



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 bill (THUD Appropriations bill);
 - State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act (S. 3011/H.R. 5735); and
 - Building a Better America legislation.

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 **89 percent** of the **\$69.5 billion** of COVID-19 emergency relief through a total of almost 1,750 grants. In addition to the formula grants, on March 7, 2022, the Federal Transit Administration (FTA) awarded \$2.2 billion of additional COVID-19 emergency funding to 35 public transit agencies in 18 states.

For future COVID-19 relief, Congress is expected to seek budget offsets from prior COVID-19 appropriations to pay for the new investment. For instance, on April 4, 2022, a key group of Senators reached a bipartisan agreement on H.R. 4373, the Bipartisan COVID Supplemental Appropriations Act, 2022, which provides \$10 billion for domestic COVID-19 response programs, including vaccines, therapeutics, and testing capacity. The bill includes \$10 billion of COVID-19 rescissions to offset the costs of these initiatives. However, it does not include any rescissions to public transit COVID-19 emergency funding.

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. APTA urges all transit agencies to obligate and expend these emergency funds as soon as possible.

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) and other 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 important mobility initiatives (e.g., SMART mobility grants).

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

APTA is actively working with the U.S. Department of Transportation (DOT) on implementation of the Bipartisan Infrastructure Law. On April 6, 2022, FTA issued its full-year apportionments of public transit formula funds for FY 2022. DOT, FTA, the Federal Railroad Administration, and other agencies have issued numerous Notice of Funding Opportunities (NOFOs) for competitive grants and we expect additional NOFOs in the coming months. To date, DOT and FTA have issued NOFOs for **\$8.25 billion** of grants that include public transportation eligibility, including: \$2.3 billion of Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grants; \$2.8 billion of Mega, INFRA, and Rural Transportation grants; \$1.2 billion for Low and No Emission Bus grants; \$547 million for Buses and Bus Facilities grants; \$450 million for University Transportation Centers grants; and \$1.0 billion for Safe Streets and Roads for All (SS4A) grants. In addition, FTA issued several important Dear Colleague letters regarding IIJA implementation, including on Zero-Emission Transition Plans and Public Transportation Agency Safety Plan (PTASP) requirements. Finally, on May 19, DOT issued a 180-day Temporary Waiver of Buy America Requirements for Construction Materials.

To assist APTA members in tracking IIJA funding apportionments and competitive grant opportunities and policy actions, APTA has developed a [Smart Guide to the Bipartisan Infrastructure Law](#) on its website. The APTA Smart Guide includes funding and apportionment tables, section-by-section

analyses, and DOT guidance, regulations, and NOFOs. Finally, the Smart Guide includes advocacy and 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 bill, the Fiscal Recovery Infrastructure Flexibility Act (S. 3011), and Building a Better America legislation.

THUD Appropriations Bill

In March, Congress passed and President Biden signed the Consolidated Appropriations Act, 2022 (P.L. 117-103), which included the THUD Appropriations Act. When combined with the advance appropriations included in the IIJA, Congress provides **\$20.5 billion for public transit** in Fiscal Year (FY) 2022, an increase of \$7.6 billion (58 percent) from the FY 2021 enacted level. In addition, Congress provides **\$16.6 billion for passenger and freight rail** in FY 2022, an increase of \$13.7 billion (475 percent) from the FY 2021 enacted level.

The 2022 THUD Appropriations Act fully funds the public transit contract authority and appropriates the overwhelming majority of the additional public transit and passenger rail funding authorized by the IIJA. It appropriates \$2.2 billion for CIG and an additional \$250 million for bus capital grants. The legislation sets aside \$201 million for congressionally directed spending on designated public transit projects and \$121 million for designated Consolidated Rail Infrastructure and Safety Improvement (CRISI) grants. In addition, the 2022 THUD Appropriations Act provides additional funding for RAISE and Mega competitive grants. Finally, the legislation includes language blocking the Rostenkowski Test to prevent an across-the-board cut of FY 2022 transit formula funds to each public transit agency.

The House and Senate Appropriations Committee have begun developing their FY 2023 THUD Appropriations bills. The House is expected to mark up its bill in June, with possible House Floor action in July. The Senate may release its bill this summer or fall, but Senate Floor action is unlikely. Final action on the FY 2023 THUD Appropriations bill is not expected until after the November elections.

APTA is aggressively advocating that the FY 2023 THUD Appropriations bill fully fund the IIJA and provide additional resources for targeted investments (e.g., mobility).

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.

Last year, the Senate passed S. 3011, the State, Local, Tribal, and Territorial Fiscal Recovery, Infrastructure, and Disaster Relief Flexibility Act (Fiscal Recovery Infrastructure Flexibility Act), by Unanimous Consent. The bill authorizes states and local governments to use up to **\$123 billion** of these

Fiscal Recovery Funds for transportation infrastructure investments, including public transportation. S. 3011 also allows states and local governments to use these funds as non-federal match on CIG, Mega, and Transportation Infrastructure Financing and Innovation Act (TIFIA) projects. The House introduced a companion bill (H.R. 5735) and APTA has been working with the bipartisan sponsors of the bill to encourage other Representatives to cosponsor the bill. To date, the bill has 155 bipartisan cosponsors.

On April 4, a key group of Senators reached a bipartisan agreement on H.R. 4373, the Bipartisan COVID Supplemental Appropriations Act, 2022, which provides \$10 billion for domestic COVID-19 response programs, including vaccines, therapeutics, and testing capacity. Importantly, the bill includes S. 3011, the Fiscal Recovery Infrastructure Flexibility Act. To date, the Senate has been unable to advance the bill because of an unrelated immigration issue.

APTA, together with Coalition partners, have sent several letters to House and Senate Leaders urging Congress to pass the Fiscal Recovery Infrastructure Flexibility Act. Most recently, on April 20, APTA and Coalition partners urged Congress to include S. 3011 in the Bipartisan COVID Supplemental Appropriations Act.

APTA strongly urges Congress to include the Fiscal Recovery Infrastructure Flexibility Act in the Bipartisan COVID Supplemental Appropriations Act.

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. If they reach agreement among all Democrats, it is more likely to include tax credit provisions that would assist the transition to zero-emission vehicles than any additional public transportation funding initiatives.

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.