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LEGISLATIVE Alert

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



February 1, 2012

HOUSE TRANSPORTATION & INFRASTRUCTURE COMMITTEE AND SENATE BANKING COMMITTEE MOVE FORWARD ON AUTHORIZATION PROPOSALS; FUNDING PROPOSALS TO COME

Major action on surface transportation authorization bills will occur this week in the House and Senate, as the House Transportation & Infrastructure (T&I) Committee and the Senate Banking, Housing, and Urban Affairs Committee are each scheduled to mark-up their respective authorization proposals on Thursday, February 2. While the T&I Committee will lead efforts on the House proposal, other committees will have important roles in crafting financing portions of the bill. The House Ways and Means Committee, as well as the Energy and Commerce, and the Natural Resources Committees will develop separate financing titles for the bill.

Indications are that the House Leadership has worked with those committees to set a mark-up schedule that will allow the multiple measures to be completed in time for floor and subsequent conference committee action before the current authorization extension expires on March 31. The House Natural Resources Committee held its mark-up of [energy development provisions](#) earlier today.

The Senate Banking, Housing, and Urban Affairs Committee will mark up the transit title of the Senate bill on Thursday as well. The Environment and Public Work Committee has already marked up the highway title of the bill, and the Senate Finance Committee, which oversees the revenue, financing and trust fund elements of the surface transportation bill, is tentatively scheduled to mark up the financing title next week.

House Transportation & Infrastructure Committee

Information included here is based on a preliminary review of legislative language released this week. APTA continues to review the details of the House T&I bill. One major change from the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) is the elimination of the Mass Transit Account of the Highway Trust Fund and the creation of a new Alternative Transportation Account. Transit programs previously funded under the Mass Transit Account, along with several programs previously funded under the Highway Account, will be funded under the new account, which remains in the Highway Trust Fund. APTA awaits the release of draft language from the House Ways and Means, Natural Resources, and Energy and Commerce Committees, to determine exactly how the House proposal will be funded. APTA believes strongly that motor fuel tax revenues now dedicated to transit investment must remain dedicated to transit programs.

Under the House proposal, authorized funding for transit formula, capital investment and research funding are consistent with Fiscal Year (FY) 2012 levels but still below FY 2011 amounts. The bill includes a number of changes that APTA has recommended, such as: a permanent exemption for transit vehicles from highway axle weight limits; major increases in the Transportation Infrastructure Finance and Innovation Act program; and the replication of the Federal Highway Administration (FHWA) SEP-15 program within Federal Transit Administration (FTA); among other items.

The House T&I bill provides \$10.498 billion, slightly above the full FY 2012 level, for FTA programs during the period of FY 2013 through FY 2016. The bill extends the current authorization for FTA programs in FY 2012 at current appropriations levels. It provides a modest increase in funding to the Urbanized Area Formula program (Sec. 5307) and eliminates the Growing States and High Density (Sec. 5340) formula program, effectively redistributing those funds to core urban and rural formula programs. Consistent with APTA's legislative recommendations, the House T&I bill combines the Elderly and Disabled (Sec. 5310), New Freedoms (Sec. 5317), and Job Access and Reverse Commute (JARC) (Sec. 5316) programs into a Coordinated Access and Mobility Program, increasing the authorization for the combined programs by over \$100 million.

The House bill also provides a significant increase in funding for rural programs. The House bill does not make significant changes to the fixed guideway modernization program, and it increases annual funding slightly above

the FY 2012 level. The bill alters significantly the Bus and Bus Facilities program, converting it to a formula program based on bus factors under the urban formula and limiting grants under the program to “providers of public transportation in urbanized areas that operate fixed route bus services and that do not operate heavy rail, commuter rail, or light rail services.” The House bill also repeals the Clean Fuels Formula program, along with the Alternative Transportation in Parks program. The House T&I Committee has sought to consolidate and streamline programs throughout the bill. No authority is provided to the FTA for a Federal Public Transit Safety program, although the committee bill does enhance the existing State Safety Oversight (SSO) structure. Finally, Capital Investment Grants (New Starts/Small Starts), FTA Administration, and Transit Research are funded through the General Fund (as under current law) at FY 2012 levels. Provisions are included within the Capital Investment Grants section aimed at expediting project delivery, and the bill renews the statutory federal share of 80 percent for new capital investment grants.

The House T&I bill also contains language extending the deadline for implementing Positive Train Control (PTC) systems to December 31, 2020. It also makes high-speed intercity passenger rail an eligible expense under the Railroad Rehabilitation and Improvement Financing (RRIF) loan program and reduces Amtrak operating grants by 25 percent.

[View detailed table reflecting the funding levels and program changes in the House Public Transportation title](#)

[View full House T&I Committee bill](#)

Senate Banking, Housing and Urban Affairs Committee

On Monday, January 30 Senate Banking Committee Chairman Tim Johnson (D-SD) and Ranking Member Richard Shelby (R-AL) released a bipartisan agreement that incorporates many ideas from both sides of the aisle.

On Thursday, February 2 the Committee will mark up the transit title that authorizes two years of funding for FTA programs at FY 2012 levels (similar to the highway title approved earlier). The Committee’s bill authorizes an increase of more than \$600 million for the Urbanized Area Formula program (Sec. 5307), but unlike the House bill it retains the Growing States and High Density States formula program and relocates a modified JARC program to Sec. 5307. The bill includes a modified “100 bus rule”, allowing systems with 75 to 100 buses operating in peak service to use up to 25 percent of their formula funds for operating expenses and those operating 75 or fewer buses to use up to 50 percent for operating expenses. In addition, it includes language allowing public transportation providers flexibility to use a limited portion of their 5307 funds for operating assistance for up to two years during periods of high unemployment, contingent on certain criteria being met.

In a significant programmatic change, the Banking Committee bill eliminates the Bus and Bus Facilities Discretionary program and the current fixed guideway modernization program, and creates a new “High Intensity” State of Good Repair (SGR) program for both rail and bus fixed guideway programs, authorizing \$1.987 billion for this new program. It makes significant changes to the distribution of these funds, eliminating the formula tiers of the current rail modernization program and replacing that formula with a new formula based on revenue vehicle miles and route miles. High-occupancy vehicle lanes would no longer qualify for funding unless they are reserved exclusively for public transportation vehicles. The new High Intensity Bus SGR program is aimed at systems with a large number of bus rapid transit, express bus or other high intensity bus routes that may not qualify as a fixed guideway.

The bill authorizes the Clean Fuel Grant Program as a competitive program to provide grants for the acquisition of clean fuel vehicles and related equipment, the construction of facilities for clean fuel vehicles, and the rehabilitation of existing facilities to accommodate the use of clean fuel vehicles. Additionally, the Committee has included a Coordinate Access and Mobility Program, structured slightly differently from the House bill, but nonetheless combining the Elderly and Disabled and New Freedom programs. It creates separate urban and rural JARC programs funded with a portion of formula funding. The bill also restructures the Transit Research program, creates a Technical Assistance grant program, authorizes a workforce development program, and funds these programs, along with the Transit Cooperative Research Program (TCRP) and the National Transit Institute (NTI) through the Mass Transit Account (as opposed to the General Fund).

Like the House bill, Capital Investment Grants (New Starts) are funded at the FY 2012 level of \$1.955 billion, and the Committee includes language aimed at simplifying the program and streamlining project delivery.

Also included in the Senate Banking bill is language creating a Federal Public Transportation Safety Oversight program similar to legislation previously adopted by the Committee. Authority for the program is included within the FTA Administration account and funded through General Funds.

[View detailed table reflecting the funding levels and program changes in the Senate Banking title](#)

[View Senate Banking Committee summary of the bill](#)

[View full text of the bill](#)

For questions on these issues, please contact Brian Tynan of APTA's Government Affairs Department at (202) 496-4897, or btynan@apta.com.



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