



AGENDA

Legislative and Communications Committee Meeting

Committee Members

To be appointed

Orange County Transportation Authority Headquarters

600 South Main Street, First Floor - Room 154

Orange, California

Thursday, January 21, 2010, at 8:00 a.m.

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Committee may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

All documents relative to the items referenced in this agenda are available for public inspection at www.octa.net or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

Call to Order

Pledge of Allegiance

Committee Chairman Cavecche

1. Public Comments

Special Calendar

2. Committee Meeting Days and Times

The Committee Chair will hold a discussion regarding the days and times for meeting of this Committee. The previous schedule has been the first and third Thursday of each month at 8:00 a.m.

Consent Calendar (Item 3)

All items on the Consent Calendar are to be approved in one motion unless a Committee Member or a member of the public requests separate action or discussion on a specific item.

3. Approval of Minutes

Of the December 3, 2009, Legislative and Communications Committee meeting.



AGENDA

Legislative and Communications Committee Meeting

Regular Calendar

4. **State Legislative Status Report**

Manny Leon/Kristine Murray

Overview

The fiscal year 2010-11 state budget proposal was released on January 8, 2010. A summary and analysis of the state budget is provided in this report. In addition, an update on a potential ballot initiative is provided.

Recommendation

Receive and file as an informational item.

5. **Federal Legislative Status Report**

Richard J. Bacigalupo/Kristine Murray

Overview

This federal legislative status report provides an overview of activities conducted in the United States Congress prior to its holiday recess. Prior to its break, Congress enacted the fiscal year 2010 transportation appropriations bill and extended the current transportation authorization program until February 18, 2010. The United States House of Representatives also passed a second stimulus bill, Jobs for Main Street Act, and an extension of the alternative fuel tax credit, both of which will be considered by the United States Senate when they return during the week of January 18, 2010.

Recommendation

Receive and file as an information item.

6. **Transportation Appropriations and Grant Application Project List**

Richard J. Bacigalupo/Kristine Murray

Overview

The Orange County Transportation Authority recommends funding requests totaling \$52 million to support nine projects for submittal to the Orange County United States Congressional Delegation. The requests are to be submitted for consideration in the federal fiscal year 2011 Transportation Appropriations Bill and as federal grant funding opportunities become available throughout the year.



AGENDA

Legislative and Communications Committee Meeting

6. (Continued)

Recommendations

- A. Review and approve the recommended list of transportation projects and authorize staff to pursue funds through the fiscal year 2011 federal appropriations process and as grant funding opportunities become available throughout the year.
- B. Direct staff to pursue Federal Transit Administration Bus Livability Program funds in support of the Anaheim Regional Transportation Intermodal Center, as the only viable Orange County transit project that meets federal requirements for project readiness as part of this new grant program.

7. **Rideshare Program Update**

Sandy Boyle/Ellen S. Burton

Overview

The Orange County Transportation Authority's Rideshare Program is a transportation control measure included in the Southern California Association of Governments' Regional Transportation Plan. Program goals are to create awareness and usage of alternatives to single occupant vehicle travel such as vanpooling, carpooling, biking, and transit. This report provides an update on the program.

Recommendation

Receive and file as an information item.

Discussion Items

8. **2010 Long-Range Transportation Plan Public Outreach Overview**

Marissa Espino/Ellen S. Burton

The Orange County Transportation Authority is developing the 2010 Long-Range Transportation Plan (LRTP) with a supporting public outreach program to gather input about future transportation system needs and improvements to ensure mobility for later generations. The goal of the public outreach program is to utilize existing cost effective methods of communicating with various target audiences to solicit public comment about future transportation needs. An overview of the public outreach plan and branding concepts is being presented to the committee.



AGENDA

Legislative and Communications Committee Meeting

9. Chief Executive Officer's Report

10. Committee Members' Reports

11. Closed Session

There is no Closed Session scheduled.

12. Adjournment

The next regularly scheduled meeting of this Committee will be held determined as a result of discussion under Item 2 (above) and held at the OCTA Headquarters.



MINUTES

Legislative and Communications Committee Meeting

Committee Members Present

*Paul Glaab, Vice Chairman
Patricia Bates
Peter Buffa
William J. Dalton*

Staff Present

*James S. Kenan, Deputy Chief Executive Officer
Wendy Knowles, Clerk of the Board
Allison Cheshire, Deputy Clerk of the Board
Kennard R. Smart, Jr., General Counsel
OCTA Staff and members of the General Public*

Committee Members Absent

*Carolyn V. Cavecche, Chairman
Arthur C. Brown
Allan Mansoor*

Call to Order

The December 3, 2009, regular meeting of the Legislative and Communications Committee was called to order by Committee Vice Chairman Glaab at 8:04 a.m.

Pledge of Allegiance

Director Dalton led in the pledge.

1. Public Comments

No public comments were received.

Special Calendar

2. Conference Call with State Legislative Advocate Moira Topp

Moira Topp, OCTA's state legislative advocate, participated in a conference call and reported on the following:

- Special session called to address "Race to the Top", which addresses changes to the education code;
- Candidates for Assembly Speaker;
- Candidate for Lieutenant Governor; and
- Budget update

Consent Calendar (Items 3 and 4)

3. Approval of Minutes

A motion was made by Director Dalton, seconded by Director Buffa, and declared passed by those present, to approve minutes of the November 5, 2009, meeting.



MINUTES

Legislative and Communications Committee Meeting

4. Special Needs in Transit Advisory Committee Appointments and Report of Activities for 2009

A motion was made by Director Dalton, seconded by Director Buffa, and declared passed by those present, to:

- A. Approve the appointment of members to serve on the Special Needs in Transit Advisory Committee.
- B. Receive and file the Special Needs in Transit Advisory Committee's Report of Activities for 2009.

Regular Calendar

5. Performance Evaluation of Sacramento Legislative Advocate, Sloat Higgins Jensen & Associates

Manny Leon, Senior Government Relations Representative, provided an overview of the recent fiscal outlook report published by the Legislative Analyst's Office. It is projected that the State will have a \$25 million deficit in the next fiscal year.

Wendy Villa, Manager of State Relations, provided an overview of the performance of Sloat Higgins Jensen & Associates. Ms. Villa commented that Sloat Higgins Jensen & Associates, and specifically Moira Topp, have been successful in their efforts on behalf of OCTA despite the current economy, and staff is very pleased with the job that the firm has been doing.

Committee Vice Chairman Glaab commended staff on their relationship with Sloat Higgins Jensen & Associates.

No action was taken on this receive and file item.

6. Results of 91 Express Lanes 2009 Customer Satisfaction Survey

Barbara Foster, President of Insights Worldwide Research, provided an overview of the survey results and methodologies in conducting the survey. The overall results reflect that customers are more satisfied with the 91 Express Lanes over previous years.

Stella Lin, Manager of Marketing, commented that staff is working to increase customer communications through electronic correspondence.



MINUTES

Legislative and Communications Committee Meeting

6. (Continued)

Kirk Avila, General Manager of the 91 Express Lanes, commented that currently there is a link on the 91 Express Lanes' website to real-time traffic information that customers can access. Staff is looking into providing that information on mobile devices in the future.

No action was taken on this receive and file item.

Discussion Items

7. Chief Executive Officer's Report

Deputy Chief Executive Officer, James S. Kenan, reported that the Metrolink Board of Directors is meeting on December 21, 2009, to consider budget cuts that could affect weekend service. Mr. Kenan also reported on additional upcoming meetings and events.

8. Committee Members' Reports

Director Bates inquired into the status of bills which were brought in discussion at the Leadership Forum on December 3, 2009. Deputy Chief Executive Officer, James S. Kenan, commented that staff will follow up.

9. Closed Session

A Closed Session was not conducted at this meeting.

9. Adjournment

The meeting adjourned at 8:45 a.m.

The next regularly scheduled meeting of this Committee will be held at **8:00 a.m. on Thursday, January 21, 2010**, at the OCTA Headquarters.

ATTEST

Allison Cheshire
Deputy Clerk of the Board

Paul Glaab
Committee Vice Chairman



January 21, 2010

To: Legislative and Communications Committee

From: Will Kempton, Chief Executive Officer

Subject: State Legislative Status Report

Overview

The fiscal year 2010-11 state budget proposal was released on January 8, 2010. A summary and analysis of the state budget is provided in this report. In addition, an update on a potential ballot initiative is provided.

Recommendation

Receive and file as an informational item.

Background

On January 8, 2010, Governor Schwarzenegger released the fiscal year (FY) 2010-11 state budget proposal. The budget proposal attempts to resolve an estimated \$19.9 billion General Fund deficit over the next 18 months. Specifically, the General Fund deficit encompasses a \$6.6 billion shortfall for the current fiscal year, a \$12.3 billion shortfall for FY 2010-11, and maintenance of a \$1 billion reserve. A number of variables have contributed to the growing deficit figure including, but not limited to, declining revenue estimates (\$3.4 billion), federal and state court decisions (\$4.9 billion), erosions in previously enacted budget solutions (\$2.3 billion), and increased caseload expenditures (\$1.4 billion). The budget proposal attempts to close this \$19.9 billion gap through series of expenditure reductions (\$8.5 billion), fund shifts (\$4.5 billion), and an increase in federal assistance (\$6.9 billion), with no proposed revenue increases.

For FY 2010-11, the Governor's proposal estimates General Fund revenues will be \$85.4 billion and expenditures will total \$82.9 billion, including a \$1 billion General Fund reserve. Debt service on General Obligation bonds will total an estimated \$5 billion or approximately 6 percent of General Fund expenditures. While the current enacted budget proposal provides sufficient cash resources to cover the repayment of revenue anticipation notes, the

FY 2010-11 budget proposal acknowledges a potential cash resource issue arising in March 2010 unless corrective action is taken by the State Legislature.

Additionally, Governor Schwarzenegger used the authority granted under Proposition 58 (2004) to declare a fiscal emergency, which requires the Legislature to address the budget shortfall within 45 calendar days. The Legislature cannot take action on any other legislation if the body fails to act within this period.

Federal Assistance

The budget proposal assumes the state will receive \$6.9 billion in FY 2010-11 from the federal government for a variety of expenditures. For FY 2010-11, the state will be seeking reimbursements for expenditures including Medi-Cal, In-Home Supportive Services (IHSS), medical costs associated with inmates in the state corrections system, and costs associated with the incarcerations of undocumented immigrants. If these reimbursements are not achieved, the budget proposal would trigger a series of expenditure and program reductions to mental health services, Medi-Cal eligibility, a total of 15 percent reduction in employee compensation (including compensation, benefits, and pension contributions), and the elimination of the IHSS and state welfare programs. The proposal would further trigger the extension of several tax expenditure provisions enacted in the FY 2009-10 state budget, including the net operating loss deferment for businesses, the "single sales" tax factor for corporations, and the extension of dependent credit reduction on personal income tax claims.

Transportation Component of the Governor's Budget

The Governor's budget proposes to provide additional General Fund relief by permanently modifying several transportation revenue sources and as a result, further reduces the state's financial obligations for transit. The Governor's budget eliminates the state's portion of the sales tax on gasoline (Proposition 42 revenues) and instead the state gas excise tax (gas tax) will increase by 10.8 cents, dedicated to specifically outlined programs.

Currently, the gas tax is levied at 18 cents per gallon of gasoline and would increase to 28.8 cents. The elimination of the state sales tax on gasoline would eliminate the state's obligation to fund Proposition 42 expenditures and also eliminate "spillover" revenue (a calculation of the difference between a portion of the state sales tax on all goods and the sales tax on gasoline). Furthermore, this complex revenue swap would also eliminate the two base revenue sources for the Public Transportation Account (PTA): the sales tax on diesel and

Proposition 111 sales tax. The Administration maintains that the revenue swap will result in a net five cents per gallon decrease at the pump.

The programmatic effect of this revenue swap is that it will remove any state obligations to transit and permanently realigns funding for other transportation programs. The new transportation funding allocation for FY 2010-11 is shown below:

- \$2 billion State Highway Account (SHA)
- \$629 million Local Streets and Roads
- \$629 million State Transportation Improvement Program (STIP)
- \$675 million Transportation Debt Service
- \$976 million in savings at the pump

Essentially, this proposal holds non-transit Proposition 42 programs harmless, such as the STIP and Local Streets and Roads programs. The revenues that were previously dedicated to the PTA for transit purposes are being allocated to debt service and a per gallon decrease at the pump.

With respect to the remaining revenues in the PTA, the budget proposal shifts \$254 million to additional debt service retirement in FY 2010-11 and diverts \$72 million in SHA revenue which was previously obligated for PTA expenditures to cover Proposition 116 debt service in the current fiscal year. Total transportation revenues dedicated to debt service would be \$929 million under the Governor's proposal. Moreover, repayment of Proposition 1B bonds would now be covered under the gas tax increase with annual appropriations fluctuating with required bond payments.

Intercity Rail

The Governor's budget proposes to utilize the previously diverted funds that were ordered to be repaid as a result of the lawsuit filed by the California Transit Association (CTA) to fund intercity rail at \$131 million and transportation planning expenditures for the California Department of Transportation (Caltrans) at \$19 million for FY 2010-2011. Intercity rail funding will continue until the PTA becomes insolvent in FY 2011-12. At this point, the Governor's budget states that intercity rail will need to find an alternative funding source.

Funding to Attract Creation of Public-Private Partnerships

The budget proposes the expenditure of \$3.5 billion over the next 30 years (about \$115 million per year) to be used to attract private partners and

investors in the creation of public-private partnership (P3) lease agreements for transportation projects. This funding will be used to compliment the authority granted under SBX2 4 (Chapter 2, Statutes of 2009-10 Second Extraordinary Session) for the creation of unlimited P3 transportation projects until 2017. The proposed budget language specifies that the funding will be used to pay private partners for a portion of costs to construct or maintain new or rehabilitated portions of the state highways system, under terms dictated by SBX2 4. However, the Governor's proposal does not specify a funding source for this expenditure at this point.

High-Speed Rail

The budget proposes that \$581.4 million in Safe, Reliable High-Speed Passenger Train Bond Act (Proposition 1A, 2008) be allocated for the development of the state high-speed rail system. In addition, the budget proposes \$375 million in federal American Recovery and Reinvestment Act (ARRA) funding for the high-speed rail system. However, with multiple states competing for this funding, there is no guarantee that California will officially receive these ARRA funds.

According to the proposed budget, these funds will be used primarily on the Los Angeles-Anaheim, San Francisco-San Jose, and Fresno-Bakersfield segments. The budget also assumes that these segments will have grade separations, electrification, and maintenance and testing facility construction projects beginning in FY 2011-12, using yet-to-be allocated ARRA funding.

Proposition 1B

Overall, the proposed budget estimates that there will be about \$4 billion available for Proposition 1B projects. Of this total amount, \$350 million will be allocated for the Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA). With the passage of AB 1072 (Chapter 271, Statutes of 2009) last year, the same formula used in past years will again be used to distribute the funds allocated this year. However, as with all programs funded pursuant to Proposition 1B, these allocations will be dependent on the state's ability to sell bonds.

Grant Anticipation Revenue Vehicles Bonds to Accelerate Specified Projects

Another budget proposal is the issuance of \$680 million in Grant Anticipation Revenue Vehicles (GARVEE) bonds to accelerate the delivery of the following three State Highway Operation and Protection Program (SHOPP) projects:

- Doyle Drive in San Francisco
- The Santa Monica Freeway (Interstate 10) and the San Gabriel Freeway (Interstate 605) interchange in Los Angeles
- The Long Beach Freeway (Interstate 710) rehabilitation in Los Angeles

It is expected that debt service costs will be paid over the next 12 years, \$185 million of which will be by federal funds.

Impacts on Orange County

The elimination of Proposition 42 funding and its resulting impacts on the PTA and "spillover" will create even greater cost pressures for transit operators. Under current law, Proposition 42 revenue would generate \$315 million and \$897 million in "spillover" for the PTA. Under these provisions, the Orange County Transportation Authority (OCTA) would have expected to receive \$13.9 million from Proposition 42 and \$13.2 million from "spillover" totaling approximately \$27.1 million respectively. This \$27.1 million does not include the revenue loss associated with five-year suspension of base PTA revenue for the State Transit Assistance Program (STA) which, if included, would total an estimated \$45 million loss for FY 2010-11.

STIP highway funding would remain the same under both current law and the proposed tax swap, granting OCTA \$30.6 million for FY 2010-11.

Although the Governor's budget proposes to allocate \$581.4 million in Proposition 1A (bonds), staff is unable to accurately calculate the amount appropriated for the Anaheim to Los Angeles segment until further details are released and contingent on the state's ability sell bonds.

OCTA's apportionment of the PTMISEA funds allocated this year is estimated to be about \$20.6 million. These funds are eligible to be used for transit capital projects and are also subject to the state's ability to sell bonds.

Local Taxpayer, Public Safety, and Transportation Protection Act of 2010

The CTA, in partnership with the League of California Cities, the California Alliance for Jobs, and other public safety, local government, transportation, business, labor, and public transit leaders, announced that the signature gathering effort began on December 23, 2009, for the Local Taxpayer, Public Safety, and Transportation Protection Act of 2010.

This measure aims to prevent further state diversions from local government, transportation, and public transit funds. While the CTA's recent court victory

affirmed that previous state diversions of such funds were unconstitutional, the court decision does not immediately restore funding and prevent future diversions. The state's ongoing budget problems will continue to cause burdens, absent the establishment of stronger protections for these transportation programs, for agencies that are also coping with diminishing local funds. If approved, this measure would restore the funding sources for these services back to October 2009, essentially invalidating any diversions that may be approved during the 2010 legislative session.

In order to qualify the measure for the November 2010 ballot, the initiative's proponents must collect more than 1.1 million signatures to ensure it meets the required 694,354 valid signatures needed to qualify a constitutional amendment for the statewide ballot.

Summary

On January 8, 2010, the Governor released the FY 2010-11 state budget proposal. A summary and analysis of the state budget impacts are provided in this report. Information related to a potential ballot measure is also provided.

Attachment

None.

Prepared by:

Wendy Villa
State Relations Manager
(714) 560-5595

Approved by:

Kristine Murray
Executive Director, Government Relations
(714) 560-5908



January 21, 2010

To: Legislative and Communications Committee

From: Will Kempton, Chief Executive Officer

Subject: Federal Legislative Status Report

Overview

This federal legislative status report provides an overview of activities conducted in the United States Congress prior to its holiday recess. Prior to its break, Congress enacted the fiscal year 2010 transportation appropriations bill and extended the current transportation authorization program until February 18, 2010. The United States House of Representatives also passed a second stimulus bill, Jobs for Main Street Act, and an extension of the alternative fuel tax credit, both of which will be considered by the United States Senate when they return during the week of January 18, 2010.

Recommendation

Receive and file as an information item.

Discussion

On December 16, 2009, the President signed the fiscal year (FY) 2010 transportation appropriations bill. The final bill also included five appropriations measures for other executive departments, and is formally titled the Consolidated Appropriations Act (CAA). The CAA provides FY 2010 obligation authority for \$42.79 billion to the federal highway program and \$10.73 billion to the transit program; both totals represent modest increases over FY 2009 levels. In addition, the conference report provides an appropriation of \$2.5 billion for high-speed and intercity passenger rail and \$600 million for national transportation infrastructure investment to continue the discretionary investment programs initiated under the American Recovery and Reinvestment Act (ARRA) passed last February. The CAA makes \$50 million available for positive train control (PTC) implementation nationwide and earmarks \$487,000 for Metrolink PTC implementation.

Specific earmarks for Orange County Transportation Authority (OCTA) projects total \$2.76 million, detailed as follows with specific member attribution:

- San Diego Freeway (Interstate 5): Widening and Improvements
\$935,000 Representative Calvert
- San Diego Freeway (Interstate 405) Improvements:
\$750,000 Representative Rohrabacher
- Anaheim Regional Transportation Intermodal Center (ARTIC)
\$725,000 Representatives Miller, Sanchez, Royce;
Senators Feinstein and Boxer
- Bristol Street Widening
\$350,000 Representative Sanchez

In addition, as part of the Defense Appropriation Act, the United States (U.S.) Congress enacted a short-term extension of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) until February 18, 2010, at current authorized levels.

The U.S. House of Representatives (House) took action on two items before its holiday recess, which need to be considered by the U.S. Senate (Senate) when they return in January. The first item is a stimulus bill entitled the Jobs for Main Street Act (JMSA). This bill narrowly passed the House late last year with opposition of all Republicans and 38 conservative Democrats. The measure has an uphill battle in the Senate where strong opposition is expected by Senate conservatives.

The JMSA would expend \$154 billion for economic stimulus, including \$36.7 billion in additional funds for highways, transit, and Amtrak. The House proposes to pay for the measure by using unspent funds from the Troubled Asset Relief Program (TARP). The distribution of highway and transit funding under JMSA would be nearly the same as the ARRA, and 10 percent of the transit formula funding would be available for transit operations, consistent with ARRA transit formula funds allocation. There is a provision in JMSA which would accelerate expenditures by requiring that funds be under contract within 90 days of apportionment. This is substantially earlier than ARRA expenditure requirements.

In addition, the JMSA bill would extend SAFETEA-LU authorization through September 30, 2010. It would also provide a short-term fix to the Highway Trust Fund (HTF) solvency issue by crediting the HTF with \$19.5 billion from

the general fund for foregone, past interest payments and allowing accrued interest on future HTF balances to stay within the fund.

The second item for Senate consideration is House action to extend existing tax breaks, including the alternative fuel tax credit for another year, until December 31, 2010. The extension would be retroactive to December 31, 2009, which has the expiration date of the existing credit. The chair of the Senate Finance Committee has promised to act swiftly on this provision upon the Senate's return.

Summary

Congress passed into law a FY 2010 transportation appropriations measure and extended SAFETEA-LU temporarily until February 18, 2010. The House passed a second stimulus bill, Jobs for Main Street Act, and extended the alternative fuel tax credit, sending both measures to the Senate for consideration upon return from the holiday recess. The monthly reports for Potomac Partners DC and Smith, Dawson and Andrews, are included as Attachments A, and B.

Attachments

- A. Monthly Reports of Potomac Partners, DC
- B. Monthly Reports of Smith, Dawson and Andrews

Prepared by:

Richard Bacigalupo
Federal Relations Manager
(714) 560-5901

Approved by:

Kristine Murray
Executive Director, Government Relations
(714) 560-5908

ATTACHMENTS A and B

FOR THE

FEDERAL LEGISLATIVE STATUS REPORT

ARE ON FILE IN

THE CLERK OF THE BOARD'S OFFICE

**Report to Orange County Transportation Authority from
Potomac Partners DC
May 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

1. Transportation Reauthorization & "Goods Movement"

Chairman Oberstar has set a benchmark of crafting a \$450B Transportation bill and passing it in the House before SAFETEA-LU expires on September 30, 2009. With an already packed legislative agenda for the summer it will be a challenge to finalize a bill in the full committee and carve out floor time to debate key policy issues like a potential increase in the federal "gas tax" to pay for the new spending and preserve the Highway Trust Fund (HTF).

The Department of Transportation has already reached out to Congressional leaders and told them about the declining cash balances in the HTF. DOT has further indicated that it will not be able to sustain daily reimbursements of state voucher claims if Congress does not pass the re-authorization before September or increase the cash balance with a transfer from the general fund to the HTF in the amount of \$5-10B before the end of the fiscal year. The danger of an insolvent HTF is a strong impetus for the committee to finish writing the bill, which we expect to be available in draft form in early June. Chairman Oberstar continues to re-iterate his desire to complete the legislation that will guide long-term transportation policy and infrastructure development rather than rely on short term HTF fixes with comparatively small balance transfers from the general fund.

For many Members the most important aspect of the bill is receiving funding for local projects that the Committee has designated as High Priority Projects (HPPs). During the month of May, Members including most Republicans submitted \$136.3B in requests for HPPs. The administration has already signaled its willingness to accept earmarks with the \$410B Omnibus packaged signed into law earlier this year. We are continuing to work with the Southern California delegation to re-iterate their support for the OCTA's regional projects throughout the process with the committee.

Committee leaders like Jim Oberstar, John Mica, Corrine Brown, and Bill Shuster also hope to put more emphasis in this bill on rail and other modes of transportation than in past re-authorizations. Rep. Brown has told us that they are diligently working on a separate rail title that will address the funding needed for goods movement and grade separations in our major rail corridors around the Country, which will be a great benefit for Orange County.

The Senate has not yet set a time table for consideration of their version of the legislation. In past authorizations, the Environment and Public Works (EPW) and the Banking, Housing and Urban Affairs Committees have taken the lead on the transportation policy aspects of the Senate bill. Recently the Democrat leaders of the Senate Commerce Science and Transportation Committee have expressed interest in having a greater role in developing transportation policy in this reauthorization.

Senators Rockefeller and Lautenberg introduced legislation in May declaring a series of goals and objectives for the national surface transportation system and directing the Secretary of Transportation to take steps to achieve those goals. The legislation (S. 1036) would amend chapter 3 of the title 49, United State Code by including these new surface transportation policy and goals. The Senate Commerce Science and Transportation Committee's involvement could foreshadow a more robust rail title in the Senate re-authorization bill as well, since the Commerce Committee has jurisdiction over rail issues.

Potomac Partners DC (PPDC) is advancing the concept of a dedicated funding stream for a **Good's Movement Program** in the re-authorization. We believe that a likely place in the legislation to describe the implementation of that program will be in both the "rail title" and in the "Projects of National Significance." One strategy in advancing this Good's Movement initiative is building a coalition of ports in key regions to help advocate for a dedicated "walled-off" funding source with both local Congressional Members and key leaders on the T&I committee. To this end, PPDC in May has facilitated meetings with OCTA Board Members and the Port Director of Miami and another meeting with Port Director of Fort Lauderdale to discuss the program and the most important needs that it should address. Additional meetings in Florida that we hope to facilitate in the near term are with the Port of Tampa, Port of Everglades, Port Canaveral, and Jacksonville Port Authority. Other meetings may include Ports of Houston, New Orleans, Boston, Oakland, Seattle, and Norfolk. Another important coalition member may also include the Chicago Airport System.

2. Transportation Stimulus Discretionary Grants

Competitive funds of \$1.5 billion are now available from the U.S. Department of Transportation under the Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grants Program. A broad array of transportation projects will be eligible. Applications are due Sept. 15. The DOT website describing the discretionary program is www.dot.gov/recovery.

3. FY 10 Appropriations Update

Prior to the break the **Fiscal Year 2009 War Supplemental Appropriations Bill (H.R. 2346)** passed by a vote of 368-60 in the House on May 14th. It passed the Senate on May 21st 86-3. Democratic leaders postponed a House-Senate conference meeting they hoped would produce a compromise bill during the first week of June after it appeared they might not have enough votes to pass the measure in the House. The “supplemental” provides funding for the wars in Iraq and Afghanistan and also includes additional funds for combating pandemic flu and funds for the IMF. Floor consideration of the Conference report will still likely take place in the next couple of weeks despite the slowed progress with the conference committee meetings.

We have been working with House Appropriators to include language in the conference report to allow transit agencies to use some of the formula transit stimulus funds for desperately needed operating costs.

Once the Supplemental is signed into law, the House plans to take up all 12 of the Appropriations bills before the August recess, which will place pressure on the Senate to follow suit. Many Appropriators are hopeful this timely action in the House will preempt the need for a Continuing Resolution, which has become commonplace in past appropriations cycles. Senate Majority Leader Harry Reid said on June 1st that, with GOP cooperation, he would like to see the Senate clear some appropriations bills before July 4th.

Each Appropriations sub-committee has already been holding hearings on funding priorities and members’ requests. We have been told to expect a mark up of the Transportation Housing and Urban Development (THUD) bill in June by the subcommittee. A full committee markup will likely follow in early July.

4. Cap and Trade Legislation: H.R. 2454, The American Clean Energy and Security Act (ACESA)

The Waxman-Markey Climate Change/Cap & Trade legislation was marked-up and passed out of the House Energy & Commerce Committee by a vote of 33-25 before the Memorial Day recess, but its future remains uncertain with numerous Democrats to include a large number of Conservative Blue Dog Democrats like freshman Rep. Bobby Bright (D-AL) vowing to oppose it on the floor. The committee action came after a marathon committee session that spent 37 hours over four days methodically rejecting 56 separate Republican efforts to learn the full cost of the bill, and to prevent scams in its trading system. The bill does not contain any additional funding assistance for transit, which has a proven ability to provide energy savings and reduce emissions. The most important issue for many GOP members remain the skyrocketing cost that American people will incur if the legislation becomes law.

PPDC has met with a number of key House Commerce committee Members like Rep. Lee Terry (R-NB) to discuss additional changes to the bill that would include a significant transit investment. Other committees may seek sequential jurisdiction over the bill, but will have a very short window to schedule hearings and markups. We have also met with Senators Richard Shelby and Jeff Sessions from Alabama who together will be working to ensure any future Senate version has significant differences to the current House bill.

4. High Speed Rail (HSR)

In April, President Obama released a strategic plan outlining his vision for high-speed rail. We have been working with key leaders on the Transportation and Appropriations Committees to help provide Congressional input in the implementation of that strategic plan. The plan identifies \$13 billion in federal funds -- \$8 billion in the Recovery Act and \$5 billion requested in the President's budget -- to jump-start a potential world-class passenger rail system and sets the direction of transportation policy for the future. Detailed guidance for up to the first \$8 billion in federal grant applications will be announced by the end of June and the first round of grants are expected to be awarded as soon as late summer 2009.

On June 4th Secretary LaHood testified before the THUD Appropriations subcommittee about department's efforts on spending stimulus funds, future budget priorities, and the discretionary HSR grants. With regard to the HSR grants, the Secretary would encourage the States to guide HSR proposals so that are integrated with the current transportation infrastructure and can help foster "livable communities." He also specifically mentioned California as an important proving ground for HSR in America.

5. Other Activities on Behalf of OCTA

- In the month of May PPDC facilitated a visit for Congressman Bill Shuster, Ranking Member of the Railroad subcommittee for the Transportation and Infrastructure Committee to Orange County. Rep. Shuster will be an important advocate for the Good's Movement program in the re-authorization. Congressman Shuster indicated that his trip to the County was very informative and he has a strong desire to join with his colleague Rep. Corrine Brown to include a comprehensive Good's Movement program in the re-authorization.
- In May PPDC attended the Coalition for America's Gateway and Trade Corridors briefing with Joel Szabat. Deputy Assistant Secretary for Transportation Policy. The focus of Mr. Szabat's talk was on the DOT's opportunity to demonstrate to Congress how efficiently it can manage the

TIGER Discretionary Grants Program. Mr. Szabat hopes that this program could become a model for future programs to improve multi-modal transportation systems around the Country.

- **H.R. 2200 - Transportation Security Administration Authorization Act**
– This legislation would authorize \$15.7 billion in funding for FY10-FY11 for air and surface transportation security. It triples surface transportation security spending over the FY09 level. A vote was scheduled in the House before the Memorial Day recess but was subsequently postponed till after the recess. On June 4th the bill passed the House by a vote of 397-25.

**Report to Orange County Transportation Authority from
Potomac Partners DC
June 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

1. Surface Transportation Authorization Act (STAA) of 2009 Update

On June 22nd Chairman Jim Oberstar unveiled his draft bill, the Surface Transportation Authorization Act (STAA) of 2009. Chairman Oberstar and Ranking Member John Mica together are leading a concerted, bi-partisan effort to push this bill to the floor of the House despite the Administration's desire to hold off on the bill and instead enact an 18 month extension of the previous SAFETEA-LU. Potomac Partners DC is continuing to study the 775-page draft bill and look for opportunities to suggest improvements in the legislative language for OCTA and a "Goods Movement" program.

In general, the STAA is an ambitious six-year surface transportation authorization bill that hopes to transform DOT's ability to deliver projects that improve our national transportation infrastructure. The STAA draft bill currently does not contain any authorization funding levels, budget authority, obligation ceilings, or apportionment formulas. The bill, a "work in progress," also contains no earmarked project lists. A more complete version of this bill to include a list of Members' High Priority Projects (HPPs) is expected to be marked up by the full committee in July, but that is contingent on a financing and revenue deal being reached with the Ways and Means Committee, the Democratic leadership, and the Obama Administration.

The near term challenge for the T&I committee is how to maintain a solvent Highway Trust Fund (HTF), while the bill works its way through the Congressional process. In the past, Congress has approved a transfer for funds from the General Fund to the HTF to stave off any potential shortfalls. The Administration, however, is now contemplating offsetting this round of aid to the HTF, and Chairman Oberstar does not want to introduce a stop-gap measure that could slow the progress of STAA until it is absolutely necessary.

The overall financing deal that Oberstar and Mica hope to finalize soon could include a mix of new pilot programs for Vehicles Miles Traveled (VMT) and an increase in the federal gas tax. CBO has estimated that will require \$140 billion in new revenues above existing gasoline tax baseline funding. The Ways and Means Committee, however, has shown little inclination to raise that kind of money at this point. Chairman DeFazio has suggested other alternatives for raising the needed revenues such as indexing the gas tax for inflation after two years, which could be used to back a bond issue raising \$50 billion to \$60 billion,

including \$13 billion available upfront in FY10. Another proposal would raise \$190 billion through a 0.02 percent tax on crude oil futures and a 0.5 percent tax on crude oil options transactions.

June 25th STAA Markup

On June 25, the House Highways and Transit Subcommittee approved, by voice vote and without amendment, the draft bill that Oberstar had circulated three days prior. The markup session was mostly ceremonial, as Democrats had agreed not to offer any amendments during the subcommittee markup and Republicans had agreed to offer a few amendments, but then withdraw them without a vote in the hopes that the chairmen and ranking minority members would continue to work on those issues before the bill is marked up in full committee. Oberstar did use the opportunity to make a passionate plea for his colleagues to continue working on the legislation and not be deterred by the Administration's fear that they are moving too fast. Oberstar and others at the markup also pointed out this STAA is an important economic "stimulus" bill that is needed now more than ever with increasing unemployment. With some key administration officials and Democrat Members of Congress contemplating a *second stimulus bill*, the likelihood of STAA becoming that vehicle is possible.

The following amendments were offered and then withdrawn during the subcommittee markup session on June 25th:

- Moran (R-KS) amendment allowing states to use not less than five percent of their Critical Asset Investment formula funds on off-system bridges.
- Gary Miller (R-CA) amendment striking the requirement in section 1508 of the bill that metropolitan planning take into account land use patterns, adequate housing supply, and greenhouse gas emission reductions.
- Gary Miller (R-CA) amendment making the existing Surface Transportation Project Delivery Pilot Program permanent and ensuring California's continued participation therein.
- Brown (R-SC) requiring DOT to consider emergency evacuation time, Interstate designation, and Interstate segment completion as factors when evaluating Projects of National Significance.
- Capito (D-WV) amendment allowing West Virginia a truck weight exemption for trucks up to 126,000 pounds on a specific 11-mile stretch of Interstate 77.
- Mario Diaz-Balart (R-FL) amendment striking section 1119(a) of the bill which repeals 23 U.S.C. 126 and allowing continued transferability of bridge apportionments.
- Dent (R-PA) amendment declaring vehicles powered by hydrogen blend fuel cells to be "clean fuel vehicles".
- Mack (R-FL) amendment repealing Davis-Bacon Act applicability to the federal-aid highway and public transportation programs.

- Mario Diaz-Balart (R-FL) amendment expressing the sense of Congress that the final bill should have a 92 percent rate of return for highway donor states.
- Fallin (R-OK) amendment raising the threshold for a project having to file a financial plan from \$500 million to \$1 billion.
- Fallin (R-OK) amendment exempting trucks carrying certain agricultural shipments from federal hours of service requirements.
- Schock (R-IL) amendment requiring the Secretary take into account equitable geographic distribution and rural/urban balance when distributing Projects of National Significance funds.

Additional amendments are expected to be offered at the full committee markup. Chairman Oberstar is hard at work galvanizing House Leadership support to move forward with the bill. At this time, however, it appears that the Senate is acquiescing to the Administration's desire for that 18 month extension and not pressing forward with its own bill.

2. FY 10 Appropriations Update

The House and Senate finally passed the **Conference Report on H.R. 2346 - Supplemental Appropriations Act, 2009** (on June 16th and June 18th respectively) clearing the way for Congress to continue with the FY 2010 Appropriation process. The President signed the Supplemental into law on June 24th. Included in the Supplemental Appropriations Act was the provision that allows up to ten percent of funds apportioned in the Recovery Act for the urbanized (Section 5307) and non-urbanized (Section 5311) formula programs to be used for operating assistance. As FTA Administrator, Peter Rogoff, mentioned in his June 24th letter, "this provision should provide some much needed relief to transit agencies that have been required to layoff employees and/ or curtail service during this period of economic uncertainty." Rogoff also point out that "while this new law alters the eligible purposes of ARRA funds, it does not alter in any way the requirement that 50 percent of ARRA transit formula funds be obligated by September 1st."

The *House appropriations schedule* for the THUD bill in July is as follows:

July 15: SUB: THUD
FLOOR: Energy and Water

July 21: FULL: THUD

July 28: FLOOR: THUD

July 29: FLOOR: THUD

July 30: FLOOR: THUD

3. Cap and Trade Legislation: H.R. 2454, The American Clean Energy and Security Act (ACESA)

On June 26th the House passed a contentious cap and trade bill. The American Clean Energy and Security Act (ACESA), HR 2454, passed 219-212 with 44 Democrats voting NO and 8 Republicans voting YES. The bill's future is uncertain in the Senate, and many Senators believe it is unlikely to be brought up in the same form given the difficulty they had in passing it in the House. Senator Boxer has publicly stated that she would like to schedule a hearing in July with a possible mark-up before the August recess. With a stronger Democrat Majority in the Senate it is possible the bill could be fast-tracked. Republicans, however, are making a strong case that this system will increase energy bills for the average American and will put some people involved in big industries out of work. Centrist Democrats in the Senate are also working to slow the progress of the bill.

The House-passed ACESA unfortunately does not invest any of the allowance revenues created under a cap-and-trade program in public transportation and other transportation infrastructure that reduces emissions. This major short coming of the bill could potentially be addressed in a Senate compromise bill, if the Senate Majority Leader decides to schedule floor time.

4. Other Activities on Behalf of OCTA

- In June we investigated the current disposition of the request for right of way acquisitions by OCTA at Naval Weapons Station Seal Beach. We are following up with our personal contacts at Naval Facilities Command Southwest Region and are standing by to provide additional advocacy support with the Department of the Navy, when directed by OCTA.
- Following Ranking Member Shuster's visit to Orange County in May, he expressed great interest in the "goods movement" issue and asked Potomac Partners DC if we could facilitate additional tours of key projects in the County and a tour of the Port of Long Beach and LA. Rep. Shuster plans to be key proponent of the "goods movement" program in the next STAA that recognizes the impact that it has on the local communities and the shared transportation infrastructure.

**Report to Orange County Transportation Authority from
Potomac Partners DC
July 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

1. Surface Transportation Authorization Act (STAA) of 2009 Update

In June Chairman Jim Oberstar introduced his Surface Transportation Authorization Act in draft form, and the Highways subcommittee proceeded with a mark up of that bill on June 25th. While Oberstar anticipated a full committee markup of that bill in July, he was not able to move the House Ways and Means Committee to finalize its proposals for funding the bill. Oberstar was also thwarted by the Senate, which was inclined to support the Administration's request for an 18 month extension of the SAFETEA LU transportation bill.

In July two versions of the Senate 18 month extension were introduced: the first by Senator Boxer for the EPW Committees, and the second by Senator Baucus for the Finance Committee. Depending on the House action in September many Senate staffers believe the Baucus bill could receive floor time or be merged with the Boxer bill. If such an extension does become necessary, Chairman Oberstar has frequently stated that he would endeavor to keep it as short as possible and would continue to push his multi-year bill. The Obama Administration, on the other hand, has indicated that it has no appetite for a potential tax increase on motor fuels or other potential funding mechanisms for Oberstar's transportation bill, while they are in the midst of a major legislative push for cap-and-trade and health care reform that may include additional tax increases.

As a consequence of the current legislative impasse with Oberstar's multi-year authorization bill and the repeated warnings of the Federal Highway Administration that without additional funds for the Highway Trust Fund (HTF), they would not be able to guarantee payments to states through the end of the fiscal year, Congress was forced to act. With time running out before the August recess, the House moved to shore up the HTF with a \$7B infusion from the General fund. The House passed H.R. 3357 on July 29th by a vote of 363-68.

Prior to passage of H.R. 3357 Chairman Oberstar addressed the issue of the faltering economy on the House floor and he pointed out that in the first time since the establishment of the HTF the number of vehicles miles traveled on the nation's highway interstate system decreased thus reducing the amount of revenue realized through the federal motor fuels tax. He went on to say that it is his strong belief that improving the national infrastructure will make passenger

travel and goods movement more efficient thus making our economy more efficient and helping mollify this deepening recession.

Passage of H.R. 3357 was considered a victory for House Transportation and Infrastructure Committee leaders who do not want to extend SAFETEA LU beyond this fiscal year when the bill expires in order to keep pressure on lawmakers to act on a multi-year surface transportation reauthorization bill in September. The Senate on July 30th followed the lead of the House and approved the short term fix to the federal highway program and did not extend current law beyond Sept 30th.

Senator Inhofe (R-OK), the Ranking Member of the EPW committee, and one of the more fiscally conservative Senators voted against the Vitter amendment to H.R. 3357 that would have diverted stimulus money to the HTF instead of a general fund transfer. In defending his vote Senator Inhofe said that infrastructure spending is an important exception to his fiscal policy. With the bill now cleared by Congress, the President is expected to sign it into law. Other sections of H.R. 3357 besides the HTF fix included the following:

- Sec. 2 Amends the FY09 Act to strike the bill's \$22M repayable advanced to the Unemployment Trust Fund and replaced it with "such sums as necessary" to prevent the Trust Fund from running out of money.
- Sec. 3 Amends the FY09 Appropriations Act to increase the FHA mortgage insurance program loan limit from \$315B-\$400B.
- Sec. 4 Amends the FY09 Appropriations Act to increase the Government National Mortgage Association- Guarantees of Mortgage Back Securities Loan Guarantee Program loan limit from \$300B-\$400B.

Chairman Oberstar is currently working with the House Ways and Means Committee to find the additional funding mechanisms to pay for the level of funding Congressional leaders deem necessary. On July 23rd, the Ways and Means held a hearing to discuss the long-term financing options for the highway trust fund. At the hearing Chairman James Oberstar again spoke against the administration's plan to extend the current transportation bill and put off a new transportation authorization act.

There was a general consensus with both Democrat and Republican Members at the hearing that a new bill was needed and that this multi-year reauthorization would act as a second stimulus and create new stable jobs while investing back into a deteriorating highway system. Chairman Oberstar also called for \$3 billion cash infusion for the HTF to prevent a September shortfall before the new transportation reauthorization can be passed. (*Note:* Based on the Senate's insistence of an additional cushion in the HTF, that number was later increased to \$7B in H.R. 3357. It is believed that the \$7B number will keep

the HTF in the black through the rest of 2009. An extension of contract authority, however, will still be necessary if Chairman Oberstar fails to muscle through Congress his multi-year authorization in September.)

Also at the hearing Representative Mica pointed out that public/private partnerships are going to be critical in funding the long term projects of the STAA of 2009, which would be a great benefit to the OCTA and the innovative programs like the SR-91. Like many he believes the current gas tax is no longer raising sufficient revenues. Mr. Mica also continued to support Chairman Oberstar's plan to move forward with the multi-year authorization.

Following Mr. Mica's testimony, Congressmen Peter DeFazio reiterated the need of the Congress to create new revenue streams and he proposed a \$1 tax/barrel of crude oil, a tax that would generate more than \$24 billion over 6 years. Other suggestions that he and Oberstar later addressed included a transfer of \$27.5 billion from the general fund to the HTF, the issuance of \$60 billion of ten-year Treasury bonds to be deposited immediately into the HTF and be repaid beginning in FY2012.

After the opening statements, Oberstar himself also referenced the recent Financing Commission report regarding other possible users' fees like increasing the Heavy Vehicle Use Tax, and imposing national vehicle registrations fees. Oberstar also proposed establishing a fee on intermodal cargo containers and goods movement to pay for infrastructure improvements.

Along with the ranking members of the Transportation and Infrastructure Committee, other Members testified before the Ways and Means Committee to introduce their proposals for long-term financing options for the highway trust fund. A summary of those proposals include the following:

<u>Bill #</u>	<u>Bill Name</u>	<u>Bill Description</u>
H.R. 947	ON TIME Act (Rep. Calvert, Rep. Jackson)	The ON TIME Act is designed to target funds to key transportation improvement projects in areas surrounding points of entry across the United States. The On TIME Act has five major components: (1) directs the D.O.T. to designate key trade transportation corridors, referred to as National Trade Gateway Corridors. (2) creates a capped, ad valorem fee on all goods entering and exiting through official ports of entry. The ad valorem fee shall be equal to .075% of value of shipment, with a cap maximum of \$500, which will be paid equally on both imports and exports. (3) appropriation of all funds collected by the newly established fee to transportation improvement projects within the National Trade Gateway Corridor in which it was collected. (4) only projects located within a National Trade Gateway Corridor are defined as eligible to receive funding. These projects must also be eligible for assistance under Chapter 1 of Title 23 of the U.S. Code. (5) requires D.O.T to establish a comprehensive project selection process each state must follow when determining which projects receive funding.

H.R. 2707	National Freight Mobility Infrastructure Act (Rep. Smith)	Establishes a program to improve freight mobility and the National Freight Mobility Infrastructure Fund. The Secretary shall establish a program to provide grants to States and designated entities for projects to improve the efficiency of freight mobility in areas that are eligible under the criteria in section 104 of the bill. In carrying out the program, the Secretary shall seek to minimize administrative costs, including overhead, enforcement, and auditing costs. Projects financed under this bill will be done so with Full Funding Grant Agreements. There is established in the Treasury a separate account which shall be known as the 'National Freight Mobility Infrastructure Fund'. The account shall consist of amounts transferred to the Fund under section 4286 of the Internal Revenue Code of 1986. Not more than 4 percent of the amounts made available to the Secretary under this section for a fiscal year may be used for administrative expenses of the Secretary in carrying out this Act. The bill also imposes upon taxable ground transportation of property within the United States a tax equal to 1 percent of the fair market value of such transportation.
H.R. 1806	Freight Rail Infrastructure Capacity Expansion Act of 2009 (Rep. Meek)	Amends the Internal Revenue Code to allow: (1) a tax credit for 25% of the cost of new qualified freight rail infrastructure property and qualified locomotive property; and (2) a taxpayer election to expense the cost of qualified freight rail infrastructure property (i.e., deduct all costs in the current taxable year). Terminates such credit and expensing election after 2015. Requires compliance with federal wage rate requirements under the Davis-Bacon Act as a condition of eligibility for the tax credit and expensing allowance provided by this Act.

In addition to these proposals Congressmen Brady from Texas offered up additional policy ideas for the authorization bill. For instance, he proposes the establishment of a National Mobility Summit to discuss current funding problems and determine the best solutions for closing those funding gaps in the HTF. Additionally, he would like to further consider how the bill could accelerate highway construction projects and reduce regulatory burdens.

2. FY 10 Appropriations Update

Before adjournment the House managed to pass all 12 of the FY10 Appropriations bills (a rare feat in recent history). The main reason for the swift floor passage of the 12 House bills was the Democrat leadership's use of a closed rule on the floor, which limited the number of amendments the minority party could offer and limited time for debate. The Senate is working through its remaining nine appropriations bills with committee action complete for all bills except the Defense Appropriations bill, which the committee plans to take up quickly in September. With Senate floor passage of these bills also expected in September, the next major step in the appropriation process will be the House and Senate conference committees getting together to work out the differences in each chambers' bills. If this pace continues, we expect the appropriations process to be concluded in September and the bills to be signed into law before the current fiscal year ends forgoing any additional supplemental appropriations.

It is our strategy for the OCTA to engage House and Senate Appropriations Committee and potential conferees to protect current funding levels and look for opportunities to increase funding.

FY 10 THUD Appropriations

On July 23rd the House passed the THUD appropriations bill for fiscal year 2010 by a mostly party-line vote of 256-168. H.R. 3288 contains a total of \$68.8 billion in discretionary spending, an increase of \$13 billion or 25 percent above the non-emergency discretionary spending level for FY 2009. The Senate Appropriations Committee marked up its bill on July 29th, but floor time will likely wait until September. The Senate Committee hopes to file its report on August 5th making additional details available. A major difference in the Senate bill is that it contains no funding for the National Infrastructure Bank. The House version contains a provision that if a Bank was authorized by October 1, 2010 \$2B of the \$4B appropriated for High Speed Rail would be transferred to the new bank. The Senate also provides only \$1.2B for High Speed Rail. The additional money in the Senate bill is instead diverted to \$900M for highway formula, and extra \$500M for the TIFIA loan program, and \$480M for transit new starts.

Currently in the House bill, the OCTA earmarks are as follows:

- **ARTIC:** \$750,000; Sanchez, Royce, Miller
- **San Diego Freeway (I-5 widening and improvements):** \$750,000; Calvert
- **I-405 Widening and Improvements:** \$750,000; Rohrabacher
- **Bristol Street Widening:** \$350,000; Sanchez

Currently in the Senate version only \$500,000 is provided for Metrolink's Positive Train Control.

3. Cap and Trade Legislation: H.R. 2454, The American Clean Energy and Security Act (ACESA)

Cap and Trade Legislation is still being considered by the Senate after the House of Representatives passed H.R. 2454 on June 26th. Senator Boxer held a hearing on July 30th focusing on climate change and national security. Throughout the hearing the Senator Boxer stressed the importance of building a new American clean energy economy. The Ranking Senator Inhofe offered a skeptical view of the efficacy of H.R. 2454 in building that clean energy economy and pointed out that Waxman-Markey won't achieve the main goal its supporters routinely trumpet. He added that in the EPA's own analysis of Waxman-Markey,

they found that cap-and-trade would not “substantially change consumer behavior in their vehicle miles traveled or vehicle purchases at the prices at which low GHG emitting automotive technologies can be produced.” HE also pointed out that Waxman-Markey creates little incentive for the introduction of low-GHG automotive technology.

A markup of a Senate version of Cap and Trade could be possible this fall and remains a legislative priority for Congressional Democrats and the Administration. A potential Senate version of Cap and Trade would be the prime target for including legislative language that provides for an investment of the potential allowance revenues created under a cap-and-trade program in public transportation and other transportation infrastructure that reduces emissions.

4. Positive Train Control Funding

The Rail Safety Improvement Act of 2008 (RSIA) (signed by the President on October 16, 2008) mandates the widespread implementation of “interoperable” positive train control systems for Class I freight and passenger rail carriers. It also authorizes \$250 million in “Railroad Safety Technology Grants” (\$50 million per year) to help operators implement the technology. The grants require a 20% local match, and priority will be given to projects that advance PTC technology and benefit both freight and passenger rail. So far a small fraction of that authorization has been appropriated for PCT.

As mentioned above, in the Senate FY 10 THUD Appropriations Bill, Senators Feinstein and Boxer earmarked \$500,000 for Metrolink Positive Train Control in the FRA Research and Development account. PPDC’s strategy for increasing that funding is to work with House Appropriators and help them communicate to conferees the need for additional appropriations funding that is much closer to the authorized amount in the Conference THUD appropriation bill. PPDC has already had positive discussions with Ranking Member Lewis’ office regarding this subject.

5. Other Activities on Behalf of OCTA

- In July Potomac Partners DC PPDC coordinated a follow-up trip by Rep. Bill Shuster, Ranking Member of the Railroad’s subcommittee for the House T&I committee, to the Ports of LA and Long Beach. Rep. Shuster is a strong advocate for transportation infrastructure and is now engaged in addressing the impacts of goods movement in key transportation corridors in Southern California. Potomac Partners DC is working to incorporate a new proposal for the Transportation bill that would recognize the negative impacts of congestion and air pollution as result of the *goods movements* that are borne mostly by the communities in close proximity to the ports and address those

impacts with a dedicated federal funding stream for those key gateway corridors.

- On July 20th, Potomac Partners DC participated in a Mobility 21 meeting in DC to discuss the agenda for the group's proposed Hill meetings and the current outlook for Transportation reauthorization. Other attendees of the meeting included SANBAG, AAA, LA Chamber, METRO, RCTC, and SCAG. Based on the House and Senate disagreement on a multi-year bill versus an extension of current law it was determined by the Mobility 21 group that the agenda items for any upcoming Hill meetings should include re-iterating the region's support for Positive Train Control funding, High Speed Rail in Southern California, protecting CMAQ for Southern California, ARRA projects' progress in the region, and linking transit funding to climate change legislation. Potomac Partners DC also suggested they communicate their support for an extension of the alternative fuel tax credit that will expire at the end of 2009.

**Report to Orange County Transportation Authority from
Potomac Partners DC
August 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

The House adjourned on July 31st and the Senate one week later for the August recess. Both Chambers are scheduled to reconvene on September 8th. During this recess period, Members returned to their districts to interact with constituents and primarily discuss health care reform in a variety of town hall forums, while Congressional staff focused on preparing for Congress's September return.

At the start of the session, President Obama plans to address a joint session of Congress on September 9th to lay out specifics of his proposed healthcare overhaul. With Health Care and Cap and Trade becoming politically vexing for some Democrats, it is likely these issues will not receive floor time in the Senate right away in September and instead shift Congress's focus on other legislative items like completing the FY 10 appropriations and the extension of SAFETEA LU. To date none of the appropriations bills have been reconciled in a House-Senate conference, though Senate Appropriations subcommittees have been working during the recess to set up a conference schedule for mid-September. During August PPDC met with Senate Appropriations staff who indicated that they will likely proceed with the Transportation Housing and Urban Development appropriations bill on the Senate floor the second week of September and with the remaining bills quickly thereafter.

With the passing of Senator Edward Kennedy there will also be a shake up of committee assignments in the Senate. Kennedy's chairmanship of the Health Education, Labor and Pensions (HELP) committee will likely be taken up by either Senator Chris Dodd (CT) or Senator Tom Harkin (IA). If Senator Dodd assumes the chairmanship of HELP, this would open up the Chairmanship of the Banking, Housing, and Urban Affairs to Sen. Tim Johnson (SD) or Sen. Jack Reed (RI). The chairmanship roster should be sorted out in September.

Surface Transportation Authorization Act (STAA) of 2009 Update

Despite Chairman Oberstar's efforts to drive legislative action on a multi-year authorization bill, STAA of 2009, the House Ways and Means Committee has indicated it has no time in September to develop a comprehensive plan to finance a multi-year transportation authorization bill. The

Ways and Means committee has also echoed the Administration's concern over a possible federal gas tax increase, which could force President Obama to go back on his promise not to raise taxes on the middle class. There is also a concern that any additional spending on top of the any proposed health care overhaul, the FY09 ARRA legislation (stimulus) and the annual appropriations bills would be politically difficult and also put in jeopardy the bi-partisan support the transportation authorization process currently enjoys. In August for example, the Administration acknowledged a \$1.5 trillion deficit this year, with a 10 year projected deficit of nearly \$10 trillion highlighting the recent stimulus spending in a negative way.

As a result of the current legislative financing roadblocks on a multi-year authorization, T&I Committee will soon begin work on an extension bill of the current SAFETEA LU. Senior T&I staff have indicated that Chairman Oberstar will not be calling for an 18-month extension in order to maintain leverage on the Senate to continue working toward his multi-year bill by the end of the year. The House T& I Committee also plans on having a potential mark-up of a draft multi-year authorization bill to help perfect some of the policy aspects of the current bill, but not report out a final bill until the revenue piece is added by the House Ways and Means Committee. This draft bill will also not include any member designated projects, funding amounts, or funding formulas at this time.

**Report to Orange County Transportation Authority from
Potomac Partners DC
September 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

After the August recess, Congress returned to Washington D.C. on September 8th to tackle the pending health care legislation and to finish the Appropriations bills for the Fiscal Year 2010, which began on October 1st. As a consequence of ongoing negotiations to resolve the differences in the House and Senate Appropriations bills, Congress was forced to enact a Continuing Resolution (CR) to keep the Federal Government operating beyond October 1st by funding it at the FY 09 level. That CR also granted new contract authority to be apportioned from the Highway Trust Fund for 30 days. It was passed by the House and Senate on the last possible day in September.

For October the important federal legislative interest items for the OCTA include the following:

- Enacting the Transportation Housing and Urban Development (THUD) FY 2010 Appropriations Bill
- Passing another SAFETEA-LU (Highway Reauthorization Bill) extension that will include an extension of contract authority and restoring funding for the \$8.7B recession that has taken effect on October 1st.
- Extending the Alternative Fuel Tax Credit that is set to expire at the end of 2009.

Surface Transportation Authorization Act (STAA) of 2009 Update

Despite the vigorous efforts of Chairman Oberstar and his Transportation and Infrastructure (T&I) Committee staff, they were not able to persuade the Ways and Means Committee to make progress on the financing mechanism for his multi-year authorization bill. One of the major obstacles remains a lack of political will in Congress to increase the federal gas tax or provide another method of increasing revenue in order to maintain a solvent Highway Trust Fund (HTF). Chairman Oberstar had planned on scheduling a full committee mark up of his bill, but instead was forced to shift his focus on a short term extension of the current SAFETEA-LU authorization set to expire on October 1st. Chairman Oberstar has yet to schedule any markups for October. As mentioned earlier, a stop gap measure that allowed for 30 days of contract authority was included on the Appropriations CR. Congress will need to enact the next extension by October 31st. The future of Oberstar's Surface Transportation Authorization Act (STAA) of 2009 remains uncertain as the near term necessity of extending

current contract authority again continues to be debated by both chambers. The Senate and the House continue to be at odds over the length of the extension. The Senate still seems intent on a long term (18 month) extension that pushes the process into the next Congress. Mr. Oberstar believes strongly that finishing the multi-year authorization should be a priority this year to stem the rise in unemployment and get people back to work rebuilding America's infrastructure.

SAFETEA-LU Extension and Repeal of the Rescission

On September 23rd the House passed a three month extension (H.R. 3617) of SAFETEA-LU. This House extension did not include the repeal of the \$8.7B recession that took effect at the start of the new fiscal year. The extension bill was considered under the expedited "suspension of the rules" procedure, which requires a two-thirds margin for passage. Consideration of the bill had been delayed due to objections by the Republican leadership. Up to this point there had been strong bi-partisan support in the House for Chairman Oberstar's plan to complete his multi-year authorization and not capitulate to the Senate and Administration's desire to delay a much needed infrastructure investment for another 18 months. After initially pulling the bill from the schedule, Chairman Oberstar insisted that it be brought to the floor despite the possibility that it may lose Republican support. On the floor, T&I ranking minority member John Mica (R-FL) made clear that the leadership of his party had directed him to oppose passing the bill under suspension of the rules because that procedure prevents any amendments from being offered to the bill. Mica said that his leadership wanted the bill to go through the Rules Committee and be considered under majority vote "regular order" because under that scenario, Republicans would get to offer one germane amendment at minimum (in the form of a motion to recommit the bill with amendatory instructions). Mica indicated that if the bill were brought to the floor under regular order, he would support it. However, all Democrats in attendance voted for the bill, and Republicans were split with 86 yeas and 85 nays.

After the House extension bill passed, Senator Leaders on the EPW committee began bi-partisan and bi-cameral negotiations on the Senate's extension bill. Senator Boxer hoped to replace the House language with a Senate Amendment in the nature of a substitute and send it back to the House for final Congressional approval before it is sent the President. During this period, Potomac Partners DC weighed in both with key members in the House and Senate (Authorizers and Appropriators) and the respective committee staff on the importance of repealing the rescission for region along with a number of other OCTA priorities. Senator Boxer and Senator Inhofe both had agreed to include a repeal of the \$8.7B rescission in their extension. The Senate leaders also seemed willing to shorten the extension to 3 months in order to appease Chairman Oberstar. On September 30th, however, the Senate adjourned for the evening without taking action on the surface transportation authorization and as a

result the scheduled \$8.7 billion rescission **will** take place on October 1st. Those funds, however, could be restored in the next extension. PPDC is also continuing to work with the House Appropriations committee to also possibly restore the funding on the THUD Appropriations bill or potentially an "Omnibus" Appropriations bill.

The language of the next extension has not been finalized and negotiations with the House are ongoing, but likely to be concluded before mid-October. Chairman Oberstar issued a statement on September 30th urging the Senate to act on the last day of the fiscal year, to clear this measure for the President and provide continuity of funding for surface transportation infrastructure projects and highway safety programs across the country. He also expressed concern that the proposed Senate Amendment in the nature of a substitute to H.R. 3617 may violate the pay-as-you-go (PAYGO) requirements of clause 10 of Rule XXI of the Rules of the House because the amendment does not provide for accompanying spending reductions or revenue increases to offset the increased spending in the amendment with regard to the repeal of the \$8.7B rescission. Senator Boxer in response to Chairman Oberstar hopes to find a solution to make the Senate extension "budget neutral." One proposal that had some bi-partisan support was using TARP funding to offset the additional money. Another option that has been proposed is making use of unobligated balances of funds made available by the American Recovery and Reinvestment Act of 2009 (Stimulus) to offset the repeal of the rescission.

FY 10 Appropriations Update

On September 23rd House passed a Continuing Resolution (CR), which was attached the Legislation Branch Appropriations bill (conference report to H.R. 2918) which would keep the federal government (including DOT) funded for 30 days or until the remaining FY 10 Appropriations bill are passed. As mentioned earlier, in that CR conference report, the House included additional language that would also extend SAFETEA- LU contract authority from the HTF for 30 days. Rep. Lewis and LaTourette's amendment to repeal that rescission on the CR failed in conference committee. However, it is also important to note there was a drafting error in the CR which miss-numbered the sections of that conference report effectively making that extension of contract authority for those highway funds non-existent. The House passed a concurrent resolution after the mistake was noticed correcting the section numbers. The CR and the concurrent resolution correcting the drafting error were both passed by the Senate on September 30th.

The House and Senate are now planning on finishing the remaining Appropriations Bills that need to be reconciled in Conference. They hope to avoid having to enact another CR as well as resorting to an Omnibus Appropriations bill that combines the remaining Appropriations bill into a single legislative

vehicle, but an Omnibus may become necessary with limited floor time. Appropriations Committee staff are continuing to hammer out difference in the House and Senate bills behind the scenes for the other remaining bill like the THUD Appropriations bill before the formal conference committees begin.

Alternative Fuel Tax Credit Extension

PPDC has been working with House Ways and Means Committee on possible legislative options to extend the Alternative Fuel Tax Credit Extension. Currently the "New Alternative Transportation to Give Americans Solutions Act of 2009" (NAT GAS Act), sponsored by Reps. Dan Boren (D-OK) and John Larson (D-CT), which would *extend for 18 years the alternative fuel credit for natural gas, the natural gas fueled vehicle credit, and the natural gas vehicle refueling property credit* is unlikely to be passed by both the House and Senate before the end of this year.

After speaking with Congressman Becerra's office and the Ways and Means committee staff another option may be to include the legislative language to extend the alternative fuel tax credit for Public Transit agencies like OCTA is a potential "Tax Extenders" bill that will also include a modification of the current Estate Tax law. If Congress takes no action this year (an unlikely scenario) the estate tax will expire in 2010, but only for one year, which the Democrat majority would not like to see happen given the decrease in tax receipts for this year.

Cap and Trade Legislation

Potential **Clean Energy and Climate Change legislation** is also working its way through the Congress after a flurry of activity in the House earlier this summer. On September 29th, Senator Boxer and Senator Kerry unveiled their legislation in draft form with hope of garnering public support. Already in the first week of October a number of business leaders from utilities, manufacturers and clean-energy companies plan to "swarm" Capitol Hill to press for quick action on the Boxer-Kerry bill and more clean energy incentives. The 801 page bill, to be formally introduced in the Environment and Public Works Committee later this month, aims for a 20% reduction in U.S. greenhouse gas emissions by the year 2020, which is greater than the House bill of 17%. To achieve this goal, the Senate proposal builds on the Markey-Waxman climate bill (**H.R. 2445- The American Clean Energy and Security Act (ACESA)**) that the House passed in June. According to the Senate Majority Leader office, the timetable for completing this legislation has slipped into the next year. However, Senator Boxer plans to hold hearings before her EPW Committee in October with a mark up of the bill to follow before the end of the year.

Currently included in the Boxer-Kerry bill are incentives to help make transportation systems more efficient. For example "Section 113-TRANSPORTATION GRANT PROGRAM-" of the draft bill directs the Secretary of Transportation to provide grants to States and metropolitan planning organizations to support the developing and updating of transportation greenhouse gas reduction targets and strategies. An amount of money and the source of money for this transportation investment have not yet been identified in the Senate legislation. The House-passed ACESA does not similarly invest in public transportation and other transportation infrastructure that reduces emissions. PPDC is continuing to work to enhance this Senate language and include additional alternative fuel tax credits to increase funding for public transit.

Sen. Jeff Bingaman has already marked up his energy bill (S. 1462) in the Energy and Natural Resources Committee. Sen. Bingaman has made it clear that he will protect his committee's jurisdiction over Energy legislation in the Senate. His bill includes a nationwide renewable electricity standard that may eventually be included in the Boxer-Kerry Bill. It is also unlikely that Sen. Bingaman's bill will receive floor time this year. It is important to note that the Senate Democrats at this point appear reluctant to include the "Cap-and-Trade" portion of H.R. 2454 that establishes a market for "carbon credits" in their legislative proposals and instead would rather focus on other pollution reduction measures and incentives.

**Report to Orange County Transportation Authority from
Potomac Partners DC
October 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

After more legislative procrastination, Congress was forced to enact another Continuing Resolution (CR) that was included in the House Conference Report accompanying H.R. 2996, Department of the Interior and Related Agencies Appropriations Act to fund federal transportation programs until December 18th at the FY 09 level. That CR also granted new contract authority to be apportioned from the Highway Trust Fund. This bill was signed by the President on October 30th.

The House and Senate have each passed versions of the Transportation Housing and Urban Development (THUD) Appropriations Act bill, but refuse to begin a formal conference meeting between the two bodies until they have reached consensus on the final timing of the THUD bill, which some believe may become a vehicle for a year-end "Omnibus" bill that will package the remaining appropriations acts into one spending measure.

Another reason for the ongoing delay with the THUD bill is the Senate and House wrangling over spending levels and policy governing the National Infrastructure Bank and High Speed Rail (HSR). The debate over the level and use of HSR funding is further exacerbated by the Department of Transportation (DOT)'s inability to distribute current funds allotted for HSR in the previous stimulus bill. According to the Federal Rail Administration, they now expect a major award for intercity and HSR to be delayed until "winter" of 2009-2010.

The Obama administration has also weighed in on these two items giving strong support for the creation of the National Infrastructure Bank (not included in the Senate version) and a similar support for High Speed Rail. The administration is also encouraging future conferees not to adopt the Senate version of the HSR language that would prohibit the use of HSR funding for planning purposes.

As the key federal transportation legislative schedule continues to be pushed off until the end of the calendar year session, the important federal legislative interest items for the OCTA include the following:

- Enacting the Transportation Housing and Urban Development (THUD) FY 2010 Appropriations Bill with Member directed projects.

- Passing another SAFETEA-LU (Highway Reauthorization Bill) extension that will include an extension of contract authority and restoring funding for the \$8.7B rescission that has taken effect at the end of last fiscal year.
- Extending the Alternative Fuel Tax Credit that is set to expire at the end of 2009.

There has also been some discussion of a second "stimulus" bill. It is uncertain how this bill will be introduced or what type of federal spending it will include. Many Republicans have already lined up to criticize the notion of a second stimulus as admission of failure of the first stimulus, which was passed by Congress largely without Republican input or support. It is also important to note that Speaker Pelosi and other members of her leadership team met with the President at the White House to discuss their concern with the disappointing unemployment numbers and the potential impact on the 2010 midterm elections. It was reported that the House leadership team suggested to President that transportation funding will spur job creation and he should reconsider his position on delaying the next Surface Transportation Authorization bill. This dynamic could create a strong impetus for completion of some form of Surface Transportation Authorization.

Surface Transportation Authorization & SAFETEA-LU Extension Recap

The House and Senate remain at odds over the timing of the next surface transportation authorization bill. The primary reason for the Senate wanting to delay the bill is their lack of interest in finding new revenue measures to pay for the new spending and keep the Highway Trust Fund (HTF) solvent this year. Specifically, the Senate Democratic leaders do not think it is politically expedient to consider an increase in the federal gasoline tax during this economic recession while other Senate Republicans are concerned about mounting spending and tax increases. The administration has shown reluctance to increase the gas tax and has come out in favor of delaying a multi-year authorization bill until after midterm elections and other more contentious legislative proposals like health care reform and cap-and-trade are complete.

Chairman Jim Oberstar, however, has insisted that the House complete this bill before the year-end and has begun to gain the support of the House Democrat leadership in his efforts. Chairman Oberstar believes that a multi-year authorization could serve as a major economic stimulus while also addressing much needed highway maintenance and construction.

Nevertheless, the current impasse has resulted in the House and Senate having to twice extend the current SAFETEA-LU legislation that originally expired on September 30th. As mentioned earlier an extension of an additional month and half was included on the House Conference Report accompanying H.R. 2996, Department of the Interior and Related Agencies Appropriations Act. This bill

also includes a Continuing Resolution that extended funding for the remaining appropriations bills until December 18th. The Senate had originally proposed an eighteen-month extension but has since shortened their extension proposal to six months in order to put more pressure on the House to capitulate in moving the bill before the end of October. After the Senate leadership attempted to "hotline" the bill on October 26th by gaining all 100 senators' support, plans for the extension temporarily died after at least two Republicans objected and time ran out to finish a bill this week under normal procedure.

One Republican, Senator Gregg, the Ranking Member on the Budget Committee from New Hampshire, was adverse to the EPW Committee's desire to include a provision that would repeal the \$8.7B rescission of contract authority that took place at the end of fiscal year 2009. Despite this objection, PPDC is continuing to shore up support in both the House and Senate for the repeal of this rescission that would cost the OCTA a significant amount of federal transportation funding.

Senate staff working on "hotlining" the bill had admitted to PPDC that even if the Senate had succeeded in passing a six-month extension the last week of October, a deal with the House would have been difficult. House Transportation and Infrastructure Chairman Oberstar remained opposed to an extension past the end of the calendar year. Oberstar's preference is for the Senate to take up the three-month extension (HR 3617) that was passed by the House in September.

Rep. John Mica (R-FL), the ranking Republican on T&I, who PPDC had met with during the extension negotiations, said he recommended a six-month bill to the chairman, since he believed it would be impossible to finish a full bill before the December holidays. Rep. Duncan, the ranking Republican on the highways subcommittee, also indicated to PPDC that it would be difficult for Chairman Oberstar to move a bill unilaterally to the floor before the end of the year without losing bi-partisan support. Most transportation coalitions, union and interest groups, including road builders, carpenters, general contractors and public transportation groups also supported passage of a six-month extension in order to buy enough time to hammer out key policy items in the bill.

Currently with the pressure off to pass any form of extension until December 18th, Chairman Oberstar has told PPDC that he intends to continue working on his multi-year Authorization bill and his office and committee staff both are refraining from discussing the next extension at this time. A House Member, who had subsequent conversation with the Chairman, has indicated that Rep. Oberstar is privately considering this extension.

Senators on the EPW committee continue to be optimistic that they may overcome current objections to a six month extension and pass it in the Senate by amending Oberstar's three month extension during the first half of November, thus pushing the next deadline for action to the spring of 2010. The Senate

Majority Leader has indicated that he will make the needed floor time available. Some on the EPW committee staff hope that the pressure from major transportation agencies and coalitions would bring Oberstar on board. This Senate strategy for an extension remains the most viable solution for retroactively repealing the \$8.7B rescission. If the Senate does manage to pass such an extension, it would need to return to the House for a vote.

FY 10 Appropriations Summary

The House approved the conference report on the FY10 Interior-Environment Appropriations bill, which contains a second continuing resolution for unfinished spending bills through Dec. 18. Those bills include:

- Commerce/Science/Justice Appropriations Act
- Defense Appropriations Act
- Financial Services Appropriations Act
- Labor Health and Human Service and Education Appropriations Act
- Veterans Appropriations Act
- State/Foreign Operation Appropriations Act
- Transportation Housing and Urban Development Appropriations Act

After the House passed the bill, the Senate quickly acted on the CR and passed it on October 29th by a vote of 72-28 and sent the legislation to the President for his signature, who signed the bill into law on October 30th. (Note: Previously the House passed a Continuing Resolution (CR), which was attached to the Conference Report accompanying H.R. 2918, the Legislation Branch Appropriations bill.) PPDC has been discussing the possibility with senior Members on the Appropriations Committee and THUD subcommittee staff the possibility of increasing the funding levels for Positive Train Control (PTC). Currently the House version provides no money for PTC and the Senate version provides \$50M.

Alternative Fuel Tax Credit Extension

PPDC has been working with Reps. Dan Boren (D-OK) and John Larson (D-CT), to help obtain support letters and co-sponsors for their legislation which would extend for 18 years the alternative fuel credit for natural gas, the natural gas fueled vehicle credit, and the natural gas vehicle refueling property credit. With support for the Boren-Larson bill growing, the current strategy is to encourage Speaker Pelosi to request that the legislative language to extend the alternative fuel tax credit be included in a year-end "Tax Extenders" bill in order to buy time to pass the Boren-Larson bill next year.

Cap and Trade Legislation

Senator Boxer has already begun a series of hearings on her clean energy and climate change legislation before the Environment and Public Works (EPW) Committee. The "Boxer-Kerry" bill has already garnering significant support from transit agencies across the country for its focus on making transportation systems more efficient and encouraging more mass transit investment. The bill has yet to ascribe a specific percentage or amount of funding for "green" transportation projects, but initial discussions have indicated that the amount may be a significant investment in mass transit. Sen. Boxer also intends to start marking up climate legislation in November, although some Republicans like Senator Inhofe might try to derail the markup set for early November and push it to a future date as late in the session as possible to make it unlikely that a bill can be reported out of the EPW committee this year.

**Report to Orange County Transportation Authority from
Potomac Partners DC
November 2009**

Partners contributing to the work in this report include: Rick Alcalde, Dan Feliz, and Lesli McCollum Gooch.

The push for health care reform legislation dominated the Congressional legislative calendar during the month of November. The Senate debate on their Health Care proposal will consume most the December legislative calendar, which will likely last until December 22nd. Another major concern is the unfinished FY2010 Appropriations. Given the full legislative schedule, the opportunity to advance the next Surface Transportation Authorization has slipped away again in 2009. The major transportation-related legislative priorities in December include the following:

1. Passage of a SAFETEA-LU extension and THUD Appropriations Act
2. A repeal of the \$8.7B rescission that took effect at the start of fiscal year 2010
3. Passage of the Tax Extenders Bill of 2009 that includes an extension of the Alternative Fuel Tax Credit

Surface Transportation Authorization & SAFETEA-LU Extension

As mentioned earlier, on account of a limited time for legislative debate and Democratic leaders' lack of focus on the major transportation policy issues like new funding mechanisms for the Highway Trust Fund (HTF) little progress has been made on a long-term Surface Transportation Authorization bill. Instead, transportation leaders in the House and Senate during the past month have been working out the details of a short-term re-authorization of SAFETEA-LU that will likely last for the first 6-8 months of 2010. However, Chairman Oberstar, will still request that this extension be kept as short as possible unless a firm timetable of completing a multi-year Surface Transportation Authorization is included.

Rumors had been circulating throughout November of a possible 18-24 month authorization that would be labeled as a "job creation" bill. In conversation with House T&I committee staff, it seems unlikely that they will have enough time before the current extension of SAFETEA-LU expires on December 18th to complete negotiating a two year authorization that identifies ways to keep the HTF solvent for the duration without a major cash infusion from the general fund. Nevertheless, Chairman Oberstar has been working with Chairman Obey to provide for a major cash infusion to the HTF that would build up a cash reserve in fuel tax receipts while they continue to work on the next Surface Transportation Authorization. A "jobs bill" bill, however, is still a top priority for the House

Democratic Leadership, but will likely be introduced as Appropriations spending bill similar to the first “stimulus bill” with transportation infrastructure being a major component. This bill would likely **not** include any new transportation policy measures or raise the federal gas tax to pay for the surface transportation infrastructure spending. In conversation with Chairman Oberstar, he believes a “jobs bill” for ready-to-go projects will be an important temporary solution for the aging transportation infrastructure, but would not likely satisfy the need for long term planning that is required for the “mega transportation projects.” We are continuing to monitor the progress of the SAFETEA-LU extension that could be included in an Appropriations bill, as it has been done before.

FY 10 Appropriations Update

The House and Senate Appropriations committees had been endeavoring over the past month to finalize the conference committee reports for Commerce/Science/Justice Appropriations Act, the Defense Appropriations Act, and the Transportation, Housing and Urban Development Appropriations Act, which would be the last step before final passage and then being sent to the President. The President has already signed into law the Energy and Water Appropriations Act, Homeland Security Appropriations, Interior and Environment Appropriations Act, and the Legislative Branch Appropriation (which also served as the vehicle for the previous Continuing Resolution).

The other four appropriations measures (Labor Health and Human Service and Education Appropriations Act, the Financial Services Appropriations Act, the Veterans Appropriations Act, and the State/Foreign Operations Appropriations Act) continue to linger without a formal conference beginning between the House and Senate. The Senate did manage to pass the Military/Veterans Appropriations Act on November 17th before the Senate turned to its focus to the health care legislation. The Military/Veterans Bill rarely produces controversial conference agreements and could quickly be finalized in the first half of December. It is possible that Appropriation committee could package these remaining spending measures in an omnibus legislation. The likely vehicle for the “Omnibus” would be the THUD or Defense Appropriations Acts. The alternative to an “Omnibus” would be trying to complete “conferencing” as many bills as possible before the House and Senate adjourn and then pass another 2-3 month CR.

As mentioned in previous reports, there has also been some discussion of a second “stimulus” bill. It remains uncertain how this bill will be introduced or what type of federal spending it will include. The direction of the plan will likely become clearer after the first week of December, when President Barack Obama will host business leaders, union officials and economists at the White House for a jobs summit. Majority Leader Hoyer (D-MD) announced that Democrats may have a “jobs bill” (aka second stimulus) on the House floor as early as the third week of December or as the first legislation of the New Year, but Senate action may come much later as they continue to debate Health Care reform. It does

appear that the Democrats will likely introduce the bill unilaterally without Republican input. The lack of Republican participation may draw partisan opposition to the bill. In response, Republicans are already claiming that the jobs bill is a result of the Democrats finally realizing that their \$787 billion "stimulus" was a failure and are criticizing the Administration's efforts to report progress from the ARRA bill. Despite the legislative challenges of passing a second stimulus, plans for more infrastructure spending and expanding small businesses' access to credit have gained momentum in Congress and may help move the bill through a Democrat controlled House before December 22nd or early next year.

Alternative Fuel Tax Credit Extension

Potomac Partners DC has been working with the Natural Gas Vehicle Association to obtain a commitment to include the extension of the Alternative Fuel Tax Credit in the Tax Extenders Bill of 2009 currently being drafted by the Ways and Means Committee. As it stands right now the provision will be in the bill and will last for one year (through 2010).

Throughout the month of December Potomac Partners DC will be participating in the lobbying activities with NGVA to make sure this commitment stays firm. We will be sharing the OCTA support letter again with the key members on the Ways and Means committee and the co-sponsors of the Boren-Larson bill.

Cap and Trade Legislation

On November 5th Senator Boxer and EPW committee reported out of the EPW Committee S. 1733, *the Clean Energy Jobs and American Power Act*. During this meeting no Republican Senators participated, thus ensuring Committee approval of the bill without any bi-partisan support or Republican input. It does not appear this bill will see any floor action this calendar year. Senator Inhofe remains a strong opponent of the legislation and has been successful in cobbling together bi-partisan opposition to moving this bill in the near term.

Other Actions On Behalf of the OCTA

Potomac Partners DC facilitated meetings on Capitol Hill for the OCTA delegation that included Chairman Peter Buffa, CEO Will Kempton, Kris Murray and Richard Bacigalupo on November 17th. Those meetings included the following:

- Ranking Appropriations Committee Member Jerry Lewis

- Chairman James Oberstar, House Transportation & Infrastructure (T&I) Committee
- Ranking Member John Mica, House Transportation & Infrastructure (T&I) Committee
- Chairwoman Corrine Brown, Railroads Subcommittee of T&I
- Ranking Member Bill Shuster, Railroads Subcommittee of T&I

Agenda items for those meetings included the following:

- Treatment of Section 1301/1302 Projects SAFETEA-LU Extension
- Effects of Rescission of Contract Authority
- Goods Movement Issues
- High-Speed Rail
- Alternative fuel tax credit extension

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding ARRA, Budget & Appropriations
May 2009

Highlights

The Fiscal 2010 budget completed House and Senate action on April 28, which coincided with the President's 100th day in office. Support for the President's \$3.56 trillion spending plan was drawn along party lines with no Republican support and 17 House Democrats in opposition to the approach. The total amount of discretionary spending was \$1.086 trillion. Of the \$1.086, \$529.8 billion was allocated for non-defense spending and \$556.1 billion was allocated for defense spending. Non-defense discretionary spending totals were approved at \$10 billion less than the President requested, but substantial funding goals for transportation remained: \$324 billion for surface transportation, including one billion for high speed rail. However, language was incorporated into the budget, which allows the funding for surface transportation to increase as long as a financing mechanism can provide for the additional spending levels.

Some key controversies related to Senate approval of federal health care changes and education loan programs by a simple majority (reconciliation), increasing the deficit, and approval of a tax increase for individuals making more than \$200,000 a year were left unchanged in the final version.

In parallel action, Congressional offices are compiling requests for appropriations earmarks and projects that can be called "High Priority Projects" to be included in the next transportation reauthorization bill. The process for submitting these projects requires total transparency with all requests sent forward also posted on the sponsoring Member's individual Web site. Once the President releases his budget during the first week of May, appropriators will begin their legislative deliberations.

Regarding reauthorization, House Transportation & Infrastructure Chairman James Oberstar (MN) and Subcommittee on Highways and Transit Chairman Peter DeFazio (OR) both agree on moving a bill forward to the House floor by June. The bill is now in draft circulation among Members. Several meetings were called to discuss the reauthorization process and schedule. One over the last month included House and Senate leadership. Another brought stakeholders such as state and local government Washington representatives together. The

transit industry has called for a portion of the revenues to fund energy efficiencies in public transportation, while the nation's mayors seek a portion to annually fund the Energy Efficiency Block Grant. A bill summary can be accessed at http://energycommerce.house.gov/Press_111/20090331/acesa_sectionsummary.pdf

Movement of U.S. DOT appointments picked up speed as well with the following confirmations concluded by Senate voice vote the last week of April: Federal Railroad Administrator Joe Szabo; DOT Under Secretary for Policy Roy Kienitz; DOT General Counsel Robert Rivkin; DOT Assistant Secretary for Governmental Affairs Dana Gresham; and Research and Innovative Technology Administrator Peter Appel.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

- Gaines with *Sens. Feinstein and Boxer, Congresswoman Sanchez* on appropriations and authorizing committee staff on recovery funding distributions, 2010 appropriations as well as schedule for reauthorization;

- Andrews with *Sen. Patty Murray and Rep. John Olver* staff on status on fiscal 2010 and appropriations process;

- Smith with T&I Committee--*Reps. Dan Lipinski, Pete DeFazio; and Jim Oberstar* staff--to discuss timing and direction of reauthorization.

- Garson—attended April 28th hearing on High Priority Projects and April 29th hearing on the 10-week progress report regarding transportation and infrastructure funds in ARRA.

Contact with relevant organizations on behalf of OCTA

- Burrell—attended April 7 conference on Investing in a Strong and Better Democracy (sponsored by Economic Policy Institute) about infrastructure funding and green jobs

- Burrell—met with Leslie Wollack, senior transportation policy advisor, at the National League of Cities regarding ARRA and reauthorization

- Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings

- SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions

- SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

two chairmen are openly calling for support for their reauthorization bill schedule and completing hearings on all its subject matter. .

On April 28, a Highways & Transit Subcommittee hearing was held to discuss HPPs. A summary of the hearing can be found at <http://transportation.house.gov/hearings/hearingDetail.aspx?NewsID=883> .

In addition, the Senate conducted a hearing on the nation's future surface transportation policy in the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security of the Committee on Commerce Science & Transportation. Committee Chairman Frank Lautenberg welcomed input from DOT Secretary Ray LaHood. Summary of the hearing can be found at http://commerce.senate.gov/public/index.cfm?FuseAction=Hearings.LiveStream&Hearing_id=9aa6998e-e216-44a0-9fa9-a90527bb98b4 .

Another hearing of note took place on April 29 before the House T&I Committee. It focused on a 10-week progress report regarding transportation and infrastructure funds in American Reinvestment & Recovery Act. DOT Secretary LaHood presented and made mention for the first time that guidance regarding the \$1.5 discretionary program for projects of national significance would be released, once cleared by OMB. He indicated his suggestion that these funds be used for port and intermodal projects. A summary of this hearing can be found at <http://transportation.house.gov/hearings/hearingDetail.aspx?NewsID=881> .

Several ARRA grant programs are now moving towards application phase. The Federal Railroad Administration delivered its plan for the \$8 billion high speed rail program on April 17; this can be accessed at <http://www.fra.dot.gov/Downloads/RRdev/hsrstrategicplan.pdf> . Briefly, the plan calls for proposal guidelines to be released on June 17 and suggests there will be three "tracks" of funding. The first will seek applications that are "ready to go" projects with environmental review, engineering and design virtually completed. The second will seek "cooperative agreements" for the development of phases or geographic sections of a corridor that have completed environmental review and can identify specific projects but are not near construction phase yet. And the third would seek "cooperative agreements" that demonstrate the beginning of the process for planning a high speed rail corridor.

The American Clean Energy and Security Act continues to move towards a vote, as mark up in the House Energy Committee is expected in May. The two sponsors of the legislation Committee Chairman Henry Waxman (CA) are calling for final action before Memorial Day. However the language does not yet include an allowance or allocation section, which is slated for circulation in the first week of May. Negotiations continue over how credits for CO2 and methane emissions will be quantified and disseminated. Other questions remain about how revenues from these credits will be collected and then directed. For example, the

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding ARRA, Budget & Appropriations
June 2009

Highlights

Much work continues around the FY 2010 appropriations and submitted project requests for the House transportation reauthorization, which is expected to be released in draft around June 9. No timeline is set for appropriations at this time, other than completion is expected before the August recess, but the first House markup took place Thursday, June 4th of the Commerce Justice & Science bill which passed. Senator Reid in his pen and pad session indicated that he intended to pass the Legislative Branch and Homeland Security bills before the July 4th recess and plans to complete 5 more bills before the August recess, with the remainder scheduled for September. The House schedule has not been released, but it appears that a number of subcommittees intend to markup their bills before August.

Although T&I was scheduled to mark up its reauthorization bill by the end of May, this deadline continues to be postponed. Chairman Oberstar in a speech June 3rd indicated that the committee staff had several weeks of drafting still ahead of them, but that he hoped to be out of Committee by the July recess. Mr. Oberstar said he would not sponsor nor support any extensions of SAFETEA-LU beyond September 30th, despite the fact that there were 12 required during the 2005 reauthorization process—it is unclear if the House Leadership is supportive of that or not. By the end of May, House leadership called on the Ways & Means Committee to begin hearings on alternative options for funding the next federal transportation law. Technically, once the committee reports out the transportation reauthorization bill, it cannot be considered on the House floor until its financing mechanism (a bill reported out of Ways & Means) complements the bill to be considered in tandem for final passage.

The House Subcommittee on Select Revenue Measures will hold two weeks of hearings in June on federal transportation financing, but no dates have been posted yet.

On the Senate side of the reauthorization process, Senate Commerce, Science and Transportation Committee Chairman John Rockefeller (WV) and Senator Frank Lautenberg (NJ) introduced the Federal Surface Transportation Policy and

Planning Act. The bill provides a set of principles for future federal transportation programs. Details of the bill and its announcement are linked here:

http://commerce.senate.gov/public/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=6e1be4c5-07d4-41e9-8fda-4f0655b31848&Month=5&Year=2009

The American Clean Energy and Security Act completed mark-up in the House Energy Committee before the House adjourned for Memorial Day recess. However, the bill does not include any allocations or mention of revenues disbursements for transit systems. A huge protest about the omission of transit in the deliberations and language of the bill continues with letters to both Energy & Commerce and Transportation & Infrastructure being sent from APTA as well as individual transit authorities from across the country. There is no clear path or timeline for this bill to be considered on the House floor. It was referred to eight other committees sequentially for mark-up: Agriculture; Education and Labor; Financial Services; Foreign Affairs; Natural Resources; Science & Technology; Transportation & Infrastructure; and Ways and Means. Parliamentary procedure requires each of these committees to deliberate only on the specific language contained in the bill that is related to their jurisdiction. Some believe it will be difficult if not impossible for a committee, such as T&I, to introduce new language into the bill regarding transit, because none exists at the moment. A summary of the house-passed bill is located in the following link: http://energycommerce.house.gov/index.php?option=com_content&view=article&id=1622&catid=155&Itemid=55

DOT ARRA grant programs continue to move closer to the application phase. The TIGER (Transportation Investment Generating Economic Recovery) grant program was the topic of U.S. Department of Transportation guidance regarding the \$1.5 discretionary grant program. It was published in the Federal Register on May 18: <http://edocket.access.gpo.gov/2009/pdf/E9-11542.pdf>. The DOT Secretary's office will administer this grant program with help from all modal offices. Multi-modal applications are thought to be the focus of this program, but applications can be submitted for all kinds of transportation projects. Applications are due by September 15 and grants are expected to be decided and announced before the end of the year.

The Federal Railroad Administration completed its seven stakeholder outreach workshops regarding ARRA's high speed rail program. The next step in the high speed rail ARRA program calls for FRA to release an interim guidance by June 17.

On May 29, the White House ethics office released revised guidance on lobbying activity regarding ARRA to require all information requests or other discussion with federal agencies or White House staff to be communicated in writing once any application for any ARRA grant programs has been submitted.

More U.S. DOT appointments continue with the confirmation of John Porcari (former Maryland Secretary of Transportation) as Deputy Secretary, and Peter Rogoff (former Majority staff leader of Senate Subcommittee on Transportation Appropriations) as Federal Transit Administrator.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

- Smith with appropriations and authorizing committee staff on recovery funding distributions, 2010 appropriations as well as movement on reauthorization and climate change legislation;

- Andrews with *Sen. Patty Murray and Rep. John Olver* and Senate EPW staff on status on fiscal 2010 appropriations process and reauthorization;

- Gaines with Rep. Loretta Sanchez staff on W&M hearing, climate change legislation and earmarks process

- Newman with House Energy & Commerce Committee staff on timeline for Committee-passed version of climate change legislation; FRA action on high speed rail

- Burrell and Garson with T&I Committee--*Rep. Pete DeFazio* and staff--on timing and direction of reauthorization and lack of transit in climate change legislation.

- Garson--attended May 19th hill visits with Coalition for America's Gateways and Trade Corridors

- SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

Contact with relevant organizations on behalf of OCTA

- Burrell with APTA's Bill Millar on climate change and high speed rail hearings

- Burrell & Garson--attended May 19 and 20 meeting of Coalition for America's Gateways & Trade Corridors

- Burrell--attended May 5 & 12 southern California Washington reps meetings on legislative and DOT activity

- Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings

- SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding Reauthorization,
ARRA & Appropriations
August 2009

Highlights

Congressional focus for the summer months will start with transportation appropriations. House mark up is slated for July 15. Unclear is how action to address the reported \$20 billion Highway Trust Fund shortfall will unfold. Senate appropriations is not yet on the calendar.

As the Surface Transportation Reauthorization Act of 2009 was introduced and marked up less than a week later, several new elements to federal transportation programs were included: the establishment of the number three position in DOT leadership--the Under Secretary for Intermodalism; the establishment of a livability program as well as a public benefit program as well as a freight program; streamlining procedures; expediting project delivery processes; advancement of high speed rail adoption; and a new metropolitan mobility program. Several items were also missing: the source of the total \$500 billion funding needed to execute the bill; the section on high priority projects; and a section titled Transportation Discretionary Pending Guarantee.

The House Subcommittee on Highways and Transit passed this version of the next reauthorization on June 24. That same day a letter to the President signed by the full committee membership conveyed total disappointment in the Administration's approach to delaying action on a new federal transportation program until 2011.

During the Subcommittee markup, members largely praised committee leadership, condemned the Administration's recommendation of an 18-month delay and praised the bipartisan nature of the deliberations so far. In addition, Members voiced their concern for various issues in the bill, such as addressing the donor/donee issue. A handful of amendments were offered, but due to a previously agreed to procedure, all amendments were immediately withdrawn, to be taken up at the full committee mark up in July. House Transportation & Infrastructure Chairman James Oberstar has asked that any amendments to be offered at full committee be discussed with committee leadership and staff prior to the mark up, presumably so issues can be resolved and the committee can move through mark up swiftly.

Because DOT Secretary Ray LaHood officially called for an 18-month delay in deliberations on reauthorization, and was then followed by Senate Environment & Public Works Chair Barbara Boxer supporting the Administration in seeking a delay, further action on the House reauthorization bill is facing significant obstacles. T&I Chairman Oberstar has not adjusted his goals for full committee mark up in July and House passage before the August recess. He firmly believes a new federal transportation law must be enacted before the end of September or all the benefits of ARRA will dissipate as transportation construction, especially on major projects, comes to a halt.

Other hearings during the month added to the complexity of comprehensive and coordinated action needed to ensure a new federal transportation program. Although the House Subcommittee on Select Revenue Measures indicated it would hold two weeks of hearings in June on federal transportation financing, only one hearing was held on June 25. Discussion focused on the HTF dilemma and the need to address its needs rather than future financing options for the next reauthorization. That same day, during a Senate Environment & Public Works hearing on the Highway Trust Fund, no clear solutions were agreed upon or floated by the Administration or the legislators about near term action on the HTF's emerging funding gap.

In July, the Senate EPW Committee is expected turn its attention to the climate change bill that completed House action on June 27--- the American Clean Energy and Security Act or ACES. It is important to note that climate change language to increase benefits slated for transit still needs to be solidified in more concrete terms through the Senate action. ACES added a provision that permits states to use up to one percent of their allocations as potential revenue for surface transportation projects that could include transit.

American Reinvestment and Recovery Act activity related to high speed rail continued to unfold with the U.S. DOT June 17 release of the High Speed Intercity Passenger Rail Program interim program guidance. It delineates how States and regions will be able to apply for these funds with the application requirements and procedures.

Also of note is the June 16 joint announcement by DOT Secretary LaHood, Housing & Urban Development Secretary Shaun Donovan and Environmental Protection Administrator Lisa Jackson to form a Partnership for Sustainable Communities. Each pledged to ensure their activities would foster livable community options in transportation, housing and the environment. For further elaboration, a fact sheet was released with the announcement and can be found at <http://www.hud.gov/content/releases/pr2009-06-16factsheet.pdf>

DOT appointments continue with the addition of David Kim as Deputy Assistant Secretary for Intergovernmental Affairs. Kim, former deputy executive officer of

federal advocacy & government relations for LA MTA, will focus on Senate activities.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

- Smith with appropriations and authorizing committee staff on recovery funding distributions, 2010 appropriations as well as movement on reauthorization and climate change legislation;

- Andrews with *Sen. Patty Murray and Rep. John Olver* and Senate EPW staff on status on fiscal 2010 appropriations process and reauthorization;

- Gaines with *Rep. Loretta Sanchez* staff on reprogramming appropriations, climate change legislation and earmarks process

- Newman with House Energy & Commerce Committee staff on timeline for Committee-passed version of climate change legislation; FRA action on high speed rail

- SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

Contact with Administration on behalf of OCTA

- Burrell—June 16 lunch with David Kim, newly appointed DOT Assistant Secretary for Intergovernmental Affairs

Contact with relevant organizations on behalf of OCTA

- Burrell –National League of Cities on reauthorization and transportation livability initiative

- Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings

- SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding Appropriations,
Reauthorization & ARRA
September 2009

Highlights

Congress returned from their six-week-summer recess, after major focus was drawn to the controversies over health care reform in towns and cities across the country. The health care debate is notable, because it will ultimately impact the attention of Congressional decision makers, the political climate and inclination to deal with the 2010 budget in addition to solutions for transportation programs in this country over the long term.

Before they left town, the House approved a \$7 billion transfer of general revenue funds to sustain the Highway Trust Fund through the end of fiscal year 2009. This is a short-term fix, and the ball is in the Senate's court as to whether the fix will remain short term or be increased. The Senate Transportation Appropriations Subcommittee included transferring \$8-billion to HTF on July 10, but further action on the bill later in the month stopped after review and approval by the full committee.

Both chambers are expected to continue action on their respective appropriations bill in the month of September. The full Senate is expected to consider the transportation appropriations bill in the week Members return. Conference with the House bill will then move quickly.

The House Highways & Transit Subcommittee approved Surface Transportation Reauthorization Act of 2009 is expected to move to full committee deliberation within the first two weeks of the Members' return to work. The measure continues to outpace the efforts of House Ways & Means to provide a funding source measure, Select Revenue Subcommittee Chairman Richard Neal (MA) is reported to be working diligently on the matter.

House Highways & Transit Subcommittee Chairman Pete DeFazio has introduced bills to create an alternative source of funding for transportation projects through oil futures. HR 3379 is called, "The Lowering Oil Price Speculation for Infrastructure Dedicated to Economic Development Act of 2009" or the "LOPSIDED Oil Prices Act of 2009." No other measures have emerged thus far. Transportation reauthorization cannot proceed to House floor debate

until its funding source companion bill has been reported out of the Ways & Means Committee.

The 18-month extension of current federal transportation programs that was reported out by the Senate Environment & Public Works Committee on July 15 still stands as the only measure of record on the subject. House Transportation & Infrastructure Chairman Jim Oberstar continues to vigorously and publicly object to the length of time. Reports indicate he will move something in the House that is a much shorter timeframe to continue to press for full reauthorization sooner rather than later.

No Senate Environment & Public Works hearings on transportation reauthorization were held after the 18-month extension was approved. Senate Banking, Housing and Urban Affairs conducted an August 4 hearing : Rail Modernization/Getting Transit Funding Back on Track, which is archived at http://banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=c5974f0c-d925-4ee2-b35c-8cecc6476215 . Federal Transit Administrator Peter Rogoff led off the witnesses and discussed safety and the FTA's April 2009 State of Good Repair report. His testimony did not discuss reauthorization.

The Senate EPW Committee is expected to continue its focus on climate change with reports that Chairwoman Barbara Boxer will introduce a version of climate change legislation that does not mirror the House-passed ACES-- American Clean Energy and Security Act. It is expected to be introduced later in September and include a larger emissions allocation---up to 10%--as a new revenue source for surface transportation projects. If the transit revenue source provision is not included in this bill, then S. 575—Clean Tea, as introduced by Sens. Tom Carper (DE) and Arlen Specter (PA), include this provision, which could be added during committee action. The House-passed bill contains use of up to one percent of these allocations for potential transit projects. These measures provide funds for capital improvement projects and do not address the pressures that the current economy has cost service and operations.

Final applications for American Reinvestment and Recovery Act activity high speed rail grants were submitted August 24. The first round of awards is still expected in the fall.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

- Smith with appropriations and authorizing committee staff on recovery funding distributions, 2010 appropriations as well as movement on reauthorization and climate change legislation;

- Andrews & Burrell with *Sen. Patty Murray and Rep. John Olver* staff on status on fiscal 2010 appropriations process and reauthorization;

- Gaines with *Sen. Barbara Boxer* and *Rep. Loretta Sanchez* staff on climate change legislation, transportation reauthorization
- Gaines with *Rep. Loretta Sanchez* staff on reprogramming
- Garson with House T&I staff on reauthorization, freight and financing mechanism for federal transportation programs
- Newman with House Energy & Commerce Committee staff on timeline for Committee-passed version of climate change legislation; FRA action on high speed rail
- SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

Contact with Administration on behalf of OCTA

- Burrell with David Kim, DOT Deputy Secretary for Intergovernmental Affairs

Contact with relevant organizations on behalf of OCTA

- Burrell, Andrews, Gaines, Garson with Southern California transportation Washington reps on September 1
- Garson participation with CAGTC on September 2 & 3 hill visits
- Burrell with National League of Cities on reauthorization and appropriations
- Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings
- SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions.

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding Appropriations,
Reauthorization & ARRA

Highlights

On July 31, the House began their summer recess for six weeks. Before they left town, the House approved a \$7 billion transfer of general revenue funds to sustain the Highway Trust Fund through the end of fiscal year 2009. This is a short-term fix, and the Senate is expected to approve the measure as well before exiting Washington for their summer recess on August 7.

By July 23, the House had also completed Subcommittee, full Committee and floor action on the Transportation Appropriations for fiscal 2010. The bill totals \$123.1 billion, which is 13 percent more than 2009 funding levels, but is \$53 million below the President's request. This includes \$10.4 billion for transit, an increase of \$148 million over last year. A \$4 billion boost to high speed and intercity passenger rail was also included as has been expected. Highway funds were approved at \$41.1 billion, which is \$407 million above 2009 figures. In addition, \$1.48 billion was approved for AMTRAK; \$64 million was included for railroad safety--an increase of \$30.2 from 2009 levels. A complete summary of the House approved levels can be found at

http://appropriations.house.gov/pdf/TH_FY10_FC_Summary_07-17-2009-revised_LH.pdf

The Senate completed subcommittee mark-up of 2010 transportation appropriations on July 29 and full committee mark up the following day. The Senate will likely consider this bill either the first or second legislative week in September when they return from recess. A \$1.1 billion program for significant transportation projects across modes (transit, bridges, highways, passenger and freight railroads, and ports) was added and requires that \$250 million of the total be spent in rural areas. Funds totaling \$43.5 billion are slated for highways only. \$1.2 billion was set aside for high speed and intercity passenger rail projects. For rail safety projects, including positive train control \$50 million was included with two designated projects in the area: \$500,000 for Caltrain PST and \$500,000 for MetroLink PST. A \$480 million increase was added for transit "New Starts" projects. And \$100 million was included for transit energy efficiency grants that

would support capital improvements in operations. A summary of the Senate Subcommittee mark can be found at

http://appropriations.senate.gov/transportation/2009_07_29_Summary_of_FY_2010_THUD_Appropriations.pdf?CFID=7938538&CFTOKEN=57635137

The House Highways & Transit Subcommittee approved Surface Transportation Reauthorization Act of 2009 has not moved to full committee deliberation. No date has been set for such action, as the bill waits for a funding source measure to be moved through the House Ways & Means Committee. A Select Revenue Subcommittee meeting was held on July 23, but no further action occurred, other than cooperation on the measure that transferred \$7 billion from the treasury to the Highway Trust Fund.

When the Senate Environment & Public Works Committee extended the current surface transportation program for 18 months on July 15, the bill did not include other provisions that were suggested by the Administration. They may be part of the floor debate. The Administration seeks changes that they believe will help states and local governments' abilities to collect and analyze more data to measure transportation goals and results, such as ridership, accidents and fatalities, travel times and environmental impacts among other topics. This voluntary option would be a forerunner to tracking outcomes of federally funded projects. It may also assist in the Administration's efforts to leverage livability measures in future federal programs.

No Senate hearings on transportation reauthorization were held after the 18-month extension was approved. The Senate EPW Committee focused its attention on climate change and held three hearings on the subject: Ensuring and Enhancing U.S. Competitiveness while Moving toward a Clean Energy Economy on July 16; Clean Energy Jobs, Climate-Related Policies and Economic Growth - State and Local Views on July 21, and Climate Change and National Security on July 30. Increased funding for transit is still being pushed by APTA and individual transit agencies from across the country. No mark-up action has been scheduled for a climate change bill to match up to the House-passed ACES-- American Clean Energy and Security Act.. Reid has given six Senate committees until Sept. 28 to sign off on their pieces of a climate bill, with a floor debate tentatively slated for October. Senator's Baucus, Boxer and Kerry all said today that they plan to meet their deadlines, although that tentative deadline could slip given the press of health care legislation and the ongoing appropriations process.

Climate change language to increase benefits slated for transit are still a concern as the House passed ACES provision that permits states to use up to one percent of their allocations as potential revenue for surface transportation projects that could include transit remains unchanged.

American Reinvestment and Recovery Act activity related to high speed rail continued to unfold with the U.S. DOT announcing that they had received 278 pre-applications, which comprised a total of \$102 billion. Final applications are due August 24, and the Federal Railroad Administration is expected to announce the first set of awards in the fall.

Also of note, U.S. DOT Secretary Ray LaHood indicated he will award the \$1.5 billion in TIGER (Transportation Investment Generating Economic Recovery) Discretionary Grants for capital investment in surface transportation projects before the statutory February deadline. The applications for the TIGER program are due on September 15, and the Secretary intends to make announcements by December 2009 or January 2010.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

- Smith with appropriations and authorizing committee staff on recovery funding distributions, 2010 appropriations as well as movement on reauthorization and climate change legislation;

- Andrews with House T & I and Ways & Means and Senate EPW staffs on status on fiscal 2010 reauthorization process;

- Gaines with Rep. Loretta Sanchez staff on reprogramming appropriations (forwarded OCTA audit letter), climate change legislation and earmarks

- Newman with House Energy & Commerce Committee staff on timeline for Committee-passed version of climate change legislation; FRA action on high speed rail

- SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

Contact with relevant organizations on behalf of OCTA

- Burrell on coordinating next meeting of Southern California Washington reps

- Burrell & Garson attendance at July 20 Mobility 21 legislative update meeting in Washington

- Burrell --National League of Cities on reauthorization and appropriations

- Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings

- SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions

- Garson -- Participation in CAGTC conference calls, meetings and Hill outreach.

- Garson -- Attending Select Revenue Measures Subcommittee on Ways & Means Hearing on July 23rd -- "Possible long-term measures that would finance the Highway Trust Fund.

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding Appropriations,
Reauthorization & ARRA
October 2009

Highlights

On October 30, Congress passed an extension of SAFETEA-LU until December 18. Before this vote, there was discussion among Senate leadership to extend the current transportation reauthorization law for six months, but this length of time continues to be resisted by Members of the Senate and House transportation leadership, especially House Transportation & Infrastructure Chairman James Oberstar. The December 18 extension was included within a CR under the 2010 Interior, Environment and Related Agencies appropriations bill.

A resolution to the SAFETEA-LU rescission provisions was not included in this CR. There is language within it to permit a bill emanating from either side of Congress' authorizing committees to supersede the CR extension. If a longer extension for SAFETEA-LU is agreed upon before December 18 by its House & Senate authorizers, then language to address the rescission issues could be added before final passage.

Federal transportation appropriations for FY 2010 is expected to be the vehicle for the final omnibus spending bill for any federal departments that have not completed floor action individually by December 18.

Action on the House version of the next federal transportation bill remains stalled and delayed by back and forth negotiations regarding the federal law's extension. Although mark-up in the full committee continues to be rumored, it has not been scheduled. And, the House Ways and Means Committee has not indicated any imminent action on advancing the funding options for what remains the \$500 billion House Highways & Transit Subcommittee mark of the bill. Without clear funding proposals under review, the next federal transportation reauthorization bill cannot proceed to the House floor for debate.

During October, the Senate Environment & Public Works Committee held three hearings three days in row to review the Clean Energy Jobs and American Power Act. On the first day, the bill's co-author, Senator John Kerry and members of the Obama Administration—Secretaries of Energy, Interior and Transportation as

well as the EPA Administrator and the Chairman of the Federal Energy Regulatory Commission--- testified. The second day of hearings had three panels of 28 witnesses, including Ronald Young, President of the California Association of Sanitation Agencies. The third day included 4 panels of 22 witnesses such as American Public Transportation Association President Bill Millar, California EPA Secretary Linda Adams and Sacramento Area Council of Governments Executor Director Mike McKeever.

APTA's Millar clearly stated support for several aspects of the bill including proposed new funding for the existing urban and rural transit formula programs, which he cited—Sec. 5307/5340 and Sec. 5311 of Title 49, US Code.

Links to web casts of each of the three days are:

October 27--

http://epw.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=72964ee0-802a-23ad-4a07-fb7c15201af8

October 28 –

http://epw.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=79667bd0-802a-23ad-47fc-5fe0e6a2f1ba

October 29 –

http://epw.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=7e80445f-802a-23ad-47e1-3382335f2f34

On November 3 and 4, a committee briefing of the legislation was held. No witnesses were called or participated. Here is a link to the Nov 3 Web cast
<http://epw.senate.gov/public/index.cfm?FuseAction=Hearings.LiveStream>

Mark up of the bill is still pending. Several minority members of the committee and other Senators continue to object to myriad provisions within the legislation. Once the bill completes mark up, 60 votes on the floor will be necessary to avoid expected filibuster. Until significant action on the Clean Energy Jobs and American Power Act takes place, there is little activity expected to advance a Senate version of federal transportation reauthorization.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

-Smith, Andrews, Gaines, Garson with appropriations and authorizing committee staff on 2010 appropriations, repeal of SAFETEA-LU rescission as well as movement on reauthorization and climate change legislation;

-Gaines with *Sen. Barbara Boxer and Rep. Loretta Sanchez* staff on rescission repeal, climate change legislation, transportation reauthorization and reprogramming appropriations

-Garson with House T&I staff on reauthorization, freight and financing mechanism for federal transportation programs

-Newman with House Energy & Commerce Committee staff on climate change legislation; FRA action on high speed rail

-SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

Contact with Administration on behalf of OCTA

-Burrell with US DOT Deputy Chief of Staff Marlise Streitmatter, and DOT Deputy Assistant Secretary for Governmental Affairs David Kim

Contact with relevant organizations on behalf of OCTA

-Smith, Gaines, Burrell attended APTA Annual Conference, October 4 - 7

-Burrell, Smith, Andrews, Garson with Southern California transportation Washington reps on October 13

-Burrell attended Brookings Institution briefing on Metropolitan Planning for Sustainable Growth and FTA Deputy Administrator Therese Watkins McMillan presentation at APTA, October 13

-Burrell with National League of Cities on reauthorization and appropriations

-Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings

-SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions

Miscellaneous

-Gaines and Burrell attended breakfast meeting with Rick Bacigalupo October 6

Report
to the
ORANGE COUNTY TRANSPORTATION AUTHORITY

From
Smith, Dawson & Andrews

Focus: Presidential, Congressional & DOT Action regarding Appropriations, Reauthorization & ARRA
November 2009

Highlights

The extension of SAFETEA-LU until December 18, which was included in a Continuing Resolution for all pending fiscal 2010 appropriations has remained as it was passed in late October. Discussions continue between House and Senate as to what length of extension is feasible after the December 18 deadline. With unemployment continuing to increase across the country, talk of a “jobs” bill often includes a measure that could emanate through transportation legislation. But no clarity has emerged on the SAFETEA-LU extension or the incomplete appropriations process.

Senate transportation leadership has been reported to seek a cloture vote to extend federal programs for six months. Majority and minority leaders of Senate Environment & Public Works, Banking, Commerce, and Finance were said to be urging Senate Majority Leader Harry Reid to press for a cloture vote to bring the item up for debate. It is believed that a \$10.3 billion increase in contract authority would not increase the deficit, according to reported analysis by the Congressional Budget Office.

However, the Senate debate on health care reform, which began on November 30, has consumed all other Senate activity. Every other piece of legislation—major or minor—is spoken of until health care is completed in the Senate. House transportation leadership is rumored to be discussing a jobs bill, while continuing to push for reauthorization sooner rather than later. An omnibus appropriations measure looms on the December 18th horizon in tandem with a potential jobs bill and an extension of federal transportation programs.

Other pending transportation measures such as the alternative fuels tax credit may also move with the omnibus bill. A tax extenders bill is expected by year’s end. Although, Senate transportation staff have also stated that the Senate will not have time to complete an extenders bill this year. However, it is highly probable that a major piece of legislation that includes all moving parts—appropriations, debt ceiling limit, SAFETEA-LU extension, estate tax and extenders—that are slated to be completed or must be completed by the end of the year will pass before Congress leaves for the year. If history repeats itself, then the LNG/CNG tax credit measure will be extended by being attached to a moving target to provide tax rebate to transit systems without a gap.

Elements of the jobs bill, whether grounded in transportation trust funds or general fund relief, are expected to emerge after President Obama conducts a White House summit on jobs December 3rd. House and Senate leadership are putting options together. House Majority Leader Steny Hoyer believes it is important to craft a bill that will work. He indicated it could move before the end of the year, but it is more likely to move in January of 2010.

No further activity has occurred to move the Clean Energy Jobs and American Power Act to Senate floor debate. Several minority members of the committee and other Senators continue to object to myriad provisions within the legislation. Many articles on the subject are in the forefront as the President heads to the Copenhagen meeting on Climate Change in December. Yet, no significant action on the Clean Energy Jobs and American Power Act is expected. And, the Senate version of federal transportation reauthorization continues to be stalled within the Senate Environment & Public Works Committee.

A new grant program to advance livability projects was announced by DOT Secretary Ray LaHood, while traveling in New Orleans. The program is expected to provide \$280 million in grants for urban circulator projects like streetcars, bus rapid transit and other circulator systems. The goal is to offer seed money to advance the "Livability Initiative," which is a compact among federal DOT, Housing and Urban Development and the Environmental Protection Agency. The program will seek to fund innovative approaches to livability. The Federal Register is expected to publish a Notice of Funding Availability by the second week of December with grant announcements projected for early 2010.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

- Smith, Andrews, Gaines, Garson with appropriations and authorizing committee staff on 2010 appropriations, repeal of SAFETEA-LU rescission as well as movement on reauthorization and climate change legislation;

- Gaines and Garson with *Sen. Barbara Boxer and Rep. Loretta Sanchez* staff on rescission repeal, climate change legislation, transportation reauthorization and reprogramming appropriations

- Andrews, Garson with House T&I staff on reauthorization, freight and financing mechanism for federal transportation programs

- Garson with Senate transportation staffers in Committees of relevant jurisdiction

- Newman with House Energy & Commerce Committee staff on climate change legislation; FRA action on high speed rail

- SDA group--review of important Congressional hearings and press conferences related to OCTA goals; information about Administration official travel and other events to grow awareness of OCTA solutions, opportunities and challenges to providing 21st century mobility options.

Contact with Administration on behalf of OCTA

- Burrell with DOT Deputy Assistant Secretary for Governmental Affairs David Kim

Contact with relevant organizations on behalf of OCTA

- Burrell attended APTA Transportation Tuesdays presentation by HUD Senior Advisor on Livability Shelley Poticha, November 10

- Burrell attended Brookings Institution briefing on Fiscal Challenges Facing Cities, November 19th

- Burrell with National League of Cities on reauthorization, appropriations and climate change

- Garson and Lopez--US Conference of Mayors and National Association of Counties update meetings

- SDA group--outreach to Republican and Democratic leadership and Administration officials regarding activities related to ARRA funds distribution, appropriations preparations and reauthorization discussions



January 21, 2010

To: Legislative and Communications Committee
From: Will Kempton, Chief Executive Officer
Subject: Transportation Appropriations and Grant Application Project List

Overview

The Orange County Transportation Authority recommends funding requests totaling \$52 million to support nine projects for submittal to the Orange County United States Congressional Delegation. The requests are to be submitted for consideration in the federal fiscal year 2011 Transportation Appropriations Bill and as federal grant funding opportunities become available throughout the year.

Recommendations

- A. Review and approve the recommended list of transportation projects and authorize staff to pursue funds through the fiscal year 2011 federal appropriations process and as grant funding opportunities become available throughout the year.
- B. Direct staff to pursue Federal Transit Administration Bus Livability Program funds in support of the Anaheim Regional Transportation Intermodal Center, as the only viable Orange County transit project that meets federal requirements for project readiness as part of this new grant program.

Background

Each year, in preparation for its annual appropriations process, the United States (U.S.) House and Senate Appropriations Committees request that congressional members submit a list of projects for consideration and possible inclusion in the legislation authorizing discretionary spending for federal programs. Individual congressional members have established a process and timetable for constituents to provide them with appropriation requests.

In 2009, the Orange County Transportation Authority (OCTA) submitted eight projects for federal fiscal year (FY) 2010 at a requested federal funding level of \$48 million. A description of those projects is contained in Attachment A. The list reflected OCTA's federal funding priorities for highways, goods movement, and transit projects.

On December 16, 2009, the President signed the FY 2010 Consolidated Appropriations Act (CAA) which provides funding for all federal transportation, housing and urban development programs for this year. The CAA adopted the appropriation requests, which were agreed to by the House and Senate as part of an earlier transportation conference report.

OCTA received four specific appropriations in the conference report as follows: \$935,000 for the San Diego Freeway (Interstate 5) widening and improvements (submitted by Representative Calvert [R-CA]); \$750,000 for San Diego Freeway (Interstate 405) improvements (submitted by U.S. Representative Rohrabacher [R-CA]); \$350,000 for Bristol Street widening (submitted by Representatives Sanchez [D-CA]); and \$725,000 for the Anaheim Regional Transportation Intermodal Center (ARTIC) (submitted by Representatives Miller [R-CA], Sanchez [D-CA], Royce [R-CA], U.S. Senators Boxer [D-CA] and Feinstein [D-CA]). The total for these specific appropriations is \$2.76 million (Attachment A). Additionally, the CAA provided an earmark of \$487,000 to support the implementation of positive train control for the Metrolink system.

Further, the CAA appropriated \$600 million for national transportation infrastructure investment to continue the discretionary investment programs initiated under the American Recovery and Reinvestment Act, passed last February. These funds are intended to support transit or highway projects, passenger and freight rail projects, and port infrastructure investments. Additionally, federal grant agencies periodically make available for competition, unallocated funds authorized within their discretionary programs. For example, the CAA left approximately \$150 million in unearmarked "New Starts" fixed guideway funding to be distributed at the discretion of the Department of Transportation. OCTA intends to pursue funding opportunities for the remaining unfunded portions of projects identified in the recommended project list based on their eligibility and their ability to compete within the requirements of the grant programs.

To this point, on December 8, 2009, the Federal Transit Administration (FTA) announced the availability of \$150 million in unallocated Section 5309 Discretionary Bus and Bus Facilities Program funds for nationwide competition. Proposals for FTA's Bus Livability Program are due February 8, 2010. OCTA

intends to submit an application to pursue funding for ARTIC under this program. ARTIC is the only Orange County transit program that qualifies for this grant funding based on project readiness requirements.

Discussion

OCTA staff worked collaboratively across all departments to develop the recommended list of project funding requests for the FY 2011 federal appropriations. These recommendations were based on the benefits to Orange County, as well as the viable status of the project and the anticipated funds needed over the next fiscal year. In compiling the project list, an effort was made to consolidate requests and focus on projects, which do not have other potential sources of funds, or where funds cannot be spent at the rate required by economic stimulus legislation.

The list for FY 2011 contains several projects for which funds were also sought in FY 2010 appropriations and continues to focus heavily on the Riverside Freeway (State Route 91) corridor and the Orange County portion of freeway corridors and rail lines that connect Los Angeles and San Diego. Staff is proposing to continue pursuing funds needed to implement positive train control (PTC) for Metrolink. Funding in the amount of \$250 million allocated over five years has been authorized by the Rail Safety Improvement Act of 2008 (RSIA). The CAA provides for the first \$50 million of that funding. However, the amount authorized in the RSIA is insufficient to fully implement the system nationwide.

Federal FY 2011 Appropriations Project List

The project list provided below for review and approval by the OCTA Board represents a total request of \$52 million in federal funds to support nine priority OCTA projects:

A. Riverside- Freeway (State Route 91) Congestion Relief Project

This funding request for FY 2011 of \$5 million is for the State Route 91 (SR-91) and Eastern Toll Road (State Route 241) interchange. A direct connection between the congestion priced lanes on SR-91 and the State Route 241 (SR-241) toll road will provide a new travel option for SR-91 commuters and allow for a more balanced distribution of travel along the highly congested SR-91 corridor. This request will fund examination of options to connect 91 Express Lanes with SR-241.

Total Project Cost: \$400 million
FY 2011 Request: \$5 million

B. San Diego Freeway (Interstate-405) Widening Project

OCTA has completed a project study report for Interstate 405 (I-405). Funding is requested to support capacity improvements in each direction of the facility, which includes the addition of up to two lanes from Euclid Street in Fountain Valley to San Gabriel Freeway (Interstate 605) near the Orange County/Los Angeles County border. Prior federal funding has fully supported the environmental phase of this project, which is currently underway. The requested funds would help support a portion of the final design of the project.

Total Project Cost: \$1.1 billion

FY 2011 Request: \$5 million

C. San Diego Freeway (Interstate 5) Segment Improvements

Funding is requested for Interstate 5 (I-5), from Pacific Coast Highway (State Route 1) to Avenida Pico. The project will add additional freeway capacity along I-5 in the south county region and consider a potential connection with planned San Diego County high-occupancy vehicle (HOV) lanes on the I-5. For FY 2011, the requested funds will be used to complete the required technical studies, including environmental documents.

Total Project Cost: \$250 million

FY 2011 Request: \$5 million

D. Bristol Street Multimodal Corridor Widening

Bristol Street is a major north/south arterial street through the heart of Orange County. Funding is requested to support the widening of Bristol Street in the City of Santa Ana, which also supports OCTA's plan to expand transit service on the Bristol Street corridor via bus rapid transit service. The environmental document is complete and right-of-way acquisition and construction are under way. The funding request would support a portion of the construction costs.

Total Project Cost: \$236 million

FY 2011 Request: \$5 million

E. Anaheim Regional Transportation Intermodal Center (ARTIC)

The ARTIC is a regional, intermodal transportation center located in the City of Anaheim, and will serve as a hub for a variety of transit modes ranging from conventional bus service to planned regional, high technology transportation systems. In addition, ARTIC will strategically facilitate the proposed California

high-speed rail alignment, as well as the Anaheim to Ontario International Airport segment of the California-Nevada interstate high-speed rail project. The project expands existing transportation infrastructure to accommodate Amtrak intercity rail, Metrolink commuter rail, Orange County bus rapid transit, and Anaheim Resort shuttles. OCTA and the City of Anaheim have acquired the necessary property for the project with local funds. This request would continue funding for the transit elements of the project.

Total Project Cost: \$245 million
FY 2011 Request: \$9 million

F. Grade Separations in North Orange County

Funds are requested to support grade separation improvements along the Alameda Corridor East. This effort entails the separation of road and rail traffic at five grade crossings in north Orange County. Grade separations are proposed at State College Boulevard, Kraemer Boulevard, Orangethorpe Avenue, Tustin Avenue/Rose Drive, and Lakeview Avenue. The environmental review process is complete, and OCTA requests funds to help complete construction.

Total Project Cost: \$314 million
FY 2011 Request: \$5 million

G. Go Local – Anaheim Fixed Guideway

Funds are requested to initiate the design and preliminary engineering phase of the Anaheim Fixed Guideway system, which will connect Metrolink commuter rail service via the ARTIC to the Anaheim Resort, Platinum Triangle and Anaheim Convention Center. The City of Anaheim is underway with the alternatives analysis and environmental phases and is expected to complete environmental clearance in May 2011.

Project Cost: \$51 million
FY 2011 Request: \$4 million

H. Go Local – Santa Ana-Garden Grove Fixed Guideway

Funding is requested to initiate the design and preliminary engineering phase of the Santa Ana-Garden Grove Fixed Guideway system. The system will extend the reach of Metrolink commuter rail service via the Santa Ana Regional Transportation Center (SARTC) to Bristol Street providing access to Santa Ana's downtown area, civic center complex and potential future

extensions to Harbor Boulevard in the City of Garden Grove. The City of Santa Ana is underway with the alternatives analysis and environmental phases and is expected to complete environmental clearance in December 2011.

Project Cost: \$9 million
FY 2011 Request: \$4 million

I. Positive Train Control for Metrolink

Funds are requested to support the implementation of PTC for Metrolink to help prevent train-to-train collisions, speeding, and over-speed derailments, and movement of a train through a wrong rail segment or into track work zones. The implementation of the project will enhance the safety and security of commuter rail service, while helping to meet 2015 federal mandate enacted in the RSIA of 2008.

Total Project Cost \$250 million
FY 2011 Request: \$10 million

Project Priorities

Last year, instructions from Senator Feinstein's office indicated that project requests to the Senator's office needed to be limited to the two top priorities of each requesting entity. In anticipation of similar requirements, staff is recommending a similar approach for FY 2011 appropriations effort in which the SR-91 congestion relief projects and PTC Metrolink are presented as OCTA's top priorities for Senator Feinstein's office only. Staff is proposing to pursue all of the recommended projects with all of the other delegation offices.

Once this list of projects is approved, federal relations staff will work with OCTA's Washington consultants to submit the requests to the Orange County Congressional Delegation for inclusion in the FY 2011 Transportation Appropriations Act.

Summary

The OCTA Board's adoption of the FY 2011 Transportation Appropriations Project List is requested. Authorization to pursue federal funding opportunities as they become available throughout the year is also being requested to support the recommended projects.

Attachment

- A. Summary of FY 2010 OCTA Federal Transportation Appropriations Requests

Prepared by:



Richard Bacigalupo
Manager Federal Relations
(714) 560-5901

Approved by:



Kristine Murray
Executive Director, Government Relations
(714) 560-5908

Summary of FY 2010 OCTA Federal Transportation Appropriations Requests

Project Name		FY10 Request	*Prior Appropriations /FY	Congressional District
HIGHWAYS				
A	Riverside Freeway (State Route 91) Congestion Relief Project	\$5,000,000	\$712,500 /09	40, 42, 44
B	San Diego Freeway (Interstate 405) Widening	\$5,000,000	\$750,000 /10	46, 48
			\$380,000 /09	
			\$490,000 /08	
			\$1,500,000 /05	
			\$1,000,000 /06	
C	San Diego Freeway (Interstate 5) Segment Improvements	\$5,000,000	\$935,000 /10	44, 48
			\$237,500 /09	44
			\$5,000,000 /05	44
			\$800,000 /04	44
D	Santa Ana Freeway (Interstate 5) Segment Improvements	\$5,000,000		48
STREETS & ROADS				
E	Bristol Street Widening	\$5,000,000	\$350,000 /10	47
			\$650,000 /08	
			\$750,000 /05	
			\$600,000 /06	
TRANSIT & GRADE SEPARATIONS				
F	Anaheim Regional Transportation Intermodal Center (ARTIC)	\$9,000,000	\$725,000 /10	40, 42, 44, 47
			\$2,612,500 /09	
			\$588,000 /08	
G	Commuter Rail Station Improvements	\$4,000,000		40, 42, 48
H	Positive Train Control for Metrolink	\$10,000,000	\$487,000 /10	40, 42, 44, 47
Total		\$48,000,000	\$18,567,500	

* FY08 appropriations included a 2 percent reduction required by the 2008 Omnibus Act

Congressional Districts	
CA-47 U.S. Representative	Loretta Sanchez
CA-42 U.S. Representative	Gary Miller
CA-46 U.S. Representative	Dana Rohrabacher
CA-40 U.S. Representative	Ed Royce
CA-44 U.S. Representative	Ken Calvert
CA-48 U.S. Representative	John Campbell
Senator	Dianne Feinstein
Senator	Barbara Boxer



January 21, 2010

To: Legislative and Communications Committee

From: Will Kempton, Chief Executive Officer

Subject: Rideshare Program Update

Overview

The Orange County Transportation Authority's Rideshare Program is a transportation control measure included in the Southern California Association of Governments' Regional Transportation Plan. Program goals are to create awareness and usage of alternatives to single occupant vehicle travel such as vanpooling, carpooling, biking, and transit. This report provides an update on the program.

Recommendation

Receive and file as an information item.

Background

The Orange County Transportation Authority (OCTA) Rideshare Program supports regional air quality conformity goals and is classified as a transportation control measure in the Southern California Association of Governments' (SCAG) Regional Transportation Plan. The program includes a wide array of services and programs including a vanpool program, carpool matching, bus and rail services marketing, and employer assistance with transportation plans. The target audience for OCTA's Rideshare Program includes large employers and their employees as well as other home-to-work commuters. OCTA's Rideshare Program is branded "Share the Ride."

Discussion

OCTA builds relationships with Orange County businesses by offering services that will assist them in meeting air quality mandates under the South Coast Air Quality Management District's (SCAQMD) Rule 2202. This rule requires large employers with 250 or more employees to annually assess its workforce's

average vehicle ridership (AVR). AVR is a measure of vehicle trips and occupancy rates for trips taken to and from the worksite. The goal is to promote options to single occupant vehicle travel, reduce vehicle miles traveled, and reduce vehicle emissions.

OCTA's Share the Ride program reaches employers, their employees, residents and commuters in Orange County. There are more than 300 large employers in Orange County. However, rideshare services are available to any business located in Orange County regardless of size.

OCTA offers the following to employers:

- Information about OCTA bus, rail, vanpool and carpool services, and transit passes
- Transportation subsidies via the employer and university pass and vanpool program
- Outreach assistance by attending employer events to disseminate transportation information and provide direct assistance to their employees
- Average vehicle ridership (AVR) surveys, ride matching, and ride guides for employees
- Employee transportation coordinator (ETC) training programs including certification programs required by SCAQMD and quarterly marketing meetings
- Interactive website information, www.octa.net/sharetheride, providing a one-stop place for information about OCTA events, campaigns, and services
- Countywide marketing campaigns to reinforce commute options and encourage trial use (Bike to Work, Dump the Pump, and Rideshare Week)

For employees and general commuters, OCTA offers:

- Ride matching services to provide car and vanpooling options
- Information on OCTA website about commute costs and options

- Reduced fares (Epass, Upass, and the vanpool program)

The following table shows a sample of types and volume of support services and programs provided by OCTA to employers over the past three years.

Service Provided	Calendar Year		
	2007	2008	2009*
Commuter assistance (telephone calls)	1,791	3,215	2,372
Ride Guides produced	9,783	15,893	17,451
AVR clients (companies)	48	50	78
AVR surveys processed	47,817	40,739	50,531
Employer classes / training	4	4	3
Promotional campaigns	3	3	1
Employer onsite assistance / outreach	48	36	24
Vanpools formed	154	275	283
University pass participants (average monthly boardings)	53,564	75,897	69,804
Employer pass participants (average monthly boardings)	65,782	69,515	62,177

* Through November 2009

In addition to these programs, OCTA participates in several promotions including California Rideshare Week. This annual campaign is conducted in conjunction with a statewide effort to promote ridesharing. Commuters are encouraged to try alternatives to driving alone and when they do, they can enter a drawing to win (sponsored) prizes.

While there was moderately less participation than last year (which could be the result of a poor economy and high unemployment rates), nearly 10,000 rideshare trips were reported during Rideshare Week (October 5-9, 2009) via an online survey or a mail-in report card. Based on the online reports submitted, about 54 percent of the rideshare trips were made using van or carpool, while 32 percent used transit (bus or train).

The major tactics of this year's promotional program included an ETC kick-off meeting with 55 attendees, employer promotional posters and fliers in addition to a dedicated web section and seven e-mail blasts to approximately 300 ETCs. The production cost based on those tactics was \$3,214, which yielded a return on investment indicator of \$0.32 per rideshare trip. The added value of the promotion is the exposure to the 75,000 employees represented by the 300 employers. The cost of reaching each of those employees is \$0.04.

The following chart represents the data collected and used to analyze the results of this year's campaign compared to previous years.

Rideshare Week Campaign Results by Calendar Year			
	2007	2008	2009
Rideshare Trips	8,290	13,138	9,944
Mode Use (based on online reports)			
Bus	591	1,281	926
Metrolink	912	1,827	1,507
Vanpool/Carpool	2,575	5,643	4,130
Bicycle	244	693	630
Telecommute/Walk	384	384	426

In July 2007, the OCTA vanpool program was launched. This program reduces the number of cars used by commuters traveling to worksites in Orange County. There are currently 2,312 people riding to 52 unique worksites in the county. In addition to providing a viable commute option, this program generates additional federal funding allocations for transit capital programs. The following chart provides the fiscal year data and estimated increased federal allocation of funds as a result of the vanpool program.

Fiscal Year Vanpool Data			
	2007-08	2008-09	2009-10 (July – Nov. 2009)
Vanpools	204	285	277
Revenue miles	2,967,112	5,088,479	2,153,078
Passenger trips	449,055	781,828	333,523
Subsidy paid	\$670,520	\$1,266,680	\$551,320
General and Administrative	\$112,590	\$197,800	n/a
Total Expenses	\$783,110	\$1,464,480	n/a
5307 Apportionment*	\$1,533,486	\$2,814,217	n/a

*These are the estimated amounts that OCTA expects to receive based on the vanpool program data included in our annual National Transit Database (NTD) report.

In conclusion, OCTA's Rideshare Program, especially the vanpool program, is highly effective. For example:

- OCTA is providing more transportation information to employers.
- More vanpools are being formed and the ratio of revenue to expense for the vanpool program is approximately 2 to 1.
- There is sustained use of employer and university bus passes.
- Rideshare week promotion is cost-effective in enhancing awareness and participation for ridesharing.

Summary


OCTA's Rideshare Program plays a vital role in communicating information about alternatives to single occupant vehicle travel. In addition, employers and commuters depend on the services offered under this program. This report provides data that indicates that the program yields positive results for OCTA and Orange County.

Attachment

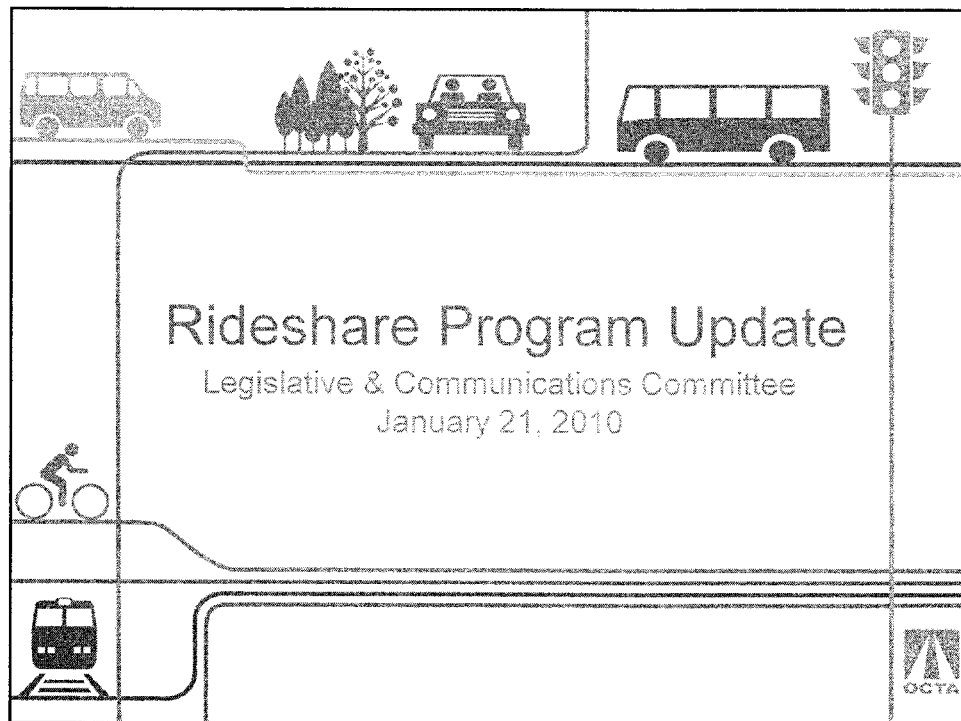
None.

Prepared by:

Stella Lin
Manager, Marketing
(714) 560-5342

Approved by:

Ellen S. Burton
Executive Director, External Affairs
(714) 560-5923



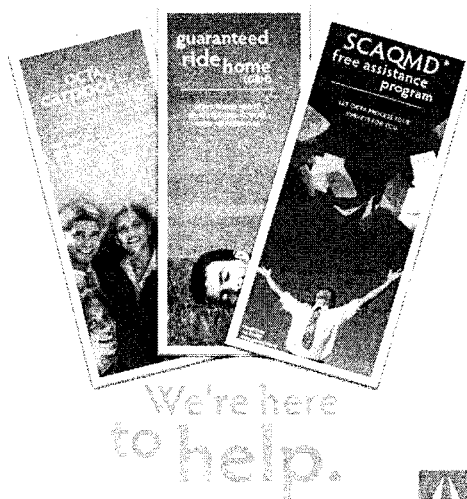
Program Goals

- Provide a transportation control measure
- Offer options to solo auto travel
- Promote OCTA programs and services



Employer Services

- Ride matching
- AVR surveys*
- Vanpool program
- Employer/university pass
- Marketing certification
- Outreach and education
- Guaranteed Ride Home



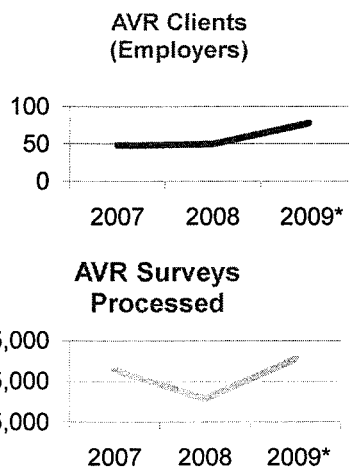
3

* AVR = Average Vehicle Ridership



Employer Participation

- Experian
- City of Santa Ana
- Hoag Hospital
- Montage Resort & Spa
- Goodwill Industries
- St. John's Knits
- Department of Homeland Security
- Orange Coast College



4

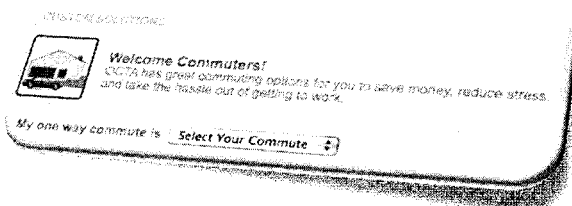
* Through November 2009



Commuter Programs

- Ride matching
- Personalized info
- Vanpool subsidy
- E & U-Pass
- Online portal

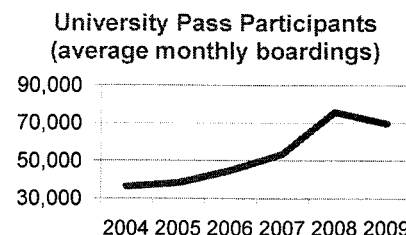
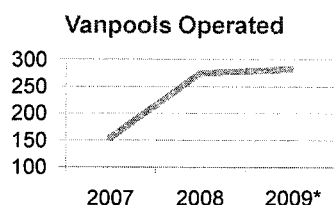
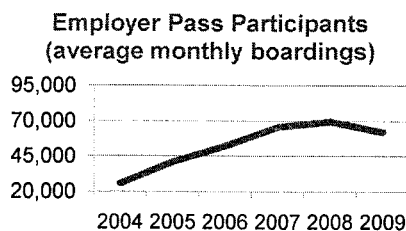
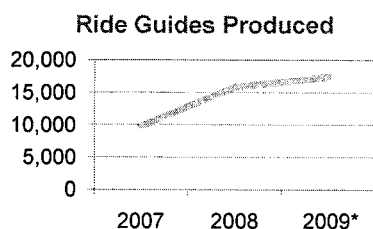
Share the Ride



5



Commuter Participation



6

* Through November 2009



Outreach & Promotions

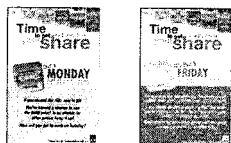


2009 Rideshare Week

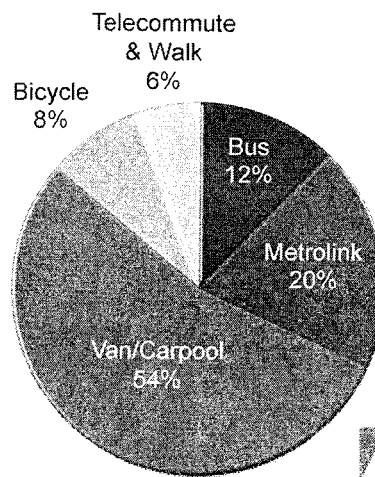
- Reached 300 employers
- 75,000 employees
- 10,000 rideshare trips

Digital Communications

- Cost: \$3,214
- ROI: \$0.32/rideshare trip
\$0.04/employee reached



Commute Modes Breakdown



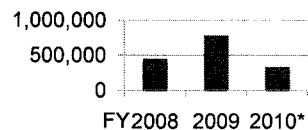
Vanpool Program



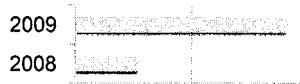
Revenue Miles



Passenger Trips



5307 Apportionment



\$1,000,000 \$2,000,000 \$3,000,000

Estimate based on the vanpool program data included in our annual National Transit Database report.



How are you spending your time and money?



* July through November 2009