American Public Transportation Association

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
FACT SHEET
S. 2363, THE "BUILD MORE HOUSING NEAR TRANSIT ACT OF 2025"
October 29, 2025

On July 21, 2025, Senator Brian Schatz (D-HI), together with Senator Jim Banks (R-IN), introduced S. 2363, the Build More Housing Near Transit Act of 2025. The bipartisan bill amends the ratings process for New Start and Core Capacity projects seeking funding through the Capital Investment Grants (CIG) program. Specifically, the bill allows for a positive adjustment for the project justification rating if the project sponsor submits documented evidence of pro-housing policies. Representative Scott Peters (D-CA) introduced a bipartisan companion bill (H.R. 4576) in the House.

Section 5211 of S. 2296, the National Defense Authorization Act for Fiscal Year 2026 (NDAA) includes the full text of S. 2363. The Senate passed the NDAA on October 9, while the House version of the NDAA (H.R. 3838) was passed on September 10, and did not include S. 2363. Leaders of the House and Senate Committees on Armed services are expected to begin bipartisan, bicameral negotiations regarding the final version of the NDAA bill.

S. 2363 was also included in the "ROAD to Housing Act of 2025" (S. 2561), bipartisan legislation introduced by Senator Tim Scott (R-SC), chair of the Senate Committee on Banking, Housing, and Urban Affairs.

APTA Endorsement

On April 7, 2024, the APTA Legislative Steering Committee unanimously approved endorsing the bill (then S. 3216). APTA re-endorsed the bill in the 119th Congress.

Summary

S. 2363 amends the project justification rating for public transit agencies that are seeking New Starts or Core Capacity project funding through the CIG program.[1] Specifically, the bill allows for a one-point positive adjustment on the five-point rating scale (high, medium-high, medium, medium-low, or low) if the project sponsor submits documented evidence of pro-housing policies for areas located within walking distance of, and accessible to, transit facilities along the project route. The version included in the ROAD to Housing Act of 2025 also amends the Small Starts program in the same way.

The bill defines pro-housing policies as any State or local action that removes regulatory barriers to the construction or preservation of housing units, including affordable housing units. The definition includes any State or local actions that:

- Reduce or eliminate parking minimums;

[1] 49 U.S.C. § 5309.

- Establish a by-right approval process for multi-family housing under which land use development approval is limited to determining that the development meets objective zoning and design standards;
- Reduce or eliminate minimum lot sizes;
- Commit substantial publicly held real property to the development or preservation of housing that includes a substantial number of dwelling units affordable to low-income households;
- Eliminate or raise residential property height limits or increase the number of dwelling units permitted to be constructed under a by-right approval process; and
- Carry out other policies as determined by the Secretary of Transportation, in consultation with the Secretary of Housing and Urban Development.

The bill also requires the Secretary of Transportation to consult with the Secretary of Housing and Urban Development to develop the methodology to evaluate the extent to which the pro-housing policies documented by the applicant will result in an amount of housing units (including affordable housing units) that is appropriate to expected housing demand in the project area over the life of the project.[2] Last, the bill requires that the Secretary of Transportation to include information concerning projects that received pro-housing policy adjustments in its CIG Annual Report on Funding Recommendations to Congress.

Background

Every project seeking funding through the CIG program must be rated for its project justification and local financial commitment, as required by statute. The project justification rating is 50 percent of the project rating, and the local financial commitment rating is 50 percent. The project justification rating is based on six criteria: mobility improvements, environmental benefits, congestion relief, cost-effectiveness, economic development, and land use.[3] The Federal Transit Administration (FTA) gives each criterion equal weight in its analysis of project justification.[4] The FTA currently considers whether public transit agencies or regional partners are providing incentives for transit-oriented development, including housing, when determining project ratings.[5]

In the 117th Congress, Senator Schatz and Representative Peters introduced companion bills (S. 3237 and H.R. 2483) with similar pro-housing objectives. In 2021, APTA endorsed the bill. The bill allowed for a greater rating of up to five percentage points to the economic development criterion and less weight of up to five percentage points to the lowest scoring criteria, only if the

[2] Such units may include both new production and preservation of units, including affordable housing.
[3] 49 U.S.C. §§ 5309 (d)(2)(A)(iii) and (e)(2)(A)(iv).
[4] *See* FTA, CIG Policy Guidance (January 2023), at 40.
[5] *Id.* at 32-34, and U.S. Department of Transportation, Policy Statement on TOD, at 3.

project sponsor demonstrated efforts to preserve or encourage affordable housing. Although these provisions were included in bills that passed the House of Representatives, they were not incorporated in the Infrastructure Investment and Jobs Act (P.L. 117-58).