



Potomac Partners DC

Monthly Legislative Report – December 2018

December Advocacy Meetings

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

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

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

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

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

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

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

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

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

FY19 Appropriations and Shutdown Update

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

Agriculture-FDA

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

Commerce-Justice-Science

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

Financial Services-General Government

- Treasury Department

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

Homeland Security

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

Interior-Environment

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

State-Foreign Operations

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

Transportation-HUD

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

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

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

Next Steps

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

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

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

Department of Transportation (DOT)

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

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

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

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

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

Tax Extenders Legislation

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

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

(a) EXTENSION.—

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

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

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

Capital Investment Grant (CIG) Funding Announcements

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

PTC Implementation Update

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

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

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

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

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

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

HOUSE LEADERSHIP

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

HOUSE COMMITTEES

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

SENATE LEADERSHIP

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

SENATE COMMITTEES

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

TIFIA Reform Legislation

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

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

Eligibility Requirements

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

Expedited Application Process

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

Process Reports and Status Updates

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

Department of Transportation Issues Two New Policies on Regulatory Reform

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

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

New Subcommittee on Infrastructure Rejected by House Democrats

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