

APTA Recommendations on Federal Public Transportation Authorizing Law



AMERICAN
PUBLIC
TRANSPORTATION
ASSOCIATION

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American Public Transportation Association: Surface Transportation Authorization Recommendations Adopted by the APTA Board of Directors on Month XX, XXXX

On behalf of the more than 1,500 member organizations, the American Public Transportation Association is pleased to present recommendations for the next federal surface transportation authorizing law. These recommendations were approved by APTA's Board of Directors on Month XX, XXXX. These recommendations are the product of a lengthy effort that began shortly after the initial implementation of the Moving Ahead for Progress in the 21st Century Act. APTA's Authorization Task Force, an industry working-group of more than XX individuals, representing the spectrum of public transportation providers, manufacturers and related businesses, reviewed the changes made in the most recent authorizing law. The recommendations of the Authorization Task Force reflect the consensus views and priorities of APTA's diverse membership, including large, medium and small transit agencies, and the transit business community.

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Statement of National Purpose: America's Future Is Riding on Public Transportation

The federal investment in transportation is an investment in American jobs and in protecting global economic competitiveness. Public transportation is the way that millions of Americans get to and from jobs, school, medical care, and other places they travel to everyday. More than 10 billion times a year public transportation customers use an interconnected system of national significance that links our regions, urban and suburban centers, and rural communities. Only through substantial and sustained investment may the integrated network of public transportation services maintain its essential role in the nation's overall transportation system.

Investment in a national transportation network has been a federal responsibility since the founding of the Republic, recognized in the Constitution; and through the authorization of such signature projects as the National Road, the transcontinental railroad, and the Interstate Highway System. America grows, her people prosper, and our nation's international standing is secured when the federal government invests in infrastructure.

Authorization of the federal surface transportation program must reaffirm the federal role and further a vision that directs policy and sets the foundation to respond to new challenges for the coming decades.

Public transportation provides the connectivity and mobility required for global economic competitiveness, energy efficiency, national security, social equity, economic opportunity, environmental sustainability, and congestion mitigation. It knits people, communities, and businesses efficiently, safely and reliably.

Public transportation in 2013 has evolved into a robust mix of public and private companies employing hundreds of thousands of workers who, in turn, add to the physical and economic health of their communities and the nation. While service and investments may be delivered locally, behind the scenes, a valuable country-wide economic engine supports and propels them. From multinational manufacturers, to small business suppliers, millions of jobs and billions of dollars in economic impact are represented and serve as catalysts that touch, directly or indirectly, every state in the union.

Investment in transportation is more than just a physical investment in infrastructure; it is a commitment to our children's and our nation's future. Federal leadership is essential. It is foundational. Substantial and sustained federal investment in transportation is an expression of the national will and leadership for this new century as the U.S. economy competes on a worldwide stage.

APTA Principles for Surface Transportation Authorization

Public transportation systems across the country form an interconnected system of national significance that links our regions, urban and suburban centers, and rural communities. The integrated network of public transportation services is an essential component of our nation's overall transportation system. As such, increased federal investment should be authorized for public transportation and highway programs in a way that considers the needs and benefits of balanced investment in all modes. APTA recommends that Congress:

1. Authorize a federal public transportation program that provides predictable funding for no less than six years to accommodate the development of long-term, major capital investments needed to bring existing public transportation infrastructure and facilities into a state of good repair; expand current infrastructure investments; support the operation and maintenance of these investments; and support research, training and policy to meet growing demand for safe, convenient, and dependable service;
2. Establish a dedicated Trust Fund funding mechanism that supplements existing dedicated revenues to ensure the long-term sustainability of growing federal public transportation and highway programs through and beyond the next long-term authorization bill;
3. Preserve existing dedicated revenues that go to the Mass Transit Account of the Highway Trust Fund and increase revenues to the Mass Transit Account which are dedicated to the federal public transportation program;
4. Preserve a strong federal program for public transportation and oppose efforts to devolve existing federal surface transportation programs;
5. Create funding resources and programs that support growing investment in intercity and high-speed passenger rail in way that complements efforts to increase investment in public transit and other surface transportation needs;
6. Preserve and enhance current state and local flexibility under federal surface transportation programs funded by the Highway Trust Fund;
7. Sufficient flexibility or discretion must be provided in the distribution of funds to address capital needs that are not adequately funded under formula programs;
8. Authorize a consistent federal match ratio for all federal transportation capital programs;
9. Encourage innovative financing mechanisms to supplement, not supplant, transit grant funding at the federal level, including tax incentives, private sector investment and public-private financing. Create opportunities for public-private partnerships and remove barriers

to their use in order to capture the potential contribution of the private sector to infrastructure investment;

10. Incentivize state and local investment to supplement federal funding for capital investment needs and operating assistance to meet growing demands for service;
11. Transportation research, standards, technical assistance, and workforce development provide essential contributions to the efficiency and effectiveness of our nation's transportation systems. Authorize increased funding to support greater investment in research and development programs that maximize efficiency for public transportation systems, and to better address workforce development needs at transit systems and businesses that provide goods and services to the industry;
12. Streamline the transportation project delivery process, including planning and environmental work, to reduce delays and costs associated with delays and harmonize federal regulations for all surface transportation modes, including transit, rail, and highways;
13. Preserve and ensure the consideration of public transportation alternatives within a multimodal regional and statewide planning process, which is designed to achieve sustainable outcomes in plans, programs, and projects. There should be a balance of environmental, economic, and social equity objectives in the process;
14. Promote policies to ensure sufficient resources, including shared responsibility for coordination between human services and transportation agencies, to serve the mobility needs of our nation's seniors, veterans, and people with disabilities and others who require alternatives to traditional public transportation service.

Funding and Finance Principles

Public transportation provides mobility that significantly contributes to national goals for global economic competitiveness, energy conservation, environmental sustainability, congestion mitigation, and emergency preparedness. On an individual user basis, public transportation saves riders money, reduces pollution, improves access to employment, and provides people with choices, freedom, and opportunities. To sustain public transportation's many contributions at the national and local levels and accommodate a projected doubling of public transportation ridership over the next twenty-year period, the American Public Transportation Association (APTA) recommends an increase in federal investment in public transportation to more adequately address documented national needs over the next six-year authorization period to achieve a state of good repair and address future ridership growth. This investment is crucial for a better America and will build upon the success of local transit agencies and their business partners, while meeting national goals and policies. To reach this federal investment level, APTA has adopted the following Funding and Finance Principles.

FUNDING

To meet the demands of our nation's aging infrastructure network, growing urban population, and changing travel and commuting patterns, a renewed long-term Federal commitment to public transportation investment is essential. Currently, system needs far surpass available resources from all levels of government. At the Federal level, fuel taxes dedicated to the Mass Transit Account of the Highway Trust Fund, last raised in 1993, have lost more than 37 percent of their purchasing power. Higher fuel efficiency standards and the growing use of hybrid/electric vehicles have also eroded fuel tax revenue yields. These declining revenues have not kept pace with even authorized program levels (which have been stagnant since FY 2009), requiring General Fund transfers to the Highway Trust Fund since FY 2008 to fund those authorized levels. To help solve these challenges, APTA recommends the following:

1. Increase dedicated Federal revenues to the Mass Transit Account of the Highway Trust Fund to better address the backlog of public transportation capital needs caused by chronic underinvestment and to meet anticipated ridership growth.
2. Increase current motor fuels taxes to a rate that would support growth of the Federal surface transportation program in the near term in order to bridge the gap between Highway Trust Fund revenue levels and investment needs until other, more reliable, dedicated revenue sources can be fully implemented. Maintain the purchasing power of all new or increased revenue sources.
3. Longer term revenue solutions should be diversified beyond motor fuels taxes to provide more resilient, sustainable revenues. A vehicle-miles traveled (VMT) user fee, either in conjunction with or in lieu of the current motor fuels taxes, would reflect use without

regard to fuel efficiency or fuel type and should be considered. Longer term revenue solutions should retain a user-fee nexus.

4. Retain and increase the longstanding General Fund component of the Federal public transportation program. Trust Fund support for the Fixed Guideway Capital Investment Grants Program should be considered if additional Highway Trust Fund revenues can supplement the Program without inhibiting growth of surface transportation programs currently funded from the Highway Trust Fund.
5. Establish funding resources and programs that support growing investment in intercity and high-speed passenger rail in a way that promotes efforts to increase overall investment in public transportation and other surface transportation needs.
6. Public transportation projects can and should be approved more quickly. Streamline and thereby accelerate project approval and delivery processes to reduce costs and regulatory burdens and ensure more efficient use of limited resources by all levels of government and the private sector.

FINANCE

While Federal grant funding must remain the cornerstone of Federal support for surface transportation investment, cost-effective Federal loans, other financing options, and targeted tax measures should continue to supplement traditional grant support.

1. Preserve the full tax-exempt status of municipal bonds as a cost-effective means of Federal support for significant State and local infrastructure investment that is not dependent on Highway Trust Fund revenues.
2. Make permanent both the current transit commuting fringe benefit on par with amount of the parking benefit to encourage public transportation ridership and the alternative fuels tax credit to support domestic energy use.
3. Continue to support existing project finance tools to supplement Federal grants, including bonds, Federal loans (TIFIA and RRIF), and public-private partnerships. Promote successful revenue strategies that enable public transportation project sponsors to take full advantage of these tools.
4. Establish tax credit bonds for surface transportation projects to attract greater private investment and provide significant Federal support independent of Highway Trust Fund revenues. Federal support for any tax credit bond program should be fully maintained for the entire term of all bonds issued under the program.
5. Establish a national infrastructure bank to leverage Federal investments with private capital for large-scale public transportation projects.

6. Permit States and localities to collect taxes on remote sales, including online purchases from out-of-state vendors.

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Finance Recommendations

TAX INCENTIVES

Tax Credit Bonds

Congress should establish a new class of qualified tax credit bonds for surface transportation projects that would enable States and localities to eliminate the significant interest expense of long-term borrowing and attract more private capital to infrastructure projects.

Interest on the bonds would be paid by the U.S. Treasury in the form of annual tax credits to bondholders. Because this significant Federal subsidy of tax credit bonds is "funded" through the tax code, in the form of forgone General Fund tax revenue, it requires no authorization from the Highway Trust Fund.

Bond program parameters:

- Eligible projects: highways, public transportation, and intercity passenger rail.
- \$50 billion in authorized volume cap for 35-year bonds issued over 5 years.
- Issuer (State or local agency) responsible for repayment of bond principal.
- No interest expense to the issuer; Federal government covers interest in the form of an annual tax credit to bondholders.
- Issuance volume allocation:
 - 80 percent (\$8 billion/year) allocated by formula, half to the States on the basis of population and half to the 30 largest metropolitan statistical areas on the basis of population.
 - 20 percent (\$2 billion/year) discretionary allocation by US DOT for intercity passenger rail projects and/or designated high-speed rail corridors.
- Enhance the marketability of the bonds by broadening the list of eligible taxes that can be offset with the credits to attract additional classes of investors, such as pension funds.

Private Activity Bonds (PABs)

The next authorization bill should encourage greater use of low-interest private activity bonds for public transit and intercity rail projects with significant private participation (such that the projects otherwise would not qualify for tax-exempt financing):

- Expand eligibility of mass-commuting facility PABs beyond their current use (construction of rail and bus infrastructure and facilities) to include acquisition of rolling stock.
- PABs for airports, docks, and wharves are not subject to the federally-imposed State volume cap for PABs; remove mass-commuting facility PABs from the volume cap, too.

- Reduce the "capable of 150-mph" speed requirement for high-speed intercity rail facility PABs to allow more projects to be eligible, especially those privately-operated services running on shared rights-of-way with freight railroads.

Value Capture Tax Credits

APTA recommends that Congress provide Federal tax incentives for certain private equity investments in transit projects, thereby enabling transit agencies to benefit more directly from the increased property values and other advantages their projects bring to the communities they serve.

Real Estate-based Value Capture:

- Establish a transit version of HUD's Empowerment Zones, in which investors in real estate projects in the vicinity of a rail station or bus terminal would be eligible for certain tax benefits (tax credits and/or accelerated depreciation) upon making a grant to the local transit agency for capital purposes in an amount equal to a specified percentage of the real estate investment.

Asset-based Value Capture:

- Another form that a Federal value capture mechanism could take would be *asset*-based, not location-based. It would involve creating tax code incentives to attract "tax-oriented equity" into transit projects, i.e., equity investments whose return is based principally or solely on Federal tax benefits. In a transit version of the successful New Markets Tax Credit program, private investors -- induced by tax credits -- would make equity investments in financial intermediaries that, in turn, make below-market rate loans to transit agencies.
- This type of value capture approach would not be dependent on future real estate development, as with traditional value capture strategies. It could bring in private equity investors to subsidize a wide range of public transportation projects, regardless of local real estate market conditions or growth potential.

FEDERAL CREDIT ASSISTANCE

Railroad Rehabilitation and Improvement Financing (RRIF) Program

In order to ensure that the RRIF program may be more readily used by transit agencies, APTA recommends that Congress enable and provide Federal funding of the credit risk premium of RRIF projects, consistent with the Transportation Infrastructure Finance and Innovation Act (TIFIA) program:

- Revise the credit risk premium language to be consistent with Federal credit requirements (end rebating of credit risk subsidy premiums to borrowers after loan cohorts are repaid),

thereby removing a legal barrier to payment of the subsidy costs of RRIF loans by the Federal government.

- Consistent with the TIFIA program, make the subsidy cost of Federal credit assistance under RRIF an eligible use of TIGER program funds.
- Authorize Federal funds for credit risk premiums: A \$50 million annual authorization could support \$1 billion or more in RRIF loans each year.

Reform the RRIF approval process:

- The RRIF program's operational platform should be strengthened. US DOT's RRIF office would benefit from improved risk management and application analysis resources

TIFIA Program

APTA recommends that Congress make targeted improvements to TIFIA to better support transit projects of all sizes.

A. Make TIFIA's 10 percent set-aside for rural projects more effective for relatively small, rural transit projects:

- The most effective way to extend Federal credit assistance to small, local borrowers would be through a TIFIA "loans to lenders" program:
 - This program would improve smaller transit properties' access to Federal credit by permitting State infrastructure banks (SIBs) to obtain "wholesale" loans from US DOT and re-lend the funds at the same or similar rates on a "retail" basis for smaller capital projects, like bus fleet replacements
 - The SIB would pledge its own resources/revenues to repay the TIFIA loan, so that US DOT could negotiate the credit terms upfront with the SIB, approving a large credit commitment, but allow the SIB to draw down funds periodically to make loans to individual transit agencies as needed. The SIB would retain the default risk of the underlying transit agencies to which it makes loans.
 - Interposing the SIB would "homogenize" and, in many cases, "upgrade" the credit of the pool of smaller loans, and this wholesaling approach would vastly simplify the administration of the TIFIA program, including the burdensome credit review process. TIFIA would have to assess only the SIB's creditworthiness, not the underlying SIB loans to multiple, smaller borrowers.
- The definition of "rural transportation project" may be so broad that it could crowd out smaller projects seeking TIFIA assistance under the more favorable terms for rural projects (i.e., loans at one-half the Treasury rate). The term should be narrowed to include only those projects that:

- are located in an area other than an urbanized area with a population of more than 100,000; and
- have total eligible project costs of at least \$10 million but not more than \$50 million. (\$50 million is the threshold for standard TIFIA projects.)

B. Streamline the coordination of the New Starts and TIFIA review processes for those projects seeking assistance from both programs:

- Enhance the predictability of TIFIA assistance for New Starts candidates. TIFIA's Master Credit Agreement provision (enacted as part of MAP-21 but not yet implemented by US DOT) is intended to assist programs of related and commonly-secured projects by removing TIFIA "selection risk" for projects scheduled in the out-years. This provision could be modified to also permit early TIFIA conditional commitment for a single project that also is seeking New Starts funds, to address FTA's requirement that other sources of capital be reasonably identified before approving a full funding grant agreement.
- Grant expedited credit reviews to low-risk candidates. Expedite processing for projects with dependable, investment grade revenue sources, such as sales taxes.

C. Implement MAP-21's increased project share for TIFIA secured loans for certain qualifying projects:

Along with an eight-fold increase in budget authority for TIFIA, MAP-21 increased the maximum amount of a TIFIA loan from 33 percent to 49 percent of project costs. This increased share would enable TIFIA credit assistance to meaningfully support certain projects with large public benefits that may be difficult to finance conventionally without Federal credit support, while still ensuring other investors share in project costs and risks. US DOT has yet to approve a TIFIA loan for more than 33 percent of project costs for any project.

National Infrastructure Bank (NIB)

APTA also recommends the Congress make institutional improvements to Federal infrastructure finance programs through the creation of a national infrastructure bank: a unified financing platform combining credit assistance with tax incentives.

A NIB could offer a range of finance products; the primary one would be credit assistance: loans and loan guarantees. This means a NIB would be similar to the TIFIA and RRIF credit assistance programs, but with the benefit of a stronger organizational platform (in terms of both staff and an independent board) to allow more effective management by finance experts.

NIB potential parameters:

- Eligible projects: highways, public transportation, and intercity passenger rail.
- Products offered:

- Direct loans,
- Loan guarantees or bond insurance, and
- Allocating volume cap of tax incentives (like private activity bonds and tax credit bonds).
- General Fund authorization to initially capitalize the NIB. The size of the authorization would be dependent upon the products offered by the NIB; previous NIB proposals in Congress have included at least \$10 billion in upfront capital.
- Wholly-owned government corporation, independent of US DOT.

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Program Structure Recommendations

MAP-21 made substantial changes to the structure of the Federal Transit Program and the policies governing its management and the distribution of its authorized funding. At a time when it appeared that little agreement could be reached on broad federal legislative and policy measures in Washington, DC, Congress was able to reach agreement on an albeit abbreviated 27 month authorization bill that did provide certainty to an industry seeking to plan, initiate, and build important projects in states, regions and localities across the nation.

Many changes adopted in MAP-21 produced important improvements to the Federal Transit Program and were consistent with the recommendations of APTA and the public transportation industry. However, in the context of a relatively level-funded bill and growing demand for transportation infrastructure investment, even consolidated formula programs could not adequately meet the requirements facing our public transportation agencies and the communities they serve. Moreover, the industry has found that the heavy emphasis toward formula programs has not met the capital needs of many transit agencies (especially small and mid-size agencies) for large and infrequent capital investments such as major bus procurements and facility improvements. The solution to this issue is the restoration of funding to the bus and bus facilities program and the return of a transparent and efficient discretionary element of the program. Further, some programmatic changes made in the context of program consolidation have produced challenges for agencies seeking to improve the coordination of transportation services under previously separate funding streams.

APTA's recommendations for changes to the structure of the Federal Transit Program are presented here with the intent of continuing to improve the efficiency and effectiveness of public transportation infrastructure development and service delivery, while also recognizing that significant changes were produced in MAP-21 and much work continues on the implementation of that new law.

Federal Transit Programs

PLANNING PROGRAMS (§ 5305)

MAP-21 has demonstrated a national commitment to performance-based planning. As a practical matter, transportation agencies need a basis for prioritizing among their transportation needs because of constrained transportation funding. Performance measures provide a data-driven approach to making these difficult choices.

APTA supports this commitment to performance-based planning. However, the state of the industry is still evolving and much progress is needed to develop performance metrics that can evaluate projects and travel modes equitably and quantifiably. The Reauthorization bill should continue to support locally-driven planning and programming decisions. The Federal

government should not condition the approval of Transportation Improvement Plans (TIPs) or State Transportation Improvement Plans (STIPs) based on how agencies are meeting these performance metrics; nor should the Federal government tie the availability of Federal funds to the achievement of performance metrics at the state and local level.

URBANIZED AREA FORMULA GRANTS (§ 5307)

(a) Formula Program

As the largest source of federal transit funding under current law, APTA recommends that the Urbanized Area Formula Grant (Section 5307) program should:

- **Grow the Small Transit Intensive Cities / STIC Program (Section 5336(i)) at an incremental rate to better assist small transit agencies that often have a limited local funding base to add to federal resources to fund operational and capital costs of their systems.**
- **Preserve the “100 Bus Rule” – current law that permits the use of Section 5307 funding for operating expenses by select grant recipients operating within urbanized areas with populations greater than 200,000 and add operators of general public demand response service as eligible 5307 recipients.**
- **Preserve the authority for grant recipients operating within small urbanized areas with populations under 200,000 to utilize up to 100% of their Section 5307 funding for operating expenses.**
- **Preserve current law that authorizes preventive maintenance as a capital expenditure.**
- **Maintain Job Access and Reverse Commute (JARC) projects as an eligible activity under Section 5307.**
- **Preserve current mandate that grant recipients must expend at least 1% of their 5307 funding on associated transportation improvements.**
- **Preserve current mandate that grant recipients must expend 1% of their 5307 funding on transportation security projects or certify that it is not necessary to do so.**

(b) Passenger Ferry Boat Program (discretionary)

As many communities and regions, increase investments in non-highway portions of their transportation systems, ferry boat service is emerging as a viable public transportation option.

APTA recommends the continuation of the Federal Transit Administration discretionary Passenger Ferry grant program administered through competitive selection.

(c) Operational Support of State Safety Oversight

APTA recommends that the Federal Transit Administration work closely with the transit industry to establish State Safety Oversight training programs and certification criteria.

CAPITAL INVESTMENT GRANTS PROGRAM (§ 5309)

A robust, well-funded Capital Investment Grants Program (Section 5309) is critical to the continued development of transit systems across the country where communities have steadily growing needs for system creation, expansion, and added capacity. Local and state governments are planning and building light and heavy rail, commuter rail, streetcar, and BRT projects that will not only enhance local mobility options but bolster their local and regional economies and improve the environment. Local and state governments are making significant investments in fixed guideway capital projects; however, current federal funding levels available for these projects are inadequate. Expanding eligibility to include Core Capacity Improvement projects recognizes a clear need, but insufficient authorized funding in MAP-21 further strains limited resources. Congress established the Program of Interrelated Projects that is consistent with the APTA position to create such a program. Additional funding is necessary to respond to growing demand across each category of eligible projects. Significant improvements to the program's rating and project approval processes were achieved in MAP-21 but additional modifications may be necessary in response to FTA implementation of the MAP-21 changes.

APTA Recommendations:

- 1) Increase the authorized levels of the Capital Investment Grants Program** to a level consistent with APTA's recommended growth and 40/40/20 capital investment ratio. Growth is necessary to address current and future federal funding commitments, and the addition of Core Capacity Improvement projects as an eligible activity.
- 2) Continue to support the Capital Investment Grants program from the General Fund and consider additional funding from some other funding account capitalized by dedicated revenues.** Consistent with APTA's Funding and Finance Recommendations, Congress should preserve and increase the longstanding General Fund component of the Federal public transportation program and, to meet growing Capital Investment Grants program needs, consider additional funding from Highway Trust Fund revenue sources without inhibiting growth of surface transportation programs currently funded from the Highway Trust Fund.
- 3) Additional revisions based on FTA implementation of MAP-21 changes.** FTA will be implementing the MAP-21 revisions to the project approval process and will issue regulations to implement the Program of Interrelated Projects and Core Capacity. Each of these actions may result in the need to modify MAP-21 in response to FTA implementation decisions.
- 4) Continue to fund every form of transportation eligible under the Capital Investment Grants program (Section 5309) including but not limited to new light and heavy rail, commuter rail, streetcar, and BRT projects and core capacity improvement projects.** APTA supports the principle that, throughout the implementation of MAP-21 and future reauthorizations of the Capital Investment Grants program, the FTA will continue to fund a mix of new light and heavy rail, new street car, new bus rapid transit systems and core capacity improvement projects from available funding.

MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES (§ 5310)

Background: Demand for public transportation services from our senior and disabled population continues to grow in urban, suburban, and rural communities across the country. The transit needs for veterans and individuals commuting from urban cores to suburban employment centers are also steadily growing. As so, a well-funded, balanced federal program to address these unique transit needs is critical.

MAP-21 consolidated the former Elderly and Disabled (Sec. 5310) and New Freedom (Sec. 5317) programs into a single program – the new Sec. 5310 Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities – while generally continuing the goals and eligible activities of the previous programs. Additionally, MAP-21 eliminated the free standing Job Access and Reverse Commute (JARC) program (Sec. 5316) but added JARC projects as an eligible activity under the Urbanized Area Formula Program (Sec. 5307) and the Rural Formula (Sec. 5311) along with increased funding.

APTA Recommendations:

- 1) **Rename the current Sec. 5310 Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities program as the “Sec. 5310 Coordinated Access and Mobility Program (CAMP).”**
- 2) **Authorized annual funding level of the CAMP: Base funding of \$390 million per year, which includes JARC funding.**
- 3) **Include JARC projects as eligible activities under the CAMP.**
- 4) **Revise the current 5310 apportionment ratio such that fiscal year funding is distributed as follows:**
 - **40% apportioned to large UZAs;**
 - **20% apportioned to states for distribution to small UZAs;**
 - **20% apportioned to states for distribution to rural areas; and**
 - **20% apportioned to states for distribution throughout the state (projects funded with this portion of funding will be selected in consultation with public transit agencies).**
- 5) **Mandate that any 5310 funds unobligated after three years of their original apportionment date be made available for redistribution throughout the state via the process utilized to distribute the annual 20% state-wide apportionment.**
- 6) **Allow designated 5310 recipients to have the flexibility to distribute funds to public and private non-profit transportation providers for any of the eligible activities under the CAMP in manner that best meets local needs as identified in an applicable coordinated plan.**

- 7) **Mandate that each local and/or regional area develop funding priorities through its coordinated planning process. Representatives from a cross section of the multiple target communities should participate in the development of these coordinated plans and “contributions” of non-DOT federal funds are highly encouraged and should be incentivized. Plans will be submitted to the state DOT in each state where the state DOT will then program the CAMP funding for other than large UZAs based on these plans and their priorities. The state will work to ensure equity among different regions of the state.**
- 8) **Continue the current authority for states, MPOs and transportation planning agencies to flex dollars from various Federal Highway (FHWA) programs (i.e. STP, CMAQ, etc.) for 5310 programs and projects.**

FORMULA GRANTS FOR RURAL AREAS (§ 5311)

Even as funding levels for the Rural Area Formula grant program were significantly increased under MAP-21, great need persists for systems operating in non-urbanized communities. APTA recommends the following:

- **Continuation of the Public Transportation on Indian Reservations program;**
- **Continuation of the Appalachian Development Public Transportation program;**
- **Continuation of the Rural Transportation Assistance Program; and**
- **Maintain Job Access and Reverse Commute (JARC) projects as an eligible activity under Section 5311.**

TCRP, TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT, AND HUMAN RESOURCES AND TRAINING

Due to severe constraints on non-defense discretionary spending across the Federal budget, APTA seeks to have three programs – TCRP (§5313), Technical Assistance and Standards Development (§5314), and Human Resources and Training (§5322) – funded through a \$25 million set-aside from the urban area formula program. Such a change in law would provide greater certainty in the year to year funding determination.

These programs are helpful to making the transit agencies and the projects and services they deliver more efficient and effective, therefore justifying the set-aside from the urban formula program.

TRANSIT COOPERATIVE RESEARCH PROGRAM / TCRP (§ 5313)

TCRP research provides savings and financial benefits to transit service providers and governments, more responsive transport planning, improved transit services, external

transportation benefits, tax savings and support for economic development objectives. These benefits are widely distributed. All types of communities benefit, including cities, suburbs, small towns and rural areas. The program sponsoring practical research on ways to improve public transit services and, as a cooperative program it involves federal agencies, the transit industry and the Transportation Research Board, a division of the U.S. National Academy of Sciences.

- **APTA recommends the TCRP be funded at the pre-2012 level of \$10 million through a set-aside from Sec. 5307 Urbanized Area Formula funds.**

TECHNICAL ASSISTANCE AND STANDARDS DEVELOPMENT (§ 5314)

MAP-21 authorized \$7 million annually for the FTA to provide technical assistance to transit providers to more effectively and efficiently provide public transportation service and administer federal funds. This section also authorized the FTA to work with the public transportation industry in the development of consensus-based, industry standards and best practices for safety, fare collection, procurement, and other topics. APTA and the transit industry strongly support consensus-based industry standards development which has yielded enormous benefits in the areas of operational safety, procurement, accessibility, rail and bus services, security and emergency preparedness, and information technology, among others. The federal government has long recognized the importance of industry involvement in the development of standards and currently participates as a full partner in this process. This program gathers key stakeholders and knowledge experts from public transit agencies, industry and government to write standards and recommended practices that represent the best available steps for protecting the riding public from harm.

- **APTA recommends the Technical Assistance and Standards Development program be funded at a level of \$7.5 million through a set-aside from Sec. 5307 Urbanized Area Formula funds.**

HUMAN RESOURCES AND TRAINING (§ 5322)

Fueled by a rapidly aging workforce, the transit industry is poised to face a significant worker shortage in the coming years. Furthermore, industry growth coupled with advances in technology has created an urgent need for a comprehensive overhaul of and sustainability of transit employee training and development programs, covering the span of employees in the industry.

- **APTA recommends the Human Resources and Training program be funded at a level of \$7.5 million through a set-aside from Sec. 5307 Urbanized Area Formula funds.**

PUBLIC TRANSPORTATION EMERGENCY RELIEF PROGRAM (§ 5324)

The current Federal Transit Administration emergency relief program served as a critical resource to incapacitated public transportation agencies in East Coast and Mid-Atlantic states in the aftermath of Super Storm Sandy of 2012. Efficient cooperation among federal, state and local agencies allowed billions of dollars of relief and reconstruction funding to be channeled to local transit providers. With powerful, large natural disasters occurring more frequently and the consistent threat of terrorists attack to transit systems, a reliable, well-funded public transportation emergency relief program is critical. APTA supports the current statutory structure of the FTA Emergency Relief Program and will urge Congress to appropriate adequate levels of funding in times of need.

PUBLIC TRANSPORTATION SAFETY PROGRAM (§ 5329)

As the Federal Transit Administration moves forward in the implementation of its new, comprehensive public transportation safety and oversight responsibilities, APTA recommends the following be incorporated into the FTA safety program:

- **Establish Federal preemption of state and local standards – such preemption is necessary to preclude the adoption of differing standards and to ensure that efforts at the state level remain concentrated on identified national safety priorities. Accommodations for standards based on unique local safety conditions should be allowed on a case by case basis, as determined by the Secretary.**
- **Prohibit the release, admissibility or discovery of information in litigation, where that information is compiled or collected for FTA safety risk reduction programs. Protection from public disclosure, notwithstanding state or local sunshine laws, and further protection of data from use in litigation is vital to ensuring transit agencies undertake the critical analysis of risk necessary for continually improving transit safety, documenting that analysis, and providing the resulting data to the FTA for inclusion in nationwide analysis.**
- **Program provisions and standards should be applicable to individual agencies in a manner commensurate to their particular system risks and should be performance-based rather than prescriptive.**
- **Ensure a formal process to review, approve and appeal requirements, including a waiver process to accommodate unique local safety conditions.**
- **Establish a process to review and certify an agencies' existing transit safety training program. Federal certification allows agencies to preserve the limited resources associated with training.**

STATE OF GOOD REPAIR GRANTS (§ 5337)

The Federal Transit Administration (FTA) estimated in its 2010 *National State of Good Repair Assessment* that the nation's transit systems had a state of good repair (SGR) backlog of almost

\$78 billion. That estimate by the FTA considered the SGR reinvestment needs of all modes and assets, including all types of rail, bus, demand response (and related) and joint assets (facilities and non-revenue support vehicles).

In response to this recognized need, MAP-21 created a new “State of Good Repair” (SGR) grant program that replaced the previous Fixed Guideway Modernization program. The fixed guideway portion of the SGR program is available for grants to finance capital projects to maintain fixed guideway public transportation systems in a state of good repair. The new law defines fixed guideway systems as those using and occupying a separate right of way for the exclusive use of public transportation, using rail, using a fixed catenary system, for passenger ferry MAP-21 Moving Ahead for Progress in the 21st Century systems, or for a bus rapid transit (BRT) system. The new law provides formula funding to systems providing public transportation service on a facility with access for other high-occupancy vehicles under the High Intensity Motor Bus program. Unlike the previous law, the new law limits funding under the fixed guideway portion of the SGR program to BRT systems in which the majority of each line operates in a separated right of way dedicated for public transportation use – not shared with other high occupancy vehicles – during peak periods and that include features that emulate services provided in fixed guideway systems.

(a) High Intensity Fixed Guideway Formula [§ 5337(c)]

The restructured Section 5337 State of Good Repair program created in MAP-21 helps address the industry’s national State of Good Repair crisis with increased funding and a simplified formula structure compared to the former Fixed Guideway Modernization program. APTA recommends the continuation and growth of the program.

(b) High Intensity Motorbus State of Good Repair [§5337(d)(2)]

MAP-21 converted the Fixed Guideway Modernization Program of SAFETEA-LU to a two-part, SGR Program. While the SGR program in its entirety is more substantial than its Fixed Guideway Modernization predecessor, program changes in MAP-21 had impacts on some providers of High Intensity Motorbus (HIM) services.

Under MAP-21, the HIM portion of the SGR program was set at 2.85% of the total SGR program. APTA has recently estimated HIM needs at a range between 3.5 to 4.45% of the total SGR program. As a result, APTA is proposing an adjustment in the HIM SGR apportionment along with an additional recommendation on eligibility of certain HIM services.

Proposal:

1. Increase the HIM SGR apportionment from the current 2.85% to 3.8%

The HIM providers are proposing that the APTA Authorization Task Force recommend increasing the apportionment for HIM SGR from 2.85% to 3.8% of the funding sought for the SGR program.

2. HIM services on HOT lanes should qualify for HIM SOGR funding

APTA also recommends that HIM services on high occupancy toll (HOT) lanes should qualify for HIM SGR funding in the same manner as HIM services on HOV lanes, provided that the HIM services and HOVs are permitted to use the HOT lanes without charge.

BUS AND BUS FACILITIES FORMULA GRANTS (§ 5339)

Modified Bus Program – Modify the current Sec. 5339 Bus and Bus Facilities Formula Program to restore funding to the pre-MAP-21 levels and to reestablish a competitive/discretionary element that will assist transit agencies in meeting the high costs of large but infrequent major capital investments of bus facilities and rolling stock.

Under MAP-21, the Sec. 5339 Bus and Bus Facilities Program was reduced by 57 percent and funds were transferred to other formula accounts. In addition, the program that had been an entirely discretionary/competitive program was restructured to be completely formula-based. Many transit agencies, especially those in the small to mid-size range, have found that combined with the reduction in funding available under the new Sec. 5339 program, the formula nature of the new program has not met the capital needs of many transit agencies for large and infrequent capital investments such as major bus procurements and facility improvements. While predictable formula funding has certain merit, it does not take into account the periodic need for significant increases in funding to make major bus purchases or replace obsolete maintenance facilities, both critical to ensuring a state of good repair. In fact, APTA had previously recommended that the Bus and Bus Facilities Program be structured as a 50/50 Formula/Discretionary program, responding to Congressional interest in reducing earmarks and discretionary spending while leaving some funding available in the discretionary grant category.

Overarching Principles:

- Restoration of the bus capital funding to the pre-MAP 21 level of \$984 million is a top priority of APTA.
- Revising the program structure to provide that 50% of the Bus and Bus Facilities funds are distributed by formula and 50% of the funds are distributed through a competitive, discretionary program.

Program Recommendations:

- **Revise the program structure so that the formula funds are distributed using the current 5307 formula and that the discretionary funds are awarded using criteria developed by the industry in collaboration with the Federal Transit Administration.**
- **Revise the program to limit individual system Bus and Bus Facilities discretionary grant awards to no more than 4% of the discretionary bus funding amount.**

- **Revise the program to provide that funds made available under this section shall be apportioned or granted directly to the transit systems located in Urbanized Areas larger than 50,000 in population.**
- **Funds under the program to be available for 4 years plus year of appropriation. Funds cannot be transferred from the formula program to the discretionary program or vice versa.**
- **Funds under the program may not be used for operating expenses or preventive maintenance.**
- **Bus replacement grant approvals should be processed by FTA on an expedited basis.**
- **The program should be structured to provide 100% of the incremental cost of purchasing alternate fuel (other than clean diesel) buses.**

GROWING STATES AND HIGH DENSITY STATES FORMULA (§ 5340)

APTA's members believe that the formula factors utilized under the Section 5307 Urbanized Area Formula Program and Section 5311 Rural Area Formula Program are the preferred means of equitably delivering formula funds to transit agencies throughout the country. It is recommended that urban and rural formula funding be distributed under the Section 5307 and 5311 formulas, as opposed to the added Section 5340 formula program.

- **APTA's members recommend that Congress eliminate the Growing States and High Density States Formula Program (Section 5340) and repurpose it's funding within the Urbanized Area (Section 5307) and Rural Area Formula (Section 5311) grant programs to meet increasing capital needs of transit providers across the nation.**

Federal Highway Programs

FLEXIBLE FUNDING PROGRAMS

MAP-21 continues to make flexible funding programs available to State and local governments for transportation projects and programs including, the Congestion Mitigation and Air Quality (CMAQ) Program, the Surface Transportation Program (STP), the National Highway Performance Program (NHPP), or the Transportation Alternatives Program (TAP).

As various states have found a continuing need to apply these flexible programs to meet growing public transportation requirements, APTA supports the continuation of this flexibility and recommends that Congress preserve the current flexibility for states that choose to utilize it. Such flexible programs should be allowed to grow at the same rate of growth as the overall FHWA program.

CONGESTION MITIGATION AND AIR QUALITY (CMAQ) PROGRAM (23 USC §149)

Additionally, MAP-21 intended to expand CMAQ eligibility for operating assistance. US DOT has established, through policy guidance implementing MAP-21, a five-year time period in which transit agencies may use of three years' worth of CMAQ funds for operating assistance. These arbitrary limits on both funding amount and length of eligibility should be eliminated. **Public transportation projects that continue to meet the substantive eligibility standard of the CMAQ program (i.e., they contribute to the attainment or maintenance of national ambient air quality standards) should be able to continue to use CMAQ funds.** Funding the operation of a transit system is not analogous to the one-time costs of constructing a highway. Therefore, US DOT's reliance on the Federal-aid highway program's traditional, time-limited role in funding highway construction is misplaced here and does not justify limiting CMAQ eligibility for public transportation service that continues to be good for air quality.

Also, CMAQ eligibility should be modified to allow CMAQ funding for significant capital improvements to transit stations. Station improvement projects in old transit systems are more similar to a highway widening project than a highway repaving or reconstruction project. For example, station improvement projects often include widening or adding new stairs, reconfiguring fare control areas, removing obstructions, rehabilitating or replacing platforms, improving accessibility, replacing or rehabilitating platforms, installing elevators to comply with the ADA, new lighting and signage. These stations improvements address transit station capacity and crowding issues in order to retain existing and attract new riders to transit systems.

Research and Innovative Technology Administration (RITA)

UNIVERSITY TRANSPORTATION CENTERS (49 USC § 5505)

Federally funded, university led research is essential to addressing technical and policy challenges facing the nation's transportation system. Given the preponderance of ongoing research that is focused on the highway mode, federal funding should be allocated to university research centers dedicated to alternative modes of transportation, particularly for public transit as it was prior to MAP-21.

The US DOT University Transportation Center (UTC) program should be continued, but simplified and expanded to ensure the broadest participation of the wealth of expertise that is found in the Nation's institutions of higher education.

Specifically it is proposed that:

- **The US DOT UTC program funding should be increased to \$100 million and escalated thereafter by the rate of escalation in the overall transportation authorization.**
- **The number of UTCs designated should be increased from the current 35 to 45 and include 10 regional centers and 35 tier 1 (large) and 2 (small) centers. Based on \$100 million total program, center sizes would be approximately: Regional \$3m; Tier 1 \$2.5m; Tier 2 \$1.25m**
- **That 20% of the UTC designations should be for transit focused centers.**
- **Any exclusivity rules are simplified to only a proscription that the lead institution for one center cannot lead another center; otherwise there is no limitation.**

Federal Railroad Administration (FRA)

PASSENGER RAIL LEGISLATION (PRIIA REAUTHORIZATION)

APTA supports the creation of an integrated network of passenger rail services, including high-speed rail where appropriate, that connects with the existing Amtrak system, and with commuter rail, transit operations and other intermodal connections. We support dedicated revenues for such a program, other than those currently supporting the Highway Trust Fund. We also support a streamlined NEPA review process for projects. Moreover, both private and public sector participation should be considered in the development of new rail service and the planning, construction, and financing of new rail infrastructure.

Expansion and improvement of our current intercity passenger rail system will require a commitment of federal, state, local and private resources – a combination of funding AND financing strategies that will not only pay for projects, but also speed their planning, design and construction. APTA recommends an authorization of \$50 billion over six years to facilitate the development of a HSIPR system, funded by a dedicated and indexed federal revenue source, and complemented by the use of public private partnerships.

APTA calls for reauthorization of the Passenger Rail Investment and Improvement Act of 2008 (PRIIA) through standalone legislation or as a separate rail title to surface transportation authorization.

- **APTA's Legislative Committee adopted a set of principles on June 2, 2013 which provide further guidance on the industry's policies regarding investment in intercity passenger rail.**