



**October 19, 2023**

**To:** Legislative and Communications Committee

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

**Subject:** Federal Legislative Status Report

A handwritten signature in blue ink, appearing to read "Darrell E. Johnson", is written over the "From:" line of the memo.

**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. An update is provided on the fiscal year 2024 appropriations process, which includes the passage of a continuing resolution to maintain existing funding levels. Information related to leadership changes in both the House of Representatives and the Senate and a summary of a recent committee oversight hearing for programs in the Infrastructure Investments and Jobs Act are also provided.

**Recommendation**

Receive and file as an information item.

**Discussion**

**Congress Passes a Continuing Resolution for Fiscal Year 2024 Funding**

On September 30, 2023, Congress passed, and the President signed, a continuing resolution extending government funding through November 17, 2023. The bipartisan bill passed the House of Representatives with a vote of 335-91 with seven abstentions, and in the Senate with a vote of 88-9 with two abstentions. With government funding set to lapse on October 1, 2023, the passage of the continuing resolution maintains current funding levels for a prorated period, avoiding a shutdown of federal government operations. It is expected that negotiations will be ongoing to pass a full funding bill for fiscal year (FY) 2024. There were no earmarks included in the continuing resolution. It should also be noted that Congress is operating under a unique circumstance this year given a provision that was included in the Debt Ceiling agreement. This provision stipulates that if Congress cannot agree on any or all of the annual FY 2024 appropriations bills this year, and any agencies are still

operating on continuing resolutions as of January 1, 2024, then the spending cap for 2024 for that respective side of government will be reduced to 99 percent of its 2023 level. Then, if any of the 12 appropriations bills are still not enacted by April 30, 2024, whichever continuing resolution that is in effect at that time will be subject to further reductions across the board of one percent. Therefore, more pressure has been placed on Congress to ensure an appropriations bill is enacted by the end of this year.

In addition to maintaining current funding levels, the continuing resolution also extends the Federal Aviation Administration (FAA) authorization through December 31, 2023, which was also set to expire on September 30, 2023. Allowing this authorization to lapse would have cost the FAA \$54 million each day. Typically, the FAA uses these funds to pay for safety improvements at airports, among other things. The dual lapses also would have forced the furlough of tens of thousands of employees at the Department of Transportation. Additionally, the bill includes \$16 billion in emergency disaster relief assistance. The continuing resolution, however, did not include several of President Biden's requests, including flexibility for student loan servicing and additional funding for Ukraine.

#### Summary of House Transportation & Infrastructure Committee Hearing

On September 20, 2023, the House Transportation & Infrastructure Committee held a hearing entitled, "Oversight of the Department of Transportation's Policies and Programs," with testimony from the United States Department of Transportation (USDOT) Secretary, Pete Buttigieg. Chairman Sam Graves (R-MO) opened the hearing by reiterating his focus on ensuring that the Infrastructure Investments and Jobs Act (IIJA) is implemented efficiently and effectively, noting that there have been concerns raised with the pace of its implementation. He also indicated that several of the grant programs depart from congressional intent and, instead, contain guidance that reflects the Administration's priorities. In Secretary Buttigieg's testimony, he urged Congress to prevent a government shutdown and pass legislation that would address freight rail safety, noting that the USDOT is working to finalize a rule that will set minimum crew size requirements, conduct inspections on routes traveled by high-hazard trains, and invest in rail infrastructure.

Of note from member questions, Representative Salud Carbajal (D-CA), commented on the Office of Management and Budget's recent finalization of guidance pertaining to the Build America, Buy America Act, which was included in the IIJA. He encouraged the USDOT to ensure this guidance is clear for state departments of transportation to prevent delays and confusion in project delivery. Additionally, Representative Dusty Johnson (R-SD) inquired how the USDOT is implementing the permitting reform and other revisions that were made to the National Environmental Policy Act as provided in the Debt Limit

agreement enacted earlier this year. Secretary Buttigieg stated that they are identifying opportunities to adopt other agencies' categorical exclusions, similar to what was implemented as part of the Department of Energy's categorical exclusion for electric vehicle charging stations in order to help expedite and streamline projects.

#### Update on Congressional Leadership

On October 3, 2023, the House of Representatives (House) voted to vacate Representative Kevin McCarthy (R-CA) from his role as Speaker of the House by a 216-210 vote. Such action to remove a current speaker has not occurred since 1910. A speaker vacancy will delay House proceedings, including negotiations related to passing a FY 2024 appropriations bill. Representative Patrick McHenry (R-NC) was assigned the duty of Speaker pro tempore and will oversee the speaker election process with limited additional responsibilities per House rules relating to continuity of Congress. As of the writing of this staff report, Representative Steve Scalise (R-LA), Representative Jim Jordan (R-OH), and Representative Kevin Hern (R-OK) have publicly announced their intention to run for Speaker of the House. Staff will verbally provide any updates as they become available.

Additionally, with the passing of Senator Dianne Feinstein, California Governor Gavin Newsom appointed Laphonza Butler as her replacement. She was sworn into office on October 3, 2023, and will fulfill the remainder of Senator Feinstein's term until January 2025. Butler previously served as President of EMILY's List.

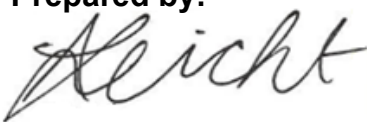
#### **Summary**

Information is provided on the fiscal year 2024 appropriations process. A summary is given for a committee hearing pertaining to the Infrastructure Investment and Jobs Act. A congressional leadership update is provided.

#### **Attachments**

- A. Potomac Partners DC, Monthly Legislative Report – August 2023
- B. Potomac Partners DC, Monthly Legislative Report – September 2023

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