



May 9, 2012

Senators and Representatives on the S. 1813/MAP-21
and H.R. 4348 Conference Committee

Dear Members of the Conference Committee:

As the conferees on Moving Ahead for Progress in the 21st Century (MAP 21/S.1813) and the Surface Transportation Extension Act of 2012, Part II (H.R. 4348), begin to craft a conference committee agreement, the American Public Transportation Association (APTA) submits the following recommendations on the respective bills. We have also included comments on some provisions included in the American Energy and Infrastructure Jobs Act (H.R. 7) as reported from the House Transportation and Infrastructure Committee.

In submitting its recommendations on the conference committee's deliberations, APTA is guided by the "APTA Recommendations on Federal Public Transportation Authorizing Law – Post SAFETEA-LU: Transportation for the Future." Those recommendations, developed by APTA's members in a consensus-based manner, call for substantial increases in a six-year authorization for the federal transit program, as well as a significant new federal investment program for high-speed intercity passenger rail. APTA's recommendations are intended to preserve a strong formula program, with program consolidations like those included in Senate and House proposals, and programs that address fixed guideway expansion and modernization, as well as bus and bus facility needs. Recognizing that none of the bills authorizes significant increases in funding for the overall federal transit program, we urge the conferees to fund transit programs at the highest levels possible through at least FY 2013. While we would prefer a longer term bill that provides dependable funding for increased investment, we ask Congress to address longer-term infrastructure investment needs with a bill that provides some multi-year stability, rather than more short-term extensions.

While we believe the issue has largely been resolved, APTA urges the conferees in the strongest terms possible to retain the existing funding mechanism for public transportation, keeping the Mass Transit Account (MTA) of the Highway Trust Fund in place as well as the dedicated 2.86 cent motor fuels excise tax revenues that are currently deposited into that account.

Formula Programs, Bus and Fixed Guideway Modernization

As mentioned above, APTA supports the preservation of programs that specifically address needs for fixed guideway modernization, expansion of new fixed guideway systems, and buses and bus facilities. APTA recommends that federal funding for these respective needs be funded on a 40/40/20 basis.

Bus and Bus Facilities – To help address bus and bus facility investment needs, APTA urges conferees to authorize a bus and bus facility program similar to the one authorized in current law, and to reject any language that limits funding to transit systems that provide only bus service (thereby making transit systems that provide bus and rail service eligible for

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these funds). While we recognize that the Senate bill redirects some funding that previously went to bus and bus facility needs to the urban and rural formula programs, and the new High-Intensity Bus State of Good Repair program, and provides a new \$75 million General Fund bus replacement competitive grant program, we believe that it is important for conferees to authorize more funding for a program that specifically addresses bus and bus facility needs. APTA's recommendations also call for support for the Small Transit Intensive Cities (STIC) program and elimination of the Sec. 5340 Growing States and High Density States distribution formula.

Fixed-Guideway Modernization/State of Good Repair – Similarly, while we would like to see increased investment to address rail modernization and rail state of good repair needs, we believe that without increased overall funding, it makes more sense to preserve the existing fixed guideway distribution formula. This would preserve funding for current recipients and ensure that available resources authorized in the bill are allocated in a way that addresses basic needs for fixed guideway expansion, fixed guideway modernization, and buses and bus facilities.

Operating Assistance – APTA urges conferees to limit expansion of current operating flexibility to bus systems in urban areas of more than 200,000 that operate less than 100 buses, or temporary, targeted assistance that is funded from general funds and does not conflict with efforts to address the growing backlog of capital investments and help restore systems to a state of good repair.

Capital Investment Grants

Fixed Guideway Capital Investment Grants/ Corridor-Based Capital Projects (Small Starts)/ Bus Rapid Transit (BRT) Eligibility – In keeping with APTA's recommendations, we also encourage conferees to provide sufficient flexibility under the fixed guideway expansion program (new starts) for the construction of bus rapid transit (BRT) systems. BRT systems can be an effective, cost-efficient way to expand transit service, and the bill should not preclude communities from developing systems that meet unique regional needs. We urge conferees not to impose overly proscriptive requirements on the development of BRT systems. We also urge conferees to preserve funding incentives for the development of high-occupancy vehicle lanes that are shared by high-intensity transit systems.

We support the proposed changes to the New Starts project evaluation, approval and delivery process included in both bills. We support the Senate language on project evaluation criteria for New Starts and Small Starts projects. We urge conferees to maintain land use and economic development as considerations equal to other factors.

APTA supports the use of alternate project delivery approaches and language directing FTA to establish guidance on alternate project delivery approaches and how the project approval process would be applied to such projects, similar to the FHWA SEP-15 program (as included in H.R. 7). We support House bill language on the criteria FTA uses to advance projects through each phase of the approval process. We support eliminating Final Design as a separate decision step and reducing the process to a three-step approval process.

APTA supports Senate language to create a Program of Interrelated Projects allowing project sponsors to advance multiple projects while seeking New Starts/Small Starts monies for some, but not all of the projects. APTA also supports language in House and Senate bills that expands the use of warrants to expedite the project rating, evaluation and approval process, and language expanding projects eligible for categorical exclusions (CEs).

Federal Transit Administration (FTA)

Transit Safety Oversight – APTA urges the conferees to build on the existing state safety oversight programs for transit, as proposed in the House T&I bill, rather than create a new regulatory regime at the Federal Transit Administration as proposed in S. 1813. Public transportation systems safely serve millions of riders daily across the nation and the House bill would improve the existing safety program by directing the Secretary of Transportation to ensure that each state safety oversight (SSO) agency has the technical capacity, personnel, and authority to enforce safety standards. The House T&I Committee language directs SSO's to require, review, approve and monitor transit system safety plans, and requires that SSO's possess the authority to investigate hazardous conditions and to require corrective actions where necessary.

FTA Research – APTA supports the reforms to the FTA research program proposed in S.1813. APTA also encourages conferees to preserve funding for research programs generally, and to specifically authorize no less than \$10 million annually for basic research under the Transit Cooperative Research Program (TCRP), even if those funds must be derived from current levels for formula funding. With respect to the University Transportation Center (UTC) Program, APTA supports \$7 million for transit-focused UTCs and that all U.S. DOT modal agencies should be included in the process for determining center designations.

Workforce Development – APTA also supports workforce development initiatives in the respective bills and pledges to work with Congress to increase funding for these programs in the future.

Commuter Rail

APTA strongly urges the conferees to support policies that control costs and reduce regulatory burdens on the nation's commuter rail agencies in order to protect transit riders from fare increases or service reductions.

Licensing of Commuter Rail Operations and Minimum Insurance Requirements – APTA requests that conferees do not adopt the Senate Subtitle F provision that requires commuter railroad operators to become certified by the Surface Transportation Board (STB) and obtain a minimum of \$200 million in liability insurance coverage. Currently, state and regional passenger railroad service sponsors enter into agreements with passenger rail operators through detailed contracts which take into account qualifications and legal requirements, and the language would interfere with current agreements. This language would also effectively require all commuter railroads to bring employees into the railroad retirement, unemployment, and workman's compensation liability programs and would arbitrarily increase insurance premiums without regard to risk. All of these requirements will unnecessarily increase costs for public passenger railroads, making it more difficult for communities to initiate affordable commuter rail service even as ridership and demand have risen in recent years.

Positive Train Control (PTC) – Similarly, APTA urges conferees to provide greater flexibility on the current deadline for implementation of positive train control (PTC) systems by commuter railroads. Commuter railroads are committed to implementing the required PTC systems, however they face many challenges in doing so. In light of these challenges, APTA has requested additional federal funding to help with the more than \$2 billion in commuter rail implementation costs, the allocation to commuter rail systems of required radio spectrum at no cost, and a change in the nationwide implementation deadline from 2015 to 2018, under which individual systems could still implement sooner. It is critical that commuter railroads receive the full support from the Federal Railroad Administration (FRA) and the

Federal Communications Commission (FCC) in moving forward with implementation as soon as possible. Commuter railroads that are proceeding with implementation prior to the APTA recommended deadline should be fully supported by the FRA and FCC. Both S. 1813 and the House T&I bill recognize the challenges related to meeting the current deadline. While S. 1813 authorizes individual commuter railroads to petition the Secretary of Transportation for up to three one-year extensions of the current deadline, the House T&I bill would change the implementation deadline to 2020. APTA urges the conferees to extend the implementation deadline to a date certain of 2018 and to authorize more funding for PTC implementation. Adjusting the timeline more accurately reflects our efforts to design, test, approve, produce, distribute, install and train on the use of this groundbreaking technology.

Federal Highway Programs

Congestion Mitigation and Air Quality Improvement Program (CMAQ) – We also urge conferees to seek alternatives to the statutory set-aside of states' CMAQ apportionments for diesel retrofit of highway construction vehicles. While we appreciate the need to reduce emissions from these vehicles, APTA members have concerns that this set-aside will crowd out funding that may currently be dedicated to transit projects which already provide air quality benefits. States should have the flexibility to address congestion and air quality issues in the way that best responds to their needs.

Consistent with our authorization recommendations, we ask that Congress expand eligibility for the continued operation of transit as long as the project, facility or program is contributing to the attainment or maintenance of a national ambient air quality standard throughout the beneficial life of the investment. The current restriction on using CMAQ funds for transit operations for a period of no more than three years can arbitrarily limit assistance available to projects and services that provide effective air quality benefits. APTA also seeks to allow CMAQ funding for significant capital improvements to transit stations. Station improvement projects in old transit systems are more similar to a highway widening project than a highway repaving or reconstruction project, since such improvements address transit station capacity issues in order to retain and attract riders to transit systems.

Planning

Small Metropolitan Planning Organizations (MPOs) – APTA urges conferees to preserve MPO's in areas of less than 200,000 people, as proposed in S.1813 unless those MPO's request that their planning duties be transferred to the state or another MPO.

Innovative Finance

America Fast Forward/ Transportation Infrastructure Finance and Innovation Act (TIFIA) – APTA strongly supports efforts to enhance the TIFIA program similar to the America Fast Forward proposal by increasing the program's annual funding level to \$1 billion, increasing the maximum federal share of eligible costs federal share from 33% to 49%, and authorizing the U.S. Department of Transportation to enter into upfront agreements (contingent commitments) for large programs of related projects.

Tax Provisions

Transit Commuter Tax Benefit Parity – APTA urges conferees to permanently restore the transit commuter tax benefit to the same level provided for commuters who drive and park (\$240 per month) as proposed in the Commuter Benefits Equity Act as introduced by Senator Schumer (S. 1034) and Representative McGovern (H.R. 2412). At a minimum, these benefits should be provided at a level of parity with parking benefits through the end of 2013. Federal tax policy should not have a bias in favor of one method of commuting over another.

Conferees to S. 1813/H.R. 4348

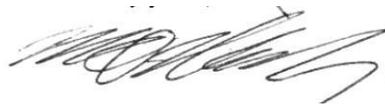
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Alternative Fuels Tax Credit – APTA has also long supported the restoration of the alternative fuels tax credit for transit agencies that use natural gas as a way to encourage the use of domestic natural gas and other fuels and to help pay for infrastructure investments associated with such fuels.

APTA appreciates the conferees' consideration of its views on these important issues. As an industry we spent over two years working collaboratively amongst ourselves to frame a proposal that would address the needs of our widely divergent membership. We approach this Conference guidance in the same fashion, and we look forward to working with the conferees to help best address the nation's transit and overall surface transportation infrastructure needs. If you have questions, please contact Brian Tynan of my government affairs staff at (202) 496-4897 or btynan@apta.com.

Sincerely,



Michael P. Melaniphy
President & CEO

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