



## MEMORANDUM

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**TO:** Authority Members

**FROM:** Christine Monsen, Executive Director  
Tess Lengyel, Programs and Public Affairs Manager

**DATE:** December 4, 2008

**SUBJECT:** 2009 Legislative Program

### **Recommendation**

Staff recommends approval of the 2009 Legislative Program.

This item was given concurrence at the Administration/Legislation/Finance Committee meeting on November 12, 2008.

### **Summary**

ACTIA and ACTA's Legislative Program guides legislative actions and policy direction on legislative issues during the year. This year the legislative program was revamped to focus on particular project and program implementation.

Some of the highest priorities in 2009 will be to participate in the federal transportation bill reauthorization, and to continue efforts to close the funding gaps on ACTIA's largest transit projects, including the BART Extension to Warm Springs. Further, expanding the opportunities for increased transit funding and flexibility of those funds for senior and disabled needs, as well as expanding bicycle and pedestrian funding are two areas of focus to advance ACTIA programs. These efforts will be done both at the state and federal levels.

Attached is a state legislative update from Suter, Wallauch, Corbett & Associates (Attachment B) and a federal update on the Administration Transition from Len Simon, our D.C. lobbyists (Attachment C).

### **Background**

Each year, the Alameda County Transportation Authority and the Transportation Improvement Authority adopt a Legislative Program to provide direction for its legislative and policy activities for the year.

The purpose of the Legislative Program is to establish funding, regulatory and administrative principles to guide ACTA/ACTIA's legislative advocacy in the coming year. The program is intended to be flexible to allow ACTA/ACTIA the opportunity to pursue legislative and administrative opportunities that may arise during the year, and to respond to the variable political processes in Sacramento and Washington, DC.

This year, the legislative program was revamped to focus on the federal bill reauthorization and on specific project and program implementation. One of the highest priorities in 2009 will be to continue efforts to close the funding gap on ACTIA's largest project in the 2000 Expenditure Plan, the BART Extension to Warm Springs, as well as on all other major transit projects, and to advance ACTIA's programs through flexible funding and increased funding amounts for transit

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and bicycle and pedestrian projects and programs.

Attached is a proposed Legislative Program for 2009 for both ACTA and ACTIA. This program is different from the 2008 program to more fully reflect the upcoming authorization of the federal transportation bill, the array of transportation funding in ACTIA's Expenditure Plan, to ensure support of large capital projects in both ACTIA and ACTA's Expenditure Plans, and to increase the leverage of ACTIA's program funding.

The 2009 Legislative Program is divided into five sections:

- Federal Transportation Bill Reauthorization
- Transportation Funding
- Project Delivery
- Multi-modal Transportation
- Transportation and Social Equity

Our state and federal lobbyists will be scheduling meetings in early spring with various Legislators in Sacramento and Washington, D.C. to discuss ACTA/ACTIA legislative needs in 2009. We invite Board members interested in participating in these meetings.

**Fiscal Impact**

No direct fiscal impact.

# **Attachment A**

## **Proposed 2009 ACTA/ACTIA Legislative Program**

## ACTA/ACTIA 2009 LEGISLATIVE PROGRAM

### Introduction

Each year, the Alameda County Transportation Authority and the Transportation Improvement Authority adopts a Legislative Program to provide direction for its legislative and policy activities for the year.

The purpose of the Legislative Program is to establish funding, regulatory and administrative principles to guide ACTA/ACTIA's legislative advocacy in the coming year. The program is intended to be flexible, allowing ACTA/ACTIA the opportunity to pursue legislative and administrative opportunities that may arise during the year, and to respond to the variable political processes in Sacramento and Washington, DC.

The Alameda County half-cent transportation sales tax measure, Measure B, is a down payment on critical projects and programs to increase mobility and access throughout the County. Funding in the expenditure plan represents only one quarter of the true funding needed for all 27 projects included in the plan, and serves as an additional funding stream to existing funding sources that support local streets and roads, mass transit operations, senior and disabled transportation, bicycle and pedestrian projects and programs and transit oriented development - all of which are known as the ACTIA programs. Measure B investments are critical for attracting other local, state and federal funds to implement the multi-modal projects and programs approved by Alameda County voters.

While ACTA and ACTIA are required to implement explicitly what voters approved in the Expenditure Plan, the current transportation climate with respect to reauthorization of the federal transportation bill, climate change issues, demographic shifts, and other policy development in the Bay Area affects the direction of state and federal advocacy efforts by ACTA and ACTIA. Further, while ACTIA projects are more clearly defined in the Expenditure Plan, the ACTIA Programs, particularly the grant programs, offer opportunities for pilot programs, projects and plans that can be further advanced through state and federal funding and legislative efforts.

Finally, there is an increasing recognition of the value and need of a truly integrated transportation system that provides substantial funding to all modes to advance mobility, access and quality infrastructure that supports the economy and advances healthy communities and a healthy environment.

According to the Texas Transportation Institute's, **The 2007 Urban Mobility Report**, "THE solution to the [congestion] problem is really to consider implementing ALL the solutions." This echoes the exact directive of the Alameda County voters when 81.5% agreed that ACTIA's multi-modal expenditure Plan was essential to their future.

This legislative program recognizes significant countywide, regional, state and federal activities that have or will impact transportation funding and implementation in the coming years. Some of these include:

- Continued state and federal budget shortfalls that have the potential to negatively impact transportation funding;
- Continued policy development to implement and allocate funds from Propositions 1B and 1C, approved by voters in November 2006 bringing \$19.9 Billion for transportation projects and \$2.9 Billion for housing and development programs respectively;

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- Renewal efforts for the Federal Transportation Bill, which is targeted for passage in late 2009, have already begun nationally to shape the programs and investments in the bill;
- Update of MTC's regional transportation plan will be completed in 2009 and will incorporate new MTC policies such as the Regional Rail Expansion Plan, updates to the Resolution 3434 policies, incorporation of the Association of Bay Area Government's Priority Development Areas, climate change, bicycle and pedestrian, as well as others;
- Increased emphasis on the interrelationship of transportation, land use and climate change; and
- Shifts in demography that are currently underway and projected within the next 20 years.

While ACTA and ACTIA's mandate is clear, the agencies work within the context of these and other efforts.

The 2009 Legislative Program is divided into five sections:

- Federal Transportation Bill Reauthorization
- Transportation Funding
- Project Delivery
- Multi-modal Transportation
- Transportation and Social Equity

The first section regarding Federal Transportation Bill Reauthorization is specific to federal legislative efforts, while the following sections relate broadly to both state and federal legislative and administrative issues as applicable.

### **Federal Transportation Bill Reauthorization**

On August 10, 2005, the current federal transportation bill, The Safe Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users, SAFETEA-LU, was signed into law, after a year delay in obtaining passage. The current \$286.4 billion bill expires on September 30, 2009. Already, significant efforts have been underway to influence the development and structure of the bill; however, full attention on the bill will occur in 2009 with congressional debates focused on the content, structure and funding amounts that will ultimately fold into adoption of a final bill. It is anticipated that a draft bill will be crafted in the earlier part of 2009. Subcommittee and full-committee markups and passage in the House are anticipated to occur prior to Memorial Day; the Senate schedule is not as clear. If passage of a new bill does not occur by September 30, 2009, extension of the current bill must be passed.

While the funding amount in SAFETEA-LU was larger than in previous years, the nation's need for transportation infrastructure investment far exceeds the previously authorized amount and argues for a larger overall funding amount. Furthermore, public infrastructure investments are often a way to jump start the economy.

ACTA and ACTIA endorse the California Consensus Principles on SAFETEA-LU reauthorization efforts, which are intended to provide a uniform statewide position on surface transportation policies to congress and the president. These principles were developed over

the summer of 2008 with a broad array of transportation stakeholders throughout California which included many transportation agencies, Caltrans, the Business Transportation and Housing Agency, and the Governor. While ACTA and ACTIA support the broad principles set forth, there are additional areas of focus that ACTA/ACTIA have historically supported or are a continuation of last year's legislative program that are included below in the "Principles Plus" section, following the statewide California Consensus Principles on SAFETEA-LU below:

### **1. Ensure the financial integrity of the Highway Trust Fund**

The financial integrity of the transportation trust fund is at a crossroads. Current user fees are not keeping pace with needs or even the authorized levels in current law. In the long-term, the per-gallon fees now charged on current fuels will not provide the revenue or stability needed, especially as new fuels enter the marketplace. This authorization will need to stabilize the existing revenue system and prepare the way for the transition to new methods of funding our nation's transportation infrastructure.

- Maintain the basic principle of a user-based, pay-as-you-go system.
- Continue the budgetary protections for the Highway Trust Fund and General Fund supplementation of the Mass Transportation Account.
- Assure a federal funding commitment that supports a program size based on an objective analysis of national needs, which will likely require additional revenue.
- To diversify and augment trust fund resources, authorize states to implement innovative funding mechanisms such as tolling, variable pricing, carbon offset banks, freight user fees, and alternatives to the per-gallon gasoline tax that are accepted by the public, and fully dedicated to transportation.
- Minimize the number and the dollar amount of earmarks, reserving them only for those projects in approved transportation plans and programs.

### **2. Rebuild and maintain transportation infrastructure in a good state of repair.**

Conditions on California's surface transportation systems are deteriorating while demand is increasing. This is adversely affecting the operational efficiency of our key transportation assets, hindering mobility, commerce, quality of life and the environment.

- Give top priority to preservation and maintenance of the existing system of roads, highways, bridges and transit.
- Continue the historic needs-based nature of the federal transit capital replacement programs.

### **3. Establish goods movement as a national economic priority.**

Interstate commerce is the historic cornerstone defining the federal role in transportation. The efficient movement of goods, across state and international boundaries increases the nation's ability to remain globally competitive and generate jobs.

- Create a new federal program and funding sources dedicated to relieving growing congestion at America's global gateways that are now acting as trade barriers and creating environmental hot spots.
- Ensure state and local flexibility in project selection.
- Recognize that some states have made a substantial investment of their own funds in nationally significant goods movement projects and support their investments by granting them priority for federal funding to bridge the gap between need and local resources.

- Include adequate funding to mitigate the environmental and community impacts associated with goods movement.

#### **4. Enhance mobility through congestion relief within and between metropolitan areas.**

California is home to six of the 25 most congested metropolitan areas in the nation. These mega-regions represent a large majority of the population affected by travel delay and exposure to air pollutants.

- Increase funding for enhanced capacity for ALL modes aimed at reducing congestion and promoting mobility in the most congested areas.
- Provide increased state flexibility to implement performance-based infrastructure projects and public-private partnerships, including interstate tolling and innovative finance programs.
- Consolidate federal programs by combining existing programs using needs, performance-based, and air quality criteria.
- Expand project eligibility within programs and increase flexibility among programs.

#### **5. Strengthen the federal commitment to safety and security, particularly with respect to rural roads and access.**

California recognizes that traffic safety involves saving lives, reducing injuries and optimizing the uninterrupted flow of traffic on the state's roadways. California has completed a comprehensive Strategic Highway Safety Plan.

- Increase funding for safety projects aimed at reducing fatalities, especially on the secondary highway system where fatality rates are the highest.
- Support behavioral safety programs – speed, occupant restraint, driving under the influence of alcohol or drugs, road-sharing, etc. -- through enforcement and education.
- Address licensing, driver improvement, and adjudication issues and their impact on traffic safety.
- Assess and integrate emerging traffic safety technologies, including improved data collection systems.
- Fund a national program to provide security on our nation's transportation systems, including public transit.

#### **6. Strengthen comprehensive environmental stewardship.**

Environmental mitigation is part of every transportation project and program. The federal role is to provide the tools that will help mitigate future impacts and to cope with changes to our environment.

- Integrate consideration of climate change and joint land use-transportation linkages into the planning process.
- Provide funding for planning and implementation of measures that have the potential to reduce emissions and improve health such as new vehicle technologies, alternative fuels, clean transit vehicles, transit-oriented development and increased transit usage, ride-sharing, and bicycle and pedestrian travel.
- Provide funding to mitigate the air, water and other environmental impacts of transportation projects.

#### **7. Streamline Project Delivery**

Extended processing time for environmental clearances, federal permits and reviews, etc. add to the cost of projects. Given constrained resources, it is all the more critical that these clearances and reviews be kept to the minimum possible consistent with good stewardship of natural resources.

- Increase opportunities for state stewardship through delegation programs for NEPA, air quality conformity, transit projects, etc.
- Increase state flexibility for using at-risk design and design-build.
- Ensure that federal project oversight is commensurate to the amount of federal funding.
- Require federal permitting agencies to engage actively and collaboratively in project development and approval.
- Integrate planning, project development, review, permitting, and environmental processes to reduce delay.

### **Principles Plus**

ACTA and ACTIA will support the following efforts to address on-going transportation needs in Alameda County, including:

- **Support methods to increase the gas tax and alternative methods of financing.** As the primary source of funding for surface transportation, the gas tax needs to be modified to allow for increases over time. Without the ability to increase the gas tax purchasing power, and in the absence of other funding methods, transportation funding will continue to decline. Alternative methods of financing such as high-occupancy toll lanes, public-private partnerships, and other user-based-type fees are important elements to continue critical investments in our core transportation infrastructure and should be allowed, provided they protect the public investment.
- **Support rewarding states that provide significant funding into the transportation systems.** California is considered a “Self-Help” state, one that raises funds both locally and statewide to fund local, state and federal transportation projects. Over time, federal funds have provided a smaller share of the overall funding need in California. Each year, the Bay Area taxpayers alone provide almost \$1 billion in local funds to support the transportation system, and California as a whole provides billions of dollars into transportation to support one of the top ten highest producing economies in the world. The infusion of \$20 billion for transportation bonds approved by voters in 2006 is on top of this amount. This effort must be acknowledged and rewarded by providing priority funding for California’s projects, bonus federal matching funds or simple increases in overall funding commensurate with the state’s investment.
- **Increase funding and flexibility of transit investments.** This effort directly addresses the need to shift a portion of trips away from auto use to address climate change and to reduce congestion. With increasing population projections and future improvements in the economy, it becomes ever more important to protect, enhance and make our transportation systems more efficient, providing effective choices for commuters.
  - Support federal funding to assist in completion of ACTA/ACTIA’s large transit projects: BART Oakland Airport Connector and AC Transit’s Bus Rapid Transit Project. In addition funding for the BART to San Jose project supports

expenditure of Measure B funds on the BART to Warm Springs project – the largest project in our current expenditure Plan. Further, project development for the Dumbarton Rail Corridor and BART to Livermore are essential in moving these projects forward. ACTIA supports these efforts as they relate to actions taken with our project sponsors on these projects.

- Support increasing, combining and integrating federal funding programs for seniors and disabled, and ensure flexibility of these programs to address the dramatically increasing senior population in Alameda County and the country.
  - Support transit safety and security programs through homeland security that are not at the expense of existing transit funding, but rather augment transit funding.
  - Support clarification of current laws that would allow transit to provide school related services as well as services supporting senior transit mobility.
  - Support climate change legislation that expands transit services and connections to transit services. To achieve necessary increases in public transit ridership to address CO2 emissions from the transportation field, legislation should support funding that augments transit funding and does not replace it.
- **Increase funding for non-motorized transportation.** This effort recognizes the tremendous capacity of walking and biking, particularly for access to transit and specialized educational programs that shift uses in transportation modes, reducing vehicle miles traveled and emissions from cold starts of autos for short trips.
    - Recognize non-motorized transportation, also known as active transportation, as a viable mode for reducing VMT, increasing transit use, supporting effective climate change, and increasing the health of communities.
    - Support increased funding for active transportation in the federal bill, and in particular, fund ACTIA's Active Transportation Program – *Active Alameda: Kids, Commuters and Community*.
      - This program is focused on walking and biking access to transit, connecting communities through urban greenways, and inspiring people to walk and bike through programs such as Safe Routes to Schools and Safe Routes for Seniors
      - The program is broadly supported throughout Alameda County as shown by the wide array of support for the program, including the Alameda County Board of Supervisors, the Alameda County Mayor's Conference, and cities throughout the County.
    - Support climate change legislation that expands transit services and supports safe, efficient and clear connections to transit services. Walking and biking are the most energy efficient and non-polluting methods to get people to transit. In Alameda County, 39% of people live within one mile of BART, and ever higher numbers are located within a mile of an AC Transit bus line. This proximity creates opportunity to transition trips to transit if there are safe, direct and efficient pathways and equipment to allow for this type of transportation. Other transit operators in the County such as Union City Transit, Wheels in East County and the Oakland/Alameda Ferry also contribute to this opportunity to shift trips.
    - Support efforts to negotiate with and purchase right of way from Union Pacific Railroad (UPRR) for the Oakland Subdivision line in Alameda County. This corridor has the potential to serve both the Dumbarton Rail Project and as a core central county non-motorized trail connecting transit stations, providing access to schools, jobs and services.

## **General Legislative Issues**

The following legislative areas are related to both federal and state legislative efforts as applicable.

### **Transportation Funding**

Over the past few years, several additional local sales tax measures have surpassed the 2/3 voter hurdle and statewide voters supported bond measures to fund transportation infrastructure throughout the state. These advances in funding demonstrate the public's will to fund essential infrastructure and transportation programs, and underscore the true need throughout the state for improving the quality of our transportation systems.

However, while voters are willing to support measures to increase funding, Alameda County, the state and country continue to face essential transportation funding challenges, which magnify over time. Congestion is on the rise, yet the purchasing power of the gas tax, which has not been increased since the early 1990's, has not kept pace with this growth, nor the predicted population increases for California and the Bay Area. At the same time, environmental review times are often too long and construction costs continue to rise, rendering projects under funded, simply due to delay.

### **Major Priorities related to ACTIA Projects and Programs**

ACTA and ACTIA recognize the value of voter-approved directives. While transportation funding has many general categories for legislative advocacy as listed below, the following areas for 2009 include the following:

- **Complete Investments in ACTIA's Major Transit Projects.**
  - **Fully fund BART to Warm Springs:** This was a major legislative effort in 2008 that resulted in advancement of this project in collaboration with other partner agencies. ACTIA will focus on ensuring this project moves to construction.
  - **Fully fund and support the advancement of the BART Oakland Airport Connector Project.** This project could be the first in the country to implement a transit design, build, operate and maintain contract. Due to the current economic climate, funding volatility has challenged the ability to implement this project as scheduled. Support efforts to fund and technology to advance implementation of this project, which has international reach.
  - **Fully fund and advance AC Transit's Bus Rapid Transit Project.** This project is located on one of the highest used corridors within the AC Transit service district in Alameda County. In an effort to provide choice transportation and highly reliable, fast and convenient services, support efforts to fund and move this project into construction and implementation.
  - **Fund project development and implementation efforts to advance the Dumbarton and BART to Livermore projects.** Both of these projects are at different developmental stages, but both have in common large funding shortfalls to move into construction. Support efforts to advance project development, staged implementation (such as express buses across Dumbarton Corridor and along I-580 HOV lanes) and efforts to secure future funding to move these projects forward.
  
- **Increase funding and flexibility for transit**
  - Support efforts to increase funding for transit and transit operations, increase

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- the flexibility of that funding to address climate change, senior population increases, and transit security.
- Protect funding intended for transit. In particular, support efforts that ensure anticipated transit funds are delivered to transit operators, such as the spillover funds at the state level, and federal appropriation levels authorized in the federal bill.
- **Increase funding and resources for non-motorized transportation**
  - Continue support of the national Active Transportation effort sponsored by Rails to Trails Conservancy to increase non-motorized transportation funding in the upcoming federal transportation bill. While the Bay Area, nation and world grapple with changing climate conditions, it is now recognized that motor vehicles contribute up to 50% of the greenhouse gas emissions in the Bay Area. Shifting transportation modes through appropriate investments in infrastructure, education and enforcement spur change. Walking and biking are part of the solution to healthy seniors, children and workers; especially when considered in relation to the dramatic increase in obesity and associated illnesses due to lack of activity.
  - Ensure that Measure B funds for non-motorized transportation are spent on their intended uses and available to leverage funds.
  - Support efforts to obtain UPRR right of way for non-motorized corridors.

### **General Priorities**

- Support legislation requiring the state gas tax to be adjusted regularly to support its “buying power”.
- Protect and increase funding for Measure B projects in the State Transportation Improvement Program (STIP), the federal transportation bill and other funding sources.
- Support legislation that protects and provides increased funding for operating, maintaining, rehabilitating, and improving transportation infrastructure, including state highways, public transit and paratransit, local streets and roads, bicycle and pedestrian facilities, and goods movement. In particular, participate in efforts to increase funding for non-motorized and transit modes in the federal reauthorization bill.
- Support efforts that give priority funding to voter approved measures.
- Support reducing the 2/3 voter-threshold for sales tax measures.
- Support legislation that improves the ability of the Authority and its partners to deliver, enhance or augment Measure B projects and programs.
- Support legislation that encourages regional cooperation and coordination to develop, promote and fund solutions to regional problems.

### **Project Delivery**

Delivery of new transportation infrastructure expeditiously is a key element in ensuring mobility of people and goods while protecting air and environmental quality, jobs and a high quality of life in general in California. However, delivery of projects is often bogged down by

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the multiple stages and long time frames of current project delivery processes, including environmental clearance and mitigation, design, right of way and project financing. To that end, ACTA/ACTIA support innovative ways to deliver projects quickly to reduce costs to taxpayers and deliver essential transportation mobility options.

### **Major Priority related to ACTA and ACTIA Projects**

As with Transportation Funding, a major priority this year is to move the BART to Warm Springs project into construction. A "Go/No Go" decision will need to be made in 2009 on the first segment, to avoid further cost increases related solely to delay.

- **Construct BART to Warm Springs**
  - *Rationale: The BART to Warm Springs project is included in both the ACTA and ACTIA Expenditure Plans. Constructing the project in two segments provides the greatest opportunity to advance the project. The first segment includes the Subway section that needs to be constructed under Lake Elizabeth in Fremont. This portion of the project is ready to go and will be followed closely by the second segment which includes the Line, Track, Station and Systems Contract.*

### **General Priorities**

- Support legislation that improves environmental streamlining, including requiring specific time frames for state and federal reviews and approvals, to expedite project delivery while ensuring appropriate environmental protection and mitigation.
- Support legislation that improves the ability of Caltrans to deliver Measure B projects in a timely and cost-effective manner and that makes the best use of Caltrans' flexibility to contract with private firms for engineering, right of way appraisal and acquisition, and environmental services.
- Support innovative project delivery methods including the design-build and design-sequencing methods of contracting for transportation projects, and public/private partnerships.
- Allow funding flexibility at the state level to support advancement of the Oakland Airport Connector Project.

### **Multi-Modal Transportation**

Transportation in the Bay Area must serve the multiple needs of its populace. There is not one single transportation type that serves all people, nor delivery of all goods. Voters supported multi-modal options for Alameda County when they approved the 2000 Measure B, which funds all modes of transportation from rail, bus, highways, bicycle and pedestrian facilities, ferry services, transit oriented development, special transportation for seniors and disabled, and local transportation needs, including streets and roads. ACTA/ACTIA supports legislation that furthers the transportation options and choices in Alameda County.

- Support efforts that encourage and fund alternative land uses and provide incentives and/or reduce barriers for developing around transportation centers.

- Support efforts that expedite delivery of transit-oriented development and other smart growth initiatives that enhance the effectiveness of public transit and other alternative modes of transportation and that are supported by local communities.
- Support efforts that ensure multi-modal transportation systems that provide multiple choices for transportation consumers.
- Support efforts that increase funding for non-motorized transportation, including a nationwide active transportation campaign to increase funding in the federal transportation bill.
- Support efforts that increase the amount and flexibility of transportation projects and programs that support senior and disabled mobility.

### **Transportation and Social Equity**

All people rely on transportation to meet some basic needs, whether that is delivery of food, goods, or simply movement from one place to another. Transportation systems must serve all of society equitably to meet the mobility needs of youth, seniors, disabled, working people, and people at all income levels in our communities. Creating a balanced system with multiple transportation options ensures access for all transportation users.

- Support efforts that provide additional funding and increased flexibility for transportation services for seniors, disabled and low income people.
- Support efforts to maintain and expand women, minority and small business participation in state and local contracting procedures.
- Support efforts that provide incentives for employees/employers to utilize public transportation or alternatives to the auto to commute to work.
- Support legislation and efforts that provide funding for transportation for low-income, senior/disabled and youth.
- Support efforts that invest in transportation to serve transit-dependent communities and provide enhanced access to goods, services, jobs and education.

## **Attachment B**

### **Legislative Update from Suter, Wallauch, Corbett & Associates**

## **Attachment C**

### **Federal Legislative Update from Len Simon & Company**