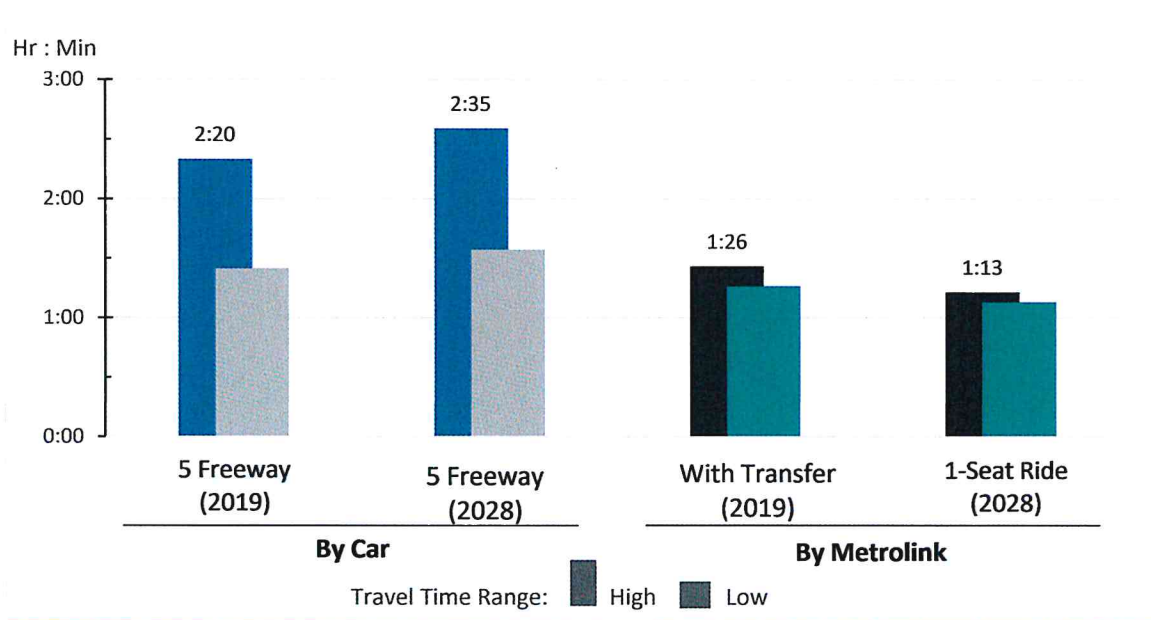
A phased delivery strategy reduces that need in the short term to \$3.5 - \$5.5 billion by 2024, which would allow the Burbank to Anaheim Corridor to initiate a high-speed rail ready service and enhance **connectivity with multiple existing services throughout Southern California.**

### Burbank – Anaheim Corridor People Benefits

Today, the following stations along the corridor are in the top 15 in average weekday boardings: LA Union Station (1); Fullerton (2); Burbank-Downtown (5); Norwalk-Santa Fe Springs (8) and Glendale (12). Also, the following corridor stations are ranked in the top 10 for the number of trains stopping: LA Union Station (1); Burbank – Downtown (4); Glendale (5-tie); Fullerton (5-tie); and Anaheim (7).

Metrolink travel times compare very favorably to parallel freeways, which include Interstates 5, 10, 210, 405 and 605; and State Routes 14, 91 and 170. Current Burbank – Anaheim Corridor ridership is over 1.8 million annually; and we want to double that. Current riders have found their travel time comparison is favorable when they take Metrolink in lieu of driving, as illustrated in Figure 3. Metrolink passengers will reduce their travel time by 22% with these investments in the corridor. Future high-speed rail services running on the corridor could make the Burbank – LA – Anaheim trip in just over an hour on the proposed improvements. Giving people back their time is priceless, as anyone who navigates Southern California traffic knows.

**Figure 3: Travel Time from Burbank Airport to Anaheim**



As shown in Table 1, the Burbank – Anaheim corridor stations include 203,233 residents within one-half mile. Of the 46 total census tracts, 76% of them are categorized as SB 535 Disadvantaged Communities, and 70% are categorized as AB 1550 Low-Income Communities. The mobility, public health and economic benefits of the project extend far beyond the station area, to the entire corridor service area, where similar percentages of disadvantaged communities are located. Public health benefits are associated with safer rail crossings, cleaner air, more biking and walking opportunities, safer mobility options and access to health services via affordable transit. The SCORE Program will net 3.7 million new walk/bike trips per year, 84% of which will occur in disadvantaged communities.



**Table 1: Burbank-Anaheim Corridor Disadvantaged Community (DAC) Station Area Population**

Assets (1/2-mile buffer)	General Info		Disadvantaged Communities		Low-Income Buffer		Low-Income Communities	
	Total Population	Total Tracts	# DAC Tracts	% DAC Tracts	# LI-B Tracts	% LI-B Tracts	# LI Tracts	% LI Tracts
AVL - Burbank - Downtown	23,301	5	4	80%	1	20%	4	80%
AVL - Glendale	30,525	8	7	88%	0	0%	7	88%
AVL - Union Station	34,732	10	8	80%	1	10%	8	80%
Commerce	15,287	3	3	100%	0	0%	3	100%
OCL - Norwalk/Santa Fe Springs	24,671	7	7	100%	0	0%	3	43%
OCL - Buena Park	26,046	4	2	50%	0	0%	2	50%
OCL - Fullerton	29,034	6	3	50%	0	0%	4	67%
OCL - Anaheim	19,637	3	1	33%	0	0%	1	33%
<b>TOTALS</b>	<b>203,233</b>	<b>46</b>	<b>35</b>	<b>76%</b>	<b>2</b>	<b>4%</b>	<b>32</b>	<b>70%</b>

Source: California Air Resources Board: <https://ww3.arb.ca.gov/cc/capandtrade/auctionproceeds/lowincomemapfull.htm>

### **Burbank – Anaheim Corridor Economic Benefits**

The Metrolink system largely connects more affordable housing with job centers. In addition, economic development and individual opportunities are improved as transit options strengthen current linkages and create new linkages to markets, education, jobs, housing, and health care. Using the American Public Transportation Association methods from 2014, the investments in the corridor will create 336,115 jobs, more than half of which will be long-term sustainable jobs made possible by transit efficiencies. The transit efficiencies accrue because of the investments made in an area where there are already 1,204,995 jobs within five miles of the Burbank – Anaheim Corridor and 1,976,374 employed residents. Instead of the adage “drive-until-you-qualify” (for mortgaged or rental housing), Metrolink riders are instead “riding-until-they qualify”.

The Burbank – Anaheim Corridor has the most daily freight and passenger trains on the Metrolink system. Investments in this corridor will help operating efficiencies related to facilitating 130 train movements in the corridor each weekday, including 80 freight trains and 50 passenger trains on a corridor of regional and national significance, and accommodate future growth.

The Hollywood Burbank Airport terminal project is slated for completion in 2024 and will be a critical multi-modal transportation hub for thousands of Californians every day. Constructing a fourth track in the core helps all of the branch lines, enabling more frequent passenger trains, and reducing delays to freight trains by at least 75% at Fullerton Junction, thereby reducing truck traffic and shipping costs.

### **Burbank – Anaheim Corridor Environmental Benefits**

Table 2 shows the reductions in VMT, greenhouse gas emissions and criteria pollutant emissions due to the introduction of ZEV technology to serve the Burbank – Anaheim Corridor based upon the California Air Resources Board (CARB) 2018-2019 Tool provided for TIRCP applications<sup>2</sup>. The benefits are based on net incremental ridership gains in the Corridor as a result of the investments identified in Tables 5 and 6. The analysis assumes an initial introduction of ZEV technology in 2024, and a larger deployment of ZEV trainsets by 2028.

<sup>2</sup> While this methodology differs from the Southern California Association of Governments methodology, they have agreed the CARB methodology is best utilized for this type of investment analysis.

**Table 2: Estimated Metrolink VMT, GHG and Criteria Pollutant Reductions through 2058 (ZEV Scenario)**

Pollutant or Factor	Reduction	Time Period
Annual Project Passenger VMT Reductions (miles)	193,021,330	Annual Average
Total Project GHG Emission Reductions (MTCO <sub>2</sub> e)	2,308,055	2024-2058
Total Project ROG Emission Reductions (lbs.)	666,068	2024-2058
Total Project NOx Emission Reductions (lbs.)	10,843,249	2024-2058
Total Project PM <sub>2.5</sub> Emission Reductions (lbs.)	382,171	2024-2058
Total Project Diesel PM Emission Reductions (lbs.)	404,565	2024-2058

Source: CARB/TIRCP FY 2018-2019 Calculator Tool Outputs

Additionally, as shown in Table 3, based on the estimated ridership from the base case scenario in the 2018 High-Speed Rail Business Plan, the region would see additional total GHG emissions reductions of 16.9 million tons between 2028 and 2058, based on increased ridership from Amtrak's Pacific Surfliner and Coast Starlight, and the completion of Phase 1 of the High-Speed Rail plan. The Business Plan further states that ridership on HSR would begin at 11 million during its first year of operation in 2033, and rise to 13.9 million by 2058, as travelers in the state's largest markets avail themselves of one-seat rides from Northern to Southern California.

**Table 3: Estimated HSR and LOSSAN Ridership and GHG Benefits through 2058**

CARB TIRCP GHG Tool Analysis	Year 1	Year 1 Ridership	Year Final	Year Final Ridership	Total GHG Reductions
<b>HSR (Southern California Phase 1 Stations Burbank - Anaheim)</b>	2033	11,000,000	2058	13,994,925	15,203,192
<b>LOSSAN</b>					
<b>Pacific Surfliner + Coast Starlight</b>	2028	1,666,035	2058	3,017,791	1,733,324
<b>Total (HSR + LOSSAN)</b>		<b>12,666,035</b>		<b>17,012,716</b>	<b>16,936,517</b>

Source: HSR ridership based on 2018 Business Plan; LOSSAN ridership based on estimate from Caltrans 2018 modeling.

### **Burbank – Anaheim Corridor Connectivity Benefits**

The Metrolink system throughout Southern California benefits from the multiple present and future connections that will further benefit future growth. Some of these connections include the LA Metro East San Fernando Valley Corridor, Sepulveda Transit Corridor, Regional Connector, West Santa Ana Branch and Orange County Streetcar projects, adding billions of dollars of additional investment and tens of millions in new ridership into the system. Most importantly, maximizing these connections can be done almost completely within established rail right of way, with minimal need for property acquisition and major utility moves or permitting that add significant cost and risk to delivering the benefits to the traveling public.

Above and beyond the public investment in the region, the Burbank – Anaheim Corridor is the only corridor at this time that presents a true opportunity to unlock private investment into a major rail corridor in California. Virgin Trains USA has made public its intention to operate train service to Las Vegas, potentially utilizing the High Desert Corridor to connect into Los Angeles via Palmdale. According to the 2017 High Desert Corridor Investment Grade Ridership & Revenue Forecasts, this connection is projected to add new ridership of approximately 6.5 million, further leveraging the State's investment in this corridor.



## **Metrolink Delivers Results**

Metrolink has a 15-year track record of leading and delivering capital and rehabilitation projects and supporting third-party projects throughout the Metrolink system, including track, signal, and station projects. In December 2018, Metrolink completed the \$247 million investment in Positive Train Control, making it one of only four rail systems to complete installation and interoperability by the federal deadline. Table 4 shows systemwide projects delivered by Metrolink since 2003. Metrolink is currently delivering an additional \$169 million in projects in the Burbank – Anaheim Corridor, further indicating readiness for High-Speed Rail investment.

**Table 4: Systemwide Projects Delivered by Metrolink**

<b>Project Description</b>	<b>Year Complete</b>	<b>Cost</b>	<b>Location</b>	<b>Project Beneficiaries</b>
<b>Track and Signals</b>				
Communications Backhaul Terminal Mission Signal Improvements Cesar Chavez Tunnel Rehab Track & Structures Rehab Burbank Station Pedestrian Xing Improvements North Main Street Bridge Widening Grade Crossing Improvements	2005-2017	\$81 M	Burbank – LA	UPRR, Metrolink, LOSSAN, HSR
Metrolink Service Expansion Program Fullerton Turnback & Anaheim Layover Facility New Control Points Orange Relief Siding Signal Improvements Turnout, Rail, Ties, Xing Replacement Bridge Rehab Communication System Upgrade Right-of-Way Grading and Drainage North Anaheim OH Widening State College Grade Separation	2003-2017	\$154 M	LA – Anaheim	UPRR, BNSF, Metrolink, LOSSAN, HSR
Positive Train Control (PTC) Signal Respacing Customer Information Systems	2006-2018	\$247M	Systemwide	
<b>Sub-Total Track and Signals</b>		<b>\$482M</b>		
<b>Stations and Facilities</b>				
Platform and Security Improvements Canopy Rehab Customer Information System Platform Lighting	2006-2013	\$26M	Union Station	Metrolink, LOSSAN, HSR
Van Nuys Station	Ongoing	\$31M	Burbank – LA	UPRR, Metrolink, LOSSAN, HSR
ARTIC Customer Information System Rehabilitation (Surfliner Stations)	2011-2013	\$3M	LA – Anaheim	UPRR, BNSF, Metrolink, LOSSAN, HSR
<b>Sub-Total Stations and Facilities</b>		<b>\$60M</b>		
<b>Rolling Stock</b>				
Tier 4 F125 Locomotives and passenger cars	Ongoing	\$328M	Systemwide	Metrolink
<b>Sub-Total Rolling Stock</b>		<b>\$328M</b>		
<b>Total Investment Delivered</b>		<b>\$870M</b>		

## **The Future is Now**

Metrolink recently reached the highest ridership in its 26-year history with 11.9 million annual riders for fiscal year ending June 30, 2019. The vision is to double that in the next five years and to set the stage for a fortified transit service that will be a mobility highlight during the 2028 Olympic Games.

Investment in the Burbank – Anaheim Corridor, enables immediate mobility improvement in Southern California by strengthening the backbone of the entire system and creating the capacity to accept additional systemwide improvements that enable high-frequency services throughout the day, while simultaneously making Southern California high-speed rail ready. State investment in the Burbank – Anaheim Corridor also has the potential to unlock significant federal funding and pave the way for private investment in Southern California; the only region that can make such a claim.

Metrolink is poised to deliver.



Table 5: Current Investment Needs in the Burbank– Anaheim Corridor

Project Description	Cost (VOE) <sup>1</sup>	Projected Start of Construction	Projected End of Construction	ZEV 30-Year GHG Reduction <sup>2</sup> Metric Tons CO <sub>2</sub> e	ROG Reduction (lbs.)	NOx Reductions (lbs.)	PM2.5 + Diesel Emission Reductions (lbs.)	Project Beneficiaries
<b>Grade Separations</b>								
Norwalk Boulevard/Los Nietos Road Grade Sep.	\$129 M	2022	2026	288,937	13,403	62,673	5,190	BNSF, Metrolink, LOSSAN, HSR
Pioneer Boulevard/Los Nietos Road Grade Sep.	\$129 M	2022	2026	288,937	13,403	62,673	5,190	BNSF, Metrolink, LOSSAN, HSR
Doran Street and Broadway/Brazil Grade Sep.	\$170 M	2020	2028	380,475	17,648	82,528	6,835	UPRR, Metrolink, LOSSAN, HSR
<b>Sub-Total Grade Separations</b>	<b>\$428 M</b>			<b>958,349</b>	<b>44,454</b>	<b>207,874</b>	<b>17,215</b>	
<b>Track and Signals</b>								
4 <sup>th</sup> Main Track Hobart to Pico	\$1,351 M	2020	2024	3,022,782	140,217	655,669	54,293	BNSF, Metrolink, LOSSAN, HSR
4 <sup>th</sup> Main Track Pico to Basta	\$1,140 M	2022	2028	2,551,629	118,361	553,467	45,835	UPRR, Metrolink, LOSSAN, HSR
4 <sup>th</sup> Main Track Basta to Fullerton	\$338 M	2020	2024	755,697	35,055	163,917	13,574	BNSF, Metrolink, LOSSAN, HSR
Link Union Station Phase B <sup>4</sup>	\$1,500 M	2024	2028	3,357,132	155,726	728,187	60,304	Metrolink, LOSSAN, HSR
Express Tracks Burbank to LA	\$1,004 M	2022	2028	2,246,974	104,230	487,385	40,363	UPRR, Metrolink, LOSSAN, HSR
Burbank Junction Flyovers	\$266 M	2022	2028	595,377	27,618	129,141	10,694	BNSF, Metrolink, LOSSAN, HSR
Fullerton Junction Reconfiguration Phase 2	\$226 M	2020	2024	505,137	23,432	109,568	9,074	BNSF, Metrolink, LOSSAN, HSR
State of Good Repair Backlog	\$34 M	2020	2028	76,751	3,560	16,647	1,379	BNSF, Metrolink, LOSSAN, HSR
Turn Tracks at Anaheim	\$9 M	2022	2024	19,852	920	4,305	357	BNSF, Metrolink, LOSSAN, HSR
Turn Tracks at Burbank	\$8 M	2020	2024	17,636	818	3,825	317	UPRR, Metrolink, LOSSAN, HSR
Signal Respacing: Fullerton and Anaheim	\$5 M	2020	2024	10,967	509	2,379	197	BNSF, Metrolink, LOSSAN, HSR
<b>Sub-Total Track and Signals</b>	<b>\$5,881 M</b>			<b>13,159,934</b>	<b>610,446</b>	<b>2,854,490</b>	<b>236,387</b>	
<b>Station and Facilities</b>								
Acq. 1 <sup>st</sup> St. Yard: LINK US Arts Dist. Com. Rail Station	\$286 M	2020	2028	640,742	29,722	138,982	11,510	Metrolink, LOSSAN, HSR
Customer Service Improvements <sup>3</sup>	\$183 M	Underway	2024	408,899	18,968	88,693	7,346	Metrolink, LOSSAN, HSR
So. Side Turn Fac. & Arts Dist. Com. Rail Station	\$140 M	2022	2026	313,333	14,534	67,964	5,629	Metrolink, LOSSAN, HSR
<b>Sub-Total Station and Facilities</b>	<b>\$609 M</b>			<b>1,362,974</b>	<b>63,224</b>	<b>295,639</b>	<b>24,485</b>	
<b>ZEV Emission Vehicles (ZEVs) and Facilities</b>								
ZEV Locomotive-Hauled Consists (15)	\$539 M	2020	2024	301,775	354,159	6,403,278	458,708	Metrolink
ZEV Updates for Eastern Maint. Facility	\$236 M	2020	2024	529,085	24,543	114,762	9,504	Metrolink
ZEV Updates Central Maintenance Facility	\$236 M	2020	2024	529,085	24,543	114,762	9,504	Metrolink
ZEV Updates Orange County Maint. Facility	\$334 M	2020	2024	747,633	34,681	162,167	13,430	Metrolink
ZEV Rail Consists (29 for Expansion)	\$1,173 M	2020	2028	1,655,737	296,723	4,370,039	321,370	Metrolink
<b>Sub-Total Zero Emission Vehicles and Facilities</b>	<b>\$2,518 M</b>			<b>3,763,315</b>	<b>734,649</b>	<b>11,165,008</b>	<b>812,516</b>	
<b>Total Corridor Funding Need <sup>5</sup></b>	<b>\$9,436 M</b>							
<b>GHG and Criteria Emissions Benefit for Metrolink, LOSSAN and HSR</b>								
<b>GHG and Criteria Emissions Benefit for Metrolink Only</b>				<b>19,244,572</b>	<b>1,452,773</b>	<b>14,523,011</b>	<b>1,090,603</b>	
<b>Net Average Annual Metrolink Ridership Increases Due to Corridor Project (2028-2058) = 5,336,677</b>				<b>2,308,055</b>	<b>666,068</b>	<b>10,843,249</b>	<b>786,736</b>	
<b>Net Average Annual Metrolink Ridership Increases Due to Corridor Project (2033-2058) = 12,497,463</b>								

(1) Project costs are shown in Year-of-Expenditure (VOE) dollars and total may not foot due to rounding. Projects have minimal design, making cost and schedule estimates preliminary.

(2) GHG and criteria pollutant results were analyzed using an "electric vehicle" scenario in the CARS TRCP calculator tool, for Metrolink, LOSSAN and HSR. A "hydrogen fuel cell" option for Metrolink produced the same results for criteria pollutants, though slightly lower GHG emissions reductions than the electric vehicle scenario. The vehicle-related reductions were then allocated to the ZEV vehicle and facilities projects, with the remainder pro-rated based on project cost to derive a very approximate project-specific benefit. However, it is important to understand that these projects were designed to be bundled in order to achieve operational capacity, service performance and other metrics that, only when combined, can deliver the ridership, GHG and air quality benefits identified for the entire package.

(3) Customer service improvements include Wi-Fi, updated signage, replaced ticket vending devices, updated signage and public announcement systems. The corridor currently provides access to the Hollywood-Burbank Airport. In the future, access to the Ontario Airport can be made via a train-to-plane connection on Metrolink.

(4) The funding need reflected is for Link US Phase B. Link US Phase A has been fully funded at \$950M.

(5) Project costs include a portion of approximately \$5 billion in estimated HSR bookend contributions (2018 Business Plan, Capital Cost Basis of Estimate Report, pp. 31-32), such as additional track to Fullerton, and other track, structure and signal modifications. A portion of signal and vehicle costs were identified in the HSR Readiness Program.



Table 6: Current Investment Needs in the Burbank-Anaheim Corridor (By Phase)

Project Description	Cost (VOE) <sup>1</sup>	Projected Start of Construction	Projected End of Construction	ZEV 30-Year GHG Reduction <sup>2</sup> Metric Tons CO <sub>2</sub> e	ROG Reduction (lbs.)	NOx Reductions (lbs.)	PM2.5 + Diesel Emission Reductions (lbs.)	Project Beneficiaries
<b>Phase 1 (Completion by 2024)</b>								
4th Main Track Hobart to Pico	\$1,351 M	2020	2024	3,022,782	140,217	655,669	54,293	BNSF, Metrolink, LOSSAN, HSR
4th Main Track Basta to Fullerton	\$338 M	2020	2024	755,697	35,055	163,917	13,574	BNSF, Metrolink, LOSSAN, HSR
Fullerton Junction Reconfiguration Phase 2	\$226 M	2020	2024	505,137	23,432	109,568	9,074	BNSF, Metrolink, LOSSAN, HSR
Customer Service Improvements <sup>3</sup>	\$183 M	Underway	2024	408,899	18,968	88,693	7,346	Metrolink, LOSSAN, HSR
Turn Tracks at Anaheim	\$9 M	2022	2024	19,852	920	4,305	357	BNSF, Metrolink, LOSSAN, HSR
Turn Tracks at Burbank	\$8 M	2020	2024	17,636	818	3,825	317	UPRR, Metrolink, LOSSAN, HSR
Signal Respacing: Fullerton and Anaheim	\$5 M	2020	2024	10,967	509	2,379	197	BNSF, Metrolink, LOSSAN, HSR
ZEV Locomotive-Hauled Consists (15)	\$539 M	2020	2024	301,775	354,159	6,403,278	458,708	Metrolink
ZEV Updates Orange County Maint. Facility	\$334 M	2020	2024	747,633	34,681	162,167	13,430	
ZEV Updates Central Maintenance Facility	\$236 M	2020	2024	529,085	24,543	114,762	9,504	
ZEV Updates for Eastern Maint. Facility	\$236 M	2020	2024	529,085	24,543	114,762	9,504	
<b>Sub-Total Phase 1</b>	<b>\$3,465 M</b>			<b>6,848,548</b>	<b>657,845</b>	<b>7,823,325</b>	<b>576,304</b>	
<b>Phase 2 (Completion by 2028)</b>								
So. Side Turn Fac. & Arts Dist. Com. Rail Station	\$140 M	2022	2026	313,333	14,534	67,964	5,629	Metrolink, LOSSAN, HSR
Norwalk Boulevard/Los Nietos Road Grade Seps.	\$129 M	2022	2026	288,937	13,403	62,673	5,190	BNSF, Metrolink, LOSSAN, HSR
Pioneer Boulevard/Los Nietos Road Grade Seps.	\$129 M	2022	2026	288,937	13,403	62,673	5,190	
ZEV Rail Consists (29 for Expansion)	\$1,173 M	2020	2028	1,655,737	296,723	4,370,039	321,370	
Link Union Station Phase B <sup>4</sup>	\$1,500 M	2024	2028	3,357,132	155,726	728,187	60,304	Metrolink, LOSSAN, HSR
4th Main Track Pico to Basta	\$1,140 M	2022	2028	2,551,629	118,361	553,467	45,835	UPRR, Metrolink, LOSSAN, HSR
Express Tracks Burbank to LA	\$1,004 M	2022	2028	2,246,974	104,230	487,385	40,363	UPRR, Metrolink, LOSSAN, HSR
Acq. 1st St. Yard: LINK US Arts Dist. Com. Rail Station	\$286 M	2020	2028	640,742	29,722	138,982	11,510	Metrolink, LOSSAN, HSR
Burbank Junction Flyovers	\$266 M	2022	2028	595,377	27,618	129,141	10,694	BNSF, Metrolink, LOSSAN, HSR
Doran Street and Broadway/Brazil Grade Sep.	\$170 M	2020	2028	380,475	17,648	82,528	6,835	UPRR, Metrolink, LOSSAN, HSR
State of Good Repair Backlog	\$34 M	2020	2028	76,751	3,560	16,647	1,379	BNSF, Metrolink, LOSSAN, HSR
<b>Sub-Total Phase 2</b>	<b>\$5,971 M</b>			<b>12,396,024</b>	<b>794,928</b>	<b>6,699,686</b>	<b>514,299</b>	
<b>Total Corridor Funding Need <sup>5</sup></b>								
<b>GHG and Criteria Emissions Benefit for Metrolink, LOSSAN and HSR</b>				<b>19,244,572</b>	<b>1,452,773</b>	<b>14,523,011</b>	<b>1,090,603</b>	
<b>GHG and Criteria Emissions Benefit for Metrolink Only</b>				<b>2,308,055</b>	<b>666,068</b>	<b>10,843,249</b>	<b>786,736</b>	
<b>Net Average Annual Metrolink Ridership Increases Due to Corridor Project (2028-2058) = 5,336,677</b>				<b>Net Average Annual HSR Ridership Increases Due to Corridor Project (2033-2058) = 12,497,463</b>				

(1) Projects costs are shown in Year-of-Expenditure (VOE) dollars and total may not foot due to rounding. Projects have minimal design, making cost and schedule estimates preliminary.

(2) GHG and criteria pollutant results were analyzed using an "electric vehicle" scenario in the CARB TIRCP calculator tool, for Metrolink, LOSSAN and HSR. A "hydrogen fuel cell" option for Metrolink produced the same results for criteria pollutants, though slightly lower GHG emissions reductions than the electric vehicle scenario. The vehicle-related reductions were then allocated to the ZEV Vehicle and Facilities projects, with the remainder pro-rated based on project cost to derive a very approximate project-specific benefit. However, it is important to understand that these projects were designed to be bundled in order to achieve operational capacity, service performance and other metrics that, only when combined, can deliver the ridership, GHG and air quality benefits identified for the entire package.

(3) Customer service improvements include WFI, updated signage, replaced ticket vending devices, updated signage and public announcement systems. The corridor currently provides access to the Hollywood-Burbank Airport. In the future, access to the Ontario Airport can be made via a train-to-plane connection on Metrolink.

(4) The funding need reflected is for Link US Phase B. Link US Phase A has been fully funded at \$950M.

(5) Project costs include a portion of approximately \$5 billion in estimated HSR bookend contributions (2018 Business Plan, Capital Cost Basis of Estimate Report, pp. 31-32), such as additional track to Fullerton, and other track, structure and signal modifications. A portion of signal and vehicle costs were identified in the HSR Readiness Program.





U.S. Department  
of Transportation

801 I Street, Suite 466  
Sacramento, CA 95814

**Federal Railroad  
Administration**

Brian Kelly  
Chief Executive Officer  
California High-Speed Rail Authority  
770 L Street, Suite 620  
Sacramento, California 95814

December 9, 2019

Subject: FRA Review of Draft TS 01 Request for Proposal Terms and Conditions

Dear Mr. Kelly:

The Federal Railroad Administration (FRA) has received and reviewed the California High-Speed Rail Authority's (CHSRA) Draft Track and Systems (TS) 01 Terms and Conditions for its TS 01 Request for Proposals (RFP), described in Cooperative Agreement No. FR-HSR-0009-10-01-06 (Agreement) as Construction Package (CP) 5. After review, FRA does not approve the release of the CP5 RFP, as drafted. For the following reasons, the CP5 RFP is not ready for release and is inconsistent with the requirements set forth in the Agreement.

First, the Agreement requires FRA approval of a First Construction Segment (FCS) Contingency Plan that describes "alternatives for the utilization of the FCS." However, CHSRA has not obtained FRA's approval of such a plan. Despite this, CHSRA proposes in the draft RFP that the contractor first construct track for purposes of interim use "capable of operating one diesel train-per-hour, per-direction with an Operating Speed of 79 mph" to be "upgraded" later to accommodate high-speed operations.<sup>1</sup> FRA must first approve a complete and sufficient FCS Contingency Plan before CHSRA may procure anything short of full high-speed rail infrastructure as it has proposed to do in the CP5 RFP.

Second, the Agreement requires CHSRA provide a FCS Financial Plan to FRA for review and to gain FRA approval prior to the release of design and construction RFPs for the FCS. CHSRA has failed to do so. CHSRA must submit a financial plan demonstrating that it has secured firm

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<sup>1</sup> Source: Function and Technical Requirements, Contractors Work, pg 16.

funding commitments to support this planned procurement and to complete construction of the FCS. The plan must also provide a detailed estimate against which CHSRA has budgeted and obligated sufficient funds and the necessary contingencies.

Third, it is premature for CHSRA to undertake another major design-build contract. The current CPs continue to face significant and continuing delays building the necessary civil construction. Furthermore, CHSRA has not resolved or established baseline schedules for all the ongoing construction. The lack of baseline schedules may prevent all contractors from proceeding in a calculated or logical manner, likely increasing project costs and further delays in delivering high-speed operations as CHSRA committed to in the Agreement.

Lastly, FRA identified a number of technical issues during its review that CHSRA should resolve before releasing the RFP. FRA's technical comments are included in the enclosed appendix.

Accordingly, for all of the foregoing reasons, FRA declines to approve CHSRA's CP5 RFP, unless and until CHSRA has corrected or addressed these deficiencies and issues.

If you have any questions, please feel free to contact me at [juliana.barnes@dot.gov](mailto:juliana.barnes@dot.gov).

Sincerely,

**JULIANA SHU  
BARNES**

Digitally signed by JULIANA SHU  
BARNES  
Date: 2019.12.09 15:57:41 -08'00'

Juliana S. Barnes  
Project Manager

Encl: Review of Draft TS 01 (CP5) RFP Terms and Conditions

Cc: Thomas Fellenz, CHSRA  
Jamie Rennert, FRA  
Lynn Everett, FRA

FRA has received and reviewed CHSRA's Draft TS 01 Terms and Conditions documents (also known as Draft CP5 RFP). The documents reviewed are listed below:

Document Title	File Name
Term Sheet (4 pp)	TS-1-IR-Term Sheet for Boarddraft ada.docx
Draft Signature Document (10/11/19) (38 pp)	TS01 Draft RFP Signature Document.pdf
General Provisions (10/11/19) (224 pp)	TS01 Draft RFP General Provisions.pdf
Schedules to General Provisions (10/11/19) (138 pp)	TS01 Draft RFP GP Schedules.pdf
Functional and Technical Requirements (10/11/19) (137 pp)	TS01 Draft RFP Functional and Technical Requirements.pdf
Design Criteria Manual Revision 4.4.1 (9/13/19) (1292 pp)	TS01 Design Criteria Manual v4.4.1.pdf
Matrix of Contractor's Presently-Known Environmental Obligations (281 pp)	TS01 Draft RFP C.1 Matrix of Contractors Presently-Known Environmental Obligations.pdf

After review of the documents, FRA is including the following comments below:

**1. TS 01 Scope – Segment 1 – “Plain Line Segment”**

- a. Functional and Technical Requirements Section 2 (PDF page 16) describes the Plain Line as “capable of operating one diesel train-per-hour, per-direction with an Operating Speed of 79 mph.” This is to be “upgraded” at a later time to “form the final, fully electrified, 12 trains-per-hour, per-direction, 250mph design speed.” However, it appears the Plain Line is not being designed and constructed for full high-speed intercity passenger rail, but rather for conventional rail operations. This is not appropriate unless and until FRA receives and approves a FCS Contingency Plan.

**2. TS 01 Schedule**

- a. NTP is assumed to be 9/2020 as stated in the TS1 Industry Draft RFP Addendum 5 dated 10/7/19.
- b. The schedule shows the Plain Line Track completion as 9/2022<sup>1</sup>. However, the schedule is extremely compressed and is missing key steps and therefore, as drafted, is unrealistic. For instance:
  - i. Track design is to be completed by 9/2021<sup>2</sup>, which is 1 year after NTP. There appears to be insufficient time for submittal reviews, approvals, permits, ordering of materials, testing, etc.
  - ii. Plain Line construction is to be completed by 9/2022, 1 year after final design. Due to persistent delay in the necessary civil construction, it is highly unlikely that the underlying infrastructure would be ready to complete track laying by 9/2022.
  - iii. Coordination with the Construction Package (CP) 1-4 contractors will also pose challenges. The Draft RFP suggests that the contractor can share use of the

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<sup>1</sup> Source: Schedule 3, Milestone 5-04; 24 months after NTP

<sup>2</sup> Source: Schedule 3, Milestone 4-01; 12 months after NTP

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construction sites with the CP1-4 contractors, but the CP1-4 contracts do not require this and FRA is not aware of any agreement by the CP1-4 contractors to permit such shared use. The current contractors would have little incentive to accommodate the concurrent work by others without any obligation to do so in their contracts. This needs to be addressed before release of the RFP in order to get fully informed and priced bids.

### 3. Other Observations

Other key observations from our review of the Draft TS 01 RFP documents include the following.

- a. **Plans:** No plans, drawings, or maps were provided. The Functional and Technical Requirements references “Indicative Drawings”, but none were provided. The absence of drawings to review prevents FRA from fully reviewing the proposed scope of the work.
- b. **“Authority-Provided Access” (GP Schedules – Schedule 15):** CHSRA will provide the contractor primary access to the Segment 1 guideway in 5-mile segments, which may not be continuous with other 5-mile segments and in a similar approach for the remaining CPs. The specific locations are to be determined. This adds further complexity to CHSRA’s construction approach in an already compressed construction timeframe and will likely hinder the contractor from proceeding in a calculated or logical progression
- c. **FRA Safety Certification:** There was no mention of FRA safety certification processes and requirements. The topic of safety was not highlighted to the extent appropriate for a track and signal procurement.
- d. **Environmental Matrix:** Matrix of Contractor’s Presently-Known Environmental Obligations omits the Bakersfield LGA (part of Segment 2) and Central Valley Wye (part of Segment 3).
- e. **Contractor’s Responsibility:** The terms and conditions reflects—or perhaps even expands upon—the same past approach of attempting to push all risk to the contractor, in an effort to shift responsibility for delivery from CHSRA. This has not worked in the past CPs. The TS 01 contractor becomes responsible for previous CPs in an integration mode. Various contract responsibilities assigned to the TS 01 contractor seem clearly to belong as owner responsibilities, yet the language attempts to delegate those away from CHSRA.
- f. CHSRA must ensure that all applicable Federal requirements are incorporated into the RFP, especially if this contract is funded as State-match to the Agreement. Such requirements include, but are not limited to:
  - a. **Buy America:** Page 132 of the General Provisions describes imported materials and customs duties. This appears to be inconsistent with Buy America requirements that are also communicated in the documents. The FRA scope of work, including the trackwork over the FCS, is subject to the requirements of Buy America.
  - b. **Whistleblower Protection:** Page 220 of the General Provisions describes Whistleblower Protection with regards to the misuse of ARRA funds. However, the Agreement’s terms apply to the entire scope of work, including where it is funded as state contribution to Federal funds.

- g. **Term Sheet Inconsistencies:** Some items on the Term Sheet are inconsistent with the referenced RFP documents. For instance:
- i. Page 9 of the Term Sheet states, “Certificate of Provisional Acceptance for Plain Line... by July 31, 2022.” However, the referenced Signature Document states June 30, 2022.
  - ii. Page 8 of the Term Sheet states, “Authority intends to issue NTP 1 [for] Segment 1... may issue NTP 2 [for] Segment 2... may issue NTP 3 [for] Segment 3... may issue additional NTPs [for] additional Segments...” However, the referenced General Provisions Section 5 does not convey that NTPs beyond Segment 2 are indeterminate.



December 10, 2019

**BOARD MEMBERS**

**Lenny Mendonca**  
CHAIR

**Thomas Richards**  
VICE CHAIR

**Ernest M. Camacho**

**Daniel Curtin**

**James Ghielmetti**

**Bonnie Lowenthal**

**Nancy Miller**

**Henry R. Perea, Sr.**

**Lynn Schenk**

**EX OFFICIO  
BOARD MEMBERS**

**Honorable  
Dr. Joaquin Arambula**

**Honorable Jim Beall**

**Brian P. Kelly**  
CHIEF EXECUTIVE OFFICER

**GAVIN NEWSOM**  
GOVERNOR



Ms. Juliana Barnes  
Project Manager  
Office of Program Delivery (RPD-15)  
Federal Railroad Administration  
801 I Street, Ste. 466  
Sacramento, CA 95814

Dear Ms. Barnes:

I am in receipt of your December 9, 2019, letter on behalf of the Federal Railroad Administration (FRA) disapproving the release of this Authority's Request for Proposal (RFP) to execute a track and systems contract. This disapproval, however, is based on misunderstandings and your Agency's own inaction, which does not provide a good faith basis for interfering with the Authority's efforts to meet the timelines in our federal grant agreements.

As you can imagine, your letter was received with surprise and disappointment in its timing and substance, both of which demonstrate a continued disengagement on this project that appears intended to frustrate the Authority's undaunted commitment to meet its obligations under our federal funding agreements.

First, the timing of your letter appears intended to disrupt our Board's necessary action to progress on a contract to install track atop the civil works now under construction in California's Central Valley. As you know, or should know, the installation of track on the 119-mile segment is a deliverable under our federal funding agreements with your Agency, and pursuant to those agreements must be completed by December 31, 2022. We did not have the luxury of inaction on this issue.

Had the FRA intended to provide constructive input on our pending RFP, the Agency should have taken up our invitation to engage months ago. The Authority has made numerous attempts to communicate with the FRA leading up to the expected board action on the track and systems contract:



- On May 9<sup>th</sup> the Authority sent a copy of the Track and Systems Request for Proposal Industry Draft to the FRA.
- On June 3<sup>rd</sup> the Authority sent a copy of the Draft Track and Systems Request for Qualifications for review to the FRA.
- On October 11<sup>th</sup> the Authority sent a draft Track and Systems Request for Proposal to the FRA.

Not until December 9<sup>th</sup> at 4:00 p.m. did we receive any substantive comment on the above items. This letter arrived less than 24 hours before our expected board action which has been publicly discussed for months, and publicly noticed as an action item on November 27<sup>th</sup>, 2019. Unfortunately, the timing of your letter is the latest example of the FRA's evolving position from one of cooperation and partnership to disengagement that appears calculated to impede the project's progress.

The substance of your letter is also disappointing. Your letter states that the Authority should not move forward on the track and systems RFP because the FRA has not yet approved the First Construction Segment Contingency Plan. We submitted the contingency plan required under the funding agreements in 2016 and again in 2019, but the FRA has not acted on the most recent plan or responded at all.

Moreover, the contingency plan referenced in the FRA letter is a plan that contemplates use of grant reserve funds for rail service investments if we do not pursue electrified high-speed rail. The current direction of the project is to construct a fully **electrified** high-speed rail line in the Central Valley. While the RFP will allow the Authority to meet the minimal operating requirements of the First Construction Segment in the Central Valley, a series of prior Authority Board actions and policy recommendations stretching back three years have clearly set forth the Authority's intent to construct a fully **electrified** high-speed rail line in the Central Valley and nothing in the RFP is inconsistent with that intent:

- In October 2016, the Authority submitted to the FRA its "First Construction Package Utilization Plan and Concept of Operations" document that adopted an alternative for early operations that "would provide an electrified service that utilizes the high-speed rail system/tracks and rolling stock." (page 4);
- In December 2016, the Board approved the Central Valley Funding Plan that includes all project elements for electrified high-speed rail in the 119-mile Central Valley Segment. The plan states the Central Valley Segment "will serve as the foundational backbone for the statewide high-speed rail system and serve as the

test track that will be necessary before service can begin on the Silicon Valley to Central Valley Line” and therefore this segment will be “a fully electrified high-speed rail segment suitable and ready for high-speed train operations...;”

- In May 2018, the Board adopted the 2018 Business Plan that stated the Authority’s intent to add Central Valley track and systems to prepare the Central Valley Segment for early interim use by an operator and for testing of electrified high-speed trains (page 18, 2018 Business Plan);
- The May 2019 Project Update Report made a policy recommendation to pursue a Merced – Fresno – Bakersfield interim operating segment to provide electrified high-speed rail service (page 62, 2019 Project Update Report);
- In May 2019, the Board accepted an updated Program Baseline budget that included costs for electrified track and systems work;
- In July 2019, the Board voted to advance the Request for Qualifications for the electrified track and systems RFP;
- In September 2019, the Authority submitted the ARRA Grant-required Financial Plan to the FRA, stating a clear intent to electrify service in the Central Valley (pages 54-57).

The FRA has these listed materials and has not questioned or disputed them.

Furthermore, your letter incorrectly suggests that the Authority failed to submit the Central Valley Project Funding Plan (CVPFP) for review. The Authority submitted the above referenced FCS financial plan to the FRA on September 30<sup>th</sup>, 2019, which is over two months ago. The CVPFP clearly detailed the Authority’s estimated budget and secured funding. There has been no FRA response to date. The Board has approved funding for the Central Valley Segment and all other FRA grant deliverables at \$15.6 billion. As has been described publicly to the Board, the public and the Legislature, this funding level is set pursuant to a 70-percent probability to complete all the FRA grant requirements pursuant to a Monte Carlo risk analysis.

Your letter also states that it is “premature” for the Authority to move forward on this track and systems contract. Simply put, we cannot afford the inaction you propose unless the FRA is willing to extend the current timeline for completion of the work under the funding agreements. Additional contracts are necessary for the work to progress efficiently and for the Authority to meet the completion dates in the agreements. We must install track pursuant to those agreements and this RFP enables



Ms. Juliana Barnes  
December 10, 2019  
Page 4

us to do so under the timelines in our funding agreements. Of course, the Authority has not been shy about disclosing challenges we've had with prior civil infrastructure design-build contracts – which were awarded with the full concurrence of the FRA. We have publicly discussed lessons learned from prior contracts, and we are applying those lessons to this and future contracts.

Finally, many of the technical concerns raised in your December 9 letter appear to be based on outdated drafts of the RFP. Several of the FRA's expressed concerns have been addressed in updated RFP documents. In addition, a short meeting or call with the FRA can resolve further concerns if there is a desire and willingness to mutually resolve any misunderstanding. For example, the Authority agrees with the FRA regarding the applicability of the "Buy America" provision of Federal law. In fact, the RFP expressly requires all bidders to comply with that provision.

This Authority is committed to meeting our obligations to deliver project elements pursuant to our federal funding agreements. We remain committed to deliver the nation's first truly electrified high-speed rail service, and we believe that executing a track and systems contract now is a necessary prerequisite toward meeting those objectives.

As always, I look forward to constructive engagement with the FRA, and I invite you to engage with me and my team to clear up any misunderstandings about the need, timing or substance of the pending RFP. I am available at your request.

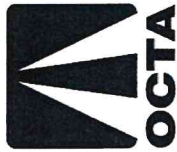
Respectfully,



Brian P. Kelly  
Chief Executive Officer

cc: Elaine Chao, Secretary, United States Department of Transportation  
Ron Batory, Administrator, Federal Railroad Administration  
The Honorable Nancy Pelosi, Speaker, United States House of Representatives  
The Honorable Dianne Feinstein, Senator, United States Senate





## Orange County Transportation Authority Legislative Matrix

2020 State Legislation Session  
January 16, 2020

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<b>BILLS WITH POSITIONS</b>			
<b>AB 1402</b> <b>(Petrie-Norris - D)</b> Active Transportation Program	Requires the California Department of Transportation to award Active Transportation Program (ATP) funds to projects and small urban and rural region distribution categories and to adopt a program of projects for those distribution categories. Provides guidelines for use of funds.	<b>INTRODUCED:</b> 02/22/2019 <b>LAST AMEND:</b> 03/26/2019 <b>LOCATION:</b> Assembly Transportation Committee  <b>STATUS:</b> 03/26/2019 From ASSEMBLY Committee on TRANSPORTATION with author's amendments.  03/26/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on TRANSPORTATION.	<b>SPONSOR</b>  Support: Orange County Business Council (OCBC) (Co-Sponsor)

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<b>AB 1568</b> <b>(McCarthy -- D)</b> Housing Law Compliance: State Grants	Requires the California Department of Housing and Community Development to review any action or failure to act by a city or county that it determines is inconsistent with an adopted housing element or a specified provision of the Housing Element Law. Prohibits a city or county found to be in violation of state law from applying for a state grant, unless the eligibility of the city or county to apply is constitutionally required or the state grant funds, if awarded to the city or county, would assist in compliance.	<b>INTRODUCED:</b> 02/22/2019 <b>LAST AMEND:</b> 04/11/2019 <b>LOCATION:</b> Assembly Appropriations Committee  <b>STATUS:</b> 05/16/2019In ASSEMBLY Committee on APPROPRIATIONS: Not heard.	<b>OPPOSE</b>  Support: California Apartment Association (Co-Sponsor), California Association of Realtors (Co-Sponsor)  Opposed: Bizfed, California State Association of Counties, Marin County Council of Mayors and Councilmembers
<b>ACA 13</b> <b>(Obernolte -- R)</b> Local Sales Taxes: Online Sales	Provides that, for the purpose of distributing the revenues derived under a sales tax imposed pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, the retail sale of tangible personal property by a qualified retailer that is transacted online is instead consummated at the point of the delivery of that tangible personal property to the purchaser's address or to any other delivery address designated by the purchaser.	<b>INTRODUCED:</b> 03/26/2019 <b>LOCATION:</b> ASSEMBLY  <b>STATUS:</b> 03/26/2019 INTRODUCED.	<b>SUPPORT</b>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<b>SB 152</b> <b>(Beall -- D)</b> Active Transportation Program	Requires that a percentage of available ATP funds be awarded to projects selected by metropolitan planning organizations (MPO) in urban areas with populations greater than a specified amount with the available funds distributed to each MPO based on its relative share of the population, a percentage to fund projects in small urban and rural regions, and a percentage to projects competitively awarded by the commission on a statewide basis.	<b>INTRODUCED:</b> 01/22/2019 <b>LAST AMEND:</b> 04/25/2019 <b>LOCATION:</b> Senate Appropriations Committee  <b>STATUS:</b> 05/16/2019 In SENATE Committee on <b>APPROPRIATIONS:</b> Held in committee.	<b>SUPPORT</b>  Support: Metropolitan Transportation Commission (sponsor), Riverside County Transportation Commission (RCTC)  Oppose (Partial List): California Bicycle Coalition, Walk Long Beach, PolicyLink
<b>SB 526</b> <b>(Allen -- D)</b> Regional Transportation Plans: Greenhouse Gas Emissions	Requires the California Air Resources Board (ARB) to adopt a regulation that requires an MPO to provide any data that the ARB determines is necessary to fulfill the requirements of a specified report and to determine if the MPO is on track to meet its greenhouse gas emission reduction target deadline. Establishes an interagency working group to develop and implement a State Mobility Action Plan for Healthy Communities.	<b>INTRODUCED:</b> 2/21/2019 <b>LAST AMEND:</b> 04/30/2019 <b>LOCATION:</b> Senate Appropriations Committee  <b>STATUS:</b> 05/16/2019 In SENATE Committee on <b>APPROPRIATIONS:</b> To Suspend File.  05/16/2019 In SENATE Committee on <b>APPROPRIATIONS:</b> Held in committee.	<b>OPPOSE</b>  Support (Partial List): American Lung Association, ActiveSGV, California Bicycle Coalition, Coalition for Clean Air, Asthma Coalition of LA County  Oppose: California Association of Councils of Governments



BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<b>SB 664 (Allen -- D)</b> Electronic Toll and Transit Fare Collection Systems	<p>Provides that a transportation agency is not prohibited from using or providing personally identifiable information for purposes of operating and managing an electronic toll collection or electronic transit fare collection system, auditing, or performing billing, collection, account maintenance, account settlement, and enforcement activities. Requires a transportation agency to limit the personally identifiable information it provides to information relevant to assist in carrying out an intended function.</p>	<p><b>INTRODUCED:</b> 02/22/2019  <b>LAST AMEND:</b> 9/10/2019  <b>LOCATION:</b> Assembly Privacy and Consumer Protection Committee</p> <p><b>STATUS:</b> 09/10/2019            In ASSEMBLY. Suspend Assembly Rule 96.</p> <p>09/10/2019            Re-referred to ASSEMBLY Committees on PRIVACY AND CONSUMER PROTECTION and JUDICIARY.</p> <p>09/10/2019            From ASSEMBLY Committee on PRIVACY AND CONSUMER PROTECTION with author's amendments.</p> <p>09/10/2019            In ASSEMBLY. Read second time and amended. Re-referred to ASSEMBLY Committee on PRIVACY AND CONSUMER PROTECTION.</p>	<p><b>SUPPORT</b></p> <p>Support (Partial List):            California Transit Association, Transportation Corridor Agencies, Los Angeles County Metropolitan Transportation Authority, OCBC, RCTC, Bay Area Transportation Authority, Self-Help Counties Coalition</p> <p>Oppose (Partial List):            American Civil Liberties Union of California, Consumer Attorneys of California (unless amended), Consumer Federation of California</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<b>SB 732</b> <b>(Allen -- D)</b> South Coast Air Quality Management District	Authorizes the South Coast Air Quality Management District Board of Directors to impose a transactions and use tax within the boundaries of the agency.	<b>INTRODUCED:</b> 2/22/2019 <b>LAST AMEND:</b> 04/30/2019 <b>LOCATION:</b> Senate Appropriations Committee  <b>STATUS:</b> 05/13/2019In SENATE Committee on <b>APPROPRIATIONS:</b> Not heard.	OPPOSE  Support (Partial List): Coalition for Clean Air, Environmental Defense Fund, MoveLA  Oppose (Partial List): San Bernardino County Transportation Authority, Orange County Taxpayers Association, California Business Roundtable

## BILLS BEING MONITORED

CA AB 11	<p><b>AUTHOR:</b> Chiu [D]  <b>TITLE:</b> Community Redevelopment Law  <b>INTRODUCED:</b> 12/03/2018  <b>LAST AMEND:</b> 04/11/2019  <b>COMMITTEE:</b> Assembly Appropriations Committee  <b>SUMMARY:</b>            Requires the Director of Finance to adjust the percentage of General Fund revenues appropriated for school districts and community college districts for computing the minimum amount of revenues that the state is required to appropriate for the support thereto in a manner that ensures that the division of taxes authorized by the Community Redevelopment Law have no net fiscal impact upon the total amount of the General Fund revenue and local property tax revenue allocated to such.  <b>STATUS:</b>            04/24/2019 From ASSEMBLY Committee on LOCAL GOVERNMENT: Do pass to Committee on APPROPRIATIONS.  <b>CATEGORY:</b> Funding</p>
CA AB 40	<p><b>AUTHOR:</b> Ting [D]  <b>TITLE:</b> Air Quality Improvement Program: Clean Vehicle Rebates  <b>INTRODUCED:</b> 12/03/2018  <b>LAST AMEND:</b> 09/10/2019  <b>COMMITTEE:</b> Assembly Appropriations Committee  <b>SUMMARY:</b>            Declares it is the policy of the state to place a minimum number of zero emission vehicles on state roads by certain future years. Requires the State Air Resources Board to limit vehicle eligibility for the Clean Vehicle Rebate Project to only those vehicles manufactured by companies that have entered into a specified agreement that has been adopted by the Board, to post that agreement on its website, and other requirements.  <b>STATUS:</b>            09/10/2019 From ASSEMBLY Committee on TRANSPORTATION with author's amendments.            09/10/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on TRANSPORTATION.  <b>CATEGORY:</b> Environment</p>



CA AB 62	<p><b>AUTHOR:</b> Fong [R]  <b>TITLE:</b> State Government: FI\$Cal: Transparency  <b>INTRODUCED:</b> 12/03/2018  <b>LAST AMEND:</b> 03/28/2019  <b>COMMITTEE:</b> Assembly Accountability and Administrative Review Committee  <b>SUMMARY:</b>  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.  <b>STATUS:</b>  03/28/2019 From ASSEMBLY Committee on ACCOUNTABILITY AND ADMINISTRATIVE REVIEW with author's amendments.  03/28/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on ACCOUNTABILITY AND ADMINISTRATIVE REVIEW.  <b>CATEGORY:</b> Miscellaneous</p>
CA AB 71	<p><b>AUTHOR:</b> Melendez [R]  <b>TITLE:</b> Independent Contractors and Employees  <b>INTRODUCED:</b> 12/03/2018  <b>LAST AMEND:</b> 02/25/2019  <b>LOCATION:</b> Assembly Labor and Employment Committee  <b>SUMMARY:</b>  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.  <b>STATUS:</b>  02/25/2019 From ASSEMBLY Committee on LABOR AND EMPLOYMENT with author's amendments.  02/25/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on LABOR AND EMPLOYMENT.  <b>CATEGORY:</b> Employment Terms and Conditions</p>
CA AB 145	<p><b>AUTHOR:</b> Frazier [D]  <b>TITLE:</b> High-Speed Rail Authority: Senate Confirmation  <b>INTRODUCED:</b> 12/13/2018  <b>LOCATION:</b> Assembly Transportation Committee  <b>SUMMARY:</b>  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.  <b>STATUS:</b>  01/24/19 To ASSEMBLY Committee on TRANSPORTATION.  <b>CATEGORY:</b> Rail and Transit</p>

CA AB 146	<p><b>AUTHOR:</b> Quirk-Silva [D]  <b>TITLE:</b> State Highways: Property Leases: County of Orange  <b>INTRODUCED:</b> 12/14/2018  <b>LOCATION:</b> Assembly Local Government Committee  <b>SUMMARY:</b>  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.  <b>STATUS:</b>  01/24/2019 To ASSEMBLY Committees on LOCAL GOVERNMENT and TRANSPORTATION.  <b>CATEGORY:</b> Miscellaneous</p>
CA AB 148	<p><b>AUTHOR:</b> Quirk-Silva [D]  <b>TITLE:</b> Regional Transportation Plans: Sustainable Communities  <b>INTRODUCED:</b> 12/14/2018  <b>LOCATION:</b> Assembly Transportation Committee  <b>SUMMARY:</b>  Requires each sustainable communities strategy to also identify areas within the region sufficient to house an 8-year projection of the emergency shelter needs for the region. Provides that for the 5th and each subsequent update to the sustainable communities strategy, the bill requires the metropolitan planning organization to identify the region's progress in the development of housing and emergency shelters in the areas within the region that were identified as sufficient to house the 8-year projection.  <b>STATUS:</b>  01/24/2019 To ASSEMBLY Committees on TRANSPORTATION and NATURAL RESOURCES.  <b>CATEGORY:</b> Planning</p>
CA AB 246	<p><b>AUTHOR:</b> Mathis [R]  <b>TITLE:</b> State Highways: Property Leases  <b>INTRODUCED:</b> 01/22/2019  <b>LOCATION:</b> Assembly Transportation Committee  <b>SUMMARY:</b>  Authorizes the Department of Transportation to offer a lease on a right of first refusal basis of any airspace under a freeway, or real property acquired for highway purposes, located in a disadvantaged community, that is not excess property to the city or county in which the disadvantaged community is located for purposes of an emergency shelter or feeding program, or for park or open-space purposes for a rental amount of \$1 per month, subject to certain conditions.  <b>STATUS:</b>  02/07/2019 To ASSEMBLY Committee on TRANSPORTATION.  <b>CATEGORY:</b> Miscellaneous</p>

CA AB 287	<b>AUTHOR:</b> Voepel [R] <b>TITLE:</b> Public Employees' Retirement: Annual Audits <b>INTRODUCED:</b> 01/28/2019 <b>LOCATION:</b> Assembly Public Employment and Retirement Committee <b>SUMMARY:</b> Requires each state and local pension or retirement system to post a concise annual audit of the investments and earnings of the system on that system's internet website no later than the ninetieth day following the audit's completion. <b>STATUS:</b> 02/07/2019 To ASSEMBLY Committee on PUBLIC EMPLOYMENT AND RETIREMENT. <b>CATEGORY:</b> Employment Terms and Conditions
CA AB 313	<b>AUTHOR:</b> Frazier [D] <b>TITLE:</b> Road Maintenance and Rehabilitation Account: Reports <b>INTRODUCED:</b> 01/30/2019 <b>LAST AMEND:</b> 03/05/2019 <b>LOCATION:</b> Senate Rules Committee <b>SUMMARY:</b> Requires the University of California and the California State University, on or before a specified date of each year, to each submit a report to the Transportation Agency and specified legislative committees detailing its expenditures of those moneys for that fiscal year, including, but not limited to, research activities and administration. <b>STATUS:</b> 05/29/2019 To SENATE Committee on RULES. <b>CATEGORY:</b> Funding
CA AB 322	<b>AUTHOR:</b> Gallagher [R] <b>TITLE:</b> Political Reform Act: Online Filing System <b>INTRODUCED:</b> 01/30/2019 <b>LAST AMEND:</b> 03/20/2019 <b>COMMITTEE:</b> Assembly Appropriations Committee <b>SUMMARY:</b> Requires a local government agency to post on its internet website a copy of any specified statement, report, or other document filed with that agency in paper format. Requires that the statement, report, or other document be made available for four years from the date of the election associated with the filing. <b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Not heard. <b>CATEGORY:</b> Miscellaneous



CA AB 371	<p><b>AUTHOR:</b> Frazier [D]</p> <p><b>TITLE:</b> Transportation: Freight: Statewide Economic Growth</p> <p><b>INTRODUCED:</b> 02/05/2019</p> <p><b>LAST AMEND:</b> 04/08/2019</p> <p><b>LOCATION:</b> Assembly Appropriations Committee</p> <p><b>SUMMARY:</b> Requires the Governor's Office of Business and Economic Development, or GO Biz, in consultation with the State Air Resources Board, the California Transportation Commission, and the Transportation Agency, to prepare a statewide growth, prosperity, and resiliency assessment of the state freight sector, and to update the assessment at least once every five years.</p> <p><b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee.</p> <p><b>CATEGORY:</b> Audits, Records, Reports, and Litigation</p>
CA AB 380	<p><b>AUTHOR:</b> Frazier [D]</p> <p><b>TITLE:</b> Office of the Transportation Inspector General</p> <p><b>INTRODUCED:</b> 02/05/2019</p> <p><b>LAST AMEND:</b> 03/21/2019</p> <p><b>LOCATION:</b> Assembly Appropriations Committee</p> <p><b>SUMMARY:</b> Eliminates the Independent Office of Audits and Investigations. Creates the Independent Office of the Transportation Inspector General as an independent office that would not be a subdivision of any other government entity, to ensure that specified state agencies and all external entities that receive state and federal transportation funds are operating efficiently, effectively, and in compliance with federal and state laws.</p> <p><b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee.</p> <p><b>CATEGORY:</b> Audits, Records, Reports, and Litigation</p>
CA AB 421	<p><b>AUTHOR:</b> Waldron [R]</p> <p><b>TITLE:</b> Transportation Finance: De Luz Community District</p> <p><b>INTRODUCED:</b> 02/07/2019</p> <p><b>LOCATION:</b> Assembly Transportation Committee</p> <p><b>SUMMARY:</b> Requires the Controller to allocate a portion of revenues derived from increases in the motor vehicle fuel excise tax available for counties to the De Luz Community Services District for local street and road purposes as though the De Luz Community Services District were a county.</p> <p><b>STATUS:</b> 02/25/2019 To ASSEMBLY Committee on TRANSPORTATION.</p> <p><b>CATEGORY:</b> Funding</p>

CA AB 422	<b>AUTHOR:</b> Frazier [D] <b>TITLE:</b> High-Speed Rail: Performance Measurement Dashboards <b>INTRODUCED:</b> 02//07/2019 <b>COMMITTEE:</b> Senate Transportation Committee <b>SUMMARY:</b> <p>Requires the High-speed Rail Authority, in consultation with the independent peer review group, to develop and update quarterly a set of summary performance measurement dashboards that show ongoing performance of the project and post on its internet website full sets of the summary performance measurement dashboards.</p> <b>STATUS:</b> 05/08/2019 To SENATE Committee on TRANSPORTATION. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation
CA AB 490	<b>AUTHOR:</b> Salas [D] <b>TITLE:</b> CEQA: Affordable Housing Development Projects <b>INTRODUCED:</b> 02/12/2019 <b>LAST AMEND:</b> 04/11/2019 <b>LOCATION:</b> Assembly Natural Resources Committee <b>SUMMARY:</b> <p>Establishes specified procedures for the administrative and judicial review of the environmental review and approvals granted for projects that meet certain requirements, including the requirement that the projects are affordable housing developments. Applies certain rules of court establishing procedures requiring actions or proceedings seeking judicial review pursuant to CEQA or the granting of project approvals.</p> <b>STATUS:</b> 04/22/2019 In ASSEMBLY Committee on NATURAL RESOURCES: Not heard. <b>CATEGORY:</b> Environment
CA AB 491	<b>AUTHOR:</b> Rubio [D] <b>TITLE:</b> Energy: Hydrogen <b>INTRODUCED:</b> 02/12/2019 <b>LAST AMEND:</b> 04/10/2019 <b>LOCATION:</b> Assembly Appropriations Committee <b>SUMMARY:</b> <p>Requests the California Council on Science and Technology to undertake and to complete a study analyzing the potential impacts of increased hydrogen concentration in the natural gas supply on the California natural gas system, including specified information. Requires the PUC, if the Council agrees to undertake and complete the study, to adopt standards for hydrogen to be injected into a common carrier pipeline, taking the study into consideration, while ensuring pipeline facility safety.</p> <b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation

CA AB 510	<p><b>AUTHOR:</b> Cooley [D]  <b>TITLE:</b> Local Government Records: Destruction of Records  <b>INTRODUCED:</b> 02/13/2019  <b>LOCATION:</b> Assembly Local Government Committee  <b>SUMMARY:</b>  Exempts the head of a department of a county or city, or the head of a special district from recording retention requirements if the county, city, or special district adopts a records retention policy governing recordings of routine video monitoring and recordings of telephone and radio communications.  <b>STATUS:</b>  02/21/2019 To ASSEMBLY Committee on LOCAL GOVERNMENT.  <b>CATEGORY:</b> Audits, Records, Reports, and Litigation</p>
CA AB 553	<p><b>AUTHOR:</b> Melendez [R]  <b>TITLE:</b> High-Speed Rail Bonds: Housing  <b>INTRODUCED:</b> 02/13/2019  <b>LAST AMEND:</b> 03/13/2019  <b>LOCATION:</b> Assembly Transportation Committee  <b>SUMMARY:</b>  Provides that no further bonds shall be sold for high-speed rail purposes pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, except as specifically provided with respect to an existing appropriation for high-speed rail purposes for early improvement projects in the Phase I blended system. Requires the net proceeds of other bonds subsequently issued and sold to be made available to the Department of Housing Community Development's Multifamily Housing Program.  <b>STATUS:</b>  04/01/2019 In ASSEMBLY Committee on TRANSPORTATION: Failed passage.  04/01/2019 In ASSEMBLY Committee on TRANSPORTATION: Reconsideration granted.  <b>CATEGORY:</b> Rail and Transit</p>
CA AB 554	<p><b>AUTHOR:</b> Chen [R]  <b>TITLE:</b> Traffic Control Devices: Flares  <b>INTRODUCED:</b> 02/13/2019  <b>LAST AMEND:</b> 03/11/2019  <b>LOCATION:</b> Assembly Transportation Committee  <b>SUMMARY:</b>  Prohibits the Department of Transportation, or persons contracting with the Department for the construction, maintenance, or repair of a highway, from using flares as a traffic control device. Excludes the Department of the California Highway Patrol's use of flares from this prohibition when it cooperates with the Department of Transportation in the enforcement of the closing, or restriction of use, of any state highway.  <b>STATUS:</b>  03/11/2019 From ASSEMBLY Committee on TRANSPORTATION with author's amendments.  03/11/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on TRANSPORTATION.  <b>CATEGORY:</b> Miscellaneous</p>



CA AB 626	<b>AUTHOR:</b> Quirk-Silva [D] <b>TITLE:</b> Conflicts of Interest <b>INTRODUCED:</b> 02/15/2019 <b>LAST AMEND:</b> 05/13/2019 <b>LOCATION:</b> Assembly Inactive File <b>SUMMARY:</b> Prohibits an officer or employee from being deemed interested in a contract, as described above, if the interest is that of an engineer, geologist, architect, landscape architect, land surveyor, or planner, performing specified services on a project, including preliminary design and preconstruction services, when proposing to perform services on a subsequent portion or phase of the project, if the work product for prior phases is publicly available. <b>STATUS:</b> 05/30/2019 In ASSEMBLY. From third reading. To Inactive File. <b>CATEGORY:</b> Employment Terms and Conditions
CA AB 628	<b>AUTHOR:</b> Bonta [D] <b>TITLE:</b> Employment: Victims of Sexual Harassment <b>INTRODUCED:</b> 02/15/2019 <b>LAST AMEND:</b> 05/16/2019 <b>LOCATION:</b> Assembly Unfinished Business - Reconsideration <b>SUMMARY:</b> Extends employment protections to victims of sexual harassment. Also extends these employment protections to specified family members of the victims for taking time off from work to provide assistance to the victims when seeking relief or obtaining specified services and counseling. Applies these protections to state and local public employers and to the Legislature. <b>STATUS:</b> 05/29/2019 In ASSEMBLY. Read third time. Failed to pass ASSEMBLY. (36-15) 05/29/2019 In ASSEMBLY. Motion to reconsider. <b>CATEGORY:</b> Employment Terms and Conditions
CA AB 652	<b>AUTHOR:</b> Mayes [NPP] <b>TITLE:</b> Supplemental Destination Highway Signs <b>INTRODUCED:</b> 02/15/2019 <b>LOCATION:</b> Assembly Transportation Committee <b>SUMMARY:</b> Requires the Department of Transportation to include a private stadium or sports arena as a facility that qualifies for supplemental destination signs in its regulations if the stadium otherwise meets the criteria for supplemental destination signs described in the California Manual on Uniform Traffic Control Devices. <b>STATUS:</b> 03/25/2019 In ASSEMBLY Committee on TRANSPORTATION: Not heard. <b>CATEGORY:</b> Miscellaneous

CA AB 659	<b>AUTHOR:</b> Mullin [D] <b>TITLE:</b> Transportation: Emerging Technologies: Grant Program <b>INTRODUCED:</b> 02/15/2019 <b>COMMITTEE:</b> Assembly Appropriations Committee <b>SUMMARY:</b> Establishes the California Smart City Challenge Grant Program to enable municipalities to compete for grant funding for emerging transportation technologies to serve their transportation system needs, and specifies certain program goals. Requires the California Transportation Commission to form the California Smart City Challenge Workgroup to guide the commission on program matters. <b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee. <b>CATEGORY:</b> Information Systems
CA AB 676	<b>AUTHOR:</b> Frazier [D] <b>TITLE:</b> California Transportation Commission: Annual Report <b>INTRODUCED:</b> 02/15/2019 <b>LOCATION:</b> Assembly Second Reading File <b>SUMMARY:</b> Requires the California Transportation Commission to adopt and submit its annual report by 12/31 of each year. <b>STATUS:</b> 03/25/2019 From ASSEMBLY Committee on TRANSPORTATION: Do pass to Committee on APPROPRIATIONS. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation
CA AB 745	<b>AUTHOR:</b> Petrie-Norris [D] <b>TITLE:</b> Sales and Use Tax: Exemption: Retail Hydrogen Fuel <b>INTRODUCED:</b> 02/19/2019 <b>LAST AMEND:</b> 04/03/2019 <b>LOCATION:</b> Assembly Appropriations Committee <b>SUMMARY:</b> Exempts from sales and use taxes the gross receipts from the sale in this state of, and the storage, use or other consumption in this state of, retail hydrogen vehicle fuel. <b>STATUS:</b> 05/16/2019 In ASSEMBLY. Joint Rule 62(a) suspended. 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee. <b>CATEGORY:</b> Funding

CA AB 808	<b>AUTHOR:</b> Chu [D] <b>TITLE:</b> Vehicles: Daytime Running Lamps <b>INTRODUCED:</b> 02/20/2019 <b>LAST AMEND:</b> 04/12/2019 <b>LOCATION:</b> Assembly Transportation Committee <b>SUMMARY:</b> Requires every new motor vehicle, other than a motorcycle, manufactured and first registered or sold in the State on or after a certain date, to be equipped with automatic daytime running headlamps and automatic taillamps. <b>STATUS:</b> 04/22/2019 In ASSEMBLY Committee on TRANSPORTATION: Failed passage. 04/22/2019 In ASSEMBLY Committee on TRANSPORTATION: Reconsideration granted. <b>CATEGORY:</b> Miscellaneous
CA AB 821	<b>AUTHOR:</b> O'Donnell [D] <b>TITLE:</b> Transportation: Trade Corridor Enhancement Account <b>INTRODUCED:</b> 02/20/2019 <b>LOCATION:</b> Assembly Transportation Committee <b>SUMMARY:</b> Requires the Transportation Commission to allocate not less than a certain percentage of the funds that are required to be allocated to projects nominated by the Department of Transportation to projects nominated pursuant to the State Port Efficiency Program, which this bill creates. <b>STATUS:</b> 03/04/2019 To ASSEMBLY Committee on TRANSPORTATION. <b>CATEGORY:</b> Funding
CA AB 847	<b>AUTHOR:</b> Grayson [D] <b>TITLE:</b> Housing: Transportation Related Impact Fee Grants <b>INTRODUCED:</b> 02/20/2019 <b>LAST AMEND:</b> 03/27/2019 <b>LOCATION:</b> Assembly Housing and Community Development Committee <b>SUMMARY:</b> Requires the Department of Housing and Community Development to establish a competitive grant program to award grants to cities and counties to offset the total amount of any transportation related impact fees exacted upon a qualifying housing development project by the local jurisdiction. <b>STATUS:</b> 04/01/2019 Re-referred to ASSEMBLY Committee on HOUSING AND COMMUNITY DEVELOPMENT. <b>CATEGORY:</b> Funding
CA AB 882	<b>AUTHOR:</b> McCarty [D] <b>TITLE:</b> Termination of Employment: Drug Testing <b>INTRODUCED:</b> 02/20/2019 <b>LOCATION:</b> Assembly Labor and Employment Committee <b>SUMMARY:</b> Prohibits an employer, regardless of the number of employees, from discharging an employee for testing positive for a drug that is being used as a medical-assisted treatment, under the care of physician or licensed treatment program. <b>STATUS:</b> 03/04/2019 To ASSEMBLY Committee on LABOR AND EMPLOYMENT. <b>CATEGORY:</b> Employment Terms and Conditions



CA AB 905	<b>AUTHOR:</b> Chen [R] <b>TITLE:</b> Highway Design Manual: Fire Prone Areas <b>INTRODUCED:</b> 02/20/2019 <b>LOCATION:</b> Assembly Transportation Committee <b>SUMMARY:</b> Requires the Department of Transportation to update the Highway Design Manual to incorporate the use of k-rails, weed mates, or other fire proofing devices in fire prone areas. <b>STATUS:</b> 03/04/2019 To ASSEMBLY Committee on TRANSPORTATION. <b>CATEGORY:</b> Public Works
CA AB 939	<b>AUTHOR:</b> Frazier [D] <b>TITLE:</b> Administrative Procedure Act: Major Regulations <b>INTRODUCED:</b> 02/20/2019 <b>LAST AMEND:</b> 04/22/2019 <b>LOCATION:</b> Assembly Accountability and Administrative Review Committee <b>SUMMARY:</b> Defines "major regulation" to be a regulation that the state agency estimates will have an economic impact on California business enterprises and individuals in an amount exceeding \$30,000,000. <b>STATUS:</b> 04/22/2019 From ASSEMBLY Committee on ACCOUNTABILITY AND ADMINISTRATIVE REVIEW with author's amendments. 04/22/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on ACCOUNTABILITY AND ADMINISTRATIVE REVIEW. <b>CATEGORY:</b> Employment Terms and Conditions
CA AB 983	<b>AUTHOR:</b> Boerner Horvath [D] <b>TITLE:</b> Transportation Electrification <b>INTRODUCED:</b> 02/21/2019 <b>LOCATION:</b> Assembly Utilities and Energy Committee <b>SUMMARY:</b> Requires an electrical corporation to work with local agencies or regional planning agencies in its service territory with responsibility for planning electric vehicle deployment to determine where to install new electrical charging stations along local transit corridors. Authorizes an electrical corporation to file an application with the Public Utilities Commission by December 31, 2020, as specified. <b>STATUS:</b> 03/07/2019 To ASSEMBLY Committees on UTILITIES AND ENERGY and COMMUNICATIONS AND CONVEYANCE. <b>CATEGORY:</b> Public Works

CA AB 1112	<p><b>AUTHOR:</b> Friedman [D]</p> <p><b>TITLE:</b> Shared Mobility Devices: Local Regulation</p> <p><b>INTRODUCED:</b> 02/21/2019</p> <p><b>LAST AMEND:</b> 06/19/2019</p> <p><b>LOCATION:</b> Senate Transportation Committee</p> <p><b>SUMMARY:</b> Defines a shared mobility device as a bicycle, electric bicycle, motorized scooter, electrically motorized board, or other similar personal transportation device, that is made available to the public for shared use and transportation. Requires shared mobility devices to include a single unique alphanumeric ID. Prohibits the sharing of individual trip data, except as provided by the Electronic Communications Privacy Act.</p> <p><b>STATUS:</b> 06/19/2019 In SENATE. Read second time and amended. Re-referred to Committee on TRANSPORTATION.</p> <p><b>CATEGORY:</b> Active Transportation</p>
CA AB 1148	<p><b>AUTHOR:</b> Patterson [R]</p> <p><b>TITLE:</b> High Speed Rail: Independent Peer Review Group</p> <p><b>INTRODUCED:</b> 02/21/2019</p> <p><b>LOCATION:</b> Assembly Transportation Committee</p> <p><b>SUMMARY:</b> Requires the independent peer review group to study and annually report to the legislature on alternative uses for high speed rail project infrastructure that is located in the projects Central Valley corridor and the construction of which the group anticipates will be completed by the end of the calendar year in which the report will be submitted to the legislature.</p> <p><b>STATUS:</b> 07/09/2019 To ASSEMBLY Committee on TRANSPORTATION.</p> <p><b>CATEGORY:</b> Audits, Records, Reports, and Litigation</p>
CA AB 1167	<p><b>AUTHOR:</b> Mathis [R]</p> <p><b>TITLE:</b> Greenhouse Gas Reduction Fund: Fire Protection</p> <p><b>INTRODUCED:</b> 02/21/2019</p> <p><b>LAST AMEND:</b> 03/13/2019</p> <p><b>COMMITTEE:</b> Assembly Transportation Committee</p> <p><b>SUMMARY:</b> Appropriates a certain percent of the Greenhouse Gas Reduction Fund to the Department of Forestry and Fire Protection to purchase new engines and equipment, hire new firefighters, and clear overgrowth or tree mortality and to the Firefighter Home Relief Trust Fund Program, which is established to provide grant funding for resident firefighters who lost their primary residence due to a wildfire or natural disaster.</p> <p><b>STATUS:</b> 04/01/2019 In ASSEMBLY Committee on TRANSPORTATION: Failed 04/01/2019 passage In ASSEMBLY Committee on TRANSPORTATION: Reconsideration granted.</p> <p><b>CATEGORY:</b> Environment</p>

CA AB 1198	<b>AUTHOR:</b> Stone [D] <b>TITLE:</b> Public Employees' Retirement: Pension Reform <b>INTRODUCED:</b> 02/21/2019 <b>LAST AMEND:</b> 03/21/2019 <b>COMMITTEE:</b> Assembly Public Employment and Retirement Committee <b>SUMMARY:</b> Excepts transit workers hired before a specified date, from the Public Employees' Pension Reform Act, or PEPRA, by removing the federal district court contingency language from the provision excepting certain transit workers from PEPRA. <b>STATUS:</b> 04/24/2019 In ASSEMBLY Committee on PUBLIC EMPLOYMENT AND RETIREMENT: Not heard. <b>CATEGORY:</b> Employment Terms and Conditions
CA AB 1241	<b>AUTHOR:</b> Quirk-Silva [D] <b>TITLE:</b> Contracts Between Public and Private Entities <b>INTRODUCED:</b> 02/21/2019 <b>LOCATION:</b> Assembly Privacy and Consumer Protection Committee <b>SUMMARY:</b> Makes appropriations for the support of the government of the state and for several public purposes in accordance with certain provisions of the state Constitution. Relates to the State Budget Bill. <b>STATUS:</b> 03/11/2019 To ASSEMBLY Committee on PRIVACY AND CONSUMER PROTECTION. <b>CATEGORY:</b> Employment Terms and Conditions
CA AB 1262	<b>AUTHOR:</b> O'Donnell [D] <b>TITLE:</b> California Sustainable Freight Action Plan <b>INTRODUCED:</b> 02/21/2019 <b>LAST AMEND:</b> 04/25/2019 <b>LOCATION:</b> Assembly Appropriations Committee <b>SUMMARY:</b> Requires, by a specified date, and every 5 years thereafter, the state board, the Department of Transportation, the State Energy Resources Conservation and Development Commission, and the Governor's Office of Business and Economic Development, in collaboration with relevant stakeholders, to update the California Sustainable Freight Action Plan. <b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Not heard. <b>CATEGORY:</b> Planning
CA AB 1273	<b>AUTHOR:</b> Brough [R] <b>TITLE:</b> County Of Orange: Joint Exercise Of Powers Agreements <b>INTRODUCED:</b> 02/21/2019 <b>LAST AMEND:</b> 03/25/2019 <b>LOCATION:</b> Assembly Local Government Committee <b>SUMMARY:</b> Limits the expenditure of certain development fees by the County of Orange to the maintenance, operation, or financing of a completed toll facility. Prohibits the formation of a new joint powers agency to construct bridge facilities or major thoroughfares. <b>STATUS:</b> 04/24/2019 In ASSEMBLY Committee on LOCAL GOVERNMENT: Heard, remains in Committee. <b>CATEGORY:</b> Miscellaneous



CA AB 1277	<b>AUTHOR:</b> Obernolte [R] <b>TITLE:</b> Transportation Projects: Oversight Committees <b>INTRODUCED:</b> 02/21/2019 <b>LAST AMEND:</b> 03/19/2019 <b>LOCATION:</b> Assembly Transportation Committee <b>SUMMARY:</b> <p>Requires a public agency administering a megaproject, which the bill would define as a transportation project with total estimated development and construction costs exceeding \$1,000,000,000, to take specified actions to manage the risks associated with the megaproject, including establishing a comprehensive risk management plan and regularly reassessing its reserves for potential claims and unknown risks.</p> <b>STATUS:</b> 03/19/2019 From ASSEMBLY Committee on TRANSPORTATION with author's amendments. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation
CA AB 1284	<b>AUTHOR:</b> Carrillo [D] <b>TITLE:</b> Carbon Neutrality <b>INTRODUCED:</b> 02/21/2019 <b>LOCATION:</b> Assembly Natural Resources Committee <b>SUMMARY:</b> <p>Requires the State Air Resources Board to adopt a regulation defining carbon neutrality, as specified.</p> <b>STATUS:</b> 03/11/2019 To ASSEMBLY Committee on NATURAL RESOURCES. <b>CATEGORY:</b> Environment
CA AB 1286	<b>AUTHOR:</b> Muratsuchi [D] <b>TITLE:</b> Shared Mobility Devices: Agreements <b>INTRODUCED:</b> 02/21/2019 <b>LAST AMEND:</b> 06/06/2019 <b>LOCATION:</b> Senate Judiciary Committee <b>SUMMARY:</b> <p>Requires a shared mobility service provider to enter into an agreement with, or obtain a permit from, the city or county with jurisdiction over the area of use. Requires the provider to maintain a specified amount of commercial general liability insurance. Prohibits the provider from including specified provisions in a user agreement before distributing a shared mobility device within that jurisdiction. Defines shared mobility device.</p> <b>STATUS:</b> 06/25/2019 In SENATE Committee on JUDICIARY: Not heard. <b>CATEGORY:</b> Public Works

CA AB 1397	<b>AUTHOR:</b> Burke [D] <b>TITLE:</b> Income Tax Credit: Railroad in Reconstruction <b>INTRODUCED:</b> 02/22/2019 <b>LOCATION:</b> Assembly Revenue and Taxation Committee <b>SUMMARY:</b> <p>Allows a credit for each taxable year to a qualified taxpayer in an amount equal to a percentage of the qualified railroad reconstruction or replacement expenditures paid or incurred by the qualified taxpayer, subject to a specified limitation. Includes the additional information required for any bill authorizing a new income tax credit.</p> <b>STATUS:</b> 04/08/2019 In ASSEMBLY Committee on REVENUE AND TAXATION: Heard, remains in Committee. <b>CATEGORY:</b> Funding
CA AB 1411	<b>AUTHOR:</b> Gomez Reyes [D] <b>TITLE:</b> Integrated Action Plan for Sustainable Freight <b>INTRODUCED:</b> 02/22/2019 <b>LAST AMEND:</b> 04/12/2019 <b>COMMITTEE:</b> Assembly Transportation Committee <b>SUMMARY:</b> <p>Establishes as a state goal the deployment of a number of zero emission and medium and heavy duty vehicles and off road vehicles and equipment, and the corresponding infrastructure to support them, by a year. Requires the Public Utilities Commission, the state board, the Department of Transportation, the State Energy Resources Conservation and Development Commission, and the Governor's Office to develop and update by a certain date, and every number of years after.</p> <b>STATUS:</b> 04/22/2019 In ASSEMBLY Committee on TRANSPORTATION: Not heard. <b>CATEGORY:</b> Rail and Transit
CA AB 1430	<b>AUTHOR:</b> Garcia, E. [D] <b>TITLE:</b> State Government: Public Investment Opportunities <b>INTRODUCED:</b> 02/22/2019 <b>LOCATION:</b> Assembly Appropriations Committee <b>SUMMARY:</b> <p>Requires the Public Utilities Commission, the State Air Resources Board, the California Transportation Commission, and the Labor Workforce Development Agency by January 1, 2021, to provide a joint assessment of options for redefining the term cost effective to the Legislature for the purposes of prioritizing public investment opportunities.</p> <b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Not heard. <b>CATEGORY:</b> Miscellaneous

CA AB 1457	<b>AUTHOR:</b> Gomez Reyes [D] <b>TITLE:</b> Omnitrans Transit District <b>INTRODUCED:</b> 02/22/2019 <b>LAST AMEND:</b> 05/24/2019 <b>LOCATION:</b> Senate Governance and Finance Committee <b>SUMMARY:</b> Creates Omnitrans Transit District in the County of San Bernardino. Provides that the jurisdiction of the district would initially include the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa and specified portions of the unincorporated areas of the County of San Bernardino. <b>STATUS:</b> 06/25/2019 From SENATE Committee on TRANSPORTATION: Do pass to Committee on GOVERNANCE AND FINANCE. (11-0) <b>CATEGORY:</b> Rail and Transit
CA AB 1717	<b>AUTHOR:</b> Friedman [D] <b>TITLE:</b> Transit Oriented Affordable Housing Funding Program Act <b>INTRODUCED:</b> 02/22/2019 <b>LAST AMEND:</b> 04/10/2019 <b>COMMITTEE:</b> Assembly Appropriations Committee <b>SUMMARY:</b> Establishes the Transit-Oriented Affordable Housing Funding Program. Authorizes the city council of a city, or the board of supervisors of a city and county, to participate in the program by enactment of an ordinance establishing a transit oriented affordable housing district. Authorizes a district to enter into a contract with the Housing Finance Agency to remit the entirety of the amount allocated to it by a division of taxes to the Agency. <b>STATUS:</b> 05/16/2019 In ASSEMBLY Committee on APPROPRIATIONS: Held in committee. <b>CATEGORY:</b> Rail and Transit
CA AB 1770	<b>AUTHOR:</b> Frazier [D] <b>TITLE:</b> Tire Recycling Program: Rubberized Pavement <b>INTRODUCED:</b> 02/22/2019 <b>LOCATION:</b> Senate Environmental Quality Committee <b>SUMMARY:</b> Extends the operation of the Rubberized Pavement Market Development Act to June 30, 2024. <b>STATUS:</b> 06/06/2019 To SENATE Committee on ENVIRONMENTAL QUALITY. <b>CATEGORY:</b> Environment



CA AB 1785	<b>AUTHOR:</b> Boerner-Horvath [D] <b>TITLE:</b> Pleadings: Motion to Strike <b>INTRODUCED:</b> 02/22/2019 <b>LAST AMEND:</b> 03/28/2019 <b>LOCATION:</b> Assembly Judiciary Committee <b>SUMMARY:</b> Permits a railroad owner or operator, or a government entity through which a railroad passes, to file a special motion to strike a cause of action seeking damages for an incident occurring in a portion of a railroad right of way open to the public. Requires the court to grant the special motion to strike unless the plaintiff establishes that there is a probability that the plaintiff will overcome all defenses asserted by the defendant and prevail on the claim. <b>STATUS:</b> 03/28/2019 To ASSEMBLY Committee on JUDICIARY. 03/28/2019 From ASSEMBLY Committee on JUDICIARY with author's amendments. 03/28/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on JUDICIARY. <b>CATEGORY:</b> Rail and Transit
CA ACA 2	<b>AUTHOR:</b> Nazarian [D] <b>TITLE:</b> State Tax Agency <b>INTRODUCED:</b> 12/03/2018 <b>LOCATION:</b> Assembly Revenue and Taxation Committee <b>SUMMARY:</b> 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. <b>STATUS:</b> 05/24/2019 To ASSEMBLY Committee on REVENUE AND TAXATION. <b>CATEGORY:</b> Miscellaneous
CA SB 25	<b>AUTHOR:</b> Caballero [D] <b>TITLE:</b> CEQA: Projects Funded by Qualified Opportunity Zones <b>INTRODUCED:</b> 12/03/2018 <b>ENACTED:</b> 04/30/2019 <b>LOCATION:</b> Assembly Natural Resources Committee <b>SUMMARY:</b> Requires the Judicial Council to adopt rules of court applicable to an action or proceeding brought to attack, review, set aside, void, or annul the certification or adoption of an environmental review document. <b>STATUS:</b> 07/08/2019 In ASSEMBLY Committee on NATURAL RESOURCES: Heard, remains in Committee. <b>CATEGORY:</b> Environment

CA SB 43	<p><b>AUTHOR:</b> Allen [D]</p> <p><b>TITLE:</b> Carbon Intensity and Pricing: Retail Products</p> <p><b>INTRODUCED:</b> 12/03/2018</p> <p><b>LAST AMEND:</b> 07/01/2019</p> <p><b>LOCATION:</b> Assembly Revenue and Taxation Committee</p> <p><b>SUMMARY:</b></p> <p>Requires the state board, no later than January 1, 2022, to submit a report to the Legislature on the findings from a study, as specified, to determine the feasibility and practicality of assessing the carbon intensity of all retail products subject to the tax imposed pursuant to the Sales and Use Tax Law, so that the total carbon equivalent emissions associated with such retail products can be quantified.</p> <p><b>STATUS:</b></p> <p>07/08/2019 In ASSEMBLY Committee on REVENUE AND TAXATION: Failed passage.</p> <p>07/08/2019 In ASSEMBLY Committee on REVENUE AND TAXATION: Reconsideration granted.</p> <p><b>CATEGORY:</b> Funding</p>
CA SB 50	<p><b>AUTHOR:</b> Wiener [D]</p> <p><b>TITLE:</b> Planning and Zoning: Housing Development</p> <p><b>INTRODUCED:</b> 12/03/2018</p> <p><b>LAST AMEND:</b> 06/04/2019</p> <p><b>LOCATION:</b> Senate Appropriations Committee</p> <p><b>SUMMARY:</b></p> <p>Requires a local agency to notify the development proponent in writing if the local agency determines that the development conflicts with any of the requirements provided for streamlined ministerial approval within 60 days of the submission of the development to the local agency. Authorizes a development proponent of a neighborhood multifamily project located on an eligible parcel to submit an application for a streamlined, ministerial approval process that is not subject to a conditional use permit.</p> <p><b>STATUS:</b></p> <p>06/04/2019 From SENATE Committee on APPROPRIATIONS with author's amendments.</p> <p>06/04/2019 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p> <p><b>CATEGORY:</b> Planning</p>
CA SB 146	<p><b>AUTHOR:</b> Beall [D]</p> <p><b>TITLE:</b> Peninsula Rail Transit District</p> <p><b>INTRODUCED:</b> 01/18/2019</p> <p><b>LOCATION:</b> Assembly Transportation Committee</p> <p><b>SUMMARY:</b></p> <p>Repeals provisions relating to the Peninsula Rail Transit District.</p> <p><b>STATUS:</b></p> <p>05/02/2019 To ASSEMBLY Committee on TRANSPORTATION.</p> <p><b>CATEGORY:</b> Rail and Transit</p>

CA SB 147	<b>AUTHOR:</b> Beall [D] <b>TITLE:</b> High-Speed Rail Authority <b>INTRODUCED:</b> 01/18/2019 <b>LOCATION:</b> Senate Appropriations Committee <b>SUMMARY:</b> Authorizes the High-Speed Rail Authority to keep the public informed through activities, including, but not limited to, community outreach events, public information workshops, and newsletters posted on the authority's internet website. <b>STATUS:</b> 05/02/2019 To ASSEMBLY Committee on TRANSPORTATION. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation
CA SB 162	<b>AUTHOR:</b> Galgiani [D] <b>TITLE:</b> State Board Of Equalization: Local Voter Approved Bond <b>INTRODUCED:</b> 01/24/2019 <b>LAST AMEND:</b> 06/19/2019 <b>LOCATION:</b> Assembly Revenue and Taxation Committee <b>SUMMARY:</b> Requires, by January 1, 2022, and January 1 of each year thereafter, a local agency to transmit specified data related to the issuance of any bonds by that local agency pursuant to the authorization of any local bond act, as defined, to the State Board of Equalization, including the amount of debt authorized by the local bond act. <b>STATUS:</b> 06/19/2019 From ASSEMBLY Committee on REVENUE AND TAXATION with author's amendments. 06/19/2019 In ASSEMBLY. Read second time and amended. Re-referred to Committee on REVENUE AND TAXATION. <b>CATEGORY:</b> Miscellaneous
CA SB 319	<b>AUTHOR:</b> Moorlach [R] <b>TITLE:</b> Department of Transportation: German Autobahn Report <b>INTRODUCED:</b> 02/15/2019 <b>LAST AMEND:</b> 04/22/2019 <b>LOCATION:</b> Senate Rules Committee <b>SUMMARY:</b> Requires the Department of Transportation to submit a report that includes policy recommendations on any potential advantages of the German autobahn system compared to the state's highway system and on the feasibility of implementing those potential advantages in the state, by a certain date. <b>STATUS:</b> 04/24/2019 Withdrawn from SENATE Committee on TRANSPORTATION. 04/24/2019 Re-referred to SENATE Committee on RULES. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation



CA SB 336	<b>AUTHOR:</b> Dodd [D] <b>TITLE:</b> Transportation: Fully-Automated Transit Vehicles <b>INTRODUCED:</b> 02/19/2019 <b>LAST AMEND:</b> 04/29/2019 <b>LOCATION:</b> Assembly Transportation Committee <b>SUMMARY:</b> <p>Requires a transit operator, as defined, to ensure each of its fully-automated transit vehicles, as defined, is staffed by at least one of its employees, who has had specified training, while the vehicle is in service. Requires a transit operator that deploys a fully-automated transit vehicle to report the results of that deployment.</p> <b>STATUS:</b> 05/24/2019 To ASSEMBLY Committees on TRANSPORTATION and COMMUNICATIONS AND CONVEYANCE. <b>CATEGORY:</b> Rail and Transit
CA SB 340	<b>AUTHOR:</b> Stone [R] <b>TITLE:</b> High Speed Rail Bonds <b>INTRODUCED:</b> 02/19/2019 <b>LOCATION:</b> Senate Transportation Committee <b>SUMMARY:</b> <p>Provides that no further bonds shall be sold for high-speed rail purposes pursuant to the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, except as specifically provided with respect to an existing appropriation for high-speed rail purposes for early improvement projects in the Phase 1 blended system.</p> <b>STATUS:</b> 04/09/2019 In SENATE Committee on TRANSPORTATION: Failed passage. 04/09/2019 In SENATE Committee on TRANSPORTATION: Reconsideration granted. <b>CATEGORY:</b> Funding
CA SB 405	<b>AUTHOR:</b> Archuleta [D] <b>TITLE:</b> Reclaimed Asphalt Pavement: County of Los Angeles <b>INTRODUCED:</b> 02/20/2019 <b>LAST AMEND:</b> 07/01/2019 <b>LOCATION:</b> Assembly Inactive File <b>SUMMARY:</b> <p>Authorizes the Department of Public Works of the County of Los Angeles to create a pilot project to demonstrate the viability of paving streets, roads and highways with hot mix asphalts composed as specified. Requires the pilot project to be conducted on streets, roads, and highways in the county and would require specific project sites in the county to be determined by the appropriate and usual process of the county.</p> <b>STATUS:</b> 07/11/2019 In ASSEMBLY. To Inactive File. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation

CA SB 447	<b>AUTHOR:</b> Moorlach [R] <b>TITLE:</b> Department Of Transportation: Transfer Of Property <b>INTRODUCED:</b> 02/21/2019 <b>LAST AMEND:</b> 03/27/2019 <b>LOCATION:</b> Senate Transportation Committee <b>SUMMARY:</b> <p>Requires the department, if requested by the City of Orange, to transfer two parcels, which are currently leased to the city for use as public parks, to the city, subject to certain requirements, including a requirement that the property be used solely for recreation and open-space purposes.</p> <b>STATUS:</b> 04/23/2019 In SENATE Committee on TRANSPORTATION: Not heard. <b>CATEGORY:</b> Public Works
CA SB 517	<b>AUTHOR:</b> Archuleta [D] <b>TITLE:</b> Department of Motor Vehicles: Records: Confidentiality <b>INTRODUCED:</b> 02/21/2019 <b>LOCATION:</b> Senate Appropriations Committee <b>SUMMARY:</b> <p>Extends a prohibition against the disclosure of the home addresses of certain public employees and officials to code enforcement officers and parking control officers.</p> <b>STATUS:</b> 05/16/2019 In SENATE Committee on APPROPRIATIONS: Held in committee. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation
CA SB 615	<b>AUTHOR:</b> Hueso [D] <b>TITLE:</b> Public Records: Disclosure <b>INTRODUCED:</b> 02/22/2019 <b>LOCATION:</b> Senate Judiciary Committee <b>SUMMARY:</b> <p>Permits any person to institute proceedings for injunctive or declarative relief or a writ of mandate in any court of competent jurisdiction to enforce their right to inspect or to receive a copy of any public record or class of public records covered by the California Public Records Act. Requires a person to meet and confer in good faith with the agency in an attempt to informally resolve each issue.</p> <b>STATUS:</b> 03/14/2019 To SENATE Committee on JUDICIARY. <b>CATEGORY:</b> Audits, Records, Reports, and Litigation

CA SB 662	<b>AUTHOR:</b>	Archuleta [D]
	<b>TITLE:</b>	Green Electrolytic Hydrogen
	<b>INTRODUCED:</b>	02/22/2019
	<b>LAST AMEND:</b>	04/30/2019
	<b>SUMMARY:</b>	Requires the Public Utilities Commission and Energy Commission to take into account opportunities to increase grid responsive production of green electrolytic hydrogen for use in the transportation sector. Includes use of green electrolytic hydrogen as an alternative transportation fuel as another potential form of energy storage.
	<b>STATUS:</b>	To ASSEMBLY Committee on UTILITIES AND ENERGY AND TRANSPORTATION. Environment
	06/13/2019	
	<b>CATEGORY:</b>	



*January 16, 2020*

**To:** Legislative and Communications Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Federal Legislative Status Report

**Overview**

Updates are provided on the appropriations process, enacted legislation that affects rolling stock procurements, and oversight of discretionary grants.

**Recommendation**

Receive and file as an information item.

**Discussion**

**Federal Funding Update**

On November 21, 2019, the President signed a continuing resolution to fund the government at current funding levels through December 20, 2019. The continuing resolution passed the Senate by a vote of 74-20 and the House by a vote of 231-192. In addition to providing short-term funding, the continuing resolution also repealed the \$7.6 billion rescission of transportation funding that was scheduled to take place on July 1, 2020. According to the Federal Highway Administration, California's share of the rescission, which was authorized by the Fixing America's Surface Transportation (FAST) Act, would have been nearly \$280 million. Since this rescission will be avoided, staff has updated the Orange County Transportation Authority (OCTA) 2019-20 Federal Legislative Platform to strike the language in the section entitled "Key Issues in the 116<sup>th</sup> Congress" opposing the FAST Act rescission. There is still language in the platform opposing arbitrary funding cuts, which will allow staff to engage in discussions related to any rescission proposed in the future that could negatively impact OCTA.

On December 20, 2019, the President signed into law a \$1.4 trillion spending package to fund government operations for the remainder of the 2020 fiscal year. The funding package providing resources for federal transportation programs



passed the Senate by a vote of 71-23 and the House by a vote of 297-120. The transportation funding bill provides \$86.2 billion in total funding for the Department of Transportation, which is \$324.9 million below the previous year's funding level, but \$3.3 billion above the President's budget request. While there is a small decrease in overall transportation funding, most transportation programs are funded at or above authorized levels. In addition, the final transportation funding bill is free of any controversial riders.

A program-specific breakdown of the transportation funding provided by the spending package is included as Attachment A. Similar to previous years, the bill provides \$2.166 billion from the General Fund for Federal-aid Highways formula programs. Included in this supplemental funding, there is \$1.15 billion for bridge replacement and \$781.1 million for both Surface Transportation Block Grant Program eligible projects and alternative fuel charging infrastructure. The bill also provides \$1 billion for the competitive Better Utilizing Investments to Leverage Development (BUILD) program, which funds multi-modal surface transportation projects. This BUILD funding level is \$100 million more than the previous fiscal year. The bill requires that BUILD grants be split evenly between large urban areas and rural areas with a population of under 200,000. While there is no maximum BUILD grant award, no more than 10 percent of BUILD funds may go to any one state.

The spending package also provides \$510 million in supplemental funding above authorized levels for transit formula programs out of the General Fund. As detailed in the table in Attachment A, the transit funding increase largely benefits federal transit bus programs. The funding bill provides \$1.978 billion in funding for the Capital Investments Grants (CIG) program, which includes \$1.458 billion for New Starts projects, \$300 million for Core Capacity projects, \$100 million for Small Starts projects, \$100 million for the CIG delivery pilot project authorized by the FAST Act, and \$20 million for oversight activities. While the overall CIG funding level is below the previous year's enacted level, the funding for CIG New Starts projects is slightly higher than that of last year. There is also language directing the Federal Transit Administration (FTA) to allocate nearly 85 percent of this year's CIG funding by December 31, 2021.

The funding bill's more than \$2.5 billion in intercity passenger rail funding provides \$2 billion to Amtrak, \$200 million to the Federal Railroad Administration's (FRA) Federal-State Partnership for State of Good Repair grants, and \$325 million to the Consolidated Rail Infrastructure and Safety Improvements program, among other programs. Of the \$2 billion included for Amtrak, the funding bill allocates \$700 million for Northeast Corridor grants and \$1.3 billion for the National Network, both of which are increases over the previous fiscal year, as well as the authorized level. The bill directs the FRA to release award of this year's rail grants by May 1, 2020.

The spending package also extends certain tax provisions that had previously expired, including the Alternative Fuel Excise Tax Credit. The spending package retroactively extends the Alternative Fuel Excise Tax Credit through December 31, 2020. Based on fuel usage, this tax incentive provides OCTA with more than \$4 million each year the credit is in effect. There is also language in the funding bill that is meant to ensure that the intended claimants of this tax incentive, notably end users of alternative fuels like OCTA, are the ones benefiting. Staff is continuing to monitor the implementation of this language, as well as all of the provisions in the transportation funding bill and will provide further updates as necessary.

#### Legislation Affecting Rolling Stock

On December 20, 2019, the President signed into law the National Defense Authorization Act (NDAA) after it passed the Senate by a vote of 86 to 8 and the House by a vote of 377 to 48. The NDAA is legislation authorizing defense policies and programs, and it has been enacted every year for decades, one of the few authorization bills signed into law each year. This year, the NDAA included provisions affecting the purchase of rolling stock from American companies that are owned or controlled by parent companies based in countries that are on certain trade watch lists. While the bill could apply to many companies, it is essentially aimed at prohibiting the procurement of rolling stock from the state-subsidized Chinese electric bus company, BYD, and the state-owned Chinese rail company, CRCC.

Specifically, the provisions in the NDAA prohibit the use of federal funds from being used to procure buses from companies meeting the bill's definition. This language also requires that fixed-guideway rail operators receiving FTA's State of Good Repair funding certify that the agency is not contracting with applicable companies. Both the procurement prohibition and the additional certification do not apply to contracts awarded within two years of the bill's enactment. The NDAA provisions also require that rail fixed-guideway operators make certifications about cybersecurity best practices to ensure that rail systems are not being undermined by foreign governments.

As of the writing of this staff report, staff was in the process of better understanding exactly how and when these provisions will apply to OCTA, including how the agency's procurements may be impacted by the provisions, and how the agency will make the certifications required by the bill, where appropriate. Staff is continuing to develop and refine a plan to comply with the different provisions and will provide updates as additional information becomes available.



### Oversight of Discretionary Grants

On December 5, 2019, House Transportation and Infrastructure Committee Chair Peter A. DeFazio (D-OR), along with Highways and Transit Subcommittee Chair Eleanor Holmes Norton (D-D.C.), wrote to Secretary of Transportation Elaine L. Chao regarding discretionary grant awards. Chairs DeFazio and Norton expressed their concern with the lack of communication from the Department of Transportation about findings in a recent report from the Government Accountability Office on discretionary transportation grants. Specifically, the letter, which is included as Attachment B, requests information about a memo sent in April 2019 to all offices that administer discretionary grant awards, including searchable electronic copies of all departmental guidance on discretionary grants. The letter also emphasizes that the inquiry is part of an effort to ensure that discretionary grant awards are based on merit and the anticipated effectiveness of a project in addressing our country's infrastructure needs. Staff will continue to monitor efforts to improve the discretionary grant process, especially during the upcoming surface transportation reauthorization process, and provide updates as warranted.

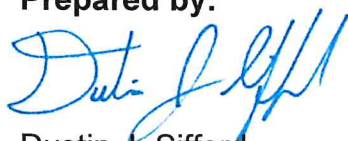
### **Summary**

Updates are provided on federal funding, legislation affecting rolling stock, and the oversight of congressional grants.

### **Attachments**

- A. Fiscal Year 2020 Funding Breakdown
- B. Letter from Leaders of the Committee on Transportation and Infrastructure to the Honorable Elaine L. Chao, dated December 5, 2019
- C. Potomac Partners DC, Monthly Legislative Report – November 2019
- D. Potomac Partners DC, Monthly Legislative Report – December 2019

### **Prepared by:**



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**Fiscal Year 2020 Funding Breakdown**

<b>Agency</b>	<b>Program</b>	<b>Funding Level</b>	<b>Authorized Level</b>
FHWA	Supplemental Highway Formula Funds from General Fund	\$2,166,140,392	\$0
FHWA	Congestion Mitigation and Air Quality (CMAQ) Improvement Program	\$2,499,000,000	\$2,499,000,000
FHWA	Infrastructure for Rebuilding America (INFRA) Grants	\$1,000,000,000	\$1,000,000,000
FHWA	Surface Transportation Block Grant Program	\$12,137,000,000	\$12,137,000,000
FRA	Amtrak Grants	\$2,000,000,000	\$1,800,000,000
FRA	Consolidated Rail Infrastructure and Safety Improvements (CRISI) Program	\$325,000,000	\$330,000,000
FRA	Federal-State Partnership for State of Good Repair Program	\$200,000,000	\$300,000,000
FRA	Restoration and Enhancement Grants	\$2,000,000	\$20,000,000
FTA	Urbanized Area Formula Program Grants [§5307]	\$4,929,452,499	\$4,929,452,499
FTA	Capital Investment Grants Program [§5309]	\$1,978,000,000	\$2,301,785,760
FTA	Enhanced Mobility of Seniors and Individuals with Disabilities [§5310]	\$285,574,688	\$285,574,688
FTA	State of Good Repair Grants [§5337]	\$2,683,798,369	\$2,683,798,369
FTA	Bus and Bus Facilities Formula [§5339(a)]	\$632,609,736	\$464,609,736
FTA	Bus and Bus Facilities Discretionary [§5339(b)]	\$514,044,179	\$344,044,179
FTA	Low or No Emission Vehicle Program [§5339(c)]	\$130,000,000	\$55,000,000
FTA	High Density States Program [§5340(d)]	\$309,364,074	\$269,364,074
OST	Better Utilizing Investments to Leverage Development (BUILD) Program	\$1,000,000,000	\$0

**Agency Acronyms**

FHWA – Federal Highway Administration

FRA – Federal Railroad Administration

FTA – Federal Transit Administration

OST – Office of the Secretary of Transportation





**Committee on Transportation and Infrastructure  
U.S. House of Representatives**

**Peter A. DeFazio**  
**Chairman**

**Washington, DC 20515**

**Sam Graves, MO**  
**Ranking Member**

**Katherine W. Dedrick, Staff Director**

**Paul J. Sass, Republican Staff Director**

December 5, 2019

The Honorable Elaine L. Chao  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Secretary Chao:

We are deeply concerned that we have yet to receive a response to our letter dated July 18, 2019, requesting information from the Department on alleged changes to your discretionary grant program evaluation process. This is unacceptable.

We wrote to you in response to a report by the Government Accountability Office (GAO) entitled "Discretionary Transportation Grants: Actions Needed to Improve Consistency and Transparency in DOT's Application Evaluations" (GAO-19-541).<sup>1</sup> In that report, GAO cited a Departmental memo from April 2019 issued to all offices that administer discretionary grants, directing them to update their policies and procedures to implement past GAO recommendations with respect to discretionary grant evaluations by June 30, 2019.

We specifically requested a copy of the April 2019 memo and the updated policies sent to the Office of the Senior Procurement Executive in response to the memo. We have yet to receive a response, which leaves us to wonder whether anything has changed.

As we look to surface transportation reauthorization, the Committee remains committed to ensuring the success of the Nationally Significant Freight and Highways Projects program, which your Department refers to as INFRA grants, and other discretionary grant programs to ensure an even playing field for all applicants. To that end, we request by December 19, 2019, the following records:

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<sup>1</sup> "DISCRETIONARY TRANSPORTATION GRANTS: Actions Needed to Improve Consistency and Transparency in DOT's Application Evaluations," Government Accountability Office (GAO), GAO 19-541, June 2019, accessed here: <https://www.gao.gov/assets/710/700024.pdf>

- A copy of the April 2019 memo and the updated policies sent to the Office of the Senior Procurement Executive in response to the memo;
- Any new requirements the Department has put in place to ensure these new procedures are implemented consistently and fully;
- For the FY 2017/2018 round of funding:
  - Documentation on the 165 projects that were sent to the Secretary for consideration, and detailed documentation on the criteria and process used to select the final 26 projects that received awards;
  - Of the 97 large projects that did not include sufficient information for the Department to assess if the projects met each of the statutory requirements, documentation on how and why the Department selected to follow up with only 42 of those applicants, and what information the Department requested to help determine if their projects met the requirements; and
- For the FY 2019 round of funding, documentation on which of the 193 project applications were sent to the Secretary for consideration, and detailed documentation on the criteria and process used to select the final 20 projects that were selected to receive awards.

We recognize that problems in the grant evaluation process have long plagued the Department, and the Committee intends to look at ways to ensure discretionary grant programs are evaluated and awarded based on merit and anticipated effectiveness to address our infrastructure needs. If you would like this consideration to be informed by the Department's efforts to date, we urge you to respond in a timely fashion.


Please provide two sets of copies of all of the requested data above in a searchable electronic format. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production. Please provide the requested information and documents on a rolling basis if necessary. You may contact Committee staff to discuss a priority order of delivery of the records requested above.

Please deliver one set of these records to the Majority Staff in Room 2165 of the Rayburn House Office Building and one set of records to the Minority Staff in Room 2164 of the Rayburn House Office Building. Any questions regarding this request should be directed to Helena Zyblikewycz on the Subcommittee on Highways and Transit at [helena.zyblikewycz@mail.house.gov](mailto:helena.zyblikewycz@mail.house.gov).

Thank you for your attention to this matter.

Sincerely,

  
PETER A. DeFAZIO  
Chairman

  
ELEANOR HOLMES NORTON  
Chair  
Subcommittee on Highways & Transit

cc: The Honorable Sam Graves  
Ranking Member

The Honorable Rodney Davis  
Ranking Member  
Subcommittee on Highways and Transit





## Monthly Legislative Report – November 2019

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### **FY2020 Budget and Appropriations Update**

On November 21<sup>st</sup>, President Trump signed a continuing resolution (CR) extending current government funding levels through December 20<sup>th</sup>, avoiding another potential government shutdown. The measure replaced the current CR (PL 116-59), which expired November 21<sup>st</sup>, with this new December 20<sup>th</sup> deadline. For transportation, the CR also included a provision that repeals the \$7.6 billion rescission of highway funding that was set to trigger on July 1, 2020, under the 2015 highway authorization law (PL 114-94).

The text of the enacted CR can be found [HERE](#).

Other additional provisions in the CR are as follows:

- A provision allowing the Census Bureau to spend at a \$7.3 billion annualized rate in order to ensure adequate funding for the 2020 decennial count. That includes \$90 million for special mobile questionnaire assistance centers to replace brick-and-mortar locations, an effort that has run into skepticism from some lawmakers as well as the bureau's external advisory board.
- A provision that would expand eligibility for payments from a compensation fund for victims of state-sponsored terrorism set up under the fiscal 2016 omnibus spending law (PL 114-113).
- Provisions extending numerous expiring health care programs that were temporarily renewed in the most recent stopgap law, such as funding for community health centers and teaching hospitals, as well other miscellaneous programs ranging from the higher education reauthorization law to the Export-Import Bank

The second stopgap funding measure was passed as an amendment in the nature of a substitute to a fiscal 2020 spending package (H.R. 3055) that had passed in both the House and as amended in the Senate. The House passed (231-192) the CR on November 19<sup>th</sup>, sending it to the Senate. On November 21<sup>st</sup> the Senate passed (74-20) the CR measure (H.R. 3055), sending the bill to President Trump's desk.

Leading up to the Senate's passage, Senate leaders and appropriators contemplated swapping legislative vehicles for the House-passed monthlong stopgap bill (H.R. 3055). Senate appropriators wanted to preserve the underlying bill as a vehicle to carry potential compromise versions of some or all of the 12 spending bills to the President's desk in December. Had they done this the bill would have had to be sent back to the House for passage before going to the President's desk. Senate leaders decided to abandon that strategy on November 20<sup>th</sup> in order to expedite final consideration and avoid delays.



Looking ahead to December, President Trump's impeachment proceedings may cause some disruption in finalizing the appropriations process. Furthermore, President Trump's border wall funding request, which led to a 35-day partial shutdown at the end of 2018 and early this year, has again been one of the biggest stumbling blocks to finishing work on the bills.

Consequently, some Trump administration officials have endorsed the idea of a year-long continuing resolution that would extend current funding levels through the 2020 election. This idea is not popular with Congressional Appropriators we spoke with this month who are eager to preserve the increased funding levels for domestic programs. Shortly after the CR was enacted, House and Senate Appropriations Committee Chairs Nita Lowey (D-NY) and Richard Shelby (R-AL) announced a bipartisan deal on individual spending allocations for each bill, called 302(b)s. The new numbers for transportation programs (THUD) have still not been made public as of the writing of this report.

### **November Advocacy Meetings**

**Congressman Harley Rouda (D-CA)** – We followed-up with Congressman Rouda and his staff this month on our discussions regarding streamlining the TIFIA process, and progress on the Surface Transportation Reauthorization. We discussed possible climate provisions in the Highway Bill that may include new transit funding. We asked for ongoing support for OCTA priorities in the drafting process and opportunities to provide input before formal markups begin.

**Congressman Lou Correa (D-CA)** – We followed-up with Congressman Correa and his staff on our discussions regarding TIFIA, the I-405 project, and we discussed the Surface Transportation Reauthorization and support for legislation to address the aviation fuel tax issue.

**Congressman Mike Levin (D-CA)** – We followed-up with staff in Congressman Levin's office to discuss beach erosion issues between Capistrano Beach and Dana Point. We also discussed support for alternative delivery methods for federally funded transportation projects and ways to streamline the TIFIA program. We also gave an update on the I-405 project and discussed possible Congressional reactions to the EPA's revocation of California's Clean Air Act waiver, and the need for at least a three-year transition period.

**Congresswoman Grace Napolitano (D-CA)** – We met with Congresswoman Napolitano and her staff (COS and LD) to follow-up on our discussions regarding the Surface Transportation Reauthorization drafting process and next steps for [H.R. 2939](#) to address the aviation fuel tax issues.

**Congressman Gil Cisneros (D-CA)** – We have been maintaining close contact with senior staff in Congressman Cisneros' office to discuss progress on additional tax extenders and the possibility of including them in any upcoming appropriations minibus

or omnibus bills. We also discussed the TIFIA program and support for legislation to address the aviation fuel tax issue.

**Congressman Pete Aguilar (D-CA)** – We met with the Congressman and his staff this month to discuss the appropriations process and any changes the House may consider making to the Senate’s THUD Appropriations bill. We also discussed the likelihood of the year-long CR if the House and Senate are unable to reach consensus on some or all of the individual bills before the end of the calendar year and provisions that were included in the CR.

**Congressman Alan Lowenthal (D-CA)** – We met with Congressman Lowenthal and his staff to follow-up on our discussions regarding the Surface Transportation Reauthorization and opportunities to address the aviation fuel tax issue in the legislation. We also discussed the alternative fuel tax issue and the possibility for including language in any must-pass bill at the end of the year.

**Senator Dianne Feinstein (D-CA)** – We followed-up with Senator Dianne Feinstein’s staff numerous times this month to discuss the timeline for FY20 appropriations in the Senate. We followed-up on possible TIFIA reform legislation and discussed the timeline for the Senate’s version of a Surface Transportation Reauthorization in the Finance Committee, Banking Committee, and Commerce Committee. We also talked about other process reforms in the Senate WRDA that may impact transportation.

**Ranking Member Sam Graves (R-MO)** – We met with Ranking Member Graves’ staff to discuss updates on progress for the Surface Transportation Reauthorization and possible funding mechanisms for the bill. We also discussed the FAA Reauthorization hearing and the need to address the aviation fuel tax issue, and the Commuter Rail hearing and the need for additional resources in the region to address the goods movement impacts on local infrastructure.

**House Transportation and Infrastructure Committee** – We met with senior Majority and Minority staff on the House Transportation and Infrastructure Committee multiple times this month to discuss possible TIFIA reform legislation in the Surface Transportation Reauthorization and other possible changes to the discretionary grant programs that are being contemplated. We also discussed the transportation and infrastructure proposal released by former Vice President Joe Biden and asked if the Committee had any plans to include some of those provisions and policies in the next Surface Transportation Reauthorization. Committee staff responded that they had no plans to use the proposal, or any of its provisions at this time. Finally, we discussed the potential issues regarding tolling and interoperability. They are interested in hearing feedback from stakeholders on possible reforms as it relates to tolling interoperability but are not prepared to release any specific draft language at this time.

**Senate Banking Committee Staff** – We followed-up with Senate Banking majority staff to discuss progress on the Senate Banking Title for the Highway bill. We also followed-up on possible changes to the 13C provision for the next Highway bill.



**Department of Transportation** – We met with new senior staff at the Department of Transportation after the departure of DAS for Governmental Affairs, Anthony Bedell. We also discussed opportunities for in depth debrief on past BUILD grant application as well as ways to make future application stronger

### **Surface Transportation Reauthorization**

According to conversations with House Transportation and Infrastructure (T&I) Committee staff on the Majority and Minority this month, Chairman DeFazio (D-OR) and Ranking Member Sam Graves (R-MO) have been having private discussions on the overall structure and funding mechanisms of the Surface Transportation Reauthorization. Majority Committee staff have indicated that the bill will likely include a number of climate change provisions and robust transit funding, but no solid proposals are ready for public discussion. Other issues such as new revenue measure to finance the bill and bolster the Highway Trust Fund have also not been decided. The tentative plan is to have a draft bill ready in the first half of 2020. So specific target dates for hearing or markups next year on that draft Highway Bill have been identified yet.

On November 13<sup>th</sup>, the House T&I Committee held a hearing entitled “*Amtrak Now and Into the Future*”. During the hearing, Chairman Peter DeFazio (D-OR) discussed his plans to eliminate the mandate for Amtrak to break even in the next Surface Transportation Reauthorization. Chairman DeFazio said that he does not believe it is realistic to require Amtrak to be profitable, or break even, given that comparable passenger rail lines in Europe operate on right of ways owned and operated by the government. Chairman DeFazio also praised China for investing \$130 billion annually in their passenger rail system, which served nearly 3.4 billion in 2018. Chairman DeFazio also asked Richard Anderson to work on making Amtrak more reliable, saying that low ridership is a result of train delays and unreliable service.

On November 20<sup>th</sup> the House T&I Committee held a markup to debate and amend a number of bills. One of the bills approved by the committee was [H.R. 5139](#) – *Stop Sexual Assault and Harassment in Transportation Act*. This bill, sponsored by Chairman DeFazio, aims to address incidents of sexual assault and harassment in multiple modes of transportation, including commuter and intercity passenger rail and transit agencies, to establish formal policies, training, and reporting structures regarding sexual assault and harassment. Other original cosponsors include:

- Julia Brownley, Salud Carbajal, Andre Carson, Adriano Espaillat, Jared Huffman, Eddie Bernice Johnson, Rick Larsen, **Alan Lowenthal**, Stephen Lynch, Tom Malinowski, Sean Patrick Maloney, Grace Napolitano, Eleanor Holmes Norton, Chris Pappas, Donald Payne, Albio Sires, and Dina Titus.

Specifically, the bill would require the creation of dedicated phone and internet-based opportunities for reporting, procedures that would limit or ban future travel by any passenger who causes a sexual assault or harassment incident, and signage advising passengers and employees of the new policies and procedures. We have been told that this bill could be incorporated into the Highway Bill discussions at some point next year.

## **Other Administrative and Legislative Updates**

- On November 19<sup>th</sup>, Congressman Jimmy Panetta (D-CA) introduced a bill ([H.R. 5163](#)) to provide a new tax credit supporting the purchase of battery-electric and fuel cell electric buses. Specifically, the bill would create a 10% manufacturers' tax credit for the sale of batter-electric or fuel cell electric buses, capped at \$100,000, through 2024. The intent of the bill is that the value of the tax credit would be passed on to the purchaser of the bus (e.g. transit agency) and could be coupled with state incentives like HVIP and AB 784 to further reduce the incremental cost of ZEBs. The tax credit could be claimed by all OEMs. This bill was referred to the House Ways and Means Committee, which is unlikely to hold a markup on the bill until the new calendar year.
- Congressman Lloyd Doggett (D-TX) also introduced a bill on November 19<sup>th</sup> ([H.R. 5164](#)) titled the EV CHARGE Act of 2019. This bill would modify the alternative fuel refueling property credit by renewing until December 31<sup>st</sup>, 2024 the 30% tax credit for the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer. The credit would also raise the limitation from \$30,000 to \$100,000 in the case of a property of a character subject to an allowance for depreciation, and from \$1,000 to \$3,333 in any other case.
- This month the House Intelligence Committee held a number of public hearings as part of the House's Impeachment Inquiry for President Trump. Some Congressional staff close to the process believe that House Democrats could hold a vote on the articles of impeachment during the week of December 16<sup>th</sup>, right before Congress enters winter recess. Even if the vote is not held, there are serious concerns that increased impeachment activities in the new calendar year, amplified by the Presidential elections, could derail any bipartisan policy proposals such as infrastructure and tax legislation. Furthermore, a time-consuming impeachment trial in the Senate would put a number of vulnerable Senators up for reelection in the spotlight at a time when most would prefer to be campaigning in their home states.
- On November 15<sup>th</sup>, the State of California filed a lawsuit against the Environmental Protection Agency (EPA) for revoking the Clean Air Act waiver. The new lawsuit was filed in the D.C. Circuit Court of Appeals and is the second suit brought by California regarding the Administration's "One National Program" rule. The rule has divided support among automakers. Ford and three other automakers are supporting California, while GM, Fiat Chrysler, and Toyota are supporting the EPA's new position.
- The first week of December, the House Transportation and Infrastructure Committee plans to hold a joint hearing with the Highways & Transit and the Railroads, Pipelines, and Hazardous Materials Subcommittees to examine the current state of freight transportation in the nation. Chairman DeFazio and Majority Members are expected to discuss the effects freight movement on climate change and infrastructure resiliency.





# POTOMAC PARTNERS DC

## Monthly Legislative Report – December 2019

### **FY2020 Budget and Appropriations Update**

On Monday, December 16<sup>th</sup>, House and Senate Appropriators announced a deal on all twelve fiscal year 2020 (FY20) spending bills with an agreement on \$1.37 trillion in government funding which headed off the possibility of a federal government shutdown before the current Continuing Resolution expires on December 20. All twelve spending bills have been bundled into two bills, often called 'minibus' spending packages. The first package ([H.R. 1158](#)), being called the "National Security Minibus". The second bill ([H.R. 1865](#)) is being called the "Domestic Priorities and International Assistance Appropriations Minibus". Notably, Division I of the Domestic spending package includes a number of tax extenders and repeals, including a year extension of excise tax credits relating to alternative fuels ([LINK](#) – Section 133, Page 17).

A breakdown of the two packages is outlined in the following table.

FY 2020 Appropriations Minibuses (In Billions of Dollars)			
<b><u>H.R. 1158 – National Security Minibus</u></b>	Division (linked)	Overall FY20	Compared to FY19
Defense	<a href="#">A</a>	693.30	+ 18.90
Commerce-Justice-Science	<a href="#">B</a>	73.18	+ 9.00
Financial Services	<a href="#">C</a>	23.83	+ 0.67
Homeland Security	<a href="#">D</a>	50.50	+ 1.10
<b><u>H.R. 1865 – Domestic Priorities and International Aid Minibus</u></b>			
Labor-Health and Human Services-Education	<a href="#">A</a>	184.90	+ 4.90
Agriculture	<a href="#">B</a>	23.49	+ 0.18
Energy and Water Development	<a href="#">C</a>	48.30	+ 3.70
Interior-Environment	<a href="#">D</a>	35.98	+ 0.43
Legislative Branch	<a href="#">E</a>	5.04	+ 0.21
Military Construction-Veterans Affairs	<a href="#">F</a>	110.40	+ 10.70
State-Foreign Ops	<a href="#">G</a>	54.70	+ 0.46
Transportation-Housing and Urban Development	<a href="#">H</a>	135.60	- 1.20
Extensions	<a href="#">I</a>	--	--
National Flood Insurance Program Extension (NFIP)	I Title II	NFIP Extended until 9/30/2020	

The explanatory statement for the Transportation-Housing and Urban Development (THUD) appropriations bill, as passed in the House, is found [HERE](#). As noted in the table provided above, the THUD bill is the only bill that received a reduction in funds compared to FY19. Programs at the Department of Transportation that will see a reduction in funding are highlighted in the summary below:

### **Division H – Transportation-Housing & Urban Development**

**Department of Transportation (DOT)** – The bill provides \$86.2 billion in total budgetary resources for DOT, \$324.9 million below the 2019 enacted level and \$3.3 billion above the President's budget request. Of this amount, the bill includes:

- \$1 billion for **National Infrastructure Investments (TIGER/BUILD)**, \$100 million above the 2019 enacted level and equal to the President's budget request. The bill ensures parity between urban and rural awards.
- \$5 million to start a new **Highly Automated Systems Safety Center of Excellence**. This program was not in the 2019 enacted bill or the President's budget request.
- \$1 million to conduct a study on **Transportation Resilience Metrics**. This program was not in the 2019 enacted bill or the President's budget request.
- \$17.6 billion for the **Federal Aviation Administration (FAA)**, \$166 million above the 2019 enacted level and \$513 above the President's budget request.
  - \$1.4 billion for **Aviation Safety**, \$67 million above the 2019 enacted level and \$76 million above the President's budget request.
  - **\$400 million for discretionary Airport Improvement Grants**, \$100 million below the 2019 enacted level and \$400 million above the President's budget request.
- \$49.3 billion for the **Federal Highway Administration**, \$12.6 million above the 2019 enacted level and \$2.1 billion above the President's budget request.
  - **\$2.2 billion for discretionary Highway Infrastructure Programs**, \$1.1 billion below the 2019 enacted level and \$1.9 billion above the President's budget request.
    - \$1.15 billion for a risk-based bridge rehabilitation and reconstruction program.
- \$679 million for the **Federal Motor Carrier Safety Administration**, \$12 million above the 2019 enacted level and \$3 million above the President's budget request.



request.

- \$989 million for the **National Highway Traffic Safety Administration**, \$23 million above the 2019 enacted level and \$60 million above the President's budget request.
- **\$2.8 billion for the Federal Railroad Administration**, \$80 million below the 2019 enacted level and \$701 million above the President's budget request.
  - \$325 million for **Consolidated Rail Infrastructure and Safety Improvements**, \$70 million above the 2019 enacted level and \$5 million below the President's budget request.
  - **\$200 million for Federal-State Partnership for State of Good Repair**, \$200 million below the 2019 enacted level. The President's budget request proposed eliminating this program.
  - \$2 billion for **Amtrak**, \$58.4 million above the 2019 enacted level and \$1.1 billion above the President's budget request.
    - \$700 million for **Northeast Corridor Grants**, \$50 million above the 2019 enacted level and \$374.5 million above the President's budget request.
    - \$1.3 billion for **National Network Grants**, \$8.4 million above the 2019 enacted level and \$689 million above the President's budget request.
- **\$12.9 billion for the Federal Transit Administration**, \$503 million below the 2019 enacted level and \$494 million above the President's budget request.
  - **\$2 billion for Capital Investment Grants**, \$575 million below the 2019 enacted level and \$473 million above the President's budget request.
  - **\$510 million for Transit Infrastructure Grants**, \$190 million below the 2019 enacted level and \$10 million above the President's budget request. This amount includes \$75 million for low- and no-emission buses, and \$8.5 million for areas of persistent poverty.
- \$38 million for the **Saint Lawrence Seaway Development Corporation**, \$2 million above the 2019 enacted level and \$10 million above the President's budget request.
- \$1 billion for the **Maritime Administration**, \$67.5 million below the 2019 enacted level and \$390.4 million above the President's budget request.

- \$300 million for the **Maritime Security Program**, equal to the 2019 enacted level and the President's budget request.
- \$225 million for the **Port Infrastructure Development Program**, \$67.7 million below the 2019 enacted level. The President's budget request did not include funding for this program.
- \$300 million for **schoolship construction**, equal to the 2019 enacted level and \$95 million above the President's budget request.

#### **Policy Provisions –**

- Requires DOT to make awards for competitive funding appropriated in FY 2019 no later than May 1, 2020.
- Prohibits a 12 percent (more than \$1 billion) cut to transit formula funding in FY 2020.
- **Makes transit programs and alternative fuel infrastructure eligible for Surface Transportation Block Grant funding within Highway Infrastructure Programs.**
- Prohibits DOT from requiring Capital Investment Grant applicants from having a Federal share below 40 percent and eliminates the 51 percent cap on the Federal share of such grants, restoring the authorized 80 percent cap.
- Extends the authorization by which DOT may provide direct loans or loan guarantees to transit-oriented development projects under the Railroad Rehabilitation and Improvement Financing program until September 30, 2020. This authority expired on December 4, 2019.
- Strengthens protections for sexual assault and sexual harassment survivors at the US Merchant Marine Academy by requiring the Academy to seek concurrent jurisdiction with the State of New York.
- Requires DOT to initiate and complete a rulemaking on the use of automatic and remote-controlled shut-off valves on transmission pipeline facilities and hazardous liquid pipeline facilities leak detection systems as required by the Pipeline Safety Act of 2011.
- Prohibits Federal employees from using their public office for personal gain.

The House passed both packages on December 17<sup>th</sup>. The House vote on the National Security package (H.R. 1158) was bipartisan, with 62 Democrats and 75 Republicans voting no. the final vote on the National Security package was 280-138 in favor. The Domestic spending package (H.R. 1856) was more popular with Democrats, passing 297-120 with 7 Democrats and 112 Republicans voting no.

The Domestic Spending bill (H.R. 1856) passed the Senate with a vote of 71-23 bills on December 19<sup>th</sup>. The National Security spending package (H.R. 1158) was scheduled for a vote and expected to pass as of the time of this report. The White House has indicated support for the packages and the President is expected to sign them when they reach his desk before December 20<sup>th</sup>.



## **December Advocacy Meetings**

**Congressman Harley Rouda (D-CA)** – We followed-up with Congressman Rouda and his staff this month on our discussions regarding streamlining the TIFIA process, and progress on the Surface Transportation Reauthorization. We followed-up on our discussions regarding possible climate provisions in the Highway Bill that may include new transit funding. We also discussed the impact of the cybersecurity plan provision in the NDAA and asked for assistance in clarifying the process transit agencies would follow to adhere to the statute if passed.

**Congressman Lou Correa (D-CA)** – We followed-up with Congressman Correa and his staff on our discussions regarding TIFIA, the I-405 project, and the Surface Transportation Reauthorization. We also discussed the NDAA and help with clarifications at DOT and possibly DHS on compliance procedures in implementing cybersecurity plans. We also followed-up on the need to extend the tax credits for alternative fuels, which were ultimately included in the domestic spending minibuss.

**Congressman Mike Levin (D-CA)** – We met with staff in Congressman Levin's office to discuss the cybersecurity plan provisions in the NDAA and the need for clarifications. We also followed-up on our discussions for alternative delivery methods for federally funded transportation projects and ways to streamline the TIFIA program. We also gave an update on the I-405 project.

**Congresswoman Grace Napolitano (D-CA)** – We followed-up with Congresswoman Napolitano and her staff again this month regarding the Surface Transportation Reauthorization drafting process and next steps for H.R. 2939 to address the aviation fuel tax issues.

**Congressman Gil Cisneros (D-CA)** – We have been maintaining close contact with senior staff in Congressman Cisneros' office to regarding tax extenders. Early in the month we discussed the inclusion of the alternative fuels tax credit and progress on the appropriations bills. We also followed-up on the TIFIA program and support for legislation to address the aviation fuel tax issue.

**Congressman Pete Aguilar (D-CA)** – We met with the Congressman and his staff multiple times this month to discuss the appropriations process and the timeline for a final bill. We will be following-up with the Congressman and his staff in January to discuss provisions regarding the cybersecurity plan implementation, rolling stock procurement requirements, and support for additional funding for transit programs in FY21.

**Congressman Alan Lowenthal (D-CA)** – We followed-up with Congressman Lowenthal and his staff to follow-up on our discussions regarding the Surface Transportation Reauthorization and opportunities to address TIFIA reforms and some additional provision that could expedite project delivery. We also discussed the alternative fuel tax credit provision issue leading up to the deal on appropriations.

**House Transportation and Infrastructure Committee** – We have been following-up with senior Majority and Minority staff on the House Transportation and Infrastructure Committee this month regarding TIFIA reform legislation in the Surface Transportation Reauthorization and other possible changes to the discretionary grant programs that are being contemplated. We also discussed the timeline for formal work to begin in the new year, and the impacts of climate change provisions on transit agencies, including the need to oppose unfunded mandates. Finally, we followed up on possible toll road provisions that may be contemplated as it relates to interoperability.

**Department of Transportation** – We met with senior staff at the Department of Transportation and Federal Transit Administration multiple times this month to inquiry about a potential cybersecurity plan implementation and certification process. PPDC will continue to follow-up on this issue in January when DOT senior staff have had a chance to review the NDAA provisions that were signed into law.

### **Surface Transportation Reauthorization**

On December 5<sup>th</sup>, the House Transportation and Infrastructure Committee held a joint hearing entitled “*Where’s My Stuff?: Examining the Economic Environmental and Societal Impacts of Freight Transportation*”. During his opening statements, Chairman DeFazio (D-OR) discussed ways to reduce environmental impacts on the freight transportation system, and the climate impacts of the freight movement industry. He also discussed a desire to make the formula and competitive grant funding process more transparent and said that the Nationally Significant Freight and Highways Program (INFRA) is proven to be oversubscribed. Subcommittee Chairman Dan Lipinski (D-IL) also discussed the climate and environmental impact of the freight industry. Subcommittee Ranking Members asked witnesses for input on the implementation of the FAST Act and discussed support for critical investments in railroad freight infrastructure.

#### **Witness List:**

- **Ms. Erin Aleman**, Executive Director, Chicago Metropolitan Agency for Planning, *On behalf of the Coalition for America’s Gateways and Trade Corridors*, [Testimony](#)
- **Mr. Chuck Baker**, President, American Short Line and Regional Railroad Association, [Testimony](#)
- **Ms. Anne Goodchild, Ph.D.**, Founding Director, Supply Chain Transportation and Logistics Center, University of Washington, [Testimony](#)
- **Mr. Ian Jefferies**, President & CEO, Association of American Railroads, [Testimony](#)
- **Mr. Jason Mathers**, Director, Vehicles & Freight Strategy, Environmental Defense Fund, [Testimony](#)
- **Mr. Jim Tymon**, Executive Director, American Association of State Highway and Transportation Officials, [Testimony](#)



## **National Defense Authorization Act (NDAA)**

The Senate passed a conferenced version of the National Defense Authorization Act (NDAA) on December 17<sup>th</sup>, sending the bill back to the House. This year's annual NDAA ([S. 1790](#)) conference report contains a provision that would prohibit federal public transit funding to be used to procure bus and rail rolling stock from entities that are owned, controlled by, or is a subsidiary to a corporation based in China. There would be a two-year delay before this provision is implemented from the date of enactment.

The NDAA also contains a provision that would immediately require transit agencies that operate streetcars to develop, implement, and certify a written plan for identifying and reducing cybersecurity risks. Transit agencies who do not comply with this language will lose eligibility to apply for and receive federal transit funding. PPDC has been meeting with Members of the Congressional Delegation, Department of Transportation, and House Transportation and Infrastructure staff to determine the exact procedure for complying with this provision. Particularly, who would administer the certificating process and whether it would be a Department of Transportation general program, or a new office at the Federal Transit Administration (FTA).

## **Presidential Impeachment**

On December 18<sup>th</sup>, the House voted on two Articles of Impeachment to begin an impeachment trial in the Senate. Article I - Abuse of Power, passed on the House floor with a vote of 230-197. All House Democrats votes yes to impeach on Article I with the exception of Reps. Van Drew (D-NJ) and Peterson (D-MN) who voted no. Rep. Tulsi Gabbard (D-HI) voted 'present'. All House Republicans voted no on Article I, with the exception of Reps. Hunter (R-CA) and Shimkus (R-IL) who did not vote. Article II – Obstruction of Congress, passed shortly after with a final vote in the House of 229-198. The only Democrats to vote no on Article II were Reps. Peterson (D-MN), Van Drew (D-NJ), and Golden (D-ME). Note Republicans voted in favor of Article II.

The Impeachment process will now go to the Senate for a trial, if and when Speaker Pelosi transmits the Articles of Impeachment to the Senate. In his morning remarks the day after the House voted on impeachment, Senate Majority Leader Mitch McConnell (R-KY) decried the actions of House Democrats saying that the charges against the President do not meet the threshold for impeachment.

## **Other Administrative and Legislative Updates**

- On December 10<sup>th</sup>, House Speaker Nancy Pelosi announced an agreement on the United States-Mexico-Canada Agreement. During the announcement, Speaker Pelosi said that she believes the USMCA is much better than NAFTA. The pact contains provisions designed to repatriate manufacturing jobs by, among other things, requiring 40-45% of autos to eventually be made in countries that pay autoworkers at least \$16 dollars an hour (i.e. the United States). The pact also gained more support

from Democrats after a pharmaceutical provision protecting manufacturers of new drugs, including biologics, was removed. Senator Toomey (R-PA) however was one of the few Republicans to criticize the agreement, saying that the USMCA is a modernized NAFTA that restricts free trade and the free movement of capital between US trading partners. The House passed the agreement later in the week, however Senate Majority Leader Mitch McConnell (R-KY) said shortly after that the Senate will not consider the USMCA on the floor until after a Senate impeachment trial.

- Congressman Lloyd Doggett (D-TX) introduced a bill last month ([H.R. 5164](#)) titled the EV CHARGE Act of 2019. This bill would modify the alternative fuel refueling property credit by renewing until December 31<sup>st</sup>, 2024 the 30% tax credit for the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer. The credit would also raise the limitation from \$30,000 to \$100,000 in the case of a property of a character subject to an allowance for depreciation, and from \$1,000 to \$3,333 in any other case.