



American Public Transportation Association

Intergovernmental Issues Legislative Subcommittee Agenda

**Sunday, March 13, 2022
12:00 p.m. - 1:00 p.m. (ET)**

**Grand Hyatt Washington
Room: Wilson/Roosevelt**

1. Welcome and Call to Order—Marlene B. Connor, Co-Chair
2. Updates on Biden-Harris Administration Efforts on Coordinating Council on Access and Mobility—Marianne Stock, Chief Rural and Targeted Programs, Federal Transit Administration
3. Update and Status of Non-Emergency Medical Transportation (NEMT)—Marlene Connor
 - a. GAO Interview on NEMT Oversight by States
 - b. Report Out on Current NEMT State-Level Activities
4. Legislative Update—Stacie H. Tiongson, Senior Director, Government Affairs & Advocacy
5. Industry Issues Discussion—All
 - a. Federal Transit Administration (FTA) FAQs on 5310 Funding and Drug and Alcohol Testing
 - b. Mobility Innovation Issues
 - c. Other Issues?
6. Research and University Transportation Centers Activities Update—Marlene Connor
7. Open Discussion
8. Adjourn

ENCLOSED DOCUMENTS

- APTA Legislative Update (03.04.2022)
- APTA Letter Regarding FY 2022 IIJA Funding (02.11.2022)
- APTA Letter Regarding Federal Mask Mandate on Public Transportation (03.02.2022)
- [FTA FAQs on 5310 Funding and Drug and Alcohol Testing \(Updated 02.22.2022\)](#)



American Public Transportation Association

LEGISLATIVE UPDATE

APTA is focused on three major initiatives in 2022:

- ensuring continued successful implementation of COVID-19 emergency relief funding;
- actively working to ensure successful implementation of the Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58), commonly referred to as the Bipartisan Infrastructure Law; and
- aggressively advocating for enactment of three important bills:
 - Transportation, Housing and Urban Development, and Related Agencies Appropriations Act (THUD Appropriations Act);
 - Building a Better America legislation; and
 - State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act (S. 3011/H.R. 5735).

Ensuring Continued Successful Implementation of COVID-19 Emergency Relief Funding

Public transit agencies continue to successfully utilize COVID-19 emergency relief funding. For instance, more than one-half of public transit agencies have used COVID-19 funding to provide vaccine access services. To date, public transit agencies have obligated more than **86 percent** of the **\$69.5 billion** of COVID-19 emergency relief through a total of almost 1,600 grants. In addition to the formula grants, in the coming days, the Federal Transit Administration (FTA) is expected to announce competitive grant selections for \$2.2 billion of emergency funding for public transit agencies that require additional assistance to offset costs related to COVID-19.

APTA is extremely encouraged by public transit agencies' efficient and effective use of COVID-19 emergency funding as we continue to highlight the importance of public transit to communities' efforts to recover from the pandemic.

Working to Ensure Successful Implementation of the Bipartisan Infrastructure Law

On November 15, 2021, President Joseph Biden signed the IIJA into law. **The IIJA provides \$108.2 billion for public transit over five years (FY 2022 through FY 2026), an increase of \$42.4 billion (64 percent)** from current levels. These historic increases in public transit investment include \$91.2 billion of guaranteed funding (i.e., contract authority and advance appropriations) and \$17.0 billion of General Fund authorizations for Capital Investment Grants (CIG), Washington Metropolitan Area Transit Authority (WMATA), and ferry grants. The legislation also **provides \$102.1 billion for passenger and freight rail over five years, an increase of \$86.7 billion (561 percent)** from current levels. These historic passenger rail investments include \$66.0 billion of guaranteed funding (advance appropriations) and \$36.1 billion of General Fund authorizations for Amtrak and other programs. In addition, the IIJA provides significant funding for multimodal investments that include public transit and passenger rail as essential elements.

In terms of **APTA's Top Priorities**, the IIJA:

- provides a long-term surface transportation authorization and significant increases in investment to put public transit agencies on a path to modernize their systems and meet the growing and evolving demands of our communities;
- when considering all funding provided in the legislation (including advance appropriations), significantly increases the bus capital share of funding to a 19 percent share for bus investment under the 40-40-20 capital investment ratio; and
- does not include APTA's Mobility Innovation and Technology Initiative but includes other mobility initiatives (e.g., SMART mobility grants); and does not include the limiting language of the House-passed INVEST in America Act.

Finally, the IIJA includes numerous other APTA legislative priorities, such as significant reforms and streamlining of the CIG program.

APTA is actively working with FTA and other U.S. Department of Transportation (DOT) agencies on implementation of the Bipartisan Infrastructure Law and expects DOT, FTA, and other agencies to continue to issue numerous Notice of Funding Opportunities (NOFOs) for competitive grants in the coming months. To date, DOT has issued a NOFO for \$1.5 billion of RAISE grants and FTA has issued a NOFO on Low and No Emission Bus Grants and Buses and Bus Facilities Grants. FTA has also issued a partial apportionment of public transit formula funds for FY 2022. We expect DOT to issue a NOFO on the Megaprojects program in the near future. Finally, FTA has issued several important Dear Colleague letters regarding IIJA implementation, including on Zero-Emission Transition Plans and public transportation agency safety plan (PTASP) requirements.

To assist APTA members in tracking both funding opportunities and regulatory and other administrative action, APTA has developed a [Smart Guide to the Bipartisan Infrastructure Law](#) on its website to provide members with detailed funding, apportionment, and policy analyses of the IIJA. The APTA Smart Guide also includes White House and DOT guidance, regulations, and NOFOs. Finally, the Smart Guide will include media toolkits to help APTA members tell their Bipartisan Infrastructure Law success stories.

Aggressively Advocating for APTA's Legislative Agenda

APTA continues to aggressively advocate for enactment of three important bills: the THUD Appropriations Act, Building a Better America legislation, and the Fiscal Recovery Infrastructure Flexibility Act (S. 3011).

THUD Appropriations Act

Both the House and the Senate have advanced THUD Appropriations bills. On July 29, 2021, the House passed H.R. 4502, which includes the THUD Appropriations bill (Division G). On October 19, the Senate unveiled nine appropriations bills, including the THUD Appropriations bill (S. 3045). The House and Senate THUD Appropriations Subcommittees took very different approaches to drafting their bills, and neither bill assumed enactment of the IIJA. Therefore, the THUD Appropriations bill must be rewritten in conference to reflect at least IIJA funding levels or public transit agencies will not receive increased funding levels in FY 2022.

The current Continuing Appropriations Act expires March 11, 2022. House and Senate Appropriations Committee leaders are meeting in an effort to reach final agreement on the THUD Appropriations Act, which is expected to be included in the final FY 2022 Omnibus Appropriations Act. Congress hopes to finish action on the Omnibus Appropriations Act by March 11.

APTA is aggressively advocating that the final THUD Appropriations Act fully fund the IIJA and provide additional resources for targeted investments (e.g., mobility).

Building a Better America Legislation

On November 19, 2021, the House passed H.R. 5376, the Build Back Better Act. The bill provides:

- \$10 billion for a new, innovative program providing competitive grants for public transit access to affordable housing and to enhance mobility for low-income riders and residents of disadvantaged communities;
- \$10 billion for the planning and development of public high-speed rail projects; and
- Additional investments in climate incentive grants and neighborhood access and equity grants.

It also creates a manufacturer's tax credit equal to 30 percent of the cost of electric or hydrogen fuel-cell transit buses; extends the alternative fuel tax credit; and extends and substantially increases the alternative fuel vehicle property tax credit.

In December 2021, Senator Joe Manchin, III (D-WV) stated that he would not support the Build Back Better Act. Without his support, the Senate Democratic majority does not have the votes to pass the bill. At this point, Senate Democrats are trying to develop a more focused bill that they refer to as Building a Better America legislation as a possible compromise that all 50 Senate Democrats could support.

APTA strongly supports providing \$10 billion for public transit, \$10 billion for high-speed rail, and tax credits for zero-emission vehicles and infrastructure as part of the Building a Better America legislation.

S. 3011, the Fiscal Recovery Infrastructure Flexibility Act

The American Rescue Plan Act of 2021 (ARP) provides **\$350 billion** of COVID-19 emergency funding to state and local governments. The ARP provides \$195 billion to states, \$130 billion to local governments, and \$25 billion to tribal and territorial governments. Although the Fiscal Recovery Funds are available for water, sewer, and broadband infrastructure, transportation infrastructure investment is not eligible under the current program. APTA, together with Coalition partners, has strongly urged the Department of the Treasury and Congress to authorize State and local governments to use these Fiscal Recovery Funds for surface transportation infrastructure.

On October 19, 2021, the Senate passed S. 3011, the State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act. The bill authorizes state and local governments to use these Fiscal Recovery Funds for transportation infrastructure, including public transportation. Bill sponsors state that this flexibility authorizes **\$123 billion** of funding for transportation infrastructure, at the discretion of state and local authorities.

The House introduced a companion bill (H.R. 5735) and APTA has been working with the bipartisan sponsors of the bill (Representative Dusty Johnson (R-SD) and Carolyn Bourdeaux (D-GA)) to encourage other Representatives to cosponsor the bill. To date, the bill has 150 bipartisan cosponsors.

On March 2, 2022, APTA, together with Coalition partners, sent a letter to House and Senate Leaders urging Congress to include the Fiscal Recovery Infrastructure Flexibility Act in the final FY 2022 Omnibus Appropriations Act.

APTA strongly urges Congress to include the Fiscal Recovery Infrastructure Flexibility Act in the final FY 2022 Omnibus Appropriations Act.



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ASSOCIATION

February 11, 2022

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The Honorable Brian Schatz
Chairman
Committee on Appropriations
Subcommittee on Transportation,
Housing, and Urban Development,
and Related Agencies
U.S. Senate
S-146A, The Capitol
Washington, DC 20510

The Honorable David E. Price
Chairman
Committee on Appropriations
Subcommittee on Transportation,
Housing, and Urban Development, and
Related Agencies
U.S. House of Representatives
2358-A Rayburn House Office Building
Washington, DC 20515

The Honorable Susan M. Collins
Ranking Member
Committee on Appropriations
Subcommittee on Transportation,
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and Related Agencies
U.S. Senate
125 Hart Senate Office Building
Washington, DC 20510

The Honorable Mario Diaz-Balart
Ranking Member
Committee on Appropriations
Subcommittee on Transportation,
Housing, and Urban Development, and
Related Agencies
U.S. House of Representatives
1036 Longworth House Office Building
Washington, DC 20515

Dear Chairman Schatz, Ranking Member Collins, Chairman Price, and
Ranking Member Diaz-Balart,

On behalf of the American Public Transportation Association (APTA), which represents an \$80 billion industry that directly employs 450,000 people and supports millions of private-sector jobs, I write to thank you for your efforts to advance the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2022 (THUD Appropriations bill).

As you begin resolving the differences between the House and Senate THUD Appropriations bills, **we urge you to honor the promise of the bipartisan Infrastructure Investment and Jobs Act (IIJA) and provide funding levels at least equal to the IIJA's public transportation and passenger rail investments for Fiscal Year 2022.** These historic investments will enable our communities to provide access to opportunities and create family-wage jobs, advance equity, tackle climate change, and meet growing and evolving mobility demands.

PRESIDENT AND CEO

Paul P. Skoutelas

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Specifically, we urge you to provide a total of at least \$16.76 billion for public transit and \$7.2 billion for passenger and freight rail in the THUD Appropriations bill. When combined with the IIJA's FY 2022 advance appropriations, these amounts will fully fund the public transit and passenger rail investments of the Bipartisan Infrastructure Law. We also request that you fully fund RAISE grants and similar programs in the bill. These investments will help communities create more resilient, multimodal transportation systems to meet today's mobility and climate challenges.

Regarding the Federal Transit Administration's Capital Investment Grants (CIG), we urge you to provide at least \$3.0 billion for CIG projects. Together with the IIJA's advance appropriations, this funding will help our communities begin to address the backlog of demand for new mobility choices. Today, 77 projects across the nation are seeking more than \$36 billion of CIG funds. *See APTA's Capital Investment Grants Project Pipeline Dashboard.* We also encourage you to appropriate the additional ferry funding that was agreed to in the Bipartisan Infrastructure Law but not enacted because of a legislative drafting technical error.

APTA also strongly supports the innovative mobility grants proposed in the House and Senate THUD Appropriations bills. We urge you to include at least \$25 million for demonstration and deployment of innovative mobility solutions and \$50 million for five competitive integrated smart mobility grants, as proposed in the House THUD Appropriations bill (H.R. 4502). These innovative mobility grants will improve access to jobs, housing, health care, and education.

Regarding passenger rail grants, we encourage you to fully fund the IIJA authorizations, including funding for Railroad Crossing Elimination grants, Federal-State Partnership for Intercity Passenger Rail grants, and Consolidated Rail Infrastructure and Safety Improvements (CRISI) grants.

Finally, we appreciate that both the House and Senate THUD Appropriations bills include a provision (Sec. 163) to prohibit implementation of the Rostenkowski Test, and we encourage the continuation of this provision in the bill.

Thank you for your strong support for public transportation and passenger rail and consideration of our conference priorities. Your leadership is critical to ensure that Congress upholds the promise of the historic investments authorized in the Bipartisan Infrastructure Law.

Sincerely,



Paul P. Skoutelas
President and CEO

Encl.

The Honorable Brian Schatz, Susan M. Collins, David E. Price, and Mario Diaz-Balart

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cc: The Honorable Charles E. Schumer, Majority Leader, U.S. Senate

The Honorable Mitch McConnell, Republican Leader, U.S. Senate

The Honorable Nancy Pelosi, Speaker of House, U.S. House of Representatives

The Honorable Kevin McCarthy, Leader, U.S. House of Representatives

The Honorable Patrick Leahy, Chairman, Committee on Appropriations, U.S. Senate

The Honorable Rosa L. DeLauro, Chairwoman, Committee on Appropriations,
U.S. House of Representatives

The Honorable Richard C. Shelby, Vice Chairman, Committee on Appropriations,
U.S. Senate

The Honorable Kay Granger, Ranking Member, Committee on Appropriations,
U.S. House of Representatives

Members of the House and Senate THUD Subcommittees, Committee on Appropriations



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Mr. Jeffrey D. Zients
White House COVID-19 Response Coordinator and
Counselor to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. Zients:

On behalf of the American Public Transportation Association (APTA), which represents an \$80 billion industry that directly employs 450,000 people and supports millions of private-sector jobs, I want to express our deep appreciation for the Administration's leadership and support of public transportation during the COVID-19 pandemic. Moreover, the nation has made considerable progress in combatting COVID-19. As reflected in the February 25, 2022 release by the Centers for Disease Control and Prevention (CDC) of new guidelines permitting Americans to unmask indoors, the nation is beginning the shift to an endemic phase of the COVID-19 pandemic.

As part of this transition, and in light of the improving health conditions across the nation, APTA encourages the Administration to reevaluate the current CDC requirement that all passengers wear masks while using public transportation and allow the mandate to lapse after it expires on March 18, 2022.

For the past two years, public transportation agencies have supported and enforced federal policies created to combat COVID-19. We believe these efforts played an important part in our nation's collective fight against COVID-19. However, an extension of the mask mandate beyond March 18 is likely to increase the growing enforcement challenges faced by public transit agencies today.

Public transportation is an estimated 10 times safer than traveling by car and we need to continue to encourage Americans to choose public transportation. At the same time, we recognize that metric-based policies may be imposed if a new variant emerges or if public health conditions warrant.

Mr. Jeffrey D. Zients

March 2, 2022

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We know that the Administration is resolute in its efforts to lead the country back to normality and a path to economic recovery. Ceasing the federal mask mandate will support those efforts and, therefore, we strongly encourage the Administration to end the federal mask mandate on public transportation on March 18, 2022.

Thank you for your consideration.

Sincerely,



Paul P. Skoutelas
President and CEO

cc: Dr. Rochelle P. Walensky, Director, Centers for Disease Control and Prevention, U.S.
Department of Health and Human Services

The Honorable Alejandro Mayorkas, U.S. Department of Homeland Security