



May 20, 2021

To: Legislative and Communications Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

The Orange County Transportation Authority regularly updates the Legislative and Communications Committee on policy issues directly impacting the agency's programs, projects, and operations. An update on the President's infrastructure plan and the response from Republicans in Congress is provided. A summary of a related hearing on high-speed rail service is included. The report also details potential environmental policy changes that may affect the agency. In addition, several Congressional transportation-related hearings are summarized on various policy issues to give a high-level overview of the everchanging policy environment in our nation's capital.

Recommendation

Receive and file as an information item.

Discussion

Update on the Discussion of the President's Infrastructure Plan

In a Joint Address to Congress on April 28, 2021, the President outlined the remainder of his infrastructure plan, the approximately \$1.8 trillion American Families Plan. This portion of the infrastructure proposal would provide significant federal resources for social welfare and family assistance programs, further redefining the traditional definition of infrastructure. The categories of investment include universal prekindergarten, community college, expansions for certain low-income tax credits, and the country's first paid and medical leave program. The American Families Plan, combined with the more than \$2 trillion American Jobs Plan as outlined in last report provided last month, would result in approximately \$4 trillion in infrastructure investment. Many questions about this proposal remain, notably how to finance these types of significant federal

investments and how such investments will intersect with existing federal programs.

Congressional Republicans continue to advocate for a pared-down infrastructure package more closely aligned with traditional transportation investments. On April 22, 2021, Republicans offered a \$568 billion infrastructure counterproposal that would direct additional federal funding through existing formula and proven discretionary transportation programs. The materials associated with this counterproposal note a need to expedite the environmental review process and utilize pay-fors that cover the entirety of any supplemental infrastructure investments in a fiscally responsible manner. The categories of spending in the counterproposal include:

- \$299 billion for roads and bridges;
- \$61 billion for public transit systems;
- \$20 billion in rail funding;
- \$49 billion for waste, wastewater, and water storage projects;
- \$13 billion for safety improvements across various modal agencies;
- \$17 billion dedicated to ports and inland waterways;
- \$44 billion in funding for airport improvements; and
- \$65 billion in additional spending for broadband.

In response, the Administration doubled down on its call for a more robust infrastructure package through public events across the country. Of note, the President celebrated 50 years of Amtrak service by calling for the types of transformational infrastructure investments outlined in his proposal. The President highlighted new or faster service along many Amtrak routes as one of the potential benefits of his proposal, specifically mentioning rail service between Los Angeles and Las Vegas. As of the writing of this staff report, legislative text for the transportation spending plan had not been developed for Orange County Transportation Authority (OCTA) legislative staff to comprehensively analyze. Staff will continue to monitor developments on this or any federal transportation funding and provide updates as necessary.

High-Speed Rail Hearing

On May 6, 2021, the House Transportation and Infrastructure Committee's Subcommittee on Railroads, Pipelines, and Hazardous Materials held a hearing entitled "When Unlimited Potential Meets Limited Resources: The Benefits and Challenges of High-Speed Rail and Emerging Rail Technologies." Given the President's public statements on rail service improvements, this hearing focused on exploring funding opportunities and advancing new technologies to develop a balanced national transportation network. Members of Congress and witnesses acknowledged several times throughout the hearing the obstacles facing California's high-speed rail project and discussed how the federal

government needs to be a partner to states through providing consistent funding and encouraging innovation. High-speed rail supporters argued that these projects are necessary to connect rural communities to urban hubs, promote affordable housing options, and boost local economies in an equitable manner. High-speed rail critics, namely Representatives Michelle Steel (R-Huntington Beach) and Doug LaMalfa (R-Chico), were among those who emphasized the concerns with high-speed rail projects, including cost increases, ongoing delays, and overestimated ridership demands.

As a part of the first panel, Chief Executive Officer of the Los Angeles County Metropolitan Transportation Authority (LA Metro), Philip A. Washington, discussed the national significance for both the California High-Speed Rail project as well as the Desert Xpress project between Los Angeles and Las Vegas, currently being pursued by Brightline West. Specifically, he spoke on the coordination between LA Metro and the California High-Speed Rail Authority on the Link Union Station Project, which will serve as a hub for high-speed rail, and on the Rosecrans/Marquardt Grade Separation project, which will save lives at one of the deadliest rail crossings in the nation. Mr. Washington also discussed how successful high-speed rail projects can be made possible through a combination of federal, local, and private funding. Along those lines, there was significant discussion at the hearing about establishing some type of rail trust fund to create reliable funding for these types of projects.

The second panel consisted of witnesses including Amtrak, Hyperloop, Brightline, and Maglev, that focused on the variety of opportunities to expand high-speed rail in North America. These witnesses discussed the desire to be eligible for federal grants to continue developing their new technologies. The witness from Amtrak reiterated that addressing the state of good repair backlog will allow Amtrak to utilize its existing rail network at much higher speeds, which supports the President's vision to complement and integrate existing passenger rail service with high-speed rail throughout the country.

Environmental Policy Update

On April 21, 2021, twelve governors, including Governor Gavin Newsom, signed a letter to the President calling for a federal policy that creates a clear regulatory path to ensuring that all vehicles sold in the United States are zero-emission. This letter, included as Attachment A, explicitly notes how Executive Order N-79-20 sets California on a path to zero-emission vehicle sales by 2035. The letter also describes the various electric vehicle policies pursued by the other 11 states that signed the letter. The letter calls for a federal policy that requires all new passenger cars and light-duty trucks sold be zero-emission by 2035, with a path towards 100 percent zero-emission sales by

2045. It is worth emphasizing that no comprehensive statutory or regulatory change to achieve such a goal has been formally proposed at this time.

A potential federal zero-emission vehicle policy, similar to the request called for in the referenced letter, could be aligned with whatever policy change California eventually enacts. However, such a policy may result in divergent state and federal policies that could affect air quality conformity determinations and complicate the environmental approval process. On a related note, reports indicate that federal agencies could take actions to repeal the Safer Affordable Fuel-Efficient Vehicles Rule, which would have impacted California's legal authority to set climate and air quality goals more stringent than those in federal law. The Administration is also likely to set new fuel efficiency standards for auto manufacturers, which could potentially include some type of zero-emission or electric vehicle policies. Such proposals are in their nascent stages, but the details associated with such policy actions could impact the transportation planning process. OCTA staff will continue to provide updates on federal policy changes relevant to its planning and project delivery efforts.

Other Congressional Transportation Hearings

On April 14, 2021, the Senate Environment and Public Works Committee held a hearing to examine the long-term solvency of the highway trust fund (HTF) entitled, "Long-term Solvency of the HTF: Lessons Learned from the Surface Transportation System Funding Alternatives Program and Other User-based Revenue Solutions, and How Funding Uncertainty Affects the Highway Programs." Witnesses explored the long-term sustainability of the HTF, notably the ways in which more fuel-efficient vehicles will necessitate a new transportation funding future. The Congressional Budget Office testified that funding highway system projects for which the benefits outweigh the costs would require about \$71 billion annually, compared to the \$50 billion in highway spending authorized by the Fixing America's Surface Transportation (FAST) Act. Potential spending increases could exacerbate the projected \$195 billion HTF revenue shortfall over the next decade. Given the concerning financial straits facing federal transportation programs, the witnesses coalesced around the need to further study mileage-based user fees, perhaps through a national pilot program similar to the ongoing road user charge efforts in California. Staff will continue to monitor these efforts and provide updates should legislative language be developed that would address the HTF's long-term revenue deficit.

On April 15, 2021, the Senate Banking, Housing, and Urban Affairs Committee held a hearing entitled, "21st Century Communities: Public Transportation Infrastructure Investment and FAST Act Reauthorization." Senators and witnesses discussed the need to establish federal policies necessary for transit operators to move forward beyond the coronavirus pandemic in preparation for surface transportation reauthorization discussions in the coming months. Many

of the witnesses discussed the need for robust transit funding, although there was some partisan disagreement about the details of such funding. Those in the majority cited the need for significant transit investments, including the potential for new or expanded federal investments in transit operations and bus rapid transit projects. In contrast, Ranking Member Pat Toomey (R-PA), the only member of the minority to speak at the hearing, questioned the need for significant federal transit investments given the amount of stimulus funding provided to transit agencies in the last year, a majority of which benefited large transit agencies. The divergent narratives create a challenging dynamic for Congressional leaders as they continue their efforts reauthorize federal transportation programs, which expire on September 30, 2021.

On April 15 and 20, 2021, Transportation Secretary Pete Buttigieg testified in front of the House and Senate Appropriations Committees, respectively, to discuss the Administration's transportation funding priorities. Secretary Buttigieg spoke at a high-level about the Administration's transportation funding priorities, with similar themes across the two hearings. The Secretary emphasized the importance of aligning transportation investments with the Administration's policy goals, noting how the Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant program is one such opportunity. The RAISE program is the rebranded Better Utilizing Investments to Leverage Development grant program, originally known as Transportation Investment Generating Economic Recovery grants. The Secretary noted how the recent RAISE grant solicitation prioritizes the Administration's policy priorities, including a focus on transportation investments that address climate change and racial equity. Given the ongoing discussions around the President's infrastructure proposal, the Secretary also advocated for a broader definition of infrastructure that includes broadband, healthcare, and libraries, as specific examples.

Over the course of two hearings, Secretary Buttigieg addressed questions and heard about the transportation priorities of various members of Congress that touch on a multitude of policies areas. Transportation, Housing, and Urban Development Subcommittee Ranking Member Mario Diaz-Balart (R-FL) advocated for infrastructure investments that benefit existing transportation programs as opposed to a broader definition of infrastructure. Subcommittee Ranking Member Diaz-Balart, along with other members of the minority, also warned against federal policy changes that supersede local decision-making processes. Representative Pete Aguilar (D-San Bernardino) discussed how zero-emission locomotive technology could become an important part of the Administration's policy goals. Senator Diane Feinstein (D-CA) briefly noted the need for geographic equity in the distribution of federal transportation funds, specifically to ensure a state as large as California gets its fair share of funding. The wide-ranging hearings leave many questions unanswered about the Administration's approach to transportation investments. Staff will continue to

provide updates on significant developments affecting federal transportation funding over the course of the coming months.

Summary

An update is provided on the President's infrastructure plan and potential federal policy environmental policy changes. Congressional transportation hearings are summarized referencing various policy decisions underway in Washington, D.C.

Attachments

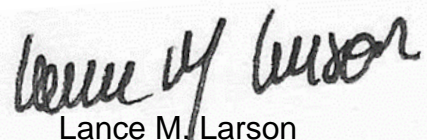
- A. Letter from 12 Governors to President Biden, dated April 21, 2021
- B. Potomac Partners DC, Monthly Legislative Report – April 2021

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