



October 22, 2020

Negotiations Continue on Additional COVID-19 Emergency Funding

Negotiations continue between Speaker of the House Nancy Pelosi (D-CA) and White House Representatives, led by Secretary of the Treasury Stephen Mnuchin, on an approximately \$2 trillion COVID-19 emergency relief package. Although negotiations have been ongoing for more than three months, both sides have expressed recent optimism on reaching agreement. However, major issues, such as funding for state and local governments and liability protection, remain unresolved. It is unclear if the Speaker and the White House can reach agreement in the next few days, enabling consideration of a bill prior to the election.

Moreover, Senate Majority Leader McConnell (R-KY) has not participated in any of these negotiations and Senate Republicans have expressed serious reservations about both the funding level and policies under discussion. Although Senator McConnell indicated that, if the Speaker and the White House reached an agreement, the Senate would consider the bill “at some point”, he did not indicate support for such a package. Earlier this week, the Senate voted on two Republican COVID-19 bills to address specific issues: a Paycheck Protection Program bill, and a targeted \$500 billion coronavirus relief bill. Both bills required 60 votes for consideration and failed to receive the necessary votes to proceed.

Enclosed is a legislative summary of COVID-19 emergency funding for public transportation.

COVID-19 Emergency Funding for Public Transportation

CARES Act

In March and April 2020, Congress enacted four major laws in response to the COVID-19 pandemic, totaling \$2.6 trillion.

Most importantly, on March 27, 2020, Congress enacted the \$1.8 trillion Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (P.L. 116-136). The CARES Act provided **\$25 billion** for public transit formula operating and capital grants to prevent, prepare for, and respond to COVID-19. It is the largest transit appropriation in history and is almost three times the fiscal year (FY) 2020 transit formula grant funding.

Since enactment of the CARES Act, public transit agencies have been aggressively investing these funds. According to the Federal Transit Administration (FTA), as of September 28, 2020, public transit agencies have obligated 93 percent of CARES Act transit funds through 758 grants totaling nearly \$23.3 billion of the \$25 billion appropriated.

APTA’s Request for Additional COVID-19 Emergency Transit Funding

The CARES Act funding provided a critical lifeline to enable our agencies to serve first responders, hospital workers, and grocery store clerks each and every day. Yet, public transit agencies need additional funding to continue to provide these and other essential services throughout the crisis and play their indispensable role in America’s social and economic recovery from COVID-19.

APTA requests that Congress and the Administration provide at least **\$32 billion** of emergency transit funding to address COVID-19 costs and revenue losses, in addition to public transit funding provided by the CARES Act. These funds will offset the extraordinary direct costs and dramatic revenue losses caused by the pandemic. APTA proposes that the \$32 billion in additional funding for COVID-19 emergency response and recovery be allocated under the Urbanized Area Formula Grant, Seniors and Individuals with Disabilities Formula Grant, Rural Area Formula Grant, and Emergency Relief programs. The formula and Emergency Relief funds would be available for both operating and capital expenses and at a 100 percent federal share.

The Heroes Act (H.R. 6800)

On May 15, 2020, the U.S. House of Representatives passed H.R. 6800, “The Heroes Act”, providing \$3.4 trillion of COVID-19 response emergency funding. The bill included **\$15.75 billion** of emergency funding for public transportation. The bill provided \$11.75 billion of formula grants to 14 very large urbanized areas (urbanized areas with populations over 3 million). The bill also provided \$4 billion for Emergency Relief grants.

The Senate has not considered the bill. Although negotiations between Congressional leaders and the White House began in July, the key negotiators have been unable to reach a bipartisan compromise to date.

The Revised Heroes Act (H.R. 925)

On October 1, 2020, the House passed a revised Heroes Act as a House Democratic “compromise” offer. H.R. 925, also entitled “The Heroes Act”, provides \$2.4 trillion of COVID-19 relief. Although total funding under H.R. 925 is cut by almost one-third from the original bill, the new Heroes Act provides **\$32 billion** of emergency transit funding—more than double the transit funding provided in the May version of the bill. The bill also provides **\$2.4 billion** for Amtrak grants.

Public Transit

A primary objective of the emergency transit funding is to ensure that public transit agencies receive sufficient funding, when combined with their CARES Act apportionments, to equal 100 percent of public transit agencies’ operating expenses. To the maximum extent possible, the funds shall be directed to payroll and public transit operations. The transit funds provided under The Heroes Act are available for operating expenses and the federal share is 100 percent.

The bill distributes the funds through multiple mechanisms:

- **\$18.5 billion for § 5307 (and § 5337) grants to urbanized areas.** The amounts made available by these grants, combined with CARES Act grants, may not exceed 100 percent of the recipients’ 2018 operating costs. Any remaining amounts will be distributed, using the same formulas, to agencies that did not reach the 100-percent operating cost threshold.
- **\$750 million for § 5311 grants to rural areas.**
- **\$250 million for § 5310 grants for seniors and persons with disabilities.**

- **\$2.5 billion for § 5309 Capital Investment Grants (CIG) to assist project sponsors with their non-federal financial commitments.**
 - \$1.95 billion for project sponsors that received FY 2019 or FY 2020 CIG allocations before the bill’s date of enactment. It distributes the funds proportionally to qualified project sponsors and will not be counted toward the maximum federal financial assistance. Projects with grant agreements that are open for revenue service are not eligible. [Please click here for APTA’s List of CIG Projects Eligible for Heroes Act Funding.](#)
 - \$400 million for project sponsors that receive FY 2019 or FY 2020 CIG allocations from remaining CIG funds under a proportionate distribution of eligible projects.
 - No more than \$150 million for Small Start projects with executed grant agreements that need additional assistance in completing their projects.
- **\$10 billion for § 5324 Emergency Relief grants for public transit agencies that require additional assistance to maintain operations.** The Secretary of Transportation shall give preference to agencies with the largest percentage revenue losses and urbanized areas that have not already received 100 percent of their operating expenses from the funds made available under § 5307, as outlined above. Intercity bus providers, who have previously partnered with § 5311 recipients, are also eligible to apply for these funds.

Amtrak

The bill also includes **\$2.4 billion** for Amtrak grants to prevent, prepare for, and respond to COVID-19, including:

- \$1.4 billion for Northeast Corridor grants; and
- \$1 billion for National Network grants.

It sets aside \$569 million of these funds to be available to Amtrak in lieu of commuter rail and State-supported route payments on the Northeast Corridor. In addition, the bill directs Amtrak to use the funds to prevent employee furloughs due to COVID-19.

Non-Emergency Medical Transportation (NEMT)

Title I of Division K includes a provision that adds Non-Emergency Medical Transportation (NEMT) to the list of mandated Medicaid benefits by codifying current Medicaid NEMT regulations. In addition to mandating the NEMT benefit, the bill directs the Department of Health and Human Services to assess the guidance that the Centers for Medicare & Medicaid Services provides to states on the federal requirements for NEMT.

FEMA Assistance

Title II of Division Q clarifies that public transit agencies are eligible for Federal Emergency Management Agency (FEMA) assistance for personal protective equipment (PPE) and other critical supplies to help communities continue to provide safe and accessible service.

Personal Protective Equipment

Title III of Division Q requires transportation employers, including public transit agencies, commuter rail providers, and Amtrak, to require passengers to wear face masks or coverings while on board vehicles; provide masks or face coverings, gloves, hand sanitizer, wipes, and training on proper use of personal protective equipment to employees who interact with passengers; ensure vehicles and facilities are cleaned, disinfected, and sanitized frequently in accordance with Centers for Disease Control and Prevention guidelines; and establish guidelines for notifying employees of a confirmed COVID-19 diagnosis of an agency employee. These requirements remain in effect for the duration of the National Emergency declared by the President.

Continuing Appropriations and Surface Transportation Authorization Extension Act

On October 1, 2020, Congress enacted the Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159). The Act prevents a federal government shutdown and continues current appropriations through December 11, 2020. In addition, the bill includes a one-year extension of the surface transportation authorization act.

In the past 30 years, Congress has never enacted a one-year extension of surface transportation authorization programs after the lapse of a multi-year authorization act. The Surface Transportation Authorization Extension (Division B) provides public transit agencies with much-needed certainty regarding public transit funding in fiscal year (FY) 2021 and is a direct result of APTA's advocacy with our Coalition partners. It authorizes **at least \$12.6 billion for public transit investment and includes several critical public transit priorities:**

- Authorizes public transit funding for FY 2021 at amounts equal to the FY 2020 authorization as provided by the FAST Act (P.L. 114-94) and distributes the funds in the same manner as the prior year;
- Prevents a \$6 billion (or 60 percent) across-the-board cut of FY 2021 transit formula funds to each public transit agency by prohibiting application of the Rostenkowski Test;
- Deposits \$3.2 billion in the Mass Transit Account (MTA) of the Highway Trust Fund to ensure that the MTA will not run out of funds and the Federal Transit Administration (FTA) will be able to process grants in the upcoming fiscal year; and
- Extends the authorization for transit-oriented development (TOD) projects for Railroad Rehabilitation and Improvement Financing (RRIF) loans and loan guarantees (which expires September 30, 2020) to September 30, 2021.

In December 2020, Congress will need to take further action on the Continuing Resolution (CR) to prevent a federal government shutdown and continue current appropriations. If Congress does not complete action on the Transportation Appropriations bill in the "lame-duck" session, APTA will strongly advocate that any CR last at least through February 2021 to ensure that FTA will proceed with making FY 2021 transit formula apportionments.

Senate Commerce Committee Holds Hearing on Rail Network

Yesterday (October 21), the Senate Committee on Commerce, Science, and Transportation held a hearing entitled *Passenger and Freight Rail: The Current Status of the Rail Network and the Track Ahead*. The hearing included testimony from Amtrak President and CEO William Flynn, [which can be viewed here](#). Mr. Flynn urged Congress to provide \$4.9 billion for Amtrak in FY 2021, including both COVID-19 emergency and annual appropriations. Amtrak also requested that Congress provide \$5.1 billion for economic recovery from the impacts of the pandemic. [Please click here to watch a recording of the hearing](#).

CDC Releases Interim Guidance Recommending Use of Face Masks on Transportation

On October 19, the Centers for Disease Control and Prevention (CDC) released interim guidance strongly recommending that passengers and operators on public conveyances (e.g., public transit, trains, taxi and ride-share vehicles, airplanes) wear masks covering their mouth and nose when on a vehicle or when at a transportation hub. The guidance also recommends that operators deny boarding to passengers who refuse to wear a mask, except exempted individuals (e.g., children under the age of two, individuals with documented medical conditions that prevent them from wearing a mask). [Please click here to view the CDC's interim guidance](#).

APTA Joins Tax Extender Coalition Letter

This week, APTA joined a broad coalition of organizations calling on Congress to extend tax provisions, including the alternative fuels tax credits, which expire on December 31, 2020. The letter urges Congress to extend the provisions before they expire, rather than letting them expire and considering a retroactive extension at some point during 2021.