OCTA

May 15, 2025

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 and regulatory issues directly impacting the agency's programs, projects, and operations. This update provides an outline of the transportation impacts resulting from budget reconciliation negotiations following the recent agreement on a budget resolution, an overview of the Public Employees' Pension Reform Act of 2013 and its implications for federal transit grant certification, an update on a compliance letter issued by the United States Department of Transportation outlining requirements for continued eligibility for federal funding, and a summary of two congressional hearings: one pertaining to transit policies and programs and the other related to the Highway Trust Fund.

Recommendation

Receive and file as an information item.

Discussion

Update on Budget Reconciliation Negotiations

After weeks of internal negotiations and uncertainty, the House of Representatives (House) narrowly agreed to a revised version of the budget blueprint initially passed by the House on February 25, 2025, setting in motion the next phase of the reconciliation process. On April 10, 2025, the House passed the Senate-amended fiscal year 2025 budget resolution with a 216 to 214 vote. This action finalized the budget resolution process, enabling Congress to utilize the reconciliation procedure to advance significant legislative priorities, including tax reform, border security, and federal spending adjustments. The approval of the revised resolution locks in the budget framework and allows Congress to begin drafting legislation designed to enact trillions of dollars in tax cuts and spending reductions using reconciliation procedures that only require a simple majority vote in the Senate, bypassing the filibuster.

The resolution's reconciliation instructions direct House committees to achieve a total of $1.5 trillion in deficit reduction over the next decade. Specific targets have been assigned to each committee, with the Ways and Means Committee responsible for identifying at least $900 billion in deficit reduction, primarily through changes to tax policy and entitlement programs. The Energy and Commerce Committee must find $200 billion in savings, largely affecting healthcare programs, while the Education and the Workforce Committee is tasked with reducing deficits by $100 billion. The Agriculture Committee must contribute $50 billion in cuts, likely involving adjustments to farm subsidies and nutrition programs. The Transportation and Infrastructure (T&I) Committee has been assigned a comparatively smaller target of $10 billion, given the limited discretionary spending under its jurisdiction. Additional committees, including Financial Services ($50 billion), Judiciary ($40 billion), Oversight and Accountability ($25 billion), and Natural Resources ($20 billion) also received assigned reduction targets.

While Senate leaders have publicly committed to matching the $1.5 trillion overall reduction goal, the Senate's formal reconciliation instructions require only $5 billion in actual deficit reduction, including with some committees being given the ability to increase the deficit. The Senate Environment and Public Works Committee is allowed to increase the deficit by up to $1 billion, and the Commerce, Science, and Transportation Committee may increase it by as much as $20 billion. The Armed Services Committee can increase the deficit by up to $150 billion, and both the Homeland Security and Governmental Affairs Committee and the Judiciary Committee may each increase it by $175 billion. In contrast, several committees, including Agriculture, Banking, Energy and Natural Resources, and Health, Education, Labor, and Pensions must each reduce the deficit by at least $1 billion. The Senate Finance Committee is also instructed to report legislation to raise the debt ceiling by no more than $5 trillion.

The Senate's budget resolution uses a "current policy baseline," which assumes expiring provisions of the 2017 Tax Cuts and Jobs Act will be extended without adding to the deficit. This results in a lower projected cost for making the cuts permanent and allows the Senate Finance Committee to propose up to $1.5 trillion in new tax reductions without offsets. In contrast, the House is operating under a stricter "current law baseline," which treats the extensions as new spending, leading to a $900 billion disparity between the two chambers.

The T&I Committee faces particular challenges in meeting its $10 billion reduction target because most of the federal transportation funding within its purview, such as highway and transit formula programs, is classified as mandatory spending that is already authorized under multi-year legislation, like the Infrastructure Investment and Jobs Act (IIJA). These funds are drawn directly from the Highway Trust Fund and are not subject to annual appropriations or discretionary rescission through the reconciliation process. Moreover, many of these programs fall partially under the jurisdiction of other committees, such as Ways and Means, which controls tax-related revenue mechanisms including fuel taxes and user fees. As a result, the T&I Committee has relatively few budgetary levers available to produce sizable savings. However, the T&I Committee can propose rescinding unobligated balances from recent spending laws, such as the Inflation Reduction Act, order the sale of surplus federal real estate, or propose new user fees related to transportation infrastructure.

On April 30, 2025, the T&I Committee held a markup to consider legislation aimed at meeting the directive to reduce federal spending by $10 billion over ten years as part of reconciliation efforts. A key component of the bill is funding intended to support the Highway Trust Fund through registration fees, which Chairman Graves (R-MO) emphasized is shrinking due to declining gas tax revenues. Chairman Graves noted that this measure marks the beginning of a broader conversation about long-term alternatives to the gas tax for funding transportation infrastructure. Prior to its markup hearing, the proposal included new annual fees, adjusted annually to account for inflation: $200 for electric vehicles, $100 for hybrids, and $20 for all other vehicles, with certain exceptions. The fee on electric and hybrid vehicles would begin on October 1, 2026, and continue through October 1, 2035. The fee on other vehicles would begin on October 1, 2030, and expire on October 1, 2034. During the markup, an amendment was approved that would strike the $20 fee on passenger vehicles and would increase the annual fee for electric vehicles to $250.

The bill also outlines that these fees would be collected by state departments of motor vehicles and remitted to the Federal Highway Administration (FHWA). While states are not required to implement the program, they are incentivized to do so through two mechanisms: grants of up to $2 million to support implementation, and a penalty that would reduce a state’s annual highway funding allocation of an amount equal to 125 percent of the estimated federal registration fee if it does not comply, starting in fiscal year 2027. Representative Rouzer (R-NC) noted these fees are intended to ensure all road users contribute fairly. A large coalition of transportation stakeholders, including the American Public Transportation Association and the American Association of State Highway and Transportation Officials, submitted a letter supporting the vehicle fees to provide continuity and predictability for Highway Trust Fund revenues; the letter is included in Attachment A. It remains unclear whether this funding will follow the traditional highway-transit split.

The proposal also includes rescissions of unobligated funds from the Inflation Reduction Act. These include grants under the FHWA, such as Neighborhood Access and Equity Grants, Environmental Review Implementation Funds, and Low-Carbon Transportation Materials Grants, as well as funding from the General Services Administration for green building programs and the Federal Aviation Administration’s (FAA) Alternative Fuel and Low-Emission Aviation Technology Program. During the markup hearing, Democrat committee members opined the partisan nature of this process and the potential negative impacts these proposals will have on Americans. It should also be noted that Democrats proposed amendments to restore funding for transit, particularly for zero-emission buses and support the 2028 Los Angeles Olympics and Paralympics, but those efforts were unsuccessful. In addition to the electric vehicle fees and rescissions from the Inflation Reduction Act, the T&I Committee's reconciliation bill provides funding for the FAA to update air traffic control facilities and support workforce needs. It also includes funding for the United States Coast Guard to acquire new vessels and improve infrastructure. Staff is continuing to monitor other committee bill proposals pertaining to reconciliation, such as the Ways and Means Committee.

Update on Public Employees' Pension Reform Act of 2013 and Federal Transit Grant Certification

The California Public Employees' Pension Reform Act of 2013 (PEPRA) has been a central point of legal and administrative debate for over a decade, particularly concerning the retention of collective bargaining rights for transit employees. On March 31, 2025, the United States Department of Labor (USDOL) issued a formal determination reaffirming its position that PEPRA does not infringe on collective bargaining rights and is not to be used as the reason to prevent certification of federal transit grants under Section 13(c) of the Federal Transit Act.

PEPRA was enacted by the California Legislature to address significant concerns over the long-term fiscal sustainability of the State's public pension systems. The law implemented sweeping changes to public employee retirement benefits, including increased employee contributions, a cap on pensionable earnings, new benefit formulas for newly hired employees, and the elimination of certain benefit enhancement practices. These reforms applied to the vast majority of state and local public employees, including those working for transit agencies, such as the Orange County Transportation Authority (OCTA).

The litigation surrounding PEPRA stems from a conflict between state-level pension reforms and federal requirements tied to transit funding. Under Section 13(c) of the Federal Transit Act, transit agencies must maintain the continuation of collective bargaining rights in order to qualify for federal financial assistance. Labor organizations, most prominently the Amalgamated Transit Union (ATU), have long argued that PEPRA unlawfully infringes on these rights by imposing mandatory pension terms without negotiation, thereby violating the conditions of federal funding eligibility.

Initially, USDOL denied certification to multiple California transit grants in 2013 and 2015, citing PEPRA's conflict with Section 13(c). Following legal challenges by the State of California and impacted agencies, a federal district court in 2018 issued an injunction barring USDOL from denying certification on the basis of PEPRA. USDOL then reversed its position in 2019, finding that PEPRA did not substantively impair collective bargaining. This interpretation was briefly reversed again in 2021, but the most recent determination now reaffirms the Department's 2019 conclusion. In its March 2025 letter, USDOL stated that

PEPRA, while imposing statutory limitations on pension benefits, does not preclude transit agencies and labor unions from collectively bargaining within those parameters. USDOL emphasized that Section 13(c) grants its discretion to assess whether protective arrangements are "fair and equitable," and found that PEPRA does not rise to the level of interference that would justify denying certification.

As a result, USDOL concluded that recent objections submitted by ATU were not sufficient under federal regulations and proceeded with certification for the relevant California transit grants. This decision reinforces the current position that transit agencies operating under PEPRA remain eligible for federal assistance, provided that all other applicable requirements are met.

United States Department of Transportation Letter on Federal Funding Compliance

On April 25, 2025, United States Transportation Secretary Sean Duffy issued a letter to all recipients of federal transportation funding outlining the latest interpretation of compliance requirements under existing federal law (Attachment B). The letters specifically details the following requirements:

- United States Department of Transportation (USDOT) funding recipients are prohibited from engaging in discriminatory actions in their policies, programs, and activities, including in administering contracts, and their employment practices. The letter identifies the following areas for compliance:
    - Any policy, program, or activity that is premised on a prohibited classification, including discriminatory policies or practices designed to achieve diversity, equity, and inclusion goals is presumptively in violation.
    - Recipients must also ensure that personnel practices are merit-based and do not discriminate based on prohibited categories.
    - Recipients are precluded from allocating money received under USDOT awards based on suspect classifications.

- USDOT funding recipients must also cooperate with federal authorities in the enforcement of federal law. This includes cooperating with, and not impeding, U.S. Immigration and Customs Enforcement and other federal offices and components of the Department of Homeland Security in the enforcement of federal immigration law. As part of this requirement, the letter specifies that recipients must ensure that federal financial assistance they receive from USDOT is "only provided to subrecipients, businesses or service providers that are U.S. Citizens or US Nationals and Lawful Permanent Residents or legal entities allowed to do business in the U.S., and which do not employ illegal aliens."

Within the letter is a reminder that USDOT may, within its oversight responsibilities, initiate enforcement actions which could include audits, possible recovery of funds that were misspent, or termination of funding in responses to breaches in agreement or if USDOT determines that continued funding is no longer in the public interest. Technical guidance and support through program offices are offered to help with these obligations. OCTA's legal counsel has reviewed the letter and does not anticipate any impact to the agency's federal funding. OCTA's hiring practices are merit-based, and the agency is not involved in immigration enforcement. OCTA will continue to work with federal partners to ensure proper use of all federal funds.

Summary of America Builds: A Review of Our Nation's Transit Policies and Programs Hearing

On April 9, 2025, the House T&I Subcommittee (Subcommittee) on Highways and Transit held a hearing titled "*America Builds: A Review of Our Nation's Transit Policies and Programs*". Subcommittee Chairman Rouzer opened the hearing remarking that despite receiving funding to increase ridership lost during the coronavirus (COVID-19) pandemic, ridership levels nationwide are still at 79 percent of pre-pandemic levels. When presenting these ridership and funding statistics, Chairman Rouzer also inquired whether "ridership" is the only variable that is worth examining when determining the success of the United States' transit systems.

Nathaniel P. Ford Sr., Chief Executive Officer of the Jacksonville Transportation Authority, testified on behalf of the American Public Transportation Association. In his opening remarks, he emphasized that every dollar invested in public transportation generates a $5 return to the economy. He urged Congress to continue robust funding to address the $100 billion state of good repair backlog and to meet the needs of transit riders in both urban and rural areas. Barbara K. Cline, Executive Director of Prairie Hills Transit, spoke on behalf of the Community Transportation Association of America. She advocated for a more equitable approach to distributing discretionary funding for rural transit agencies, noting that these funds are already highly competitive and difficult to secure.

Matthew Booterbaugh, Chief Executive Officer at Régie Autonome des Transports Parisiens Development USA, testified on behalf of the North American Transit Alliance. He highlighted the benefits of private contracting for transit agencies, emphasizing how contractors add value through operational and maintenance efficiencies, cost savings from competitive bidding, and the adoption of innovative technologies such as alternative fuel vehicles. Baruch Feigenbaum, Senior Managing Director of Transportation Policy at the Reason Foundation, outlined several challenges facing transit agencies nationwide. He identified crime, declining ridership, maintenance backlogs, and a disproportionate focus on attracting choice riders rather than serving dependent riders. He stressed that high-profile crime incidents can deter ridership by making passengers feel unsafe. There was general agreement among the Subcommittee members on the urgency of addressing operator assaults. Greg Regan, President of the Transportation Trades Department on behalf of the American Federation of Labor and Congress of Industrial Organizations, called for greater protections for transit workers in the upcoming surface transportation reauthorization bill. He recommended that the bill includes a safety framework for autonomous vehicles, require transit agencies to submit comprehensive workforce development plans, and ensure that workers are retrained rather than replaced.

Some Subcommittee members criticized what they viewed as excessive spending on transit projects under the IIJA, referencing Chairman Rouzer's comment that these investments have not corresponded with increased ridership. In contrast, Representative Davids (D-KS) proposed allowing more flexibility in the use of 5307 formula funds to sustain transit service. Representative Johnson Jr. (D-GA) asked witnesses what support transit agencies need from Congress to avoid financial instability and maintain operations. Mr. Regan responded that the reauthorization bill must account for the diverse needs of agencies, some requiring more capital investment while others needing operational support. Some Subcommittee members asked if recent actions by the Administration have affected the transit industry. Witnesses acknowledged some unease, with agencies adjusting project language and expressing concern over potential federal funding cuts.

Overall, the discussion centered on strategies to increase ridership, secure equitable and sustainable funding, and protect both transit workers and passengers.

Summary of House Transportation and Infrastructure Subcommittee on Highways and Transit Hearing on Highway Trust Fund

On April 29, 2025, the House T&I Subcommittee held a hearing titled *"America Builds: The Need for a Long-Term Solution for the Highway Trust Fund."* Chairman Graves and Subcommittee Chairman Rouzer opened the hearing by warning of the Highway Trust Fund's looming $142 billion shortfall and stressed the need to restore the user-pays principle through new revenue streams, including a proposed registration fee on electric and hybrid vehicles. Both emphasized that continued reliance on General Fund transfers is unsustainable and would jeopardize future surface transportation programs.

Several members used the hearing to voice broader concerns about the Highway Trust Fund's current structure and investment priorities. Representative Garcia (D-CA) criticized the 80/20 funding split favoring highways over public transit, arguing that it perpetuates environmental injustice and worsening congestion. He opposed a proposed $200 electric vehicle fee as punitive, while witness Jeff Davis, Senior Fellow at the Eno Center for Transportation, responded that a fairer electric vehicle fee based on average fuel tax contributions would be closer to $90 per year. Representative Friedman (D-CA) delivered an extended critique of highway expansion strategies, citing that despite a 42 percent increase in freeway lane miles between 1993 and 2017, congestion in the 100 largest United States metro areas grew by 144 percent. She emphasized that expanding highways to solve congestion causes induced demand, with real-world impacts including billions in wasted fuel, excess greenhouse gas emissions, and billions of hours lost annually to traffic. Representative Friedman argued for significantly greater investments in urban mass transit, which she argued reduces congestion but lowers emissions, supports public health, and creates economic savings for households who would otherwise face high transportation costs.

Representative Brownley (D-CA) expressed frustration that the House Ways and Means Committee has not held a major hearing on Highway Trust Fund solvency since 2004, calling for a joint committee hearing to drive real solutions. She also raised the importance of federal involvement in supporting transportation needs for the 2034 Winter Olympics in the State of Utah, asking whether discussions with Los Angeles and California leaders on Olympic planning could serve as a model. Mr. Braceras, Executive Director, Utah Department of Transportation, responded that the State of Utah has been working closely with transportation experts and emphasized that federal support will be critical, particularly for transit operations and security, just as it was during the successful 2002 Salt Lake City Games. Representative LaMalfa (R-CA) added concerns about the long-term fiscal trajectory of the Trust Fund, and Mr. Davis noted that slowing vehicle miles traveled, increasing vehicle efficiency, and repeated federal overspending are key contributors to the Highway Trust Fund's current challenges.

While witnesses offered various solutions, including electric vehicle fees, mileage-based user fees, and expanding private financing tools, the hearing closed with bipartisan agreement that piecemeal fixes will not be enough. Members stressed that ensuring the Highway Trust Fund's long-term solvency will require both modernized, equitable revenue strategies and a fundamental reassessment of how federal transportation dollars are allocated to meet today's economic, environmental, and public health needs.

Summary

An update is provided on recent developments pertaining to ongoing reconciliation negotiations and on the Public Employees' Pension Reform Act of 2013 and its effect on federal transit funding. A summary of a United States Department of Transportation letter on funding compliance and an overview of two congressional hearings is given.

Attachments

A. Letter from Coalition of Transportation Stakeholders to the Honorable Sam Graves, Chairman, House Transportation and Infrastructure Committee, dated April 25, 2025, re: Highway Trust Fund Revenues
B. Letter from Sean P. Duffy, Secretary, Department of Transportation, to All Recipients of U.S. Department of Transportation Funding, dated April 24, 2025, re: Federal Compliance Requirements
C. Potomac Partners DC, Monthly Legislative Report – April 2025

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