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November 8, 2018

ELECTION UPDATE

Election Results

On November 6, 2018, the nation conducted critical elections for all 435 Members of the House of Representatives, 35 Senators, 36 Governors, hundreds of state legislators and local government officials, and important public transportation ballot measures. With regard to Congress, Democrats won control of the U.S. House of Representatives picking up at least 31 seats. As of the time of publication, Democrats hold a 226-200 majority with nine races undeclared (CA-10, CA-39, CA-45, CA-48, CA-49, GA-07, ME-02, NJ-03, and UT-04). At the same time, Republicans maintained control of the U.S. Senate and picked up at least two seats. Republicans hold a 51-46 majority with three races undeclared (Arizona, Florida, and Mississippi). In races for governor, state legislature, and local government, both Democrats and Republicans can point to important wins and losses on election night.

On ballot measures, public transportation was a big winner in this election. On Tuesday, voters passed 17 of 20 ballot measures (85 percent) to increase funding for public transportation, and two ballot measures remain undeclared. Among the ballot measures, Californians defeated Proposition 6 and preserved more than \$5 billion per year in dedicated transportation funding. Overall in 2018, public transportation won 30 of 36 ballot measures (83 percent). For more information on public transportation ballot measures, [please click here](#).

In the new 116th Congress, the House of Representatives will have a historic number of new Members of Congress—**one of every five Members of Congress will be a new Member**. For instance, at least 12 of 61 (20 percent) Members are not returning to the House Committee on Transportation and Infrastructure (T&I Committee). This number is likely to grow as undeclared races are announced and some current T&I Committee Members are assigned to exclusive committees (e.g., the Committee on Appropriations, Committee on Energy and Commerce). Based on experience, APTA staff estimates that the T&I Committee will have at least 15-20 new Members in January 2019. Therefore, **one-third** of the T&I Committee could be new Members. **The historic number of new Members of the House presents APTA with an enormous opportunity to educate these Members on the importance of investing in our nation's bus and rail systems.**

CALL TO ACTION

We strongly encourage you to contact the returning and new Members of the House of Representatives and Senators and urge them to support increased funding for public transportation and passenger rail. This outreach provides a great opportunity to emphasize the importance of critical infrastructure investments to our nation's bus and rail systems.

Leadership and Committee Elections

Senate: Majority Leader Mitch McConnell (R-KY) and Minority Leader Charles E. “Chuck” Schumer (D-NY) are expected to continue in their current positions in the new Congress. Senator John Thune (R-SD) is expected to seek the Majority Whip's position, currently held by Senator John Cornyn (R-TX). The leadership of several key Senate committees may remain unchanged, including:

- the Committee on Appropriations (Chairman Richard C. Shelby (R-AL) and Ranking Member Patrick Leahy (D-VT));
- the Committee Banking, Housing, and Urban Affairs Committee (Chairman Mike Crapo (R-ID) and Ranking Member Sherrod Brown (D-OH)); and
- the Committee on Environment and Public Works (Chairman John Barrasso (R-WY) and Ranking Member Thomas R. Carper (D-DE)).

Other critically important committees will see changes. The Committee on Finance will have a new Chairman, expected to be Senator Chuck Grassley (R-IA) or Senator Crapo. If Senator Crapo became Chairman of the Finance Committee, Senator Patrick J. Toomey (R-PA) would have the opportunity to become Chairman of the Banking Committee. Ron Wyden (D-OR) will continue as Ranking Member of the Finance Committee. The Committee on Commerce, Science, and Transportation will also likely have a new Chairman, Senator Roger F. Wicker (R-MS). The status of Ranking Member Bill Nelson (D-FL) is unclear because his reelection is subject to a recount at this time. If Senator Nelson is not reelected, Senator Maria Cantwell or Senator Amy Klobuchar will likely become Ranking Member of the Commerce Committee.

The Senate Republican and Democratic Leadership elections are scheduled for November 14.

House: With Democrats assuming the majority, current Minority Leader Nancy Pelosi (D-CA) is running for Speaker of the House and Representative and current Majority Leader Kevin McCarthy (R-CA) is running for Minority Leader. Cong. Jim Jordan (R-OH) is expected to challenge Cong. McCarthy and it is unclear if Cong. Pelosi will also face a challenger. Cong. Peter A. DeFazio (D-OR) will become Chairman of the Committee on Transportation and Infrastructure and Cong. Sam Graves (R-MO) is seeking the Ranking Member position. Cong. Jeff Denham (R-CA) may challenge Cong. Graves if Cong. Denham is reelected. In addition, Cong. Nita M. Lowey (D-NY) will become Chair of the Committee on Appropriations and several Republicans are seeking the Ranking Member position of the Committee. On the Committee on Ways and Means, Cong. Richard E. Neal (D-MA) will become Chairman and Cong. Kevin Brady (R-TX) will become Ranking Member.

The House Republican Leadership elections are scheduled for November 14. The House Democratic Leadership elections are tentatively scheduled for November 28.

On or about January 3, 2019, the House will elect the Speaker of the House by conducting a live roll call vote on the Floor of the House. To become Speaker of the House, Cong. Pelosi will need to win an absolute majority of votes cast (218 of 435 votes) if all Members are voting for specific candidates by name. Members voting “present” are not counted for purposes of calculating the number of votes cast.

REGULATORY UPDATE

Environmental Impacts and Related Procedures

On October 29, 2018, the U.S. Department of Transportation (DOT) issued a final rule that amends Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) regulations implementing the National Environmental Policy Act (NEPA) and Section 4(f) requirements (23 CFR parts 771 and 774). In addition, through this final rule, the Federal Railroad Administration (FRA) is joining those regulations, making them FRA's NEPA and Section 4(f) implementing regulations.

The final rule modifies NEPA and Section 4(f) regulations to reflect various provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and the Fixing America's Surface Transportation Act (FAST Act).

The rule includes cross-agency applications of categorical exclusions (CE), an expanded “existing Operational Right-of-Way” CE, and coordination plans and schedules for agencies. The Agencies have also revised the Environmental Impact and Related Procedures regulations to reflect various procedural changes, such as including a new section on combined final environmental impact statement/record of decision documents. This final rule also amends the Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites regulations to reflect new exceptions created by the FAST Act.

To view the final rule in its entirety, [please click here](#).

Automated Vehicles 3.0 Announced by U.S. Department of Transportation

On October 4, DOT released its guidance on “Preparing for the Future of Transportation: Automated Vehicles 3.0” (AV 3.0). It has a broader scope than previous versions of the guidance and applies to all surface on-road transportation systems, including public transportation. The guidance focuses on three areas: advancing multimodal safety, reducing policy uncertainty; and outlining a process for working with DOT.

To view the DOT guidance, [please click here](#). The “Considerations for Public Sector Transit Industry and Stakeholders” section begins on page 22.

DOT is seeking public comments on AV 3.0. To view the Federal Register Notice, [please click here](#). The Comment Period closes on December 3, 2018. APTA is seeking member feedback on DOT's AV 3.0 guidance to incorporate in APTA's comments to DOT on behalf of the transit industry. Please submit comments to Zach Smith of APTA at zsmith@apta.com.

APTA is hosting a webinar on AV 3.0 on Friday, November 9, at 3:00 p.m., where discussants from transit agencies will react to AV 3.0 based on their experiences with automated technology and the challenges and opportunities that these new technologies present for their agencies. The presentation will be delivered by Danyell Diggs, Senior Transportation Program Analyst, Mobility Innovation, of FTA's Office of Research, Demonstration and Innovation. Other discussants include Kristina Holcomb, Deputy CEO, Denton County Transportation Authority, Lewisville, TX, and Doug Jamison, Senior ITS Developer, LYNX – Central Florida Regional Transportation Authority, Orlando, FL. To participate in this webinar, [please click here](#).

Associated with the release of AV 3.0, DOT is expected to solicit proposals soon for \$60 million in AV testing grants.

Federal Transit Administration Issues Letter on Drug and Alcohol Testing

In an October 17, 2018 Dear Colleague letter, FTA announced that it will increase the minimum rate of random drug testing from 25 percent to 50 percent of covered employees for employers subject to FTA's drug and alcohol regulation. This testing requirement will be effective January 1, 2019. This change is due to an increase in the national "positive violation rate" above one percent, as reflected in random drug test data for calendar year 2017. The Dear Colleague letter indicates that the rate will remain at 50 percent for at least two years but may decrease back to 25 percent if there are two consecutive years where the positive rate is below one percent.

To view the Dear Colleague letter, [please click here](#).

American Public Transportation Association
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1300 I Street NW, Suite 1200 East, Washington, DC 20005
(202) 496-4800 | www.apta.com