



ADDENDUM

Meeting of the Connect Transit Board of Trustees August 28, 2018

- D. Consent Agenda**
 - 6. Cardinal Infrastructure Federal Report**

Federal Report for Connect Transit
Prepared by Cardinal Infrastructure
August 28, 2018 Board Meeting

Transportation Appropriations

The Senate passed, 94-6, a combined Fiscal Year (FY) 2019 Interior-Environment, Financial Services, Agriculture and Transportation-HUD package. Bill highlights include:

- \$1 billion (B) for BUILD grant program (\$1.5 B in FY 2018)
- \$2.6 B for the Capital Investment Grant (CIG) program, fully funding all current FFGA transit projects, as well as new projects that have met the rigorous criteria of CIG. Of this amount \$568 million (M) is for small starts projects.
- 664 M for Bus and Bus Facilities formula (\$654 M in FY 2018)
- \$428.5 M for Bus and Bus Facilities discretionary program (\$407 M in FY 2018)
- \$84.45 M for Low or No Emission discretionary program (\$84 M in FY 2018)

The likelihood of Congress passing appropriations bills in September, avoiding a continuing resolution, has increased substantially over the past few weeks. However, Congress is operating on a tight timeline - with 11 legislative days remaining when both House and Senate are back in session before the end of the fiscal year. Furthermore, the House has yet to pass its Transportation-HUD bill. There is the possibility for a pre-conference discussion on the Transportation-HUD measure which could help advance a timeline for passage by Congress.

Prior to the passage of the mini-bus, the Senate agreed to a manager's package that included an amendment offered by Senator Reed (D-RI) that prevents any funding in the FY 19 appropriations bill from being used for the "implementation and furtherance of new policies" outlined in the Federal Transit Administration's (FTA) June 29, 2018 "Dear Colleague" letter on the Capital Investment Grant (CIG) program.

The manager's package also included an amendment from Senator Hellerr (R-NV) which directs the U.S. Department of Transportation (US DOT) to report to Congress on efforts "to engage with local communities, metropolitan planning organizations, and regional transportation commissions on advancing data and intelligent transportation systems technologies and other smart cities solutions."

Bus and Bus Facilities

Connect Transit General Manager, Isaac Thorne, in conjunction with Champaign-Urbana Mass Transit District, sent a letter to Senator Durbin, Senator Duckworth, Congressman Davis, and Congressman LaHood advocating for additional discretionary grant funding for the Bus and Bus Facilities Infrastructure Investment Program in the FY 19 appropriations bill. Although the House and Senate have proposed additional investments in the Bus & Bus Facilities Program above FAST Act authorization levels, the letter requests the Senate version to be adopted in a final bill. The House includes a total of approximately \$454.96 million for formula funding and \$567 million for the discretionary program. The Senate's bill provides an approximate total of \$664 million for formula funds and \$428.5 million in discretionary funds.

CIG Program

House Republicans and Democrats have sent letter to US DOT in response to FTA Acting Administrator Jane Williams' 'Dear Colleague' letter addressing the agency's discretion in the process of making

funding allocation decisions for projects. House Committee on Appropriations Chairman Rodney Frelinghuysen (R-NJ) sent a letter to Secretary Chao conveying the expectation that if US DOT “begins to consider any formal changes in policy related to the use of Federal loans to fund infrastructure projects” it is to consult with Congress.

House Transportation and Infrastructure Committee Ranking Member DeFazio and Highways and Transit Subcommittee Ranking Member Norton sent a letter to Secretary Chao defending the CIG program; discussing its mischaracterization as a discretionary program and identifying it as more of a pipeline program; contesting the addition of geographic diversity as a new criterion; and challenging the decision to alter the risk assessment process and increase of the risk probability threshold.

Infrastructure Proposal

The President’s infrastructure proposal has come to a crawl. Meanwhile, House Transportation and Infrastructure Chairman Shuster (R-PA) has released an outline of his infrastructure legislation.

The President’s infrastructure initiative was silent on future funding of the Highway Trust Fund, which will need about \$20 billion per year in additional taxes or other financial resources – forever – after 2020 in order to continue paying current commitments and future commitments at the current spending levels.

Shuster's plan takes the opposite approach. Instead of leading with new programs and ignoring the solvency of the existing HTF programs, Shuster’s bill makes continued HTF solvency its top priority. This is also why the Shuster bill is not expected to go anywhere, at least before the fall elections. Because under federal budget rules, trust funds can only be supported by taxes. Taxes are in the jurisdiction of the Ways and Means Committee, which has not expressed any interest in getting involved in a tax increase in an election year.

Highlights:

- Repeals existing tax exemptions for gasoline and diesel used by mass transit buses and imposes new taxes on passenger train diesel fuel.
- Proposes an electric vehicle battery tax.
- Establishes a competitive national infrastructure investments program with each grant made being at least \$25 million.
- In addition to the current funding for Bus and Bus Facilities Grants, the bill proposes \$400 million for FY 2019, \$300 million for FY 2020, and \$200 million for FY 2021.

Federal Projects

FTA officially published its FY 18 Apportionment Notice in the Federal Register. Of particular interest is a section on page 3 which FTA has been talking about for some time; asking about the limits of federal requirements on FTA federally funded projects. FTA intends to review the thresholds for defining whether a project or project element qualifies as federally funded, which determines whether it is subject to various federal requirements, reviews, and oversight. The notice states that the "...online dialogue [explores]how to best define a “federal” project. As part of a comprehensive review of regulations and guidance, the dialogue will help FTA identify opportunities to expedite transit infrastructure funding."

Public Transportation Safety Plan

FTA issued two final regulations: the Public Transportation Agency Safety Plan (PTASP) rule and the Safety Certification Training Program rule. PTASP requires transit agencies to incorporate Safety Management System (SMS) policies and procedures as they develop safety plans to better manage their safety risks. Since no two transit systems are alike, the rule sets scalable and flexible requirements for safety plans. The SMS approach includes: (1) Safety Management Policy, (2) Safety Risk Management, (3) Safety Assurance, and (4) Safety Promotion, and is discussed in more detail in the final rule.

The PTASP must also include, at a minimum:

- Performance targets based on the safety performance criteria established under the National Public Transportation Safety Plan (NPTSP).
- Address all applicable requirements and standards in FTA's PTASP and NPTSP.
- Establish a process and timeline for conducting an annual review and update of the PTASP (this annual review and update is a process to be undertaken by each transit agency independent of the triennial review process).

Personnel

Alan Hanson will be serving as Deputy Chief of Staff to Secretary Chao. Hanson was most recently at the Department of Justice Office of Justice Programs (OJP). Before joining the Department of Justice, Hanson served as the General Counsel, Chief of Staff and Legislative Director for Senator Shelby (now Chairman on the Appropriations Committee). Prior to these roles, he was Legislative Director to then-Senator Jeff Sessions.