



ADDENDUM

**Virtual Meeting of the Connect Transit Board of Trustees
January 26, 2021 – 4:30 P.M.
351 Wylie Drive – Training Room
Normal, Illinois 61761**

- E. Consent Agenda
 - 4. Cardinal Infrastructure Federal Report

Federal Update for Connect Transit
Prepared by Cardinal Infrastructure
January 26, 2021 Board Meeting
Prepared January 22, 2021

President Biden COVID Relief

President Biden released a \$1.9 trillion COVID relief proposal, which provides \$350 billion for state and local governments, as well as \$20 billion in relief “for the hardest hit public transit agencies.” The provision in the proposal states:

Protect the future of public transit. Safe and dependable public transit systems are critical for a robust and equitable economy recovery. The president-elect is calling for \$20 billion in relief for the hardest hit public transit agencies. This relief will keep agencies from laying off transit workers and cutting the routes that essential workers rely on every day while making these transit systems more resilient and ensuring that communities of color maintain the access to opportunity that public transportation provides.

In a conference call alongside the U.S. Conference of Mayors, we heard from Julie Rodriguez, Director of the White House Office of Intergovernmental Affairs and David Kamin, Special Assistant to the President and Deputy Director of the National Economic Council. David said urgent and bold action is needed to change the course of the pandemic and help our economy. These efforts will be accomplished under a two-pronged plan; the first, rescue, the second, recovery. The first step of the plan includes the \$20 billion for public transit, while the second, recovery, will be announced in February and include plans to make strong investment to boost our economy.

U.S. DOT Leadership and Personnel

President Biden announced the nomination and appointment of key U.S. Department of Transportation (U.S. DOT) officials, including but not limited to:

Polly Trottenberg, Deputy Secretary of the U.S. Department of Transportation
Christopher Coes, Principal Deputy Assistant Secretary for Transportation Policy
Robert Hampshire, Principal Deputy Assistant Secretary for Research and Technology
Robin Hutcheson, Deputy Assistant Secretary for Safety Policy
Michael Shapiro, Deputy Assistant Secretary for Economic Policy
Victoria Baecher Wassmer, Deputy Assistant Secretary for Finance and Budget
Dani Simons, Assistant to the Secretary and Director of Public Affairs
Sophie Shulman, Deputy Chief of Staff for Policy
Nuria Fernandez, Deputy Administrator, Federal Transit Administration
Subash Iyer, Chief Counsel, Federal Transit Administration
Charles Small, Deputy Assistant Secretary for Intergovernmental Affairs
Mohsin Syed, Principal Deputy Assistant Secretary for Congressional Affairs (Senate)
Edward McGlone, Deputy Assistant Secretary for Congressional Affairs (House)
Allie Panther, White House Liaison

Secretary-Designate Buttigieg

On January 21st, the Senate Commerce, Science, and Transportation Committee held a nomination hearing to consider Pete Buttigieg to be Secretary of U.S. DOT.

Buttigieg's written testimony provides themes of safety, infrastructure investments, economic development, and addressing the climate crisis. These priorities are echoed in President Biden's Build Back Better initiative and will remain front and center in policy developed by the White House and U.S. DOT.

Outgoing Chairman Wicker (R-MS) brought up the popular BUILD and INFRA grants, whether these would be a priority, and if rural America would be in receipt of this critical funding. Buttigieg said these programs will be a "central part of building on the goal of enhancing infrastructure." Wicker also asked Buttigieg to address the Administrations infrastructure investment priority. Buttigieg responded by remarking that conversations with Congress and departments "still need to be had" and that it is a "needed part of economic recovery." He also noted the multi-modal priority and the need to address the Highway Trust Fund so funding is more sustainable and predictable.

Ranking Member and incoming Chairwoman Cantwell (D-WA) asked about the Capital Investment Grant (CIG) program and Buttigieg's view on increasing the funding and federal share for the program. Buttigieg made no commitments but noted his interest in this issue. Cantwell also stressed the importance of addressing highway-rail grade crossings.

Senator Duckworth (D-IL) addressed concerns of equity and accessibility in transportation and asked Buttigieg to consider bringing on an advisor to exclusively focus on these issues. Buttigieg said he would seriously consider the recommendation.

Senator Thune (R-SD) asked about improving administrative burdens. Buttigieg said, "Any time we can make federal processes more friendly for states or local or tribal partners, we should. When we find that anything is duplicative or burdensome, would welcome finding ways to streamline that, provided that we're meeting fundamental goals of those rules."

Senator Klobuchar (D-MN) questioned Buttigieg on funding for various modes, including bicycles and walking paths. Buttigieg said "There are so many ways that people get around, and often I think we've had an auto-centric view that has forgotten historically about all the different modes." He says street designs should support cyclists and other modes, downtown businesses, etc.

Senator Blumenthal (D-CT) said we have an "existential crisis" in the public transportation system, noting airports, coach buses, and the employees of transportation networks. Blumenthal referenced his Essential Transportation Employee Safety Act, to enhance safety for transportation workers. Buttigieg noted his commitment to reducing COVID and assault exposure to workers.

Senator Fischer (R-NE) asked about automated and autonomous vehicles, urging Buttigieg to examine the current regulatory framework and provide more flexibility. Noting that policy has not kept up with emerging technologies, Buttigieg said, "We must make sure we are fast acting so we are prepared for everything automated vehicles will bring to our roads and our economy." Later questioned by Senator Peters (D-MI) on the same issue of highly automated vehicles, as well as electric vehicles, Buttigieg said he is "enthusiastic about the opportunity" to work with the Committee on advancing automated vehicle legislation and expanding electric vehicle charging infrastructure and related manufacturing.

Senator Schatz (D-HI) addressed the Administration's action to address climate change. Buttigieg noted that DOT will play a big role in this initiative, with fuel economy standards, vehicle electrification, and charging station infrastructure as only several means to address the climate crisis.

Senator Blackburn (R-TN) continued questions on "expensive red-tape" such as "NEPA studies" and asked about departmental efficiencies on transportation and infrastructure regulations. Buttigieg made no mention of specific regulations but welcomed the opportunity to work with local leaders and Congress to address regulatory streamlining.

Senator Baldwin (D-WI) had extensive questions on Buy America. Baldwin asked Buttigieg's commitment to closing gaps or loopholes in Buy America to ensure growth in domestic manufacturing. Buttigieg echoed the importance of a strong Buy America law and supports investigating the exceptions that have emerged.

Senator Baldwin addressed the Transportation Infrastructure Vehicle Security Act, which is now law. This law prohibits, with limited exceptions, FTA grants from being awarded for the purchase of bus and rail rolling stock from Chinese state-owned or subsidized entities, which includes BYD and CRRC. Baldwin noted concern over the permanent exemption for CRRC contracts to certain agencies and asked Buttigieg to commit to honor congressional intent and remove this permanent exemption. Buttigieg he will look into this issue right away.

Baldwin also asked for commitment to removing Buy America waivers or restricting waivers to require certain frequently purchased products to be Made in America. Buttigieg said his goal is to incentivize the purchase of goods Made in America as much as possible. He will look to "adjust, change, or rescind" provisions that offer waivers.

Senator Scott (R-FL) asked Buttigieg about how he would address the issue of funding. Buttigieg initially said "all options need to be on the table," but then specified that in the "short- to medium-term...could adjust the gas tax and [connect it to] inflation" and continue general fund transfers. These comments on considering raising the federal gas tax were later walked-back by a White House spokesperson. Furthermore, Buttigieg remarked that a vehicle miles traveled user fee could also be a potential solution, especially given increases in vehicle gas efficiency. On VMT, Buttigieg noted the privacy and technological concerns.

Senator Sinema (D-AZ) addressed the importance of improving and expanding infrastructure in Arizona, as well as the department's response to COVID. Buttigieg said he will "work with local transit agencies to support implementation of mask mandates and anything needed to prevent the spread of the disease."

FTA Deputy Administrator

President Biden appointed Nuria Fernandez to serve as the Deputy Administrator for the Federal Transit Administration. In addition to APTA Chair, Nuria Fernandez most recently served as General Manager and CEO of the Santa Clara Valley Transportation Authority. Under the Clinton Administration, Nuria served as Deputy and Acting FTA Administrator. Prior roles also include Chief Operating Officer of the New York MTA, Sr. Vice President of Design and Construction for the Chicago Transit Authority and the Washington Metropolitan Area Transit Authority, as well as Commissioner for the Chicago Department of Aviation.

We've been informed that the strategy is to appoint the intended Administrator as Deputy (which does not require Senate confirmation); then, nominate the Deputy as Administrator. Once the Senate confirmation process is completed, the next step will be to appoint a Deputy Administrator.

BUILD Grant Announcement

U.S. DOT released its FY 2021 notice of funding opportunity for the BUILD grant program. The Consolidated Appropriations Act of 2021 provided \$1 billion for program. Applications are due by April 20, 2021.

We inquired with U.S. DOT on whether they intend to issue an amended notice of funding opportunity, given that this BUILD grant solicitation includes secondary review criteria from the previous Administration (R.O.U.T.E.S. initiative, innovative project delivery, private sector partnerships, and Opportunity Zone preferences, etc.). A U.S. DOT representative said, "The new Administration does have the option to amend the recently published NOFO to highlight the Biden Administration priorities. If that does happen, we will publish an update to the NOFO and highlight those changes."

Presidential Executive Orders and Memoranda

Memorandum on Modernizing Regulatory Review

This memorandum directs the Office of Management and Budget (OMB) to produce recommendations for "improving and modernizing regulatory review." This effort will be in consultation with departments and agencies, including USDOT.

The memorandum states: *These recommendations should provide concrete suggestions on how the regulatory review process can promote public health and safety, economic growth, social welfare, racial justice, environmental stewardship, human dignity, equity, and the interests of future generations.*

This action reaffirms the basic principles set forth in Executive Orders by President Clinton and President Obama. We also anticipate this will result in changes to OMB Circular A-4 "to ensure that the review process promotes policies that reflect new developments in scientific and economic understanding, fully accounts for regulatory benefits that are difficult or impossible to quantify [think climate change], and does not have harmful anti-regulatory or deregulatory effects."

Executive Order on Promoting COVID-19 Safety in Domestic and International Travel

This Executive Order advances action to require the use of masks on certain domestic modes of transportation, including airports, trains, intercity bus services, public transit, among others. The Executive Order states that the Secretary of Transportation "shall immediately take action, to the extent appropriate and consistent with applicable law, to require masks to be worn in compliance with CDC guidelines..." In consultation with federal departments and agencies, as well as state and local stakeholders, a set of recommendations will be developed and provided to the COVID-19 Response Coordinator .

Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis

This Executive Order mandates a review of agency actions between January 20, 2017 and January 20, 2021. Among other agency activities, this includes regulations, orders, guidance, or agency policy. A preliminary list of actions for review are to be issued to OMB within 30 days, to also be reviewed by the National Climate Advisor, Gina McCarthy.

The Executive Order also establishes an Interagency Working Group on the Social Cost of Greenhouse Gases. This Working Group includes the Secretary of Transportation, among other department, agency, and advisor members. The Working Group is charged with publishing an interim "social cost of carbon", "social cost of nitrous oxide", and "social cost of methane" policy, thereby providing estimates of the "monetized damages associated with incremental increases in greenhouse gas emissions."

The Order revokes Trupee-era NEPA guidance and numerous Trump Executive Orders, including Expediting Environmental Reviews and Approvals For High Priority Infrastructure Projects; COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities; and Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects.

Buttigieg and Labor

Secretary-Designate Buttigieg met with labor groups on January 14th. Labor is strongly represented on the U.S. DOT transition team and includes: International Brotherhood of Teamsters; Transport Workers Union of America, AFL-CIO; Amalgamated Transit Union; United Association of Plumbers and Pipefitters. We anticipate labor to have a strong role in affecting U.S. DOT activities.

Senate Majority

Democrats gained control of the Senate after both Jon Ossoff and Raphael Warnock won their run-off elections in Georgia. This win means the Senate will have a 50-50 split, with Vice President Harris serving as the tiebreaking vote, giving Democrats a one vote majority. This has only happened three times in United States history: 1881, 1954, and 2001.

The change in majority means Democrats will now have committee chair positions and control over the floor agenda. This will alter committee priorities and likely make it less challenging to confirm Administration nominations. While a Democratic majority will provide many benefits to the party and its agenda, nearly all legislation requires 60 votes in the Senate to advance, which means bipartisan cooperation with Republicans might occur.

We would expect Democrats to use a legislative process known as "reconciliation" to allow for expedited consideration of bills that are related to the federal budget, spending, debt limits, or tax policy. There is an exception that it cannot be used to increase the deficit and bills are subject to the so-called "Byrd Rule" that enables lawmakers to block provisions that are considered extraneous.

In 2001, Republican Leader Trent Lott and Democratic Leader Tom Daschle worked out an agreement to split committee memberships and to pass a rules package that enabled legislation to be brought to the floor regardless of partisan deadlock in those committees. Senate Majority Leader McConnell has previously referred to that 2001 compromise as a model for how he would hypothetically try to structure governance in the chamber in the event of a 50-50 split when asked back in 2016; however, in this case, he would not have the benefit of his party controlling the Executive Branch.

Changes in 117th Congress and Biden Administration

Major federal agency rulemakings, interim rules, guidance, statements of policy, etc. issued as of mid-August, 2020 are eligible for elimination under the Congressional Review Act (CRA). Without being subject to judicial review, Congress may disapprove any rules issued during the last 60 legislative/session days of the previous Congress by passage of a joint resolution which is required to be presented to the President. Historically, the CRA grew out of the loss of the legislative veto which was ruled unconstitutional by the Supreme Court.

The CRA is infrequently used and had only been used once prior to the 115th Congress. The Republican Congress had passed multiple joint resolutions of disapproval. Given the significant difference in policy between the Trump Administration and Biden Administration, we may see renewed interest by Democrats to utilize this legislative tool, especially with a Democratic majority in the Senate.

Climate Change Agenda

Climate change initiatives remain at the forefront of the congressional agenda, and include a variety of legislative efforts, including surface transportation reauthorization, infrastructure, tax credits, etc. This priority will now be magnified with Democratic control in the Senate.

The House has reauthorized the Select Committee on the Climate Crisis, which has jurisdiction to investigate "policies, strategies, and innovations to achieve substantial and permanent reductions in pollution and other activities that contribute to the climate crisis...", but no jurisdiction to move legislation. The 116th Congress report of the Select Committee included transportation legislation to advance this mission. Similar to its charge under the previous Congress, the Select Committee will develop a report of policy recommendations, to be submitted to the House by December 31, 2022.

The House rules also provide that "the Chair of the Committee on Budget may adjust an estimate to exempt the budgetary effects of measures to prevent, prepare for, or respond to economic or public health consequences resulting from the COVID-19 pandemic...[or] climate change."

For example, this rule would permit the Committee to no longer factor in PAYGO (pay-as-you-go); a budget rule requiring that tax cuts and mandatory spending increases be paid for by tax increases or cuts in mandatory spending. At this time, there are no clear parameters on what is eligible under this provision; however, public transit, congestion mitigation, and other issue areas will likely qualify.