GOVERNMENT RELATIONS INC.
1050 17th STREET
SUITE 510
WASHINGTON, DC 20036 **(202) 775-0079**

June 2009 Monthly Report for MTC

To: **Steve Heminger, Executive Director**
MTC

From: **Tom Bulger, President**
Jason Pavluchuk, Associate
GRI

Re: **Monthly Report for June 2009**

Date: **July 1st, 2009**

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1. Transportation Authorization Update – Two Track Process

a. House Transportation & Infrastructure Committee Releases Blueprint for Transportation Authorization

In June, the House Transportation & Infrastructure (T&I) Committee led by Chairman Jim Oberstar (D-MN) and ranking member John Mica (R-FL) released 'A Blueprint for Investment and Reform,' which represents the committee's initial outline for the reauthorization of the 6-year surface transportation bill. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) is set to expire in just over 3 months (September 30th). The outline describes Chairman Oberstar's vision for a $450 billion authorization to fund the nation's highway, transit, motor carrier, safety, and passenger rail programs. The outline and legislative language, as released, does not address how to pay for the legislation nor does it deal with any of the tax-related issues that are handled by the House Ways & Means Committee.

Release of the language was followed by an informal markup of the legislation on June 24th. During that markup, subcommittee members offered introductory remarks, but no amendments were debated or voted on. The House Ways & Means Committee, which has jurisdiction over the issue, does not seem eager to move forward with any great speed. In fact, it held just its first hearing on the issue the last week of June.

Regardless, the blueprint released by the House will provide a framework for the legislation that the House will eventually pass, whether that's this year or two years from now. The legislative language offered is incomplete in the sense that there are no dollar amounts attributed to any of the sections. Additionally, there are many sections where legislative language has been 'reserved,' or not yet included. As such, it is difficult to provide a full picture of the legislation's impact. Below is a brief summary of what was included in the blueprint:

- Seventy-five highway programs would be either eliminated or consolidated into four core funding categories:
  1) Critical Asset Investment — repair and maintenance of existing infrastructure;
  2) Highway Safety Improvement — reducing vehicle crashes;
  3) Surface Transportation — funds new highway & transit capacity w/ flexibility;
  4) Congestion Mitigation and Air Quality Improvement Program (CMAQ) — for reducing green house gas (GHG) emissions & congestion, and promoting livable communities.

- There is a modified federal freight program. This program requires a freight advisory committee of each state, a freight-related transportation plan, and the development and tracking of performance measures as it relates to the freight industry's use of the transportation system.

- The Surface Transportation Program has a number of apportionment changes, the net effect of which are unclear until there are dollar amounts attached to the bill, but otherwise there do not appear to be any major changes.

- There is a new Critical Asset Investment Program (CAI), which combines the former National Highway System, Bridge Maintenance, and Interstate Maintenance programs. This new program will be directed to meet the maintenance backlog on the transportation system, quantified and tracked by performance measures, to bring the system back to a state of good

repair. State activities under this program would be overseen by the U.S. Department of Transportation (USDOT) to ensure that the funds are being used for maintenance purposes and consistent with maintenance plans. It appears that the ability to transfer these funds to other programs has been removed.

- There is an entire subtitle to create an Office of Intermodalism within the executive office of DOT. This office will be responsible for:

  - The new Metropolitan Mobility and Access program (details to follow);
  - The new Projects of National Significance program (projects over $500M);
  - The development of a national strategic transportation plan; and
  - Funding for ferries.

- There is a new Office of Livability within the Federal Highway Administration (FHWA) with responsibility for the livability initiatives put forward by the administration. The office is charged with collaborating on a number of programs, but most importantly is tasked with developing a set of national mode share targets for "sustainable modes of transportation." Additionally, this office is to develop technical assistance on best practices for integration of land use and transportation planning, street design, and "projects, programs, and activities that support the achievement of the national mode share targets."

- Tolling, congestion pricing, and value pricing are still permitted, but under the review of a new Office of Public Benefit. New tolling will only be permitted where operational improvements and transit service is sufficient to handle travel diversions.

- There is a new Metropolitan Mobility and Access program established in this bill, the funding for which is yet to be determined. The program expressly includes funding for system operations and management improvements, travel demand strategies, and potentially new highway and transit capacity "if necessary." This program is available to metropolitan planning organizations (MPOs) that serve an urbanized area with over 500,000 people, who submit an application, that has an approved metropolitan mobility plan, carries out a congestion management process, has demonstrated that low cost improvements have already been implemented, and that other funding has been identified for projects prior to the use of these funds. The activities funded by this program will be tracked for improving travel-time reliability, reducing delay hours, improving regional productivity, improving public transportation access, and reducing vehicle emissions (along with some other measures). These grants come with an 80/20 government share.

- National and metropolitan infrastructure banks are created by the bill. These banks — just as with the Transportation Infrastructure Finance and Innovation Act (TIFIA) or state infrastructure banks now — may make loans or provide other credit assistance for projects eligible under Title 23 (highway) and transit capital projects.

- There are changes to the planning process. The threshold for designating an MPO has been raised from a population of 50,000 to 100,000. The MPO planning process is now required to include emission reduction targets and strategies for greenhouse gases. Additionally, a Rural Planning Organization designation is now available for areas with a population of less than 50,000. The effectiveness of these planning efforts will now be tracked, so that the

organizations must demonstrate the level to which their short- and long-term plans have been implemented.

- The baseline structure of transit funding remains the same. The urban/rural split in funding remains. Changes of interest are:
  - An allowance for the use of urban funds (5307) by systems for operating costs based on the size of the urbanized area;
  - Performance measurement in the condition and maintenance of the transit system, the energy efficiency of the system, and system ridership;
  - Significant changes to the New Starts/Small Starts approval process;
  - A consolidation of elderly transportation, New Freedoms, and Job Access and Reverse Commute (JARC) into a Consolidated Access and Mobility program; and
  - The ability to use vanpool fare revenue as local match by private providers.

b. Secretary of Transportation Ray LaHood Proposes 18-month Extension

Just one day prior to the T&I Committee releasing its blueprint, USDOT Secretary Ray LaHood proposed that Congress enact an 18-month extension of the current bill, with a number of substantive policy changes. This proposal was met with mixed reaction in Congress. Senate Environment & Public Works Chairman, Barbara Boxer (D-CA), applauded the proposal and held a hearing on the matter in June. At that hearing, Senator Boxer announced that the Senate Environment & Public Works Committee would markup an 18-month extension on July 23rd. Attached are the details released by Secretary LaHood (See Attachment I).

House T&I Chairman Oberstar rebuffed the suggestion and said that Congress needs to pass a 6-year authorization bill before the current legislation expires. At a press event to unveil the blueprint, House subcommittee Chairman Peter DeFazio (D-OR) suggested that the delay tactic came straight from the 'Bush playbook,' while ranking member Mica (R-FL) said, 'come hell or high water, we will pass a 6-year bill this year' (*editorial note: It should be noted that as this press event was underway, there was torrential rain outside*).

With the Administration and the Senate opposed to doing a long-term bill right now, it is extremely unlikely that a bill will get done before September 30th. What is still to be determined is whether or not, and when, Congress will turn its attention to an 18-month extension and how much policy reform will be included in that extension. Until then, the House T&I Committee is moving forward as if it will bring a 6-year bill to the floor in July. In order for this to happen, the T&I committee will have to report its version, and the House Ways & Means committee will have to report a finance title which would fund the bill.

2. <u>House Passes Climate Change Legislation</u>

Before adjourning for the 4th of July recess, the U.S. House of Representatives passed H.R. 2454 — the American Clean Energy and Security Act of 2009 — by a vote of 219 to 212. The legislation would limit greenhouse emissions starting in 2012 with a goal of reducing emissions by 17 percent from a 2005 baseline. The legislation would give away 85 percent of emission

allowances at no cost during a transition period, with the remaining allowance auctioned off and the proceeds used for a variety of activities.

As reported in May, the House legislation includes a new transportation planning section. We worked to change many of the provisions that, as introduced, were troubling. Specifically as passed by the House, the legislation (section 222) would require state and metropolitan governments to reduce carbon emissions from the transportation sector. The USDOT, in consultation with the Environmental Protection Agency (EPA), the states and MPOs, is charged with establishing a national transportation GHG goal. At least every six years, the EPA & USDOT will assess progress in reducing emissions from the transportation sector. The EPA, in consultation with USDOT, the states, and MPOs, will establish standardized models and methodologies for use in the planning process. The language includes a penalty for MPOs and states that fail to develop, submit, or publish targets and strategies. The language allows the Secretary to withhold up to 20 percent of their Federal-aid highway funds. The language included in H.R. 2454 was also included in the transportation bill introduced by Congressman Oberstar.

The other transportation provision in the legislation involves auction proceeds. The climate change bill creates a State Energy Efficiency program called SEED. SEED allowances vary over the life of the House-passed bill. Language included in the bill was included that allows states to spend no more than 10 percent of the SEED funding for state and local match for transportation projects eligible under currently authorized federal law. This includes urbanized and nonurbanized area formula grants, capital grants for clean fuels, transit capital, and CMAQ-eligible projects (most of which are 100 percent federal already).

Action will now shift to the Senate where the Senate Environment & Public Works Committee is expected to take up the legislation in July.

3. <u>Secretary LaHood Announces Details of High-Speed Rail Program</u>

In June, Secretary LaHood announced details regarding the Administration's High-Speed Rail plan and funding associated with the stimulus bill. The program to revitalize the nation's rail lines by creating high-speed corridors and improving existing service between cities includes an $8 billion competitive grant program and a continuing $1 billion annual investment proposed in the President's budget.

The guidance released requires rigorous financial and environmental planning to make sure projects are worthy of investment and likely to be successful. The program will offer grants for both planning and construction so that states can apply for funds no matter what stage of development their project is in.

The guidance states that proposals will be considered on the merits for their ability to make trips quicker and more convenient, reduce congestion on highways and at airports, and meet other environmental, energy and safety goals. It also allows the USDOT to actively promote standard specifications for rail cars and other equipment.

It is expected that the Federal Railroad Administration will award the first round of grants by mid-September. The guidelines can be found at: http://www.fra.dot.gov/us/content/2243.

4. DOT, HUD & EPA Announce Interagency Partnership for Sustainable Communities

In June, Secretary LaHood, U.S. Secretary of Housing and Urban Development Shaun Donovan, and EPA Administrator Lisa P. Jackson announced an interagency Partnership for Sustainable Communities to help improve access to affordable housing, provide more transportation options, and lower transportation costs while protecting the environment in communities nationwide. The partnership sets forth six 'livability principles' to coordinate policy.

We attended a Senate Banking, Housing, and Urban Affairs Committee hearing chaired by U.S. Senator Christopher J. Dodd (D-CT). At that hearing, Secretary LaHood, Secretary Donovan and Administrator Jackson outlined the six guiding 'livability principles' they will use to coordinate federal transportation, environmental protection, and housing investments at their respective agencies.

The Partnership for Sustainable Communities established six livability principles that will act as a foundation for interagency coordination:

1. **Provide more transportation choices.**
   Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nation's dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.

2. **Promote equitable, affordable housing.**
   Expand location- and energy-efficient housing choices for people of all ages, incomes, races and ethnicities to increase mobility and lower the combined cost of housing and transportation.

3. **Enhance economic competitiveness.**
   Improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets.

4. **Support existing communities.**
   Target federal funding toward existing communities – through such strategies as transit-oriented, mixed-use development and land recycling – to increase community revitalization, improve the efficiency of public works investments, and safeguard rural landscapes.

5. **Coordinate policies and leverage investment.**
   Align federal policies and funding to remove barriers to collaboration, leverage funding and increase the accountability and effectiveness of all levels of government to plan for future growth, including making smart energy choices such as locally generated renewable energy.

6. **Value communities and neighborhoods.**
   Enhance the unique characteristics of all communities by investing in healthy, safe and walkable neighborhoods – rural, urban or suburban.

In June, we met with the USDOT appointees concerning the Administration's new initiative. We explained what MTC's/Association of Bay Area Governments' (ABAG) and San Francisco Bay Conservation and Development Commission's (BCDC) FOCUS program has thus far achieved and how we could fit into their future plans. Ideally, we are working towards inviting Secretary LaHood and his staff to travel to the Bay Area in early Fall when the Commission reviews the Transportation for Livable Communities (TLC) program.

5. FY 2010 DOT Appropriations Update

In June, House Transportation & Housing Appropriations Subcommittee chair, Rep. John Olver (D-MA), held a hearing on project earmark requests. In a sign of changing times, only four members testified on behalf of projects. The House does not plan to markup its FY 2010 annual funding bill in subcommittee until the end of July, with the Senate markup expected in late July or September. Transportation is the last bill scheduled to be released from the committee, which is unusually late. The delay is due to the postponed budget rollout by the new Administration and uncertainty regarding the highway trust fund and upcoming authorization.