



Potomac Partners DC

Monthly Legislative Report – May 2017

A major legislative focus for Congress this month was health care reform. On May 4th, the House passed the American Health Care Act, which would repeal major portions of the Affordable Care Act. The Senate GOP leadership immediately began working on its health care reform legislation and they hope to have a bill ready for the floor before the July 4th recess. After health care reform legislation, Congress is expected to return the focus back on tax reform and potentially infrastructure legislation, which could be released sometime before August. President Trump continues to urge the Senate Republicans to do away with the legislative filibuster in order to accelerate the legislative agenda. Senate Majority Leader Mitch McConnell, however, seems hesitant at this time to make such a drastic change in Senate rules.

President Trump also released his much-anticipated fiscal year 2018 budget request to Congress. The budget request closely follows the principles that the Office of Management and Budget (OMB) laid out in the "Budget Blueprint" that was released on March 13th. For example, Trump's \$4.1 trillion budget included significant cuts to domestic discretionary programs, promises extensive tax cuts, and increases military spending by nearly half a trillion dollars over the next ten years. The requested \$1.5 trillion cut in nondefense discretionary programs that also represent significant cuts for local governments that rely on these discretionary programs. Also included in the budget were Trump's infrastructure investment principals that also promised an additional \$200 billion investment in infrastructure that is currently not reflected in the USDOT's overall budget numbers. Additional budget details are included later in this report.

Many Republican Members in Congress downplayed the President's austere budget proposal. Several GOP House members both publically and privately called it a messaging tool and pointed out that it is Congress' role to determine a budget and pass spending bills into law. Similarly Senate Budget Chairman Mike Enzi (R-WY) called the budget request "a suggestion," adding that Congress "will ultimately decide what the nation's fiscal priorities will be." The next step will be the "Congressional Budget Resolutions," which will be used to set the FY18 spending levels for appropriations. These budget resolutions could also be used as the first step of tax reform if the resolution contains reconciliation instructions.

It is important to keep in mind that with the President's budget request coming almost three months later than normal, Congress will be hard pressed to complete the FY 18 appropriations by October 1st. Consequently, several senior House Appropriations Subcommittee Chairmen are already foreshadowing a Continuing Resolution (CR) in September and suggesting that they should instead start working immediately on another consolidated appropriations package. Despite these challenges, with this budget "suggestion" in hand Senate Majority Whip John Cornyn (R-TX) said Republicans are

currently working with Democrats to strike a balance and an agreement on a topline spending level for the upcoming fiscal year.

Needless to say, next month will be a critical time for Congress. In addition to the FY 18 Appropriations bills, the House and Senate have a number of other important high priority legislation that includes FAA authorization, a Coast Guard reauthorization, a potential Department of Homeland Security reauthorization, flood insurance legislation, Children's Health Insurance Program reauthorization, and an extension of expiring tax and Medicare provisions. With all these competing priorities, senior members on Capitol Hill expect several of these legislative issues to be packaged together and some could even be included in another year-end government spending package. As an example, the omnibus that closed out fiscal year 2016 spending during a December session was used to carry a package of tax extenders. It also carried authorization language for intelligence programs, a new cybersecurity plan, health-care coverage for Sept. 11 first responders, and a repeal of the oil export ban.

May Advocacy Meetings

Congressman Lou Correa – We met with Congressman Correa's office to discuss the OC street car and FTA's Capital Investment Grant (CIG) program. We also discussed the I-405 highway improvement project and TIFIA loan delegation support letter.

Congresswoman Mimi Walters (R-CA) – We met with the Congresswoman and senior staff from the DC office to follow-up on our discussion of the status of OCTA's TIFIA application at the DOT. We discussed expediting final approval with the USDOT Secretary's office.

Congressman Darrell Issa (R-CA) – We met with Congressman Issa's staff to discuss support for an FFGA for the OC Streetcar. We also followed-up on our discussion regarding the need for expedited approval of our TIFIA loan application at the DOT.

Congressman Ed Royce (R-CA) – We met with staff in Congressman Royce's office to give them an update on the I405 improvements and discuss the TIFIA application currently in the final stages of approval at the DOT. We also discussed support for an FFGA for the OC streetcar at the DOT. We also discussed the need for additional funding support for projects of regional and national significance.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal's transportation staff to discuss upcoming infrastructure legislation and OCTA priorities. Congressman Lowenthal's priorities for the year include addressing freight and goods movement capacity issues. We discussed the need for quick approval of OCTA's TIFIA application at USDOT and the delegation support letter for the project to Secretary Chao.

Congressman Ken Calvert (R-CA) – We met with staff in Congressman Calvert's office to discuss FY17 appropriations and budget. We discussed support for the OC Streetcar

and the CIG program. We also gave an update on the I-405 project and the need for continuing support for OCTA's TIFIA loan application.

Chairman Sam Graves (R-MO) – We met with staff in Congressman Sam Graves office, Chairman of the House Subcommittee on Highways and Transit, to follow-up on our discussion regarding our priorities for the new infrastructure legislation later this year. We also discussed the need for expedited approval of OCTA's TIFIA application.

Chairman Mario Diaz-Balart (R-FL) – We met with Congressman Diaz-Balart's Chief of Staff to discuss bringing the Congressman to Orange County to see a number of OCTA's priority projects. We also discussed the need for accelerated approval of the I-405 TIFIA loan application at the DOT and funding for the OC Streetcar.

Senator Dianne Feinstein – We met with Senator Feinstein's senior staff several times throughout the month to discuss our FY17 appropriations request for the OC Streetcar. We also discussed support for OCTA's TIFIA loan application.

Senator Kamala Harris – We met with Senator Harris's senior staff to discuss our FY17 appropriations request for the OC Street Car. We also discussed support for OCTA's TIFIA loan application and provided her staff with potential questions for the Mat EPW hearing that the Senator could ask Secretary Chao.

Senate Commerce Committee – We met with key staff on the Senate Commerce Committee to continue our discussion on the upcoming transportation and infrastructure legislation. We discussed new provisions that could expedite project delivery.

House Transportation and Infrastructure Committee – We met with key staff at the House T&I Committee to discuss the timing and contents of a new infrastructure bill this year, and the inclusion of key priorities. We discussed the I-405 highway improvement project, including the OCTA's TIFIA loan application. We also discussed new transportation financing options and examples of P3's that could be included in the infrastructure package.

Senate Environment and Public Works Committee – We met with senior staff on the Senate Environment and Public Works Committee (EPW) to discuss the upcoming infrastructure bill. We discussed the I-405 highway expansion and the use of self-help local funding in conjunction with state and federal resources. We also spoke about the need for ways to expedite financing option like the TIFIA loan, and specifically discussed OCTA pending TIFIA loan application.

Senate Banking, Housing, and Urban Affairs Committee – We met senior staff on the Senate Banking, Housing, and Urban Affairs Committee to discuss the upcoming infrastructure bill. We discussed the need for streamlined financing options for infrastructure projects.

President Trump's FY 2018 Budget Request

As mentioned earlier, President Trump released his FY18 budget request for fiscal year 2018 (FY18), entitled “A New Foundation for American Greatness”. A separate document summarizing and justifying spending cuts and reductions, entitled “Major Savings and Reforms” was also released on May 23rd. While the budget request would fully fund the Highway Trust Fund as authorized by the FAST Act, the request would only fund about half of the remaining authorized programs in 2018 as illustrated in the chart below.

Fiscal Year 2018 FAST Act Authorizations vs. Trump Budget Request

(In Millions of Dollars)

		<u>FAST Act</u>	<u>Budget Request</u>	<u>Request above/ below FAST Act</u>	
<u>General Fund Appropriations</u>					
NHTSA	Vehicle Safety Activities	138.4	152.5	+14.1	+10.2%
FRA	Amtrak – Northeast Corridor	515.0	235.0	-280.0	-54.4%
FRA	Amtrak – National Network	1,085.0	525.0	-560.0	-51.6%
FRA	Consolidated Rail Grants	230.0	25.0	-205.0	-89.1%
FRA	Good Repair Partnership Grants	175.0	25.9	-149.1	-85.2%
FRA	Restoration/Enhancement Grants	20.0	0.0	-20.0	-100%
Indep.	Amtrak Inspector General	21.0	23.3	+2.3	+10.8%
FTA	Administrative Expenses	115.0	110.8	-4.2	-3.7%
FTA	Transit Research	20.0	0.0	-20.0	-100%
FTA	Technical Assistance/Training	5.0	0.0	-5.0	-100%
FTA	Capital Investment Grants	2,301.8	1,232.0	-1,069.8	-46.5%
PHMSA	Hazardous Materials Transport.	57.0	55.5	-1.5	-2.6%
Total, FAST Act Authorizations for GF Approp.		4,683.2	2,385.0	-2,298.1	-49.1%
<i>Percent of FAST Act Authorization Level</i>		50.9%			
<u>Obligation Limitations on Highway Trust Fund Contract Authority</u>					
FHWA	Federal-aid Highways	44,234.2	44,234.2	0.0	0.0%
FMCSA	Operations and Programs	283.0	283.0	0.0	0.0%
FMCSA	Motor Carrier Safety Grants	374.8	374.8	0.0	0.0%
NHTSA	Operations and Research	149.0	149.0	0.0	0.0%
NHTSA	Highway Traffic Safety Grants	597.6	597.6	0.0	0.0%
FTA	Transit Formula Grants	9,733.4	9,733.4	0.0	0.0%
Total, FAST Act HTF Obligation Limitations		55,372.0	55,372.0	0.0	0.0%
<i>Percent of FAST Act Authorization Level</i>		100.0%			
TOTAL Discretionary Funding Resources		60,055.2	57,757.0	-2,298.1	-3.8%
<i>Percent of FAST Act Authorization Level</i>		96.2%			

The 2018 budget also requests a total of \$11.2 billion for the Federal Transit Administration (FTA) and asks Congress to reduce funding for the Capital Investment Grant (CIG) program by almost 50%, from \$2.3 billion to \$1.2 billion. Secretary Chao has

said that only projects that have FFGAs should be funded and that other new projects should use local funding sources. The projects with FFGAs are listed below in the chart and are expected to be funded in the FY 18 Appropriations bills.

FTA - Capital Investment Grants						
	<u>Total Project Cost</u>	<u>Fed. New Start Share</u>	<u>Fed. Share Pct.</u>	<u>Federal Approps. Thru FY17</u>	<u>Federal Approps. Remaining</u>	<u>FY 2018 Budget Request</u>
<u>New Starts Projects with signed FFGAs</u>						
CA Los Angeles Regional Connector	1,402.9	669.9	48%	365.0	304.9	100.0
CA Los Angeles Westside Section 1	2,822.0	1,250.0	44%	365.0	885.0	100.0
CA Los Angeles Westside Section 2	2,499.2	1,187.0	47%	250.0	937.0	100.0
CA San Francisco Third Street Phase 2	1,578.3	942.2	60%	919.2	23.0	23.0
CA San Diego Mid-Coast Corridor	2,171.2	1,043.4	48%	150.0	893.4	100.0
CA San Jose Berryessa Extension	2,230.0	900.0	40%	802.6	97.4	97.4
<i>Subtotal, California New Starts</i>	<i>12,703.7</i>	<i>5,992.5</i>	<i>47%</i>	<i>2,851.8</i>	<i>3,140.7</i>	<i>520.4</i>
CO Denver, Eagle Commuter Rail	2,043.1	1,030.4	50%	967.2	63.3	63.3
MA Cambridge-Bedford Green Line	2,297.6	996.1	43%	400.0	596.1	150.0
NC charlotte LYNX Blue Line Extension	1,160.1	580.0	50%	505.8	74.2	74.2
OR Portland-Milwaukie Light Rail	1,490.4	745.2	50%	579.5	165.7	100.0
TX Fort Worth TEX Rail	1,034.4	499.4	48%	254.0	245.4	100.0
Total, New Starts with Signed FFGAs	20,729.3	0,843.7	47%	5,558.3	4,285.4	1,007.9
<u>Core Capacity Projects with Signed FFGAs</u>						
IL Chicago Red/Purple Modern, Phase 1	2,066.7	956.6	46%	256.1	700.5	100.0
<u>Core Capacity Project Where the Secretary Has Said a FFGA is Imminent</u>						
CA San Carlos/Peninsula Corridor Elec.	1,758.5	647.0	37%	173.0	474.0	100.0
Remainder for Other Projects						11.8
Expedited Project Delivery Pilot Program						0.0
Oversight Set-Aside						12.3
FY 18 Appropriation Request						1,232.0

FTA's annual 2018 New Starts Report states that FTA will honor commitments made in existing construction grant agreements, if funding levels are sufficient. Therefore, the FTA is essentially saying that all future FFGAs will be dependent on available funding, (beyond what was included in the budget request). It is worth noting that Secretary Chao testified at the EPW hearing that there was not enough funding for the Caltrain electrification project FFGA but later backtracked and indicated that the FFGA will be

imminently signed. Below is a list of projects in the final stages of receiving an FFGA including the OC Streetcar.

Projects Expecting FFGA in FY17 or FY18

	Total Project Cost	Fed. New Start Share	Fed. Share Pct.	Federal Approps. Thru FY17	Federal Approps. Remaining	Expects FFGA By
CA Santa Ana Garden Grove Streetcar	297.9	149.0	50%	50.0	99.0	Fall 2017
MD Maryland Purple Line	2,407.0	900.0	37%	328.0	572.0	Pending SEIS
MN Minneapolis Blue Line LRT Extension	1,536.2	752.7	49%	0.0	752.7	April 2018
MN Minneapolis Southwest LRT	1,857.7	928.8	50%	15.0	913.8	Mid-2017
WA Seattle, Lynwood Link Extension	2,347.7	1,172.7	50%	100.0	1,072.7	Mid-2018
=Total, New Starts Anticipating FFGA	8,446.5	3,903.3	46%	493.0	3,410.3	

Overall, the budget's request for a reduction of the CIG program is the largest cut to the department's budget. The budget request would also completely cut the Positive Train Control (PTC) grant program for commuter rail. The total reduction at the FTA would be 9.6%. All spending increases and reductions requested for the FTA in 2018 can be seen in the table below:

Federal Transit Administration

(In Millions of Dollars)

	<u>FY 2016</u> <u>Enacted</u>	<u>FY 2017</u> <u>Enacted</u>	FY 2018 Request	Request vs 2017 Thous. \$\$	Pct.
<u>Transit Formula Grants</u>					
Urbanized Area Formula Grants	4,538.9	4,629.7	4,726.9	97.2	2.1%
State of Good Repair Grants	2,507.0	2,502.2	2,593.7	91.5	3.7%
Bus and Bus Facility Grants	695.8	720.0	747.0	27.1	3.8%
Rural Area Formula Grants	620.0	632.4	645.6	13.3	2.1%
High Growth/Density States	536.3	544.4	552.8	8.4	1.5%
Seniors/Disabled Grants	262.9	268.2	273.8	5.6	2.1%
PTC Grants for Commuter Rail	0.0	199.0	0.0	-199.0	-100%
Planning Programs	130.7	130.5	136.2	5.7	4.4%
Other Programs	56.0	57.0	57.2	0.2	0.4%
Subtotal, Transit Formula Grants	9,347.6	9,733.7	9,733.4	-0.4	0.0%
Capital Investment Grants	2,177.0	2,412.6	1,232.0	-1,180.6	-48.9%
Administrative Expenses	108.0	113.2	110.8	-2.4	-2.1%
Technical Assistance and Training	0.0	5.0	0.0	-5.0	-100%
Grants to WMATA	150.0	150.0	149.7	-0.3	-0.2%
Total, Federal Transit Administration	11,782.6	12,414.5	11,225.9	-1,188.6	-9.6%

With regard to FRA funding, the 2018 budget request would reduce spending on the New Intercity Rail Grants authorized by the FAST Act. A chart for other rail grant programs relevant to OCTA is included below.

		<u>New Intercity Rail Programs Authorized by the FAST Act</u>					
		FY 2016	FY 2016	FY 2017	FY 2017	FY 2018	FY 2018
<u>49 U.S.C</u>	<u>Grant Program</u>	<u>FAST</u>	<u>Approp.</u>	<u>FAST</u>	<u>Approp.</u>	<u>FAST</u>	<u>Request</u>
\$11301	Consolidated Rail Grants	98.0	0.0	190.0	68.0	230.0	25.0
\$11302	Good Repair Partnership Grants	82.0	0.0	140.0	25.0	175.0	25.9
\$11303	Restoration/Enhancement Grants	20.0	0.0	20.0	5.0	20.0	0.0
Total, New Rail Grant Programs		200.0	0.0	350.0	98.0	425.0	50.9

In other rail news, Federal safety standards for high-speed rail have been delayed while the Federal Railroad Administration determines how to release new rules while adhering to President Trump's order that agencies eliminate two regulations for every one they issue. The FRA's chief safety officer, Robert Lauby, said his agency's regulations are "complete or ready to be issued," but regulators need guidance on how to proceed under the new White House. The FRA does not have an appointed administrator or deputy administrator in place at this time.

President Trump's Infrastructure Initiative

President Trump also released a six-page fact sheet outlining the four core principles of his infrastructure bill. These principles were discussed by Secretary of Transportation Chao in her testimony to the Senate Environment and Public Works Committee earlier in the month. The four principles in the document are as follows:

1. **Make Targeted Federal Investments.** Focusing Federal dollars on the most transformative projects and processes stretches the use and benefit of taxpayer funds. When Federal funds are provided, they should be awarded to projects that address problems that are a high priority from the perspective of a region or the Nation, or projects that lead to long-term changes in how infrastructure is designed, built, and maintained.
2. **Encourage Self-Help.** Many States, tribes, and localities have stopped waiting for Washington to come to the rescue and have raised their own dedicated revenues for infrastructure. Localities are better equipped to understand the right level – and type – of infrastructure investments needed for their communities, and the Federal Government should support more communities moving toward a model of independence.
3. **Align Infrastructure Investment with Entities Best Suited to Provide Sustained and Efficient Investment.** The Federal Government provides services that non-Federal entities, including the private sector, could deliver more efficiently.

The Administration will look for opportunities to appropriately divest from certain functions, which will provide better services for citizens, and potentially generate budgetary savings. The Federal Government can also be more efficient about disposing underused capital assets, ensuring those assets are put to their highest and best use.

4. **Leverage the Private Sector.** The private sector can provide valuable benefits for the delivery of infrastructure, through better procurement methods, market discipline, and a long-term focus on maintaining assets. While public-private partnerships will not be the solution to all infrastructure needs, they can help advance the Nation's most important, regionally significant projects.

The House Transportation and Infrastructure (T&I) Committee will likely remain the driving force in crafting the infrastructure bill. Congressman Sam Graves (R-MO), Chairman of the House Subcommittee on Highways and Transit, said this month that Public Private Partnerships (P3s) may also be a major component of the infrastructure bill. The House White principles document contains few specifics, but there are some proposals that may be the subject of several upcoming hearings in House T&I Committee that include:

Allow tolling of Interstates. The document says, "Tolling is generally restricted on interstate highways. This restriction prevents public and private investment in such facilities. We should reduce this restriction and allow the States to assess their transportation needs and weigh the relative merits of tolling assets." It is unclear if the White House is endorsing removal of the century-old ban on tolling any roads built with federal aid, of which the Interstates are a subset, or if they are simply talking about expanding the growing list of exemptions from the general toll ban.

Expanding TIFIA. The document says that the TIFIA credit assistance program of the Department of Transportation should be increased from its current funding level between \$275 million and \$300 million per year up to \$1 billion per year. That funding is used as seed money for federal loans that can have a face value of up to 15 times the amount of the seed money. The document also suggests that TIFIA eligibility criteria be widened. We will be working with the T&I committee to also make suggestion on how to expedite the TIFIA application process.

Expanding private activity bonds. The document says "The Private Activity Bonds (PABs) program allows the Department of Transportation to allocate authority to issue tax-exempt bonds on behalf of private entities constructing highway and freight transfer facilities. PABs have been used to finance many Public Private Partnerships (P3s) projects, along with TIFIA. As of August 15, 2016, nearly \$11.2 billion in PABs have been issued for 23 projects. The Administration recommends removing the \$15 billion cap under current law to ensure that future P3 projects can take advantage of this cost-saving tool, and encourages more project sponsors to take advantage of this tool. The Administration also supports the expansion of PAB eligibility."

In addition to some of these ideas, it currently seems that the House would welcome the idea of combining the infrastructure bill with tax reform legislation in order to leverage any funding that may be made available from repatriation of overseas assets. There have also been discussions of combining the infrastructure legislation with the FAA reauthorization also slated for this year.

Furthermore, the Senate is still deciding how to proceed on the infrastructure bill. Four Senate committees will likely be involved in their infrastructure bill that include the Senate Commerce that handles rail and aviation, Senate EPW that oversees highways, Senate Banking House and Urban Affairs that has jurisdiction over transit programs, and the Senate Finance Committee will be charged with covering the tax portions of the bill.

MPO Rule Officially Repealed

On May 12th, President Trump signed into law *S.496 – To repeal the rule issued by the Federal Highway Administration and the Federal Transit Administration entitled “Metropolitan Planning Organization Coordination and Planning Area Reform”*. The bill was passed unanimously in the Senate. The Congressional Budget Office (CBO) estimated that a repeal of the rule would save \$80 million per year nationwide between 2018-2021. This MPO rule had broad opposition since it was announced last year at the end of the Obama Administration.

US DOT Staff Update

The U.S. Department of Transportation continues to add new staff members and shuffle current staff members to new senior positions. A staff update for this month includes:

<i>Current DOT Staff Position – (May 2017)</i>	
NAME	POSITION
Anthony Bedell	Deputy Assistant Secretary for Intergovernmental Affairs
Michael Britt	Senior Advisor to the Secretary for ATO Modernization
Chris Brown	Associate Administrator, Government and Industry Affairs, FAA
Geoff Burr	Acting Chief of Staff to the Secretary
Thomas ‘Finch’ Fulton	Deputy Assistant Secretary of Transportation Policy
Wendy Gehring	Director of Scheduling
Laura Genero	Senior Advisor to the Secretary for Strategic Communications
Todd Inman	Director of Operations
Ruth Drinkard Knouse	Director of Executive Secretariat
Matthew Kopko	Counselor to the Deputy Secretary
Marianne McInerney	Assistant to the Secretary and Director of Public Affairs
Sean McMaster	Deputy Assistant Secretary for Congressional Affairs
James Ray	Special Advisor to the Secretary for Infrastructure
G. Bryan Slater	Assistant Secretary for Administration
Tamara Somerville	Senior Advisor

Transportation Related Hearings this Month:

On May 16th, the Senate Environment and Public Works Subcommittee on Transportation and Infrastructure held a hearing entitled **“Leveraging Federal Funding: Innovative Solutions for Infrastructure”**. In his opening remarks, Chairman Inhofe (R-OK) stated that the subcommittee would like to explore ways to better leverage private sector funding for large public transportation and infrastructure projects, given that the current investment is not enough to meet the current maintenance and new capacity needs. Mayor Garcetti testified that Public Private Partnerships are crucial to the success of municipal entities and their ability to plan and implement major infrastructure projects. He also discussed the Infrastructure Incentives Initiative (I3). It lays out a plan for how the City of Los Angeles has been successful in implementing P3s with the three following points; 1) leverage 2) life of a project 3) innovation in technology. He spoke about the need for Congress to reward localities that are stepping up, and making it clear that localities with money are more likely to receive federal funding.

On May 17th, the Senate Environment and Public Works committee held a hearing entitled **“Improving America’s Transportation Infrastructure: The Road Forward”**. Chairman John Barrasso (R-WY) held the hearing to discuss the upcoming infrastructure bill and ways to fund transportation project, streamline regulations, and speed project delivery. The sole witness was Secretary of Transportation Elaine Chao. Secretary Chao testified that the administration is hoping to release an infrastructure proposal to Congress by late June. She said that the bill will address and recognize the difference between rural and urban transportation needs, permitting requirements, and pay-force. When discussing how the bill will be funded, Secretary Chao testified that the bill will include \$200 billion in spending authorization, which will be leveraged to utilize \$1 trillion in private investments over the next decade. The \$200 billion will also offset by reductions to other (unspecified) programs. Some discussion centered on the need for alternatives to Public Private Partnerships, given that certain states do not allow them. Secretary Chao said that nothing is off the table when it comes to funding transportation and infrastructure projects. Chao's comments about the Transportation Investment Generating Economic Recovery (TIGER) grants were among the more specific commitments she made during a two-hour committee hearing. Chao reiterated that a list of “principles” for the infrastructure program will be released by the end of May and a full plan will follow in the third quarter. The full plan, however, will not specify a list of preferred projects for funding, Chao said.