Metropolitan Transportation Commission and Association of Bay Area Governments

Joint MTC ABAG Legislation Committee

July 9, 2021 **Agenda Item 4a**

Update on Surface Transportation Reauthorization

Subject: Status update regarding the reauthorization of the federal surface transportation law, including an update on the interplay between reauthorization and an infrastructure package.

Overview: ***Congress Makes Progress on a Long-Term Transportation Bill***

The Fixing America's Surface Transportation (FAST) Act—the law that guides federal transportation policy and spending priorities—is set to expire on September 30, 2021. Over the past two months, Congress has been making progress on FAST Act reauthorization discussions; On July 1, the House approved their five-year $547 billion surface transportation bill, *Investing in a New Vision for the Environment and Surface Transportation in America Act* (INVEST) while the Senate has advanced through policy committees the highway, rail, safety and multimodal projects portions of their transportation bill. Summaries of the House bill and Senate highway title are posted on MTC's website and a summary of the Senate's rail, safety and multimodal projects proposal is forthcoming. As is standard practice, the Senate's transit policy and revenue measures—which are still under development—will ultimately be merged with the surface transportation policy provisions into one Senate surface transportation reauthorization bill.

Encouragingly, the House and Senate proposals released thus far are largely consistent with Plan Bay Area 2050 investment priorities and reflect most of our transportation reauthorization priorities. Importantly, both the House and Senate proposals would build on the existing FAST Act program structure and, as shown in the chart below, would substantially increase federal funding commitments over five years.

Comparison of Transportation Authorization Funding Levels ($ in Billions)			
	FAST Act (FY 2015-2020)	**House INVEST in America Act (FY 2022-2026)**	**Senate Proposals (FY 2022 – 2026)**
Highways, Bridges, Multimodal Transportation, Major Projects	$225	$334	$332[1]
Transit	$ 61	$109	TBD
Intercity and Freight Rail	$ 10	$ 95	$35
Other *(safety, misc.)*	$ 9	$ 10	$13
TOTAL[2]	**$305**	**$547**	**TBD**

1 Includes the $303.5 billion in the highway title and $28 billion in the multimodal nationally and regionally significant transportation and freight grant programs

2 Totals may not sum due to rounding.

Consistent with our federal advocacy program, the bills would establish stronger federal leadership—paired with more resources—on climate and resilience. Less concrete but perhaps more transformational, the House bill would incrementally shift the focus of the federal program—which has historically been oriented around highways and State Departments of Transportation—toward longstanding MTC priorities, including transit, climate, bike/ped, and state of good repair. For example, the House bill grows the existing core transit formula programs and the bike/ped program at faster rates than the traditional highway programs, creates new climate and resilience formula and discretionary programs (though the formula programs are reserved solely for state departments of transportation), modifies the largest highway programs to make eligible resilience investments, and requires that states invest in state of good repair. It also targets expands the Federal Transit Administration's State of Good Repair program and makes policy changes to encourage investment in transit and operational improvements over highway capacity expansion. We are hopeful this shift will similarly be reflected in the final Senate bill, as the transit title is developed, and the highway and rail portions of the proposal continue to be refined.

Of note, there is ***still room for improvement*** in both chamber's bills as it relates to bringing federal government on as a stronger partner on climate not just to states ***but also to regions like the Bay Area***.

Next Steps and Timing
Lawmakers hope to have a long-term (i.e., five-six years) reauthorization bill approved in advance of the September 2021 FAST Act expiration. While they are making meaningful progress toward that goal, paying for a transportation bill is typically the most challenging aspect of delivering a multi-year authorization and this year will be no exception. The INVEST Act would require **roughly $200 billion** above anticipated Highway Trust Fund (HTF) revenues over the five-year period. Though the House bill is widely expected to be the high-water mark, any long-term bill will require significant new revenues since simply *maintaining baseline spending* for the next five years will require an infusion of an additional **$70 billion.** One option to overcome this hurdle is incorporating a long-term bill into an infrastructure package that is part of a broader, "must-pass" deal. Notably, restoring the long-term solvency of the HTF so that its annual outlays match its incoming revenues through a gas tax increase is not part of the reauthorization discussion and the Biden Administration has publicly opposed it.

Surface Transportation Reauthorization and an Infrastructure Bill
The President and a bipartisan group of Senators last week unveiled an outline of a bipartisan infrastructure deal which would fund $578 billion in new transportation, resilience, water, power, and broadband infrastructure spending paid. Of the $312 billion dedicated to transportation, $252 billion would be directed to surface transportation and vehicle electrification investments (on top of baseline spending) and the remainder would fund airports, ports, waterways, and an infrastructure bank. A White House summary is linked here. At the same time, Senate Democrats are laying the groundwork to proceed on a Democrat-only reconciliation bill that could fund areas not addressed in the bipartisan framework, including housing.

How a bipartisan infrastructure deal will sync up with a multi-year transportation bill is unclear, but at the time that this memo was drafted, the most likely scenario is that a reauthorization bill will serve as the major "transportation investment" component of an infrastructure bill, with the bulk of the $252 billion proposed for transportation and vehicle electrification incorporated into a long-term reauthorization bill. Interestingly, this could result in a transportation bill at the scale of the House-passed INVEST in America Act, which represents a $242 billion *increase* above FAST Act spending levels.

Hurdles Remain – Paying for a Deal and Funding Other Infrastructure Priorities
Although the President's backing of the bipartisan infrastructure deal creates some strong political momentum, as with a traditional transportation bill, paying for it will be a challenge. The bipartisan framework identified a list of more than a dozen potential "pay fors" that could fund the $578 billion in new spending, but many of the suggested categories—cutting down on tax evasion, repurposing unused COVID relief funds, auctioning the 5G spectrum that today is dedicated to transportation uses—are questionable as far as their viability and will still draw opposition, albeit less so than many other options. Of note, if the surface transportation bill is the vehicle for the transportation portion of the infrastructure deal, the total price tag would need to grow by an additional $70 billion to address the shortfall needed to maintain baseline surface transportation funding levels, as described above.

As noted above, many categories that President Biden had proposed in his original American Jobs Plan (AJP)—including housing—are not included in the bipartisan framework. In addition, the framework pared down the climate-focused infrastructure investments the President proposed in the AJP (reducing electric vehicle investments by 90 percent, clean power grid investment by about 30 percent, and eliminating proposed investments in clean buildings, among other changes) and excluded "people focused" health care and childcare options that are a top priority for many progressive leaders in Congress. Though these could be considered in a reconciliation bill, the path forward remains uncertain.

Attachments: None

Therese W. McMillan