



City of Phoenix

To: Mayor and Council
Executive Team

Date: June 25, 2009

From: Karen Peters
Government Relations Director

Subject: FEDERAL UPDATE: JUNE 12– JUNE 25, 2009

This memorandum provides an update of the past **two** week's federal activities – Congressional action, lobbying and national meetings. Please let me or Tom Remes know if you have any questions or need further information on specific legislation or issues.

JUNE 12 – JUNE 25, 2009

House Surface Transportation Authorization Bill Released

On Monday, the bipartisan leadership of the House Transportation and Infrastructure Committee (Chairman Jim Oberstar (D-MN), Ranking Member John Mica (R-FL), Chairman Peter DeFazio (D-OR) subcommittee on Highways and Transit, and Ranking Member John Duncan (R-TN) subcommittee on Highways and Transit) released the “Surface Transportation Authorization Act of 2009” (STAA). The bill authorizes the nation's surface transportation programs which are currently funded under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Act, which expires on September 30, 2009. As proposed, STAA provides \$100 billion over six years for public transportation programs, \$337 billion for highways, \$50 billion for high-speed rail, and \$13 billion for highway and motor-carrier safety programs. The high-speed rail component would be brand new for an authorization measure, following up on the \$8 billion appropriated in the recovery act this year and the president's budget request for \$1 billion in additional rail funding for each of the next five years. The high-speed rail program would be financed outside of the Highway Trust Fund.

STAA also includes a Metropolitan Mobility and Access (MMA) program, which has been a top priority for local government associations. MMA would be mode-neutral discretionary program to assist large, congested metropolitan regions in addressing congestion and expanding accessibility. The program provides funding for congestion relief plans designed to increase mobility and accessibility of people and freight in major metropolitan areas.

On Wednesday, the bill was approved by the Committee's Highways and Transit Subcommittee. Here is a summary of the bill's transit provisions, how markup went, and the prospects for the bill.

The bill is called the “Surface Transportation Authorization Act of 2009”. This is a throwback to the 1980's, when all surface transportation authorization bills had that

name or something close to it. It signals Chairman Oberstar's intention to make a break in many ways from the recent "tea" bills.

The draft bill in its current form omits any funding numbers or formulas. Those critical numbers will be added later, probably at full committee markup. We do know that the bill will provide \$99.8 billion for transit over six years, a 90 percent increase over SAFETEA-LU levels. Transit's share of the total program would grow from 18.3 percent under SAFETEA-LU to 22.2 percent under the Committee bill. In addition, the bill would give Metropolitan Planning Organizations (MPOs) unprecedented power to shift funds, under the new Metropolitan Mobility and Access Program, from highways to transit.

The bill makes big changes in the planning process. It would require states to produce 20-year long-term strategic transportation plans that include greenhouse gas emission reduction targets. Designated transit recipients will need to develop and submit to United States Department of Transportation (USDOT) for approval a "state of good repair investment plan". The bill would infuse the use of performance measures throughout transportation planning and project evaluation processes (the bill uses the word "performance" 248 times).

The bus and bus facilities program would be eliminated. Part of it would effectively go into an expanded Section 5307 formula program. The rest would go into a new discretionary Intermodal and Energy Efficient Transit Facilities Program that would also replace the clean fuels grant program. Program grants would fund intermodal passenger facilities to directly connect transit users to at least one other travel mode and public transportation facilities that will assist in reducing greenhouse gas emissions.

The bill would restore the use of federal transit funds for operating assistance for all formula recipients, on a sliding scale. Metropolitan areas with a population over 1 million would be able to use up to 5 percent of their annual apportionment on operating assistance.

The bill would repeal the Section 5340 Growing States/High-Density States program.

The legislation would merge all the human services transportation programs – New Freedom, JARC and assistance for the elderly – into a single Coordinated Access and Mobility Program, distributed by formula. Regions can spend that money around those goals as they see fit so long as they can show progress in addressing each need.

The New Starts process would see many changes. First, the bill would eliminate the current Alternatives Analysis (AA) process; instead, the National Environmental Policy Act (NEPA) AA process would suffice. If a Locally Preferred Alternative has been approved and put in a region's long range plan and the project sponsors can show a solid financial commitment, that's enough to begin the Federal Transit Administration (FTA) project development process. This also means that project sponsors couldn't spend New Starts money on an Alternatives Analysis.

It would eliminate the use of a cost-effectiveness standard – only benefits would be measured, and all benefit measures would be weighed equally. It would prohibit the use of a transportation system user benefit calculation to evaluate any benefit other than mobility.

The threshold for a Small Start would be raised to a \$100 million federal share (up from \$75 million) and Small Starts that receive Project Development Agreements would get their federal funding in one single grant.

The definition of a “fixed guideway” would be changed to require that a majority of the project must run on dedicated right-of-way.

Notifications to Congress would be shortened to 21 days for Full Funding Grant Agreements (FFGAs) and 10 days for letters of intent.

Contractor performance agreements would be abolished.

An Office of Expedited Project Delivery would be established within FTA to help speed up project delivery. The bill would direct USDOT to use special warrants to advance projects. It would require USDOT to complete a rulemaking within one year regarding categorical exclusions for streetcar projects.

It would repeal the current Programs of Inter-related Projects provision, but hopefully that’s only temporary until a new program can be developed.

The bill creates a new Office of Livability within the Federal Highway Administration to run certain programs and to “develop quantifiable national mode share targets for sustainable modes of transportation, develop a timeline for achievement of these targets, and support projects, programs and activities within the Department of Transportation and nationally in support of these targets” (i.e. expand transit).

The Subcommittee markup stretched over 6 hours because of numerous nuisance votes on the House floor. About 27 Committee Members made brief statements. Some of the most common themes were criticism of the Administration’s proposal to extend the current transportation bill for 18 months, support for project delivery streamlining, praise of the Committee leadership, and the need for a big bill. Several Members kicked off the usual donor-donee fight, although it sounds like the bill will keep something close to the current 92 percent return.

Several Members expressed concerns over certain provisions and discussed possible amendments. Chairman Oberstar challenged many of them on their facts and arguments, but promised to work with everybody. Twelve amendments were offered and then withdrawn. The Committee leaders want everyone to try to work out their concerns with the leaders before full committee markup,. None of the amendments dealt directly with transit, although there will be an (unsuccessful) effort to repeal Davis-Bacon requirements and efforts to tweak planning requirements that some see as unnecessarily burdensome.

The Subcommittee reported the bill by voice vote, without amendment. The Committee leaders said the full committee will mark up the bill in about three weeks, but that could

slip, especially if the House Ways and Means Committee shows no interest in reporting a revenue title.

Meanwhile, the Administration has received serious pushback against their idea of including some policy provisions on the Highway Trust Fund fix. Congress needs to pass that fix before their August recess, and Members on both sides of the Capitol and both sides of the aisle have said that measure needs to be clean to pass that fast.

FY 10 Appropriations

The Senate Appropriations Committee last week began its markup process of FY 10 legislation. The first bill to move through the Committee was the FY 10 Department of Homeland Security Appropriations bill, which was marked up last Friday. This week the Senate Appropriations Committee is scheduled to mark up the Interior and CJS Appropriations measures. Below is a summary of some of the programs in the Senate Homeland Security Appropriations bill:

State Homeland Security Grant Program: \$950m, same as the House level and \$60 million more than the FY 09 funding levels. This does not include the amounts provided for the Firefighters Assistance Grants and the Emergency Management Performance Grants.

Urban Area Security Initiative (UASI): \$887 million, same as the House and \$50 million more than the FY 09 enacted level. This is the same as the President's budget request.

Metropolitan Medical Response System (MMRS): \$40 million, same as the House and the President's FY 10 request and \$1 million less than the FY 09 funding level. The City's federal program requested full funding for this program.

Emergency Operations Centers: \$40 million, \$35 million above the FY 09 level. The President's Budget did not include any funding for this program. The Committee earmarked 76 projects in this account.

Fire Grant Program: \$380 million, \$210 million above the President's FY 10 request and \$185 million less than the FY 09 level. This is the same level as the House.

Staffing for Adequate Fire and Emergency Response (SAFER) Act Grants: \$420 million, same as the House and the President's request and \$210 million above the FY 09 levels. The SAFER Grant was created to provide funding directly to fire departments and volunteer firefighter interest organizations in order to help them increase the number of trained, "front-line" firefighters available in their communities.

Fair Share for Community Development Block Grant (CDBG) Funding

This week, the United States Department of Housing and Urban Development (HUD) Secretary Shaun Donovan testified before the House Transportation-HUD Appropriations Subcommittee regarding the Administration's FY 10 HUD Budget. During the hearing Congressman Pastor (D-AZ) discussed the impact of population growth on the City of Phoenix and asked the Secretary to explain the Administration's request for CDBG formula change. The Secretary agreed with Congressman Pastor that because of the significant changes in population since the 1970s the CDBG formula does not currently target funding to those communities with the greatest economic need and must be changed.

The Congressman then asked the Secretary to explain the factors HUD plans to use to determine economic need. The Secretary indicated that he would provide the Committee with additional detailed information.

The Congressman also addressed the issue of hold harmless by asking the Secretary what his plans are for keeping communities "whole" under a new formula. The Secretary acknowledged the difficulty in changing formulae like CDBG but indicated that the Administration's FY 10 Budget would ensure that communities that might be impacted by a new formula receive a consistent funding level. Congressman Pastor asked about future Budgets and the Secretary responded by reiterating that the formula change was for the FY 10 Budget.

Chairman John Olver (D-MA) stated that the issue of CDBG formula change is important and with the new census figures may be even more critical but that the appropriations committee must work with the authorization committee.

Congressman Pastor asked the Secretary to work with the Committee so that any new formula proposed by HUD has the input and support of the Committee. The Secretary agreed to seek the Committee's input as it move forward with a new CDBG formula.

Senate Banking Committee Holds Green Communities Hearing

On Wednesday, June 17 the Senate Banking Committee held a hearing on "Greener Communities, Greater Opportunities: New Ideas for Sustainable Development and Economic Growth." HUD Secretary Shaun Donovan, Transportation Secretary Ray LaHood and Environmental Protection Agency (EPA) Administrator Lisa Jackson testified about the coordination they are going to develop between their departments to implement six Livability Principles:

- Provide More Transportation Choices
- Provide More Housing Options and Opportunities
- Increasing Economic Competitiveness
- Support Existing Communities help communities be competitive economically and coordinate and plan regionally
- Leveraging Federal Investment
- Value Communities and Neighborhoods

Secretary Donovan observed that in many cases the federal government is in the way of local governments. He believes that local governments come up with solutions to their challenges but federal rules and structures can get in the way of locals achieving the highest level coordination and program efficiencies. He observed that HUD requires a five year plan for cities and others to access HUD programs. Mr. Donovan mentioned that DOT has requirements for regional transportation plans also have four or five year time frames. Secretary Donovan said the two Department's plans need to be coordinated. It seems that DOT and HUD are in the process of working on the coordination of the plans.

Mr. Donovan said that he believes the new approach he and his colleagues are going to pursue will require "collaboration across jurisdictional lines and enable metropolitan leaders to address critical issues of affordability, competitiveness and sustainability." Secretary LaHood told Senator Chris Dodd (D-CN), Chairman of the Banking Committee, that the Chairman should work with the US Conference of Mayors to "reform" the

metropolitan planning process (MPOs). He said he hears from mayors about how the MPOs need to work better on a regional basis. The Secretary's remarks were aimed at the complaints he has heard from the Conference of Mayors about how MPOs fall under the control of smaller governments ringing the central city.

EPA Administrator Lisa Jackson echoed Secretary Donovan's remarks about the capability of local governments. She said that many local governments have a vision of what they want to do, and the federal role is to find a way to help. She also said that her measure of a city or neighborhood's health is by the number of pedestrians seen on the streets. She added that pedestrians means people feel safe, the air is decent, transportation is convenient and people live nearby.

There were statements of support and encouragement from Democratic Senators who attended the hearing. Secretary Donovan clearly has a lot of enthusiasm and interest in pressing for the implementation of the Livability Principles. Administrator Jackson and Secretary LaHood are certainly supportive and will be active, but my guess is that Secretary Donovan is the driving force behind the initiative.

Proposal to Provide Transit Operating Assistance Approved

On Friday, June 12, House-Senate conferees filed the Conference Report to accompany H.R. 2346, the Supplemental Appropriations Act of 2009. Included in the Supplemental spending bill is a provision that would allow transit agencies to use up to 10 percent of their American Recovery and Reinvestment Act (ARRA) funds to cover operating costs of "equipment and facilities for use in public transportation." The provision would also allow agencies to amend previously submitted applications in order to redirect ARRA funds toward operating purposes. This provision was added in the Senate-passed version of the legislation by Senate Banking Committee Chairman Chris Dodd (D-CT), with strong support from Senate Transportation, Housing and Urban Development, and Related Agencies Appropriations Subcommittee Chairman Patty Murray (D-WA). It ultimately was retained in the conference agreement.

The House passed the Conference Report by a vote of 226 to 202 and the Senate completed consideration of the Conference report, passing it by a vote of 91-5. The President signed the bill on June 24.

Meeting with HUD Secretary Donovan

On June 18, Mayor Gordon, Rick Naimark and the federal lobbying team met with HUD Secretary Donovan and his senior staff to discuss various HUD ARRA programs. The conversation focused on the City's Green Homes and Neighborhoods Initiative and what HUD funding would be most applicable. Secretary Donovan liked the concept of the initiative. He recommended applying for Neighborhood Stabilization Program (NSP) II funding for both our traditional needs as well as the Green Homes and Neighborhoods Initiative.

The Secretary also encouraged the City to explore creating a consortium/fund to partner with HUD on the City's ideas for dealing with the abandoned/semi-abandoned subdivision problems. He's seen other similar Public Private Partnership (PPP) models work with Ford Foundation, Lisk and others involved.

Donovan also indicated that if Choice Neighborhoods legislation is passed by Congress, those funds would be directly applicable to multi-family foreclosure situations.