



American Public Transportation Association

Business Member Legislative and Transit Board Members Legislative Subcommittees Agenda

**Sunday, October 8, 2023
9:00 a.m. - 9:45 a.m. ET**

**Hyatt Regency Orlando
Room: Regency Ballroom P (Convention Level)**

1. Welcome and Call to Order—

Brian Tynan, Chair, Business Member Legislative Subcommittee
Beth Holbrook, Chair, Transit Board Members Legislative Subcommittee

- 2. 118th Congress Congressional Outreach and APTA Fly-In Update—**Melissa Mejias, Director, APTA Government Affairs and Advocacy
- 3. FY 2024 THUD Appropriations Update—**Melissa Mejias
- 4. APTA's Advocacy Action Center Demonstration—**Beth Holbrook
- 5. Business Member Legislative Subcommittee Work Plan Updates—**Brian Tynan
- 6. Open Discussion**
- 7. Adjourn**

ENCLOSED DOCUMENTS

- APTA FACT SHEET Government Shutdown Impacts on Public Transportation (10.08.2023)
- APTA TALKING POINTS THUD Appropriations: Public Transit (10.08.2023)
- [APTA Capital Investment Grants Project Pipeline Dashboard](#) (10.02.2023)
- APTA FACT SHEET Build America, Buy America Act (10.08.2023)
- APTA FACT SHEET Advocacy Tools
- APTA INFOGRAPHIC 2022 Fact Book (03.13.2023)
- APTA POLICY BRIEF [Transit Savings Grow as Auto Costs and Gas Prices Increase](#) (09.2023)
- APTA POLICY BRIEF [Restoring RAISE Grant Investments in Public Transportation](#) (09.2023)



Government Shutdown Impacts on Public Transportation

October 8, 2023

Executive Summary

On September 30, 2023, Congress enacted a continuing appropriations act, or Continuing Resolution (CR), preventing a government shutdown. The CR expires November 17. At this point, it is unclear if Congress will reach a bipartisan, bicameral agreement on annual appropriations acts or a subsequent CR by this date. If Congress is unable to reach a future agreement, there would be a lapse in appropriations.

The impacts of a government shutdown on U.S. Department of Transportation (DOT) agencies vary considerably. Federal Transit Administration (FTA) operations will continue and none of its 700 employees will be furloughed. FTA will be able to reimburse transit agencies for previously approved projects. However, it is not clear that FTA will be able to approve new grants.

Conversely, 350 employees (35 percent) of the Federal Railroad Administration (FRA) would be furloughed during a government shutdown. Remaining FRA personnel would be focused primarily on activities necessary to protect life and property (e.g., FRA safety inspections). Similarly, 455 employees (25 percent) of the Office of the Secretary of Transportation would also be furloughed.

Background

Congress will not complete appropriations action prior to October 1, 2023. The Antideficiency Act (31 U.S.C. §§ 1341-1342, 1511-1519) generally bars the obligation or expenditure of federal funds in the absence of appropriations. As a result, Congress must enact a CR to provide interim budget authority and prevent a government shutdown. If a funding gap occurs, federal agencies are generally required to begin a shutdown of affected projects and activities, which includes the prompt furlough of non-excepted personnel.¹

¹ See Congressional Research Service, [Federal Funding Gaps: A Brief Overview](#), Report No. RS20348 (September 7, 2023).

The impacts of a government shutdown on DOT agencies vary considerably. Agencies are allowed to continue activities involving the safety of human life or the protection of property.² For instance, FRA safety inspectors and other personnel necessary to protect life and property continue to work during the government shutdown. In addition, the personnel of some agencies, such as FTA and the Federal Highway Administration, are financed by budget resources other than annual appropriations (e.g., the Highway Trust Fund). Therefore, these employees are not subject to a government shutdown.

Federal Transit Administration

According to DOT, during a government shutdown, FTA operations will continue because the personnel are financed by the Highway Trust Fund or advance appropriations under the Infrastructure Investment and Jobs Act (IIJA).³ Therefore, none of FTA's 700 employees will be furloughed.⁴

The impact on FTA activities is less clear. FTA has sufficient liquidating cash to support several months of reimbursements for previously approved projects.⁵ In addition, activities funded from IIJA advance appropriations will continue during a lapse in annual appropriations.⁶ However, it is not clear that FTA will be able to approve new grants. In particular, to the extent that FTA activities involve other agencies, the personnel of those agencies (e.g., Environmental Protection Agency, U.S. Department of Labor (DOL), U.S. Department of the Interior) may be furloughed, which could stop progress on projects. For instance, according to DOL, during a government shutdown, the Office of Labor-Management Standards will furlough all employees and suspend all operations,⁷ which could affect DOL's certification of Section 13(c) employee protective arrangements for FTA grants pursuant to 49 U.S.C. § 5333(b)).

² The Antideficiency Act includes certain exceptions, such as activities involving the "safety of human life or the protection of property." *Id.*

³ U.S. Department of Transportation, [Plans for Operations During a Lapse in Annual Appropriations And/or Federal Aviation Administration Authorization Plans by Operating Administration](#) (DOT Plans for Operations During a Lapse in Appropriations) (August 3, 2023) at 13.

⁴ *Id.*

⁵ *Id.* at 14.

⁶ *Id.* at 13-14.

⁷ U.S. Department of Labor, [Plan for the Continuation of Limited Activities During a Lapse in Appropriations](#) (September 27, 2023) at 44-45.

Federal Railroad Administration

According to DOT, 350 (35 percent) of FRA's 1,006 employees would be furloughed during a government shutdown.⁸ Remaining FRA personnel would be focused primarily on activities necessary to protect life and property. For instance, FRA staff that manage rail accident/incident investigations would continue working. The continuous inspector presence on railroad property allows for the proactive review and identification of unsafe operations. When safety hazards are identified, FRA railroad safety personnel ensure uniform and consistent feedback to railroads on noncompliance violations of federal safety laws and regulations. These activities would continue during a lapse in appropriations.⁹ Employees of the Office of Railroad Development would also continue working during a lapse in appropriations on activities funded under FRA's Oversight account related to the award, administration, oversight, and technical assistance of FRA programs.¹⁰

FRA would not continue any of its unfunded core agency functions. No contracts, purchase orders, or other documents obligating funds would be executed. FRA would not advance any rulemakings, including those related to railroad safety.¹¹

⁸ DOT Plans for Operations During a Lapse in Appropriations at 15.

⁹ *Id.* at 15-16.

¹⁰ *Id.* at 16.

¹¹ This limitation does not apply to regulatory activity funded from FRA's Oversight account. *Id.* at 17.



THUD Appropriations: Public Transit

American Public Transportation Association

October 8, 2023

Both the Senate and House of Representatives have advanced Transportation, Housing and Urban Development, and Related Agencies (THUD) Appropriations bills. The Senate is currently considering its THUD bill (S. 2437) on the Floor as part of a “minibus” of three Appropriations bills. The House is planning Floor consideration on its THUD Appropriations bill (H.R. 4820) in October.

APTA urges Congress to harness the potential of the Bipartisan Infrastructure Law by fully funding public transit in the FY 2024 THUD Appropriations bill.

Public transportation is a **\$79 billion** industry that directly employs more than **430,000** people and supports **millions** of private-sector jobs.

APTA urges Congress to provide at least \$21.6 billion for public transit in the THUD Appropriations bill (when combined with the advance appropriations of the Bipartisan Infrastructure Law). These investments will help bring public transit systems to a state of good repair and meet the mobility demands of communities. The Senate THUD bill provides **\$21.1 billion** for public transit, which is **\$2.2 billion** more than the House bill.

For Capital Investment Grants (CIG), APTA urges Congress to provide **\$4.6 billion** to help communities meet mobility demands. Today, **68 projects** across the nation are seeking **\$44 billion** of CIG funds. The Senate THUD bill provides **\$4 billion** for CIG projects in FY 2024. The House bill provides less than **\$2 billion**, the lowest level in two decades.



Every \$1 invested in public transit generates \$5 in long-term economic returns.



Every \$1 billion invested in public transit creates or sustains nearly 50,000 jobs across the entire economy.



Nearly 9 of 10 transit trips directly benefit the economy by bringing people to where they spend and earn money.

APTA urges Congress to:

- ✓ **Provide at least \$21.6 billion for Public Transit in the FY 2024 THUD Appropriations bill, including \$4.6 billion for Capital Investment Grants.**

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
EXECUTIVE SUMMARY
INFRASTRUCTURE INVESTMENT AND JOBS ACT
BUILD AMERICA, BUY AMERICA IMPLEMENTATION
October 8, 2023

On November 15, 2021, President Joseph Biden signed the Infrastructure Investment and Jobs Act (IIJA) into law, which includes a title addressing Buy America requirements for infrastructure projects.¹ Under the Build America, Buy America Act (BABA), each federal agency is required to “ensure that none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, and manufactured products and construction materials used in the project are produced in the United States.”

In this Act, “produced in the United States” means:

- For iron or steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the U.S.;
- For manufactured products, that the product was manufactured in the U.S. and the cost of the product components mined, produced, or manufactured in the U.S. is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content applies; and
- For construction materials, that all manufacturing processes occurred in the U.S.²

A federal agency may waive the application of the domestic content procurement preference where:

- applying the preference would be inconsistent with the public interest;
- the types of iron, steel, manufactured goods, or construction materials are not produced in sufficient and reasonably available quantities or satisfactory quality; or
- the inclusion of the materials produced in the United States will increase the cost of the project by more than 25 percent.

¹ Pub. L. No. 117-58, Division G, Title IX. This Title builds on [*Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers*](#) (Order); signed by President Joseph Biden on January 25, 2021; see also APTA Fact Sheet, *Executive Order on Ensuring the Future is Made in All of America by All of America's Workers* (January 25, 2021).

² Please note that BABA excludes from the definition of construction materials: cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives. In addition, the Act limits the standards under § 70915 (OMB Guidance) from including cement and cementitious materials; aggregates such as stone, sand, or gravel, or aggregate binding agents or additives as inputs of the construction materials.

Office of Management and Budget Guidance for Grants and Agreements

On February 9, 2023, the Office of Management and Budget (OMB) issued a proposed rule to revise OMB Guidance for Grants and Agreements.³ On March 8, OMB issued a correction to the notice indicating that OMB is issuing proposed guidance, not a proposed rule.⁴ OMB proposed a new part 184 in 2 CFR chapter I to: support implementation of BABA provisions of the IIJA; clarify existing requirements to domestic preferences for procurements; and improve federal financial assistance management and transparency. This proposed guidance generally aligns with the OMB Initial Implementation Guidance.⁵

On March 13, [APTA filed comments](#) in response to OMB's proposed rule to revise its Guidance for Grants and Agreements. In those comments, APTA raised procedural concerns and provided comments regarding proposed 2 CFR part 184 amendments.

On August 23, OMB issued its final Guidance for Grants and Agreements.⁶ The revisions implement the requirement for OMB to issue guidance to each federal agency to assist in the implementation of the requirements of BABA.⁷

As required by BABA, the new part 184 of 2 CFR provides guidance:

- to federal agencies about how to apply the domestic content procurement preferences set forth in BABA to federal awards for infrastructure projects, to include key terms such as iron or steel products, manufactured products, construction materials, and materials such as aggregates, and cement identified under § 70917(c) of BABA;
- for determining the cost of components of manufactured products. The part 184 text uses a modified version of the “cost of components” test found in the Federal Acquisition Regulation to provide a consistent approach for determining the cost of components of manufactured products for industry, with only minor modifications; and
- on the process that a federal agency should implement to allow recipients to request waivers and how to process them.

³ OMB, [Notice of Proposed Rule; Notification of Proposed Guidance](#), 88 Fed. Reg. 8374 (February 9, 2023).

⁴ OMB, [Guidance for Grants and Agreements Correction](#), 88 Fed. Reg. 14514 (March 9, 2023).

⁵ OMB, Memorandum-22-11, [Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#) (April 18, 2022).

⁶ OMB, [Guidance for Grants and Agreements](#), 88 Fed. Reg. 57750 (August 23, 2023) (OMB Guidance for Grants and Agreements).

⁷ Note that on September 21, 2023, OMB released for public inspection a notice of proposed rulemaking and proposed guidance, [OMB Guidance for Grants and Agreements](#), which is expected to appear in the Federal Register on October 5. In its notice, OMB proposes further revision to 2 CFR to: incorporate statutory requirements and administration priorities; reduce agency and recipient burden; clarify sections that recipients or agencies have interpreted in different ways; and rewrite applicable sections in plain language, improving flow, and addressing inconsistent use of terms. The comment period closes on December 5, 2023.

Federal agencies providing financial assistance for infrastructure must implement the Buy America preference set forth in 2 CFR part 184 effective October 23, 2023, unless specified otherwise.⁸

DOT Proposed Waiver of Buy America Requirements for De Minimis Costs, Small Grants, and Minor Components

On May 19, 2022, the U.S. Department of Transportation (DOT) issued a temporary waiver of the BABA construction materials requirement. The waiver expired on November 10. On November 15, concurrent with a notice not to extend the temporary BABA waiver for construction materials and a proposed waiver for [contracts and solicitation](#), DOT published a notice seeking comment on whether it should use its authority, in accordance with § 70914(b)(1) of BABA, to grant a waiver in the public interest for the Buy America requirement for De Minimis Costs, Small Grants, and Minor Components.⁹

DOT proposed to waive BABA Buy America requirements for iron, steel, manufactured products, and construction materials under a single DOT financial assistance award for which:

- The total value of the non-compliant products is no more than the lesser of \$1 million or five percent of total allowable costs under the Federal financial assistance award;
- The size of the federal financial assistance award is below \$500,000; or
- The non-domestically produced miscellaneous minor components comprise no more than five percent of the total material cost of an otherwise domestically produced iron or steel product.

On August 16, DOT issued a public interest [Waiver of Buy America Requirements for De Minimis Costs, Small Grants, and Minor Components](#). The waiver is applicable to awards that are obligated on or after August 16, 2023, for which:

- The total value of the non-compliant products is no more than the lesser of \$1 million or five percent of total applicable cost of the project; or
- The total amount of federal financial assistance applied to the project, through awards or subawards, is below \$500,000.

The waiver is applicable to both FTA's Buy America requirements for steel, iron, and manufactured products and to the BABA construction material requirements. It does not apply to items already subject to a product-specific waiver, such as FTA's partial waiver for vans and minivans.¹⁰

⁸ OMB Guidance for Grants and Agreements at 57750.

⁹ DOT, [Notice of Proposed Waiver of Buy America Requirements for De Minimis Costs, Small Grants, and Minor Components](#), 87 Fed. Reg. 68576 (November 15, 2022).

¹⁰ DOT, [Notice of Partial Buy America Waiver for Vans and Minivans](#), 87 Fed. Reg. 64534 (October 25, 2022).

DOT Limited Waiver of Buy America Requirement for Construction Materials for Certain Contracts and Solicitations

On January 30, 2023, DOT issued a limited Waiver of Buy America Requirements for Construction Materials for Certain Contracts and Solicitation.¹¹ The new waiver exempts construction materials used in federally funded infrastructure projects based on the date of grant obligation, the date of contract execution for materials, and other factors. Specifically, this waiver exempts BABA domestic preference requirements for construction materials for:

- Any contract entered into before November 10, 2022; and
- Any contract entered into on or after November 10, 2022, and before March 10, 2023, if the contract results from a solicitation published prior to May 14, 2022.

This waiver applies only to:

- DOT awards obligated on or after January 30, 2023; and
- For awards that are obligated on or after November 10, 2022, but prior to January 30, 2023, expenditures for construction materials incurred on or after January 30, 2023.

For contracts executed after May 14, 2022, the waiver does not apply to any construction materials that a contractor or subcontractor takes delivery of on or after October 1, 2024.

DOT Notice of Waiver of Buy America Requirements for Electric Vehicle Chargers

On February 21, 2023, the Federal Highway Administration (FHWA) published a notice establishing a temporary public interest waiver to waive BABA requirements for steel, iron, manufactured products, and construction materials in electric vehicle (EV) chargers.¹² The temporary waiver is effective beginning March 23, 2023.¹³

This short-term, temporary waiver enables EV charger acquisition and installation to immediately proceed while also ensuring the application of Buy America to EV chargers by the phasing out of the waiver in two phases.¹⁴ As of the effective date of this waiver, FHWA is also removing EV chargers from its existing general applicability waiver for manufactured products.

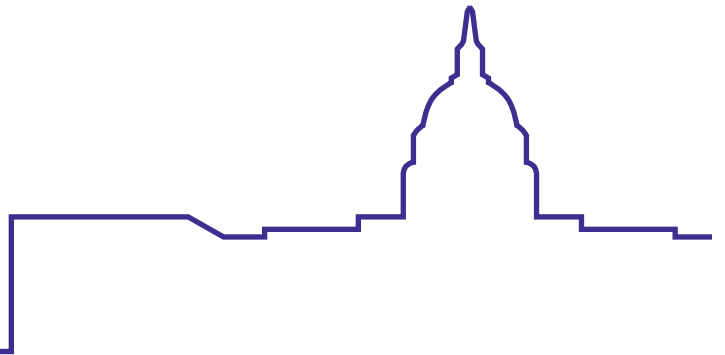
¹¹ DOT, [Notice of Waiver of Buy America Requirements for Construction Materials for Certain Contracts and Solicitations](#) (January 30, 2023).

¹² FHWA, [Notice of Temporary Waiver of Buy America Requirements for Electric Vehicle Chargers](#), 88 Fed. Reg. 10619 (February 21, 2023).

¹³ As required by BABA, FHWA will revisit the temporary waiver and determine whether there is continued need for it within five years from March 23, 2023.

¹⁴ The start date of the second phase is July 1, 2024.

New Congress, New Tools!



IN THE 118TH CONGRESS, APTA members have several key tools at their disposal to engage with their Members of Congress both on Capitol Hill and in their Congressional Districts or States. Below is a list of key resources:

APTA Advocacy Action Center

The APTA Advocacy Action Center will be used to notify you of active APTA advocacy campaigns and will make it easy for you to respond to APTA calls for action, such as emailing or otherwise reaching out to your Members of Congress, Administration officials, and the President.

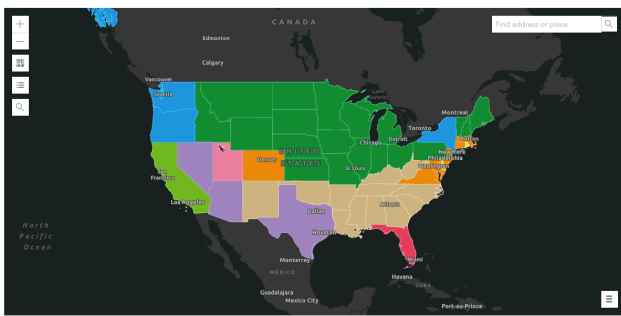
Keep an eye out for future campaigns and instructions to sign up!

Industry Footprint

APTA's Industry Footprint is a powerful advocacy tool for the public transportation industry. APTA members and the broader industry can use the Industry Footprint to view important information on public transportation providers, businesses, and funding, organized by state, Congressional District, and state legislative districts. APTA members use the Industry Footprint to explain the importance of public transportation to elected officials during events like APTA's Legislative Conference, fly-ins, and their own individual meetings

Data Explorer:

Browse content and take advantage of the latest demographic information. Use interactive maps to give context to your story and inform your audience.



with legislators. The Footprint contains information on more than 3,000 APTA member locations and 2,600 public transportation industry suppliers and manufacturers. Nearly every Congressional District in the country has either an APTA member, or another public transportation industry supplier.

CIG Project Pipeline Dashboard

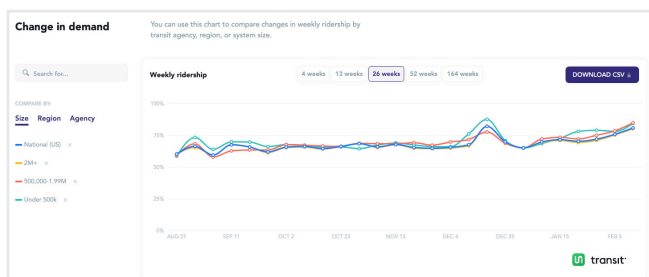
APTA's Capital Investment Grants (CIG) Project Pipeline Dashboard allows the industry to track the progress of projects in the Federal Transit Administration's (FTA) CIG pipeline. To date, the dashboard includes important information on projects with existing full funding grant agreements or seeking CIG funding. APTA's Dashboard also includes important information on the Members of Congress that represent the areas where each project is located.

My Economic Impact Tool

APTA's My Economic Impact Tool enables APTA transit agency members to use their budget data to calculate the economic impact of their transit service. The tool uses the same methodology as APTA's Economic Impact of Public Transportation report, and provides APTA members with valuable information to make the case for public transportation to elected officials, stakeholders, and the public. The analysis produces figures for jobs, wages, sales, and value-add supported by transit agency spending. The tool's reports also help users understand direct and indirect effects on the local economy, as well as the diverse occupational mix of jobs supported by public transit spending.

APTA Ridership Trends Dashboard Powered by Transit

APTA's Ridership Trends Dashboard helps the public transit industry track ridership trends in real time. This tool, built in partnership with Transit app, allows APTA members and the public to compare ridership between agencies, regions, and national trends. The Ridership Trends Dashboard combines APTA's ridership report data with app usage information from Transit to predict ridership levels each week, with new data posted each Monday. The Ridership Trends Dashboard has weekly predictions from January 2020 to today and includes ridership trends for 130 transit agencies.



APTA Smart Guide: Bipartisan Infrastructure Law and Inflation Reduction Act

To assist APTA members in tracking IIJA and Inflation Reduction Act funding, competitive grant opportunities, and policy actions, APTA has developed a Smart Guide to the Bipartisan Infrastructure Law and Inflation Reduction Act. The APTA Smart Guide includes funding and apportionment tables, section-by-section analyses, and U.S. Department of Transportation and other agencies' Notices of Funding Opportunities, guidance, and regulations. Finally, the Smart Guide includes advocacy talking points and tools to help APTA members tell their Bipartisan Infrastructure Law success stories.

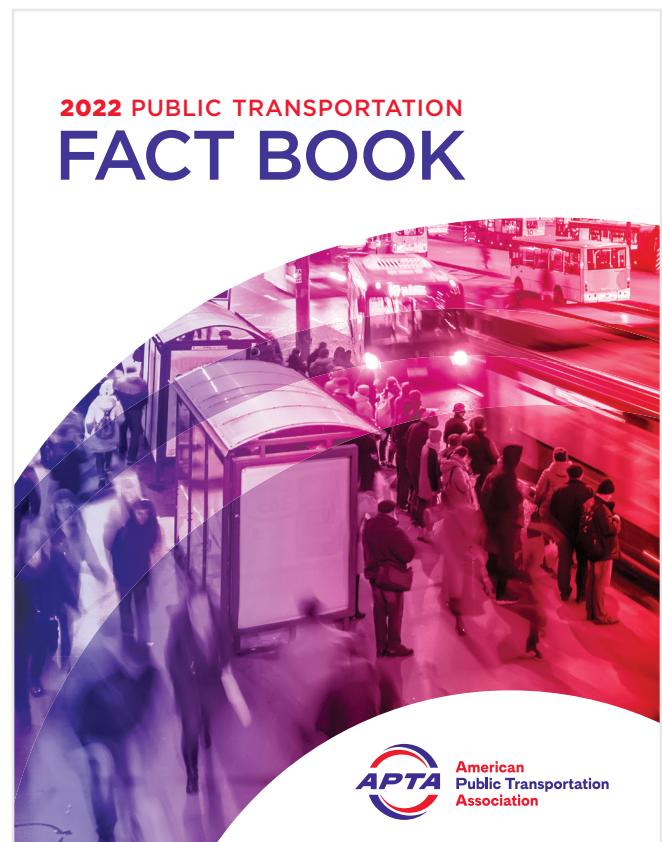


APTA Regulatory Matrix

The APTA Regulatory Matrix enables you to track all 2022 and 2023 regulatory and other administrative action impacting public transportation. Using APTA's matrix, you may sort the regulatory actions by agency, date, and comment period. The Matrix provides links to the proposed requirements, summaries, APTA Comments, and the APTA Staff Advisor.

APTA Public Transportation Fact Book

The annual Public Transportation Fact Book contains national aggregate statistical data covering all aspects of the public transit industry in the United States and Canada. Major sections include an overview of U.S. transit systems; transit finances and operating statistics by modes of travel; transit vehicle characteristics and deliveries; private-sector expenditures; modal rankings; and statistical trends of Canadian transit operations.

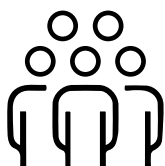


TODAY, PUBLIC TRANSIT IN AMERICA IS...

Job Creation

430K+
People

work for public
transportation agencies



50K Jobs

created and supported
per \$1 billion investment
in job creation

Supporting Private Sector Jobs

2,000+
SUPPLIERS

in 48 states and DC

Nearly

\$42 Billion
IN TRANSIT SPENDING

flows to the private sector
(65% increase since 2000)

5-to-1
ECONOMIC RETURN

produced by long-term
investment in public transit

\$382 Million
IN TAX REVENUE

supported per \$1 billion
investment in job creation

(According to APTA's "Economic Impact of Public Transportation Investment: 2020 Update")

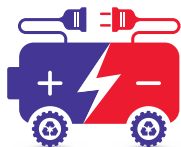
Fostering Energy Independence

Leading in Clean Technology

Share of **Hybrid Electric Buses**

2010: **7.0%**

2020: **18.8%**



(According to APTA's 2020 Vehicle Database)

Lowering Carbon Emissions



84%



less CO₂ emissions by using
the subway rather than a car

(According to TCRP "Report 226: An Update on Public Transportation's Impacts on Greenhouse Gas Emissions")

**Reducing
Gasoline
Consumption**

**6.0
BILLION**



**Gallons of
Gas Saved**

each year by using
public transportation

(According to TCRP "Report 226: An Update on Public Transportation's Impacts on Greenhouse Gas Emissions")

**More
Efficient**



**Increase in vehicle
miles operated per
kilowatt-hour**

over the Past 30 Years

13%


**Heavy
Rail**

22%

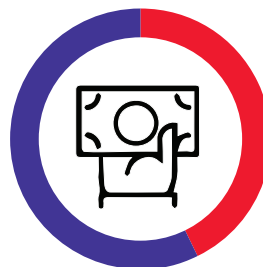
**Light Rail/
Streetcar**

TODAY, PUBLIC TRANSIT IN AMERICA IS...

Driving the Economy

87% 
of trips on transit directly benefit the local economy

50%
of trips are to and from work



37%
of trips are to shopping and recreational spending

(According to APTA's "Who Rides Public Transportation")

Number of Agencies

Public transit systems are...



1,308
Rural

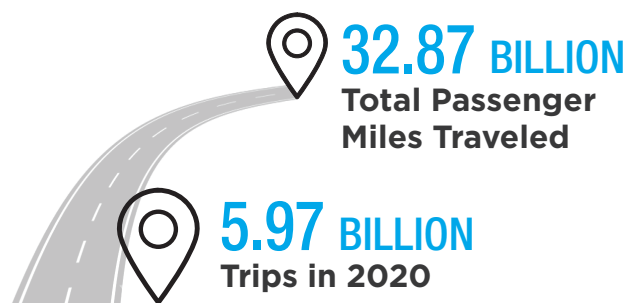


945
Urban



4.5K+
Nonprofit

Current Ridership



Number of rail systems is growing

58
2000

98
2020



Percentage of Buses with Amenities



79%
of buses have security cameras



77%
of buses have exterior bike racks



78%
of buses have automated stop announcements

Equity*

55%
of transit riders earn under \$50k/year

*transit system accessibility is also affected by station accessibility



75%
52%
Increase in rail station accessibility



99.8%
81%
Increase in bus accessibility