LIVERMORE AMADOR VALLEY TRANSIT AUTHORITY

STAFF REPORT

SUBJECT: Legislative Update

FROM: Jennifer Yeamans, Senior Grants & Management Specialist

DATE: July 6, 2020

Action Requested
Receive an update on recent legislative activities and approve one legislative SUPPORT position for transit-related provisions of H.R. 2, the INVEST in America Act (also known as Moving Forward Act), as recommended by the Finance & Administration Committee.

Background
In February 2020, the Board of Directors approved LAVTA's 2020 Legislative Program, built upon the following four principles in support of LAVTA's mission:

1. Protect existing and enhance future transportation funding sources.
2. Enhance operating conditions to support safety and performance goals.
3. Enhance public transit's role in addressing climate change and air quality issues.
4. Leverage support from and with partners to promote mobility, improve service productivity, and enhance regional leadership.

In April, staff brought an update to the Finance & Administration Committee concerning forecasted revenue impacts of the COVID-19 emergency as well as details on the $25 billion in funding for public transit included in the Coronavirus Aid, Relief, and Economic Security (CARES) Act signed into law on March 27. This report provides an update on recent state and federal legislative activities of interest to LAVTA with focus on the ongoing impacts of the COVID-19 emergency, new short- and long-term federal funding proposals for public transportation, and progress on regional distribution of public transportation funding under the CARES Act.

Discussion
Federal Update
Since the CARES Act was enacted in March, there has not been broad consensus in Congress on further federal legislation specifically to address the economic and public-health impacts of the COVID-19 pandemic. On May 15, the House passed a bill known as the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act (H.R. 6800) to appropriate another $3 trillion of economic stimulus. The bill included an additional $15 billion in supplemental formula funding for public transportation, of which nearly $12 billion would be available by formula to urbanized areas in the same vein as the $25 billion CARES Act appropriation. This bill has not been taken up in the Senate as of this writing. The

CARES Act's enhanced unemployment benefits expire July 31, which may be the next and last major opportunity for Congress to take action on further economic stimulus in direct response to the pandemic before the November election.

Meanwhile, with the current five-year surface-transportation authorization known as the FAST Act set to expire September 30, on June 2 House Transportation & Infrastructure Committee Chair Rep. Peter DeFazio (D-OR) unveiled H.R. 2, the Investing in a New Vision for the Environment and Surface Transportation (INVEST) in America Act, which would authorize nearly $500 billion in funding for federal surface-transportation programs over five years, at just over 60 percent above existing spending levels. Within the bill, public transportation programs see a 72 percent increase compared to the FAST Act. Notably, 21.3 percent of the bill's spending ($105 billion) would be authorized for public transportation, an increase from the 20 percent authorized under the FAST Act and its predecessors.

Following a two-day markup session in Committee, on June 22 H.R. 2, was reintroduced as an even broader $1.5 trillion infrastructure bill, repackaged along with housing, education, energy, healthcare, and other infrastructure-spending proposals far beyond just the surface-transportation reauthorization plan. Attachment 1 provides a summary of the bill's key provisions as referred out of Committee. On June 26, Representative Eric Swalwell (CA-15) signed on as a co-sponsor of the bill. As of this writing, the bill and additional amendments were undergoing floor debate in the House of Representatives en route to a final floor vote.

Critically, the House bill provides supplemental aid in FY 2021 for highway and transit programs at existing levels authorized under the FAST Act for FY 2020, to replace lost revenues due to the COVID-19 crisis, advance projects, and preserve jobs. This near-term aid also includes an additional $5.8 billion for public transportation formula programs, including availability of FTA Section 5307 funds available at a 100 percent federal cost share and eligible for use for operating expenses, similar to the CARES Act appropriation.

Other provisions of the House bill of interest to LAVTA include:

- Increased funding for buses, including more grant funding for zero-emission buses
- More flexible Federal rules for mobility-on-demand programs that integrate new technologies with public transit as the backbone
- New requirements for deployment of autonomous transit vehicles
- New multi-modal carbon-reduction program for States to invest in flexible projects, including transit

On the Senate side, the Senate Environment and Public Works Committee has already approved the highway portions of the Senate version of the FAST Act reauthorization, but other committees responsible for other portions of the bill, including public transportation, have not yet produced any alternative proposals in advance of the FAST Act's September 30 expiration. Nevertheless, the House bill is an important step in setting up a potential reconciliation process with the Senate to enact a successor surface-transportation bill this year, including identifying mechanisms to pay for the long-term spending authorizations.

As currently drafted, the INVEST in America/Moving Forward Act includes provisions for public transportation that support all four of LAVTA's adopted legislative principles. It is supported by the American Public Transportation Association (see support letter in Attachment 2) and the California Transportation Association (see support letter in Attachment 3). For these reasons, the Finance & Administration committee recommends a SUPPORT position on the bill's provisions.

State Update
The state Legislature reconvened May 4, with key goals to address urgent legislative matters related to the COVID-19 emergency and adopt a state budget by the constitutionally mandated June 15 deadline. The Governor's May Revise, unsurprisingly, was dramatically different from his January budget, and included drastically pared-down spending for FY20-21in light of an estimated reduction in revenue of $41 billion, to fund only essential priorities for public health, public safety, public education, and support for workers and businesses.

Of the reductions in revenues forecast by the state, the State Transit Assistance (STA) program funded by the sales tax on diesel fuel, is expected to be 40% below January's estimates, consistent with assumptions in LAVTA's current adopted FY 20-21 budget. In addition, revenues supporting Cap-and-Trade–funded programs such as the Low Carbon Transit Operations Program (LCTOP), which are generated by auctions of carbon-emissions allowances, are facing significant new uncertainties after many years of favorable results.

On June 15, the Legislature passed SB 74 (Mitchell), the Budget Act of 2020, based on a preliminary $142 billion budget deal struck by the Senate and Assembly, but negotiations between the Legislature and the Administration continued thereafter, resulting in additional actions finalize details of the spending plan before the July 1 start of the new fiscal year. Among these was AB 90, which was signed by the Governor on June 29 and provides statutory relief measures for transit agencies to help support key operations in lieu of additional funding availability, by:

- Instituting a hold-harmless provision for revenue-based distribution of STA, LCTOP, and STA State of Good Repair allocations
- Temporarily suspending financial penalties associated with not meeting TDA farebox recovery requirements
- Temporarily suspending financial penalties associated with STA limits on year-over-year increases to operating cost per hour

Regional Issues: CARES Act Funding Distribution
On April 22, the Metropolitan Transportation Commission voted make approximately 60% of the funding apportioned to the Bay Area by the CARES Act ($781 million) available to the region's transit operators immediately, including $3.5 million for LAVTA. MTC reserved the remaining 40% of the region's CARES Act funding to be programmed in July in consideration of input from the newly established regional Blue Ribbon Task Force, with which LAVTA serves as an appointed participant.

Next Steps
If the Board approves a SUPPORT position on H.R. 2's transit provisions included as the INVEST in America Act, staff will engage with the offices of California's two Senators to encourage the Senate to include the INVEST in America Act's public transit provisions in any Senate surface-transportation reauthorization bill. The Senate is expected to reconvene from recess July 20.

Recommendation
The Finance & Administration Committee recommends the Board approve a SUPPORT position for H.R. 2, the INVEST in America Act/Moving Forward Act.

Attachments:
1. Summary of INVEST in America Act
2. APTA letter of support
3. California Transit Association letter of support

Approved: ______________________________

MTC Staff Summary of the INVEST in America Act, U.S. House of Representatives Surface Transportation Reauthorization Proposal June 22, 2020

On June 18, 2020, the House Committee on Transportation and Infrastructure (T&I Committee) approved a five-year, $494 billion surface transportation reauthorization bill—the "Investing in a New Vision for the Environment and Surface Transportation in America (INVEST in America) Act"—which closely tracks with MTC's surface transportation reauthorization priorities, as detailed in Attachment B. The bill proposes to increase surface transportation investment by about 60 percent above current spending levels with a significant amount of the new funding directed to transit and metropolitan-focused programs, both of which are longstanding MTC priorities. As advocated for by MTC, the bill would also weave climate change and resiliency into the core federal transportation program and grow resources to advance national goals related to safety, economic growth, and congestion relief while preserving flexibility for the Bay Area to address our unique mobility challenges. In light of the COVID-19 public health crisis, the bill would provide near-term aid to replace lost highway and transit revenues and authorize a portion of the funding to be available at 100 percent federal share to help keep projects on track and preserve jobs in the aftermath of the COVID-19 crisis.

Below is an overview of the key features of the INVEST in America Act.

Increases Federal Investment in Surface Transportation; Five Years of Funding Certainty

The bill would provide $494 billion in fiscal years (FY) 2021 to 2025 for highway, transit, rail and surface transportation safety investments, a 62 percent increase over FAST Act funding levels, as shown below. Of the $424 billion in proposed highway and transit resources, approximately 75 percent would be directed to the core FAST Act programs (highway and transit formula programs, nationally and regionally significant projects, and the transit Capital Investment Grant (CIG) program). The bill would grow federal rail investment nearly fivefold, authorizing $60 billion to fund Amtrak, intercity, and

Transportation Authorization Funding Comparison Chart ($ in Billions)			
	FAST Act (FY 2015-2020)	INVEST in America Act (FY 2021-2025)	% Increase over FAST Act
Highway	$225	$320	42%
Transit	$ 61	$105	72%
Rail	$ 10	$ 60	483%
Other *(safety, misc.)*	$ 9	$ 10	16%
TOTAL	**$305**	**$495**	**62%**

Commuter rail. The remaining $10 billion would fund highway and motor carrier safety programs. Importantly, Congress would need to identify an estimated $140 billion on top of anticipated Highway Trust Fund (HTF) revenues to fund the INVEST in America Act, according to a June 4, 2020, Eno Transportation analysis.

Grows Core Surface Transportation Programs; Retains FAST Act Framework

In light of the COVID-19 public health crisis, the INVEST in America Act would direct the bulk of the bill's year one (FY 2021) funding increases toward one-time flexible COVID-19 emergency aid formula funds for states, regions and transit operators. For the core FAST Act highway and transit formula programs, the bill would extend FY 2020 funding levels through FY 2021. Beginning in FY 2022, the INVEST in America Act would increase base funding levels for each of the core highway and transit programs, as detailed in the charts below, as well as invest in the new metro- and climate-focused programs.

INVEST in America Act vs. FAST Act Funding $ in Millions					
	FAST Act	INVEST in America (FY 2021-2025)			
	FY 2020	FY 2021	5-Year Total	5-Year Average	% Increase (FY 2020 vs. 5-year Average)
Federal Highway Formula Programs					
National Highway Performance Program	24,237	24,237	140,570	28,114	16%
Surface Transportation Program	11,288	11,288	65,319	13,064	16%
Congestion Mitigation and Air Quality Improvement Program	2,496	2,496	14,478	2,896	16%
Highway Safety Improvement Program	2,407	2,407	15,463	3,093	28%
National Freight Program	1,487	1,487	8,625	1,725	16%
Transportation Alternatives Program	850	850	6,854	1,371	61%
Metropolitan Planning	358	358	2,445	489	37%
Railway-Highway Grade Crossings	245	245	1,225	245	0%
FHWA Ferry Program	80	80	560	112	40%
New Highway Formula Programs					
FY 2021 COVID-19 Flexible Formula Funds	-	14,742	14,742	2,948	n/a
Carbon Pollution Reduction Program	-	-	8,341	1,668	n/a
Pre-Disaster Mitigation Program	-	-	6,251	1,250	n/a
Discretionary Highway Programs and Other					
Projects of National and Regional Significance, Metro Performance, Climate and Resiliency grants, Community Transportation grants, and other	3,731	3,753	35,823	7165	92%
Total Highway Program	**47,104**	**61,869**	**320,156**	**64,031**	**36%***

*This differs from the comparison of total FAST Act highway funding vs. INVEST in America funding because highway funding levels in the base comparison year—FY 2020—were larger than FAST Act funding levels for the previous years. The FAST Act increased funding levels each year, beginning in FY 2015 and ending with FY 2020.

INVEST in America Act vs. FAST Act Funding (cont'd) $ in Millions (authorization of Highway Trust Fund revenues, unless otherwise specified)						
	FAST Act	**INVEST in America (FY 2021-2025)**				
	FY 2020	**FY 2021**	**FY 2022**	**5-Year Total**	**5-Year Average**	**% Increase (FY 2020 vs. 5-year Average)**
Federal Transit Formula Programs						
Urbanized Area Formula	4,930	4,930	7,506	35,670	7,134	45%
State of Good Repair Formula	2,684	2,684	4,193	19,909	3,982	48%
Rural Formula Grants	673	673	1,025	4,872	974	45%
High Density and Growing States	570	570	587	2,919	584	2%
Bus and Bus Facilities Formula	465	465	1,240	5,544	1,109	139%
Seniors and Individuals with Disabilities	286	286	435	2,066	413	45%
Metropolitan Planning	142	142	190	920	184	30%
New Transit Formula Programs						
FY 2021 COVID-19 Flexible Formula Funds	-	5,795	-	5,795	1,159	n/a
Transit Discretionary Grant Programs and Other						
Capital Investment Grant Program (General Funded (GF))	2,302	3,260	3,500	21,510	4,302	87%
Bus Facilities and Fleet Expansion Grants	289	344	437	1,945	389	35%
Zero Emission Bus Grants (formerly "Low-No")	55	55	375	1,780	356	547%
Washington-D.C. grants (GF), Transit-Supportive Communities Program, Bus Testing, and other	172	293	1,504	2,334	467	171%
Total Transit Program	**12,567**	**19,495**	**20,992**	**105,264**	**21,053**	**68%***

*This differs from the comparison of total FAST Act transit funding vs. INVEST in America funding because transit funding levels in the base comparison year—FY 2020—were larger than FAST Act funding levels for the previous years. The FAST Act increased funding levels each year, beginning in FY 2015 and ending with FY 2020.

Targets Investment to Metros; Funds New Metro Mobility Program

As advocated for by MTC, the INVEST in America Act would grow federal support for metro areas while maintaining the core FAST Act framework. The bill would increase the amount of flexible highway funding directed to the Bay Area and regions throughout the country, maintain the federal commitment to highway and bridge state-of-good repair, increase safety investments by nearly 30 percent, and increase the federal commitment to improving freight mobility. The bill would also make a historic federal commitment to improving mobility and reducing congestion by pledging Highway Trust Fund revenues to a new metro mobility program and multimodal discretionary grant programs. INVEST in America Act provisions related to metro-mobility are further detailed below.

New Flexible Highway Funding for Regions

Importantly, the bill would grow the highly flexible and metro-focused Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality Improvement (CMAQ) Program, increasing funding for both by 16 percent over the life of the bill—a rate consistent with the growth of the more traditionally state-focused National Highway Performance Program and the National Freight Formula Programs, as shown in the chart on page 2—and further increasing program flexibility. Specifically, the bill would add resiliency improvements to the list of projects eligible to receive STP funding (see the Climate and Resilience section for more detail) and the long-standing time-limit on CMAQ operating assistance would be lifted for projects that demonstrate net air quality benefits. The INVEST in America Act would increase funding to metros by growing the overall STP and CMAQ programs, increasing to 60 percent (up from 55 percent) the portion of the STP program that is suballocated to MTC and our metropolitan planning organization (MPOs), and creating new metro-focused grant programs, including a "Metro Performance Program," which is a longstanding MTC request.

The Metro Performance Program—funded at $750 million over five years—would reward high-performing metropolitan planning organizations (MPOs) with flexible funding to invest in road, bridge, transit, bicycle/pedestrian, or other projects selected at the MPO's discretion. Beginning in FY 2023 and extending through FY 2025, $250 million per year would be allocated via a population-based formula to MPOs designated by the Secretary of Transportation as high-performing. Criteria for "high performing" include the MPO's legal, financial and technical capabilities; the extent to which the MPO's planning and decision-making process support the achievement of federal performance targets; the timely obligation of STP funds and project delivery effectiveness; and the MPO's history of coordination with state and local partners. Grant awards would be a minimum of $10 million and maximum of $50 million per fiscal year.

The bill would additionally provide $250 million in discretionary "Gridlock Reduction Grants" to reduce urban congestion in large metro areas, with an emphasis on operational, technological, and mode shift strategies.

Funds Multimodal Discretionary Grants; Restores Bay Area Competitiveness

Projects of National and Regional Significance

The bill would replace the existing Infrastructure for Rebuilding America (INFRA) discretionary grant freight program with the Projects of National and Regional Significance (PNRS) program, providing over $9 billion over five years for large highway, transit, and passenger and freight rail projects that reduce congestion. In general, PNRS grant eligibility would be limited to projects costing $100 million or greater; the minimum grant size would be $25 million. With respect to public transit and freight projects, the projects would be eligible only insofar as they also provide a benefit to public roads or the national highway system, respectively. Of note, the bill would guarantee funding for the PNRS program by funding the grants out of the HTF rather than the General Fund. The proposed PNRS criteria appear likely to be favorable to projects in metro areas and include items such as the average number of people or volume of freight supported by the project, as well as mobility, economic, resilience, and environmental benefits generated by the project. This is in contrast to the INFRA program, which has heavily favored rural projects; notably, the Bay Area has not received a single INFRA grant since the program was created in 2015.

Community Transportation Investment Grants

The bill would establish the Community Transportation Investment Grant program—which is modeled after the BUILD (formerly TIGER) program—at $600 million per year beginning in FY 2022. Unlike BUILD, this new multimodal grant program would be funded out of the Highway Trust Fund, removing the uncertainty associated with competing for General Fund resources during the annual appropriations process. The bill would direct the U.S. Department of Transportation (USDOT) to develop objective criteria to evaluate grant applications based on project benefits as they relate to improving safety, state of good repair and transportation system access, and reducing greenhouse gas emissions. These changes would increase the competitiveness of multimodal projects in Bay Area and other metro areas relative to the BUILD program, which since 2017 has predominantly funded highway projects with a focus on capacity expansion and targeted more than two-thirds of program resources to rural areas, according to a 2019 Transportation for America analysis. Grant awards under this program would be capped at $25 million, and 25 percent of the funds would be reserved for rural projects.

Increases Transit Investment; Bay Area Funding Grows 50 Percent

The INVEST in America Act would make a historic commitment to public transportation, growing federal transit investment by 72 percent compared to a 42 percent growth in the highway program. Consistent with MTC's advocacy, the bill directs much of this growth into the core transit formulas the Bay Area's annual formula funding would grow an estimated 50 percent, to $3.4 billion under the INVEST in America Act from $2.3 under the five-year FAST Act authorization (FY 2016 – FY 2020)—and the Capital Investment Grant Program (CIG), which helps to fund large-scale transit capacity expansions. As demonstrated in the chart below, the proposed allocation of transit funding could result in substantial growth in resources for Bay Area transit operators.

INVEST in America Transit Funding Chart				
	FAST Act	INVEST in America Act		
	FY 2020	5-Year Average	% Increase (Average)	Bay Area Transit Impact* (Estimated)
Transit Formula Programs (subset)				
Urbanized Area	4,930	7,134	45%	$1.6 billion over five years, an increase from $1.1 billion under the FAST Act.
State of Good Repair	2,684	3,982	48%	$1.6 billion over five years, an increase from less than $1.1 billion under the FAST Act.
Rural Formula Grants	673	974	45%	$12 million over five years, an increase from $8 million under the FAST Act.
High Density and Growing States	570	584	2%	Funding is included in Urbanized Area and Rural Formula amounts.
Bus and Bus Facilities Formula	465	1,109	139%	$142 million over five years, an increase from $73 million under the FAST Act.
Seniors and Individuals with Disabilities	286	413	45%	$62 million over five years, an increase from 25 million under the FAST Act.

*This assumes that Bay Area's FY 2020 share of the Urbanized Area and Bus and Bus Facilities formula programs—the two formulas the bill proposes to revise—extend through FY 2025,

INVEST in America Transit Funding Chart, cont.				
	FAST Act	INVEST in America Act		
	FY 2020	5-Year Average	% Increase (Average)	Bay Area Transit Impact (Estimated)
Discretionary Grant Programs (subset)				
Capital Investment Grant Program	2,302	4,302	87%	Increased funding for Bay Area transit modernization and expansion priorities; streamlined process for securing federal funds.
Bus and Bus Facilities Grants	289	389	35%	Opportunity to fund fleet expansions.
Zero Emission Bus Grants (formerly "Low-No")	55	356	547%	Bay Area competitiveness greatly improved; Resources to transition to zero-emission fleets.
Bus Frequency and Ridership Grants	0	83	n/a	New resources to support the Bay Area's connectivity goals.
FTA Ferry Program	30	50	66%	Potentially large growth in funding for Bay Area ferries.

Of note, the bill proposes to update the Urbanized Area and Bus and Bus Facilities formula program beginning in FY2023 to incentivize rail and bus frequency over low operating costs—a change that could benefit Bay Area transit operators—and targets more resources to areas of persistent poverty. Staff is still assessing the impact of these proposed formula changes.

Capital Investment Grant Program Improvements

In addition to increasing CIG funding by nearly 90 percent—from $2.3 billion in FY 2020 to an average of $4.3 billion in FY 2021-FY2025—the INVEST in America Act would streamline the CIG approval process and enhance program certainty by requiring new transparency measures to help applicants know where they stand in the grant approval process. Additionally, the bill would raise the federal cost-share back to the traditional 80 percent while providing incentives (in the form of an easier approval process) for higher local matches, a provision that would certainly benefit the Bay Area, as our priority transit projects in the CIG pipeline are proposing a match of more than two-to-one. Lastly, the bill would create a new affordable housing incentive in the CIG program, directing FTA to boost an applicant's rating "if the applicant demonstrates substantial efforts to preserve or encourage affordable housing near the project."

Supports Bay Area Transit Agencies in Transitioning to Zero-Emission Fleets

The bill would convert the existing "Low- or No- Emissions Bus Grant Program" to a "Zero Emission Bus Grant Program" and grow grant resources more than fivefold. Importantly—as advocated for by MTC and many of our California partners—the bill proposes policy changes that would increase California transit operators' competitiveness and reward those transit operators who have made a commitment to transitioning to a zero-emission fleet. Specifically, the bill refocuses the program solely on grants for zero-emission vehicles (vs. zero- and low-emission vehicles) and strikes a requirement that the Federal Transit Administration (FTA) only consider projects that make greater emissions reductions than comparable buses, which has hurt areas that have previously invested in cleaner buses. Additionally, the bill directs FTA to award grants to larger-scale bus procurements and to operators that have transition plans in place, both provisions that will benefit transit operators in California who have been focused on larger fleet transitions.

Emphasis on Transit Frequency, Ridership and Equity

In addition to the formula changes noted on the previous page, the bill would create a new competitive capital grant program focused on increasing bus frequency and ridership through implementing transit priority signaling and bus-only lanes. Projects would be required to be consistent with guidance on street design issued by the National Association of City Transportation Officials. The program—funded at about $100 million per year for FY 2022-25—is similar to the Bay Area's Transit Performance Initiative Investment program and could help advance the region's connectivity and ridership goals.

The INVEST in America Act would additionally create a $21 million demonstration grant program to support reduced fare transit, similar to the Bay Areas' means-based fare pilot. FTA would award 2-year grants on a competitive basis; grant recipients could use the funds for the implementation of reduced fare transit programs and offset lost fare revenues.

Unfortunately, the bill includes several provisions that could limit transit agencies' ability to utilize new technologies, including mobility on demand (MOD) and automation, to improve service for transit riders. Specifically, the bill would discourage agencies from using third-party MOD providers like Uber and Lyft by reducing the federal share to 60 percent from 80 percent if a third-party provider is used. Additionally, the bill would prohibit the use of FTA funds on automated vehicle projects seeking to replace low-ridership fixed-route service with on automated demand shuttles. However, the bill does clarify that federal funds may be used to invest in mobility as a service platform and clarify that upgrades to fare collection systems and all costs associated with fare collection are eligible for federal formula funds.

Increases Bicycle and Pedestrian Infrastructure Investment with More Local Control

The bicycle and pedestrian-focused Transportation Alternatives Program (TAP)—which helps to fund California's Active Transportation Program—would grow from $850 million in FY 2020 to nearly $1.5 billion in FY 2022. In addition to this substantial boost in funding—more than 60 percent over the course of the bill—the INVEST in America Act would increase from 55 percent to 66 percent the portion of the program that is administered by regions, or in the Bay Area's case, MTC. The bill would additionally give states the option to devolve the remaining third of the program to regions or other local partners for administration. The bill would allow individual bicycle and pedestrian (bike-ped) projects to be funded at 100 percent federal share as long as the *average* local match for TAP-funded projects statewide is at least 20 percent.

The bill would additionally provide $250 million in "Active Transportation Connectivity Grants" to fund bike-ped networks and spines and related planning, including complete streets planning. With respect to micro-mobility, the bill authorizes scooters and electric bicycles to use bicycle facilities subject to speed and weight limits.

Expanded Metropolitan Planning Scope to Include Climate, Resilience, and Equity; New Responsibilities Paired with Commensurate Funding Increase

The INVEST in America Act builds on the performance-based planning approach introduced in 2012 and reinforced in the 2015 FAST Act authorization by adding "combatting climate change" to a list of the national federal highway program goals paired with a proposed a new greenhouse gas emission performance measure to be developed by the USDOT Secretary in consultation with the Administrator of the Environmental Protection Agency. Importantly, the measure would be expressed on a per capita basis, similar to California's target for our Sustainable Communities Strategy, Plan Bay Area 2050.

The bill also adds new regional planning requirements, including adding climate change and a vulnerability assessment as new categories of the regional transportation plan and a requirement to list resilience projects as a new category in the four-year transportation investment strategy (Transportation Improvement Program, or TIP). With regards to the long-range climate planning requirements, the bill would model proposed updates after California's Sustainable Communities Strategies requirements; requiring MPOs to identify investments and strategies to reduce per-capita greenhouse gas emissions from transportation sources, identify investments and strategies to manage transportation demand and increase the non-single occupancy vehicle mode share, and "recommend zoning and other land use policies that would support infill, transit-oriented development and mixed use development." The long-range plan vulnerability assessment would be required to include a critical infrastructure risk-assessment, analysis of evacuation routes, and a description of the MPO's adaptation and resilience improvement strategies that will inform the region's transportation investment decisions.

The bill further requires MPOs to incorporate an equity-focused "transportation access" assessment into the TIP. The bill would direct USDOT to develop a dataset states and MPOs would use to assess the level of safe, reliable, and convenient access to jobs and services by mode. States and MPOs would be required to incorporate into TIPs a description of how the investment strategy would improve the overall level of system access, similar to the existing requirement that TIPs include a description of how the planned investment strategy would make progress toward a region's performance targets.

As advocated for by MTC, these new responsibilities would be accompanied by a substantial Metropolitan Planning Program funding increase. Highway and transit metropolitan planning resources would grow 35 percent—nearly double the rate of the core highway programs—from $500 million in FY 2020 to an annual average of $673 million under the INVEST in America Act.

Creates a Strong Federal Partner on Climate Change and Resiliency

The bill makes progress on two MTC priorities, namely addressing climate change and providing additional resources and incentives for the use of new technology to address the nation's mobility challenges.

Climate Change Mitigation & Resilience

Makes Resiliency Improvements Eligible for Federal Highway Program Funds

As advocated for by MTC, the bill explicitly makes resilience-related projects eligible under the National Highway Performance Program and Surface Transportation Program, which together encompass nearly three quarters of total federal highway formula spending. Examples of eligible resilience projects include traditional "grey" infrastructure improvements such as road elevation and relocation, widening bridges and upsizing culverts, installing seismic retrofits, and coastal hydraulic countermeasures, as well as nature-based resiliency solutions (also referred to as "natural infrastructure" or "green infrastructure") such as the restoration of vegetated areas to manage storm surges.

Funds New Climate and Resiliency Programs

With regard to targeted climate change mitigation and resilience funding—another MTC priority—the bill would create two new formula programs: The Carbon Pollution Reduction Program and Pre-Disaster Mitigation Program which would provide states with $8.3 billion and $6.2 billion from FY 2022-FY2025, respectively. While this scale is smaller than that of the largest highway programs, this would still be a major step forward; funding levels would be comparable to the proposed FY2022-2025 federal investment in the National Freight Program ($8.6 billion) and Transportation Alternative Program ($6.8 billion). Each state would receive formula funds in proportion to their share of the overall highway formula program funds (excluding the "off the top" CMAQ, Metropolitan Planning, and Railway-Highway Grade Crossings funds).

The Carbon Reduction Pollution Program could fund any federally-eligible road, bridge, bike/ped, transit, or rail project that would support the reduction of surface transportation-related greenhouse gas emissions; like under CMAQ, road projects that solely increase single-occupancy vehicle capacity would be ineligible. Up to 10 percent of the program funds could be used for operating assistance for transit, passenger rail, or transportation systems management and operations projects. The Pre-Disaster Mitigation Program would fund resilience and emergency evacuation needs.

On a smaller scale, the bill also creates a $250 million/year Community Climate Innovation Grant program for FY 2022-2025 to support projects to reduce greenhouse gas (GHG) emissions from the transportation sector, prioritizing those projects expected to yield the most significant GHG reductions. Eligible applicants include MPOs, transit operators and local jurisdictions, among others.

Climate-Focus in Planning and Research

In addition to the climate-focused planning provisions described on page 7, the bill adds reducing greenhouse gas emissions as a new research priority for various research grant programs and requires a study to assess the potential impact of climate change on the national freight and intercity passenger rail network.

Invests in Transportation Research

The bill more than doubles funding for the Technology and Innovation Deployment Program to $152 million per year for FY 2022-25. With respect to automated vehicles (AVs), the bill establishes a national clearinghouse to research the impacts of highly AVs as well as mobility on demand and mobility as a service on land use, urban design, social equity and other items. The bill requires a study of how AVs will interact with general road users, including bicyclists and pedestrians.

The bill establishes a new, voluntary $10 million/year national vehicle miles traveled (VMT) pilot program for FY 2022-25 to test the design, acceptance and financial sustainability of a national per-mile user fee. The bill specifies that the Secretary of the Treasury shall establish the fee on an annual basis such that it would be equivalent to existing federal fuel taxes.

Rail Investment Expansion and Safety

The bill increases federal rail investment by more than fivefold over FAST Act levels, providing $60 billion to address state of good repair backlogs, establish new intercity rail routes, and expand on commuter rail. It includes a threefold increase in funding for Amtrak to address state of good repair and expand service. It also makes numerous improvements to safety and establishes a $2.5 billion grade separation grant program over five years.

COVID-19 Response and Recovery: Revenue Backfill, Including Capital Funding Backfill for Major Transit Improvements

The bill would provide $83 billion in FY 2021 to support states, local governments and transit agencies in administering highway and transit programs, advancing projects and preserving jobs in the aftermath of the COVID-19 crisis. Funding would be available at 100 percent federal share to eliminate the need for a match in FY21. In addition, nearly $22 billion of the total FY21 funding amount—nearly $15 billion in highway formula funds, $6 billion in transit formula funds, and the remainder in highway and motor carrier safety funds—is extremely flexible; unlike traditional highway and most federal transit formula funds the Bay Area receives, funding could directly support agency salaries and operating expenses. States, regions, and transit operators would receive those highly flexible formula funds in proportion to their share of highway and transit formula apportionments from prior years.

Additionally, a subset of transit expansion CIG projects—including Caltrain Electrification, BART Transbay Core Capacity and BART Silicon Valley Phase 2—would be authorized to receive an increased federal cost share (an additional 30 percent of the total project cost) to help ensure the projects can still move forward despite a potential loss of matching funds due to declining revenue as a result of COVID-19.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

June 11, 2020

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The Honorable Peter A. DeFazio
Chair
Committee on Transportation and Infrastructure
U.S. House of Representatives
2165 Rayburn Office Building
Washington, DC 20515

The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
U.S. House of Representatives
2164 Rayburn Office Building
Washington, DC 20515

Dear Chairman DeFazio and Ranking Member Graves,

On behalf of America's public transportation industry, which directly employs more than 435,000 workers and supports millions of private-sector jobs, we write to thank you for your extraordinary leadership and express our strong support for H.R. 7095, the "Investing in a New Vision for the Environment and Surface Transportation in America Act" (INVEST in America Act).

The INVEST in America Act makes critical investments for surface transportation infrastructure, including $105 billion for public transportation and $60 billion for commuter rail, Amtrak, and other high-performance rail. The bill recognizes the immediate need for public transit agencies to continue to provide essential services during the COVID-19 pandemic and support our nation's economic recovery. It also provides a long-term vision to address the more than $100 billion state-of-good-repair backlog in public transit infrastructure and meet the mobility demands of growing communities, including small urban and rural communities.

This transformative investment in public transportation and passenger rail helps our communities meet growing mobility demands, create family-wage jobs, expand U.S. manufacturing and supply chains, and grow the economy. It also puts us on the path to increase access to opportunities for all Americans and build more equitable communities. In addition, the INVEST in America Act addresses the environmental and sustainability challenges facing our communities, nation, and the world.

These investments are absolutely critical to jumpstart our economic recovery. The time is now to make an important investment in our national infrastructure that will provide staying power to drive our economy for years to come.

Thank you again for your leadership on these issues. We look forward to working collaboratively with you and your colleagues on both sides of the aisle as this bill advances through the legislative process.

Sincerely,

Nuria I. Fernandez
Chair

Paul P. Skoutelas
President and CEO

cc: The Honorable Eleanor Holmes Norton, Chair, Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, U.S. House of Representatives

The Honorable Rodney Davis, Ranking Member, Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, U.S. House of Representatives

The Honorable Dan Lipinski, Chairman, Subcommittee on Railroads, Pipelines, and Hazardous Materials, Committee on Transportation and Infrastructure, U.S. House of Representatives

The Honorable Rick Crawford, Ranking Member, Subcommittee on Railroads, Pipelines, and Hazardous Materials, Committee on Transportation and Infrastructure, U.S. House of Representatives

Members of the Committee on Transportation and Infrastructure, U.S. House of Representatives

California Transit Association

Connecting us.

June 16, 2020

The Honorable Peter A. DeFazio, Chair
Committee on Transportation and Infrastructure
United States House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Sam Graves, Ranking Member
Committee on Transportation and Infrastructure
United States House of Representatives
2164 Rayburn House Office Building
Washington, DC 20515

Dear Chairman DeFazio and Ranking Member Graves,

On behalf of the members of the California Transit Association, I write to you today to express our support for the "Investing in a New Vision for the Environment and Surface Transportation in America Act" (INVEST in America Act).

The INVEST in America Act establishes a bold vision for the country's surface transportation network that is furthered, in part, by an unprecedented level of federal investment in public transportation. The $165 billion the bill would invest in public transportation and rail systems over the next five years is a welcome supplement to the investments made by the State of California to bring public transportation and rail assets into a state of good repair and to expand access to affordable, frequent and efficient transit service.

We are heartened to see that the bill would provide $5.8 billion in Fiscal Year 2021 to address the immediate funding needs of transit agencies grappling with the financial and operational impacts of the COVID-19 pandemic. This funding, which augments the $25 billion in emergency funding already provided to transit agencies through the Coronavirus Aid, Relief and Economic Security (CARES) Act, is necessary to help address the **$3.1 billion** in funding needs that remain at California transit agencies after fully accounting for the CARES Act and would prevent avoidable cuts to transit service.

Additionally, we appreciate that the bill proposes a series of programmatic changes to various discretionary grant and financing programs, designed to better leverage federal investments and deliver on progressive policy objectives. We continue to review these programmatic changes with our members and hope to engage with you more fully on them as the bill moves through the legislative process. With that said, we want to provide immediate feedback on proposed changes to the Low or No Emission Vehicle Grant (Low-No) program (Section 2403), given California's leadership in zero-emission bus deployments and the recent adoption of the Innovative Clean Transit regulation by the California Air Resources Board. The regulation requires all transit agencies in California to begin to purchase zero-emission buses, as soon as 2023, and requires all transit buses in California to be zero-emission by 2040.

To start, we strongly support the higher funding levels proposed for zero-emission bus grants when coupled with several of the proposed programmatic changes, as the historic Low-No program is continually oversubscribed and demand for zero-emission buses is only expected to grow as more transit agencies commit to full conversion to zero-emission technologies. As an Association, we support the proposal to limit investments from the program to zero-emission buses, inclusive of battery electric and hydrogen fuel cell technologies, and will recall for the committee that we long-called for state and federal programs to focus their investments in zero-emission buses on mid-to-large scale deployments, as they provide transit agencies with better insight into the operational limitations of zero-emission buses than do deployments of single buses, can reveal unforeseen challenges with infrastructure buildout, and require transit agencies to proactively plan for full fleet conversion. We, therefore, support the proposed changes to the program that would establish minimum deployment requirements for small and large transit agencies to take receipt of a zero-emission bus grant.

We know that, should the higher funding levels be approved by Congress, California transit agencies will vie for these dollars to facilitate implementation of the ICT regulation. Given our existing leadership in deploying zero-emission buses, we urge Congress to view California transit agencies as key to advancing zero-emission bus technology, developing the supply chains to support zero-emission bus manufacturing, and creating industry best practices that will support the nation's eventual transition to these technologies.

To allow California to continue its leadership on zero-emission bus technologies to the benefit of the nation's transit industry, we ask that you consider the following amendments to Section 2403 of the bill:

- **Expand the list of "eligible areas" to includes states that require their local transit agencies by law or regulation to convert to zero-emission buses.**

  This change, which is consistent with amendments being pursue by Congresswoman Julia Brownley (CA-26), would reward California – and any other state that adopts a regulation requiring conversion to zero-emission buses – for their commitment to deploying zero-emission buses by making **all** transit agencies in the state eligible for funding from the program, regardless of whether they are in a non-attainment or maintenance area.

- **Create an alternative eligibility path for "a recipient that is required by state law or regulation to convert their entire bus fleet to zero-emission buses by 2040 and which is required by the state law or regulation to develop a fleet transition study by 2023."**

  This change would acknowledge that California's ICT regulation advances a complete and coherent strategy for deploying zero-emission buses and achieving full conversion to zero-emission technologies. As such, its provisions, which include the requirement that all transit agencies submit "rollout plans," approved by their governing body by 2023, should be held harmless by the eligibility requirements of the program.

  For background, the rollout plans required by the ICT regulation must include: a goal of full transition to zero-emission buses by 2040; identification of the types of zero-emission bus technologies a transit agency is planning to deploy; a schedule for construction of facilities and infrastructure modifications or upgrades; a description on how a transit agency plans to deploy zero-emission buses in disadvantaged communities; a training plan and schedule for zero-emission bus operators and maintenance and repair staff; and, identification of potential funding sources.

These requirements are consistent with Congress's intent of ensuring that investments made by the program are well-considered and lead to a methodical deployment of zero-emission buses.

Again, we thank you for your leadership in proposing the INVEST in America Act. We look forward to continuing to engage with you on this bill as it moves through the legislative process. If you have any questions regarding the amendments we are proposing, please contact me at 323-594-6342 or via email at michael@caltransit.org.

Sincerely,

Michael Pimentel
Deputy Executive Director

cc: The Honorable Nancy Pelosi, Speaker, United States House of Representatives
California's Congressional Delegation