2017 FEDERAL LEGISLATIVE PROGRAM

The California Transit Association's 2017 Federal Legislative Program is an integral part of making our vision a reality, and is part and parcel of our mission to further the interests of public transportation as defined in our *Strategic Plan*.

Vision Statement

This statement contains our long-range vision for the transit industry and portrays the desired future the Association seeks to achieve. Our Association's vision is to have:

"Fully funded, efficient, and effective public transit systems operating in a balanced transportation network."

Mission Statement

To attain that vision we carry out our mission to:

"Support the needs of California's public transit systems through advocacy and education."

Advocacy

The goal of the advocacy effort contained in our *Strategic Plan* is to:

"Influence state and federal decision makers to enact policies and funding solutions supporting, expanding, developing and advancing public transit."

The objectives of our advocacy effort are aimed at:

- Ensuring that existing transit funds are protected.
- Securing new funds for transit.
- Pursuing laws and regulations that support transit and defeating those that impede transit's ability to meet the public's mobility needs.
- Using public and private partnerships to successfully influence favorable policy outcomes.
- Enhancing public awareness of transit and its daily positive impact on the lives of all Californians.

2017 FEDERAL LEGISLATIVE PROGRAM –
ALL ACTION ITEMS

The following summarizes all policy goals the California Transit Association will actively pursue in 2017. These are a mix of our existing goals and new items added for 2017.

OBJECTIVE 1. Existing Transit Funds are Protected

A. Ensure that implementation of the Fixing America's Surface Transportation Act advantages transit in all possible programs.

On December 4, 2015, President Obama signed H.R. 22, the Fixing America's Surface Transportation (FAST) Act, into law. This long- awaited successor to the Moving Ahead for Progress in the 21st Century Act (MAP-21) authorized surface transportation programs at $305 billion over 5 years.

Overall, the FAST Act increased annual spending authority for transit programs from its FY 2015 level of $8.6 billion to $9.35 billion in FY 2016 and up to $10.15 billion in FY 2020, an increase of 18 percent over the life of the act. As a result, California public transit agencies will receive $1.32 billion in 2016, growing to over $1.43 billion in 2020.

Consistent with the goals of the Association's 2016 Federal Legislative Program, the Act increased funding for the Bus and Bus Facilities program over the levels established by MAP-21 to bring the total program levels to $427.8 million in FY 2016, and up to $465 million by FY 2020. The Act increased the portion of Bus and Bus Facilities formula funds that is distributed to states, and decreased the portion that is distributed to urbanized areas. Moreover, the Act reinstated the Bus and Bus Facilities competitive grant program at $268 million in FY 2016, and grows it to $344 million in FY 2020.

In addition, the bill boosted urbanized formula grant funding to $4.54 billion in FY 2015, and up to $4.93 in FY 2020, an increase of 10.6 percent over the life of the Act; and increased state of good repair grant funding to $2.5 billion in FY 2015 and up to $4.68 billion in FY 2020, an increase of almost 24 percent over the life of the Act. The Act also increased funding for the New Starts program from $1.9 billion in 2015 to $2.3 billion in 2016.

Finally, the Act supports continued implementation of important policy and structural changes to federal surface transportation programs that were initiated in MAP-21 and are intended to improve mobility. These changes will present a host of administrative and implementation challenges. Many of these challenges are expected to be addressed at the federal level through guidance and rulemakings.

The Association will continue to be actively engaged in efforts to advance its priorities in the following area:

State of Good Repair: Under the provisions of MAP-21 and the Transit Asset Management Rule public transit agencies that receive federal funding are required to develop an inventory of their capital assets, and to report on the condition of their systems to FTA on a regular basis. The Association will monitor implementation of the TAM rule to ensure that it is not onerous or costly for public transit agencies to achieve compliance.

Program Consolidation: MAP-21 eliminated the Job Access/Reverse Commute Program as a separate, stand-alone program, and makes those activities eligible for funding under the UZA Formula Program (as well as the Section 5311 Formula Grants for Rural Areas Program). In addition, MAP-21 consolidated the Elderly & Disabled Individuals and New Freedom Programs into a single, formula-based program that is designed to fund activities that enhance the mobility of seniors and individuals with disabilities.

The Association will work to ensure these change continue to provide maximum flexibility so that public transit agencies will be able to use their formula funds for projects that meet their highest priority needs.

New Starts/Small Starts: The FAST Act included a number of structural changes to the New Starts/Small Starts Program that are intended to help FTA review projects more quickly. In addition, the legislation allows "core capacity projects" that are designed to increase the capacity of existing rail transit systems without building new lines or extensions to be eligible for New Starts funding. The Association will work to ensure that any guidance or rulemakings issued by FTA for the New Starts/Small Starts Program are consistent with the intent of Congress to streamline the process to the maximum extent possible.

Congestion Mitigation and Air Quality Improvement Program (CMAQ): The Association will work to ensure that CMAQ funds continue to be eligible for operating expenses of a new transit line or service for 3 years. In addition, the Association will oppose the setting or enforcing of targets for reduction or further definition of "proven" as "most cost-effective".

Public Transit Safety: MAP-21 granted authority to the Transportation Secretary to: (a) create a national safety plan for all modes of public transit; (b) set minimum safety performance standards for public transit vehicles that are not otherwise regulated; and (c) establish a national safety certification training program for federal and state employees who conduct safety audits and examinations of public transit systems, as well as for public transit agency employees who are directly responsible for safety oversight. This program was maintained by the FAST Act.As a condition of receiving federal money, public transit agencies must develop comprehensive safety plans based on set criteria.

The Association will work to ensure that FTA implements public transit safety provisions in a manner that is consistent with the following principles:

- Regulations regarding public transit safety should be efficient, reasonable, as free as possible of bureaucratic burden, and not put a financial burden on operations.

- To reduce regulatory burden, any new federal safety regulations should accept the safety programs of public transit agencies that have developed their safety plans/activities as members of large risk pools (e.g. CalTIP).

- Effective safety oversight of public transit requires a collaborative effort between federal, state and local agency partners. Any new federal safety standards should build on consensus-based industry standards and should be further developed with input from public transit agencies.

- Public transit agencies should be allowed adequate time to be brought into compliance without penalty.

- Any costs/mandates associated with public safety should be compensated by the federal government over and above existing programs where appropriate. Funding should be provided from new sources to assist with additional compliance burdens.

NEPA Delegation: MAP-21 expanded the ability of the Transportation Secretary to delegate National Environmental Policy Act (NEPA) responsibilities to include public transit, rail and multimodal projects. However, a public transit agency may seek a waiver if it wants FTA to continue to perform this function for its projects, rather than having the responsibility delegated to the state Department of Transportation.

The Association supports a clearly-defined process that ensures maximum flexibility for transit systems, including a simple, streamlined process for seeking a waiver.

Less Administrative Burden for Smaller Operators: Our Association supports greater flexibility and less administrative burden for transit operators in small urban areas and small operators running peak service of 100 buses or less in large urban zones, similar to existing language in the recently revised Title VI and Section 5307 of MAP-21.

Public Transportation Innovation: The FAST Act consolidated transit research under FTA's Transportation Innovation Program and authorized the program to fund demonstration, deployment and evaluation research projects. The Association will work to ensure that the research priorities advanced by this funding benefit public transit in California.

Procurement: The FAST Act changed purchasing procedures to offer more purchasing options for public transportation systems of varying sizes. Under the act, multiple states and providers may purchase capital assets through cooperative interstate procurements. The FAST Act also created a pilot program to allow nonprofit organizations to enter into cooperative procurement contracts. Under the new procurement procedures, transit agencies can lease equipment or facilities such as low- or no-emission components. Finally, the FAST Act established a Joint Procurement Clearinghouse to allow grantees to co-purchase rolling stock within a system that helps them identify procurement partners.

The Association will provide feedback to the FTA to ensure that these purchasing procedures are developed in ways that maximize their viability as options for public transit agencies in California.

B. Advocate for Federal Transportation Appropriations.

Every year, Congress is supposed to adopt 12 separate appropriations bills, including the Transportation-Housing and Urban Development (THUD) and the Department of Homeland Security appropriations bills, which supports public transit. These measures provide the legal authority for federal agencies to spend money during the upcoming fiscal year for the programs they administer. In developing these appropriations bills, Congress may allocate funding for programs within a particular policy area up to the maximum amount included in the related authorizing legislation, but no more. In the case of surface transportation, the annual appropriations process is guided by the FAST Act.

Unfortunately, in the years spanning the authorization periods for the Moving Ahead for Progress in the 21st Century (MAP-21) and the FAST Act, Congress has often failed to act on a year-long THUD appropriations bill by the start of the fiscal year. Instead, Congress has passed short-term continuing resolutions that maintain funding at previous year levels, which creates greater uncertainty about final funding levels, hindering capital planning by transit agencies. Delays in enacting appropriations bills also leads to delays in apportionments of formula funds and allocations of discretionary funds by FTA, which, in turn, causes delays and higher costs for capital projects.

Prior to MAP-21, Congress sometimes failed to appropriate the full amount authorized for FTA funding programs, leading to funding shortfalls for transit agencies. It is essential that Congress appropriate the full amounts authorized by the FAST Act, and that these vital federal funds are provided expeditiously to transit agencies for use on transit capital projects and operations.

In general, the California Transit Association's advocacy efforts with regard to the FY 2017 THUD appropriations bill will emphasize the following:

- Support a minimum appropriations level for federal surface transportation programs equal to the authorized spending levels in the FAST Act.
- Support increased funding levels for the Bus and Bus Facilities and Low or No Emission grant programs.
- Ensure that appropriations are allocated according to the program structure contained in the FAST Act and to the benefit of public transit.
- Work with APTA and other relevant stakeholders to minimize the impact of sequestration or its replacement on the New Starts/Small Starts/Core Capacity Program and other federal transit programs that receive their money from the General Fund, and to support increased funding levels for these programs.

C. Seek Continued Support from Congress on California's Public Employees' Pension Reform Act.

On December 30, 2014, the United States District Court for the Eastern District of California ruled that the United States Department of Labor (USDOL) erred in relying on the enactment of PEPRA to deny transit grant certifications on grounds related to Section 13(c). Ruling that the USDOL must carry out its duties with respect to California transit grant certifications with the understanding that PEPRA is not a reason to preclude certifications, the district court remanded the case back to the USDOL.

Unfortunately, in response to that remand order, the USDOL then formally communicated its findings that the district court was wrong, that USDOL had not acted improperly, and that the USDOL was reserving its rights to defend its actions again, not only on its original assertions, but on the new findings it brought to bear in response to the remand order.

The parties subsequently returned to court seeking review of this second USDOL decision and, on August 22, 2016, the district court again ruled in favor of the Sacramento Regional Transit District and the California Department of Transportation. Specifically, the district court found that the USDOL's new decision could not be supported by its interpretation of Section 13(c) or legislative history, thus USDOL could not show the existence of a clash between PEPRA and federal labor policy. Further, since the USDOL improperly focused on the results of collective bargaining under PEPRA, rather than on the continuation of the ability to bargain, its decision was flawed. Thus, the district court ruled, the USDOL's new decision must be set aside.

The California Transit Association will continue to urge Congress to monitor USDOL's actions to ensure that its compliance with the district court's ruling minimizes local financial impacts to transit agencies.

<u>OBJECTIVE 2: New Transit Funds are Secured</u>

<u>A. Seek Funding from Presidential Infrastructure Initiative.</u>

The President-elect of the United States has proposed significant new spending on infrastructure to rehabilitate and modernize America's aging assets. If formally proposed in the next Congress and signed into law, this spending would likely be far-reaching, providing critical new funding for highways, public transit, airports, goods movement telecommunications.

As part of its 2017 Federal Legislative Program, the California Transit Association will engage the new Administration, California's Congressional delegation and key policy and fiscal committees to ensure that this initiative: adequately addresses California's backlog of deferred maintenance of public transit assets; invests in California's transit capital expansion needs; enhances the safety of California's public transit systems; and, funds innovative mobility programs, workforce development activities, and research that will prepare the public transportation industry for the future.

B. Advocate for Federal Funding which Supports Public Transit Security.

Security is a top priority for public transit agencies in California. Since the terrorist attacks of September 11, 2001, California public transit agencies have spent significant sums of money from their own budgets on security and emergency preparedness programs. They have upgraded and strengthened their emergency response and security plans, taken steps to protect their infrastructure, and increased the presence of security personnel on their vehicles and at their facilities to protect their patrons and employees. These efforts are paying off. Many public transit systems in California are more secure now than they were prior to 9/11. However, more needs to be done. It is important for the federal government to become a full partner in the efforts to ensure the security of California's public transit users.

As part of its 2017 Federal Legislative Program, the Association will continue to advocate for full funding for public transit security, as called for in S.3379, to enhance the security and safety of our public transit systems through the FY 2017 Department of Homeland Security appropriations bill.

C. Seek Funding Through Federal Efforts to Reduce Greenhouse Gas (GHG) Emissions and Combat Climate Change.

California has led the fight against climate change through the enactment and implementation of AB 32, which directs the state to reduce its greenhouse gas emissions to 1990 levels by 2020; as well as SB 32, which directs the state to reduce its greenhouse gas emissions to 40 percent below 1990 levels by 2030. Moreover, SB 375 provides a framework for reducing greenhouse gas emissions from the transportation sector through a decrease in vehicle miles traveled. California's transit systems are working in concert with the state's efforts to meet its climate change goals.

The California Transit Association will continue to advocate on issues related to federal climate change legislation with the goal of enacting policies and new funding mechanisms to complement California's efforts. More specifically, the Association will continue to advocate for directing new federal funding to expand public transit services, encouraging new investment in alternative-fueled vehicles and other energy efficient technologies, and establishing new sources of funding to support energy efficient land-use patterns and transit-oriented development.

D. Support New Funding to Ensure the Solvency of the Highway Trust Fund.
The Association supports an increase in funding to the Highway Trust Fund so that the Fund remains solvent and capable of fully supporting transit programs. More specifically, the Association supports increasing revenue to the Fund by raising the federal gas tax or through exploration of other revenue sources that can be devoted to transit programs. Revenue sources for the Fund should be indexed to keep up with inflation.

E. Support Innovative Financing Mechanisms for Capital Projects.

The Association supports the continuation and/or authorization of innovative financing mechanisms that will stimulate greater investment in our nation's public transit infrastructure. More specifically, we support increasing authorization levels for the Transportation Infrastructure

Finance and Innovation Act (TIFIA) and the Railroad and Railroad Rehabilitation & Improvement Financing program. These programs can help advance qualified, large-scale projects that otherwise might be delayed or deferred because of size, complexity, or uncertainty over the timing of revenues.

The Association also supports America Fast Forward Transportation Bonds (AFF Transportation Bonds) as a means to boost federal investments in America's transportation infrastructure. Specifically, AFF Transportation Bonds would be structured as a sixth class of qualified tax credit bonds under section 54A of the Internal Revenue Code. Congress has previously authorized over $35 billion of qualified tax credit bonds to improve federal investments in areas as varied as public education, clean renewable energy generation and forestry conservation. AFF Transportation Bonds represents a smartly designed qualified tax credit bond program to help America restore mobility to millions of Americans by investing in our nation's transportation systems, both highway and transit.

OBJECTIVE 3: Laws and Regulations That Support Transit are Enacted and Those That Impede Transit's Ability to Meet the Public's Mobility Needs are Defeated

A. Railroad Access and Freight Issues

The Association supports granting to public transit operators the same guaranteed access to the freight railroad network that currently exists for Amtrak. The Association also supports establishing a mechanism within the STB or some other appropriate federal entity to resolve disputes between public transit operators and the private railroads on freight railroad access issues.

B. Amtrak

The Association supports investment in Amtrak. At the same time, full consideration must be given to the impact that any legislation regarding Amtrak's institutional structure may have on commuter rail services and on public transportation services generally. With the implementation of PRIIA Section 209 Amtrak pricing policy, states now are supporting Amtrak intercity passenger rail (IPR) routes of 750 miles or less and represent nearly 50% of Amtrak's total annual ridership and it is therefore imperative that at least one director on the Amtrak Board represent the interests of these state IPR services.

C. Positive Train Control

Recognizing that there are financial barriers to timely Positive Train Control implementation by some railroads, the Association supports increased funding for PTC implementation and operation.

D. Transit Pass Tax Benefits

The Association supports permanent equal federal income tax treatment for employer-provided transit passes, vanpool and carpool, benefits and parking spaces.

E. Alternative Fuel Tax Credits

On December 31, 2016, the federal excise tax credit for alternative fuels and alternative fueling infrastructure expires. Numerous transit operators in the state utilize alternative fuels, including compressed natural gas (CNG) and liquid natural gas (LNG), and are eligible for a 50 cent per gallon equivalent tax credit.

Many of our member agencies are leaders in alternative fuel efforts and some of our largest fleets in the State use CNG. Additionally, the initial capital investment and the ongoing operating costs are major considerations for other transit agencies who are considering natural gas initiatives. The tax credit is important in the long-term in justifying the front-end costs for a fueling facility and building modifications, and also the incremental costs for powering each vehicle. This tax credit is an important source of revenue for many public transportation agencies that utilize natural gas for a portion or all of their fleet fueling needs. Not only does this provision provide significant offsetting revenues to agencies' fuel budgets, it further supports the industry goals of enhancing our nation's long-term strategy for energy security and its contribution to the reduction of greenhouse gas emissions.

The Association supports a permanent extension of the Alternative Fuel Tax Credit and supports extending the credit to include electricity as an eligible alternative transportation fuel. This change would ensure that the Alternative Fuel Tax Credit provides incentives for electric and hybrid-electric buses equivalent or comparable to the alternative fuels tax credit currently available for compressed and liquefied natural gas.

The Association also supports the extending the credit for alternative fuel vehicle refueling property and legislative efforts to increase access to availability of this credit for fuel and charging infrastructure and batteries used to support electric and hybrid-electric buses.

F. Rail Liability

The Association opposes the retroactive application of any rail liability cap. Any caps must take into consideration the resources of transit agencies, and state & local governments.

G. Active Transportation Program

The Active Transportation Program (ATP) is an important federal program that encourages investments in pedestrian and bicycle projects that can increase access to public transit, improve public health, increase energy independence and create walkable and bikeable neighborhoods. To support California efforts to enhance such programs, Federal funding should continue at current levels and be provided as block grants without restrictions.

H. Buy America

In order to expedite project delivery, there should be one simplified *Buy America* compliance path for all surface transportation projects (highway and transit) funded by the U.S. Department of Transportation. Currently, the provisions are separate and have given rise to separate regulatory enforcement schemes for highways, rail and transit projects. The provisions require that steel, iron, and manufactured products used in federally funded projects must be produced in the United States. [See 23 USC Section 313 (for highways), 49 USC Section 24405 (a) (for rail), and 49 USC Section 5323 (j) (for transit).] With the passage of the FAST Act, Congress amended Buy America to provide for a phased increase in the domestic content for rolling stock.

In establishing compliance requirements, enforcement schemes and waiver criteria that differ substantially by project type and funding source, Congress and DOT have created a body of law that is onerous for transit and commuter/intercity rail agencies to navigate.

Moreover, the FAST Act includes a phased increase in the domestic content requirement for rolling stock (from 60 percent in 2016 to 70 percent in 2020), which may make it harder for transit projects to be Buy America compliant, further increasing the need for a viable public interest waiver process. FTA's interpretation of the FAST Act stipulates that the "scheduled delivery date of the first production vehicle" will control the applicable domestic content percentage. If the delivery date slips into a subsequent FY due to unforeseen circumstances, FTA will address those situations on a case-by-case basis."

As part of its 2017 Federal Legislative Program, the California Transit Association will request that DOT advise agencies on regulatory compliance where FHWA, FRA and FTA funding are on the same project. Additionally, the Association will request that Congress and the DOT create a unified system for complying and requesting waivers for projects receiving different types of DOT funding.

I. Spare Ratio

FTA regulations require that transit agencies maintain a transit vehicle fleet with a spare ratio of no more than 20 percent in order to utilize FTA 5307 formula funds for vehicle purchases. Some transit agencies, in seeking to implement zero-emission transit buses, have found that due to the range limitations of this nascent technology, they must purchase additional buses – possibly in excess of the spare ratio for transit buses – to maintain service levels to their community. In doing so, these transit agencies run the risk of jeopardizing their access to crucial FTA 5307 formula funding.

As part of its 2017 Federal Legislative Program, the California Transit Association will work with the FTA to ensure flexibility in the application of its spare ratio requirements to zero-emission transit buses or, if needed, urge Congress to pass legislation that directs the FTA to amend its spare ratio requirement to categorically permit transit agencies that implement zero-emission transit buses to exceed the prescribed spare ratio for transit buses to account for the range limitations of these new technologies.

J. Automated Vehicles

On September 23, 2016, the National Highway Traffic Safety Administration released its Federal Automated Vehicles Policy. The policy, which was issued as an agency guidance document, aims to speed the delivery of an initial regulatory framework and best practices to guide manufacturers and other entities in the safe design, development, testing, and deployment of automated vehicles. Entities covered by the scope of the policy include, but are not limited to, equipment designers and suppliers, entities that outfit any vehicle with automation capabilities or automated vehicle equipment for testing, for commercial sale, and/or for use on public roadways, transit companies, automated fleet operators, “driverless” taxi companies, and any other individual or entity that offers services utilizing highly automated vehicles.

As part of its 2017 Federal Legislative Program, the California Transit Association will engage the National Highway Traffic Safety Administration through its Notice and Request for Comments, California’s Congressional delegation and key members of the Brown Administration to ensure the priorities of our transit agency and original equipment manufacturer members are included in DOT’s final Vehicle Performance Guidance for Automated Vehicles, and the state’s policy framework for automated vehicles.

OBJECTIVE 4: Public and Private Partnerships are Used to Successfully Influence Favorable Policy Outcomes.

The Association will work to build new, mutually beneficial relationships between the Association, its members, and public & private partners, as well as enhance existing relationships that have helped support the Association’s goals in the past.

OBJECTIVE 5: Enhanced Public Awareness of Transit and its Daily Positive Impact on the Lives of all Californians.

The Association will work to provide available polling data and other information that indicates increased public support for transit compared to decision-makers and partner organizations and work to increase the number of *iTransit* program followers & engage them on important policy issues.