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

May 2010 Monthly Report for MTC

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

From: **Tom Bulger, President**
Georgia Gann, Legislative Associate
GRI

Re: **Monthly Report for May 2010**

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Transportation Authorization Update

With financial regulatory reform still in process and the movement of immigration forward in the legislation agenda, progress on moving the long-term transportation authorization has been largely stagnant. This month, with oil continuing to spill into the Gulf Coast and the release of draft Climate legislation (see below for more information), the importance of addressing future transportation policies in relation to oil and the environment has emerged. However, this specific focus on transportation is not necessarily indicative of movement toward comprehensive transportation legislation — notably there is a concern that certain transportation aspects of the climate legislation may preclude funding for a robust transportation authorization (more details below). Drafting of legislative language and policy principles are still in slow motion in the House, Senate, and the Administration.

Transportation Authorization in the House
Last June, the House Transportation and Infrastructure (T&I) Committee introduced draft language for a long-term authorization bill — the Surface Transportation Authorization Assistance Act (STAA) — but without a funding mechanism to finance the $450 billion bill, movement forward remains stalled. There is no agreed-upon funding source; however, Committee Chairman Jim Oberstar (D-MN) continues to call for proceeding with passing comprehensive legislation. Late this month, Ranking Member John Mica (R-FL) voiced his belief that Congress will take up the comprehensive surface transportation bill next January.

Senate Environment and Public Works Drafts Legislative Language
Senate Environment and Public Works (EPW) Committee Chair Barbara Boxer (D-CA) outwardly remains committed to passing transportation legislation before the end of this year. It was expressed this month in meetings that the crafting of authorization policy language is, at this point, largely in the hands of the staff of EPW Chairwoman Boxer and Ranking Member Jim Inhofe (R-OK). Although this process has been isolated from other committee members, Senator Boxer has encouraged outside transportation stakeholders to come to her soon with input and feedback regarding their priorities for the authorization.

Administration's Authorization Principles
Earlier this year, the Obama Administration announced their intent to release a set of principles that will guide their comprehensive policy recommendations for long term authorization. Presumably as an interim step to this release of principles, the Department of Transportation (DOT) released a draft strategic plan and requested feedback (more specific information on this plan is detailed later in this report). In another ongoing effort to gauge transportation stakeholder's priorities and reaction to the Administration's policy ideas, DOT held a series of public meetings with panels of various transportation stakeholders. The final scheduled meeting was held earlier this month in Houston, Texas.

Senate Climate and Energy Legislation

On May 12, 2010 Senators John Kerry (D-MA) and Joe Lieberman (D-CT) introduced their draft climate and energy legislation, the American Power Act. This legislation sets emission reductions goals at the levels specified in the House-passed bill (H.R. 2454) and includes transportation efficiency provisions to aid in reaching those goals. The American Power Act also includes significant funding for states and regions to plan and implement transportation efficiency options. Below is a summary of key funding and planning provisions.

Transportation Policy Provisions

- Calls for the Environmental Protection Agency (EPA) and DOT to jointly establish national transportation-related green house gas (GHG) reduction goals and requires them to provide states and regions tools for developing their required emissions reduction targets and plans. In establishing these best practices, they must consider previously developed plans targeted toward reducing GHG emissions (for example, the Sustainable Communities Strategy currently under development by MTC staff as required by CA SB 375 – Steinberg, Statutes of 2008).
- Amends the state and metropolitan planning organization (MPO) planning process to include oil dependence reduction and sustainability considerations (including climate change, public health, and land use) when developing long-range transportation plans. It also prescribes increased coordination between state and local agencies.
- Requires states and MPOs to include transportation-related GHG reduction targets and strategies to reach their targets. There is no penalty for non-compliance, other than ineligibility for clean transportation project grants mentioned below.

Transportation Funding

The bill dedicates up to $6.25 billion annually, an average of 7.3 percent of the carbon allocations, to help states and regions plan and build clean transportation projects to help meet their emissions reductions goals. The funds are distributed as follows:

- 1/3 (or maximum $1.9 billion) toward the Transportation Investment Generating Economic Recovery (TIGER) competitive grant program;
- 1/3 (or maximum $1.9 billion) toward a new program to fund state and local transportation planning and projects that reduce oil consumption and GHG emissions; and
- 1/3 (or maximum $2.5 billion) to the Highway Trust Fund for investments that are consistent with the required transportation GHG reduction plans.

A number of transportation stakeholders have expressed concern over the draft bill's new fees on transportation-based motor fuels, as well as the dedication of the majority of the resulting revenue to activities unrelated to transportation. They believe that there may not be enough overall funding allocated to transportation to sufficiently address the significant maintenance and expansion needs of the nation's transportation system. Specifically, there is concern that *any* new fee on motor fuels in this climate legislation would undermine the ability to find a reliable source (i.e., raise the gas tax) to fund the long-term surface transportation authorization legislation.

U.S. Department of Transportation's (DOT) Strategic Plan

Earlier this month, the DOT released their draft five-year strategic plan for fiscal years 2010-2015 for public comment. The plan, Transportation for a New Generation, will help set key DOT priorities and shape the Administration's upcoming transportation decisions. The plan has five stated core goals:

- Improve transportation safety;
- Maintain transportation infrastructure in a state of good repair;
- Promote transportation investments that bring benefits to the nation;
- Foster livable communities; and
- Advance environmentally sustainable transportation policies.

Language is focused on overarching national objectives and priorities, and promoting an outcome-driven program approach. The plan also highlights the importance of increasing options in a truly multi-modal transportation system. More specific policy language is not yet released. The plan is open for comment through July 15, 2010.

Transportation Provisions in Tax Extenders Legislation

On May 28, the House passed H.R. 4213: The American Jobs and Closing Tax Loopholes Act of 2010. This tax extenders and small business legislation includes language submitted by Congressman Oberstar (D-MN). This language redistributes $746 million of FY 2010 funding for Projects of Regional and National Significance (PRNS) and National Corridor Infrastructure Program (NCIP) that was allocated through the 2010 HIRE Act (the jobs bill that passed in March). The inclusion of this language was the result of a deal struck by Congressman Oberstar, Speaker Nancy Pelosi (D-CA) and Senate Majority Leader Harry Reid (D-NV) before the HIRE Act passed — namely, that this funding redistribution would be implemented in future legislation.

As previously allocated, the PRNS/NCIP program funding had disproportionately benefited California and Illinois. The new language redistributes funds based on each state's share of FY 2009 highway apportioned funds. It would also reassess the programmatic distribution of additional formula funds that had previously been reserved for only six highway programs. This would open the other "non-essential" highway programs, including Metro Planning. According to a House analysis, the distribution proposed under this new language would result in an almost $200 million loss for California. To appease the number of states that would have been negatively affected by this redistribution, an amendment was introduced that would "hold harmless" any state that would lose funding under the Oberstar language. This "hold harmless" provision effectively secures California from losing the $200 million in contract authority.

The bill also included a number of other investments related to transportation highway infrastructure. Of primary importance, the bill extends Build America Bonds issuing authority for an additional two years (through January 2013), and it reduces the amount of direct payment on coupon interest. Other transportation-related policies include exemptions and credit extensions related to water and sewage facilities, private activity bond (of particular interest to airports) and railroad track maintenance, and a retroactive tax credit refund for public transportation systems of 50 cents per gallon equivalent of natural gas. The Senate will take up this legislation next month.

Transit Operating Assistance Funding

On May 25, Senator Christopher Dodd (D-CT), chairman of the Senate Banking, Housing, and Urban Affairs Committee, introduced the Public Transportation Preservation Act of 2010 (S. 3412), which would authorize $2 billion to local transit authorities for operating assistance.

The bill would distribute funds to transit systems across the country to restore and/or prevent service reductions and layoffs, fare increases that occurred due to decreased state and local funding, or revenue losses from January 1, 2009 through September 30, 2011. Under this bill, 80 percent of the funds would be distributed through the urbanized area formula program (Section 5307), 10 percent under the high density and growing states formula program (Section 5340), and 10 percent through the rural area formula program (Section 5311). If transit systems have not increased fares, cut services, or laid off employees, they may use the funds to address capital needs.

Although the funding aspect remains unresolved, the bill's sponsors hope to attach it as an amendment to any appropriations or economic stimulus legislation that is considered in the Senate in the coming weeks.

TIGER II Update

In April, the DOT issued an interim Notice of Funding Availability (NOFA) for the $600 million TIGER II grant program outlining selection criteria and evaluation terms and conditions. Because the program was new, DOT indicated that it was seeking comments on the proposed program, specifically regarding the intention to conduct a multi-agency evaluation and award process with the Department of Housing and Urban Development (HUD) for their respective planning grants. The NOFA that was just released confirmed this plan.

Next month DOT and HUD will issue a separate joint notice for both the $35 million TIGER II planning grants and HUD's $40 million sustainability challenge grants established as part of HUD's Sustainable Communities Initiative. The forthcoming joint NOFA is part of the HUD-DOT-EPA interagency ongoing Partnership for Sustainable Communities effort. Also expected soon is the final NOFA for the $100 million HUD sustainability planning grants.

A webinar is scheduled for June 15 to address more questions related to the grant program.

California High Speed Rail Award

On May 26, members of the Congressional Bay Area Delegation sent a joint letter to DOT Secretary Ray LaHood expressing concerns regarding the $2.25 billion awarded to California's High Speed Rail Project. The delegation requested that in distributing these funds, the Federal Transit Administration (FTA) protect and improve Caltrain by prioritizing funding for Caltrain electrification and modernization plans. The letter is attached.

Silicon Valley Leadership — Business and Transportation

On May 4 and 5, Steve Heminger traveled to Washington, D.C. with the Silicon Valley Leadership Council and met with a number of members of Congress regarding business, jobs, transportation, and energy. We attended an event, hosted by the Leadership Council and Transportation for America, on Capitol Hill on May 5 with a number of members of Congress, including Congressmen John Garamendi (D-CA), Earl Blumenauer (D-OR), Paul Hodes (D-NH), and Ruch Holt (D-NJ).

BART to Silicon Valley Delegation Briefing

This month we held a joint briefing with the Santa Clara Valley Transportation Authority for the Bay Area Delegation regarding the BART to Silicon Valley rail project and the pending New Starts funding request. The briefing was attended by staff from the offices of Representatives Mike Honda, Anna Eshoo, Jerry McNerney, George Miller, Zoe Lofgren, and John Garamendi. Staff from Speaker Pelosi's office also attended. At the briefing, we updated delegation staff on the progress of the project. We also focused on MTC's regional rail agreement (MTC Resolution No.3434) and iterated the importance of presenting a united Bay Area Delegation in regards to transit expansion projects and discretionary transit funding requests.

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