

Public Transportation Policy

September 2024

Executive Summary

The U.S. public transportation systems, including mass transit, rail transit, and intercity passenger rail, are integral and vital components of the nation's intermodal transportation network. Each mode plays a key role in improving economic growth, quality of life, national security, and the environment.

The U.S. public transportation system consists of multiple-occupancy vehicle services operating on local and regional routes, including private and public buses, fixed guideway systems, bus rapid transit systems, commuter rail and streetcar operations using both public and private operators, passenger rail, ferryboats, para-transit, taxi or van pool services contracted by public transportation agencies with private transportation operators.

The American Road and Transportation Builders Association (ARTBA) believes the federal government has a major role to play in the development and maintenance of public transportation systems. These systems are interdependent and, combined with the nation's network of roads and bridges, must be maintained, and expanded to the needs of America's traveling public.

Public transportation systems must be developed and maintained as a shared responsibility that requires partnership between federal, state, and local governments, along with the private sector. This partnership allows execution of a national vision that ensures state flexibility. To achieve this, public transportation systems should not be treated as independent entities, but rather integrated components that serve the demand for travel.

Federal investment in public transportation capital improvements is an effective means of adding capacity and mobility options to the overall surface transportation system, thereby reducing traffic congestion. This improves interstate commerce, regional quality of life and productivity, while encouraging mobility and linking people to economic and social opportunity, in rural and urban communities.

Further, public transportation can have sweeping effects in communities, thanks, in part, to transit-oriented development programs. This approach can boost ridership, provide congestion relief, and generate economic development, all while enhancing the environmental benefits that public transportation systems can provide to communities.

The following outlines policy perspectives on behalf of the transportation construction industry, which is involved in all phases of the design, construction and maintenance of rail and transit projects.

Funding and Finance:

To provide maximum benefits to the overall surface transportation system, federal public transportation investments should be increased to meet the systems needs as quantified by the U.S. Department of Transportation (DOT). The federal role in funding public transportation should be maintained as a “needs-based system,” providing investment in transit facilities, equipment, and service where justified.

These investments are necessary due to the complex nature of these projects and unique regulatory challenges that are often significant drivers of project cost.

ARTBA supports the use of federal revenues for long-term capital costs, including:

- Right-of-way acquisition, design, construction, project management and oversight of state and local fixed guideway systems, bus facilities and other transit stations and facilities;
- Rehabilitation and reconstruction of existing fixed guideway systems;
- Purchase of rolling stock and major rehabilitation activities that significantly extend the operational life of rolling stock, and the National Transit Cooperative Research Program.

ARTBA opposes the use of federal funding to finance general operating costs of transit systems in urbanized areas with a population over 200,000 or the general operating costs of high-speed and other intercity passenger rail systems. These costs are best funded through operating revenues or by state and local authorities and should be funded without federal subsidies.

The COVID-19 pandemic has had lasting effects on transit system ridership, which, though stabilized in some areas, is still generally below pre-pandemic levels. With federal COVID operating aid ending, ARTBA calls on state and local transit system funding partners to resume their fair share of operating costs, thereby allowing federal resources to remain focused on providing essential capital investments.

ARTBA also opposes any action or inaction by an officer or employee of the federal government that precludes obligation of expenditure of budget authority.

ARTBA urges the elimination of the eligibility for transit agencies in areas with populations above 200,000 to treat maintenance costs as capital expenditures. This practice of “capitalizing” maintenance costs dilutes the federal financial resources available for capital improvements that add transit capacity or extend service coverage and encourages deferral of system replacement and development activities.

Continuation of the Highway Trust Fund Mass Transit Account

Currently, federal funding for state and local public transportation program is provided through federal Highway Trust Fund (HTF) Mass Transit Account (HTF-MA) revenues, federal General Fund revenues, and

state transportation department “flexing” of their federal highway funding, which is supported by the federal HTF’s Highway Account (HTF-HA.)

ARTBA supports continuation of the HTF’s Mass Transit Account and maintaining the current allocation of federal highway user fee revenues between the trust fund’s Highway and Mass Transit Accounts, which sets a fair modal balance. However, ARTBA urges the elimination of the current flexibility in use of federal funds between highway and mass transit programs. This practice limits the effectiveness of scarce federal capital resources.

Given the magnitude of unmet highway capital needs in every state, ARTBA believes federal investments in public transportation should only be derived from the HTF-MA and the General Fund.

Budgetary Treatment of Mass Transit Account Authorizations

Congress has supplemented existing trust fund user fee revenue with a series of general fund transfers since 2008. If and when the integrity of the HTF is restored to an exclusive user fee revenue stream, those budgetary protections should be reinstated to assure all trust fund user fee revenue is invested expeditiously to support surface transportation improvements and avoid accumulation of a trust fund balance in excess of the amount needed to meet cash flow requirements.

Innovative Financing Mechanisms

ARTBA supports the continued use federal innovative financing programs—such as Transportation Infrastructure Finance and Innovation Act (TIFIA) and Railroad Rehabilitation and Improvement Financing (RRIF) loans, State Infrastructure Bank (SIB) assistance, and tax-exempt bonds—to provide financing and credit assistance that leverage public and private resources for public transportation capital investments.

Intercity passenger rail capital improvement projects are eligible for these programs, which are designed to attract substantial non-federal investments to improve the nation’s intermodal surface transportation system.

Federal policy should be clear that loans from the TIFIA program repaid with non-federal funds will count toward a project sponsor’s non-federal share of project costs.

The cap for private activity bonds should be lifted, as demand for the program continues to outpace the cap.

Funding Security Improvements

Investments in transportation security are critical to the functionality of the nation’s public transportation network, public safety and national defense. ARTBA believes that any federal investments made to assure security on the nation’s public transportation systems should be financed

exclusively through the General Fund of the U.S. Treasury and that transportation agencies should be given a strong role in determining how best to secure public transportation systems.

Federal funding of High-Speed and Intercity Passenger Rail

When initiating high speed rail or other corridor service through states or other public authorities, Amtrak and private operators should be encouraged to compete for selection as service operator on a completely level playing field. One possibility, common in Europe, would be to establish a system where qualified operators (including Amtrak), would bid on routes with the subsidy being one element of the bid package. Over time, all federal operating subsidies should be eliminated and become the responsibility of the states or public authorities with the federal government maintaining capital responsibility, as is the case with aviation and highway models.

Federal highway user fee revenues should not be utilized to provide investments under this program, except for the highway-railway crossing hazard elimination in high-speed rail corridor program.

Partnership:

The nation's public transportation systems are owned and operated by state and local governments or governmental agencies, in partnership with the federal government. The private sector also plays a significant role in this system, designing and constructing capital facilities, furnishing rolling stock and equipment, as well as managing and operating services for governmental partners.

This partnership with federal, state, and local governments, transit agencies and private firms is vital to the continued growth and improvement of the public transportation network.

To maintain a balanced regional transportation system and rational transportation planning and decision-making process, the current federal match share requirements of 80 percent federal and 20 percent state and local for fixed guideway capital investments should be maintained.

ARTBA believes it is appropriate—and necessary—for state and local governments to increase public investments in transit service and programs to complement federal increases. Such state and local investments could be derived from multiple funding state and local sources—including application of appropriate dedicated sales, income, payroll or property taxes; dedicated benefit district revenues; other general revenue; fare receipts; and local bond issuances.

Opportunities for partnership also extend to federal agencies. ARTBA encourages opportunities for the Federal Highway Administration, Federal Transit Administration and Federal Rail Administration to share best practices, collaborate on large projects where possible, and improve system transfers from one mode of public transportation to another.

Construction, Operations & Maintenance:

Public transportation systems range in capital construction and maintenance requirements, given the varied type of systems. However, ARTBA encourages all transit systems to be developed with the following considerations:

- Standardization of procurement and contracting regulations throughout a transportation corridor, to eliminate duplicative or inefficient requirements.
- All parties to projects should approach Buy America (BA) compliance in a collaborative manner. It should be incumbent upon U.S. DOT to develop a current and regularly updated directory of Buy America qualified suppliers that contractors can rely upon, rather than placing the responsibility for certifying BA compliant materials on individual contractors on a project-by-project basis. This directory should also acknowledge regional disparities in terms of material availabilities. Disproportionately burdening the contractor with this responsibility will likely result in unneeded project cost increases and delays.
- ARTBA supports policy modifications that would require designers and specifiers of transportation projects to assess the availability of materials to be incorporated into the project and make all reasonable efforts to use available BA qualified materials as the basis of design. ARTBA also supports nationwide waivers that would exempt commercially available off-the-shelf products from BA requirements, due to the burden of traceability of component materials in these products and their de minimis financial impact to total project value.
- U.S. DOT must also ensure that the application of Buy America be consistent across all transportation modes and related sub-agencies like the Federal Highway Administration, Federal Transit Administration and Federal Rail Administration.
- The Disadvantaged Business Enterprise (DBE) program should work to attract certifiable DBE firms, to enable and assist them to grow and develop within the safe harbor of the DBE program, and to facilitate their transition into the broader, unsheltered market as financially viable and technically proficient construction companies and professional service firms. The DBE program should use the rate at which DBE firms successfully graduate into the unsheltered construction market as its primary metric. Long-standing programmatic issues should be fixed. These include how goals should be set, over concentration and reverse discrimination within the meaning of 49 CFR §26.7(a), the meaning of “unreasonably high price” and “commercially useful function,” making “good faith effort” less subjective, making certification databases user friendly, and measuring and reporting DBE capacity.
- Transit agencies are increasingly pursuing alternative procurement models to reduce cost and share risk on projects. ARTBA supports consideration of these models, so long as they are not mandated by the federal government and that state and local agencies are given maximum

flexibility and enabling authority to determine the best procurement method for a project. ARTBA encourages early contractor involvement as agencies consider alternative procurement models are considered.

- The federal government should encourage interoperability across transit systems to facilitate coordination. Given the multitude of transit operators with interfacing corridors, working to enhance communications systems and technologies will improve system performance for all users.
- Digital construction technologies provide mechanisms and processes to decrease and more properly allocate project risk, reduce schedule uncertainty, increase productivity and efficiency, lower cost, and deliver safer, higher quality, and environmentally sustainable infrastructure projects. To accelerate innovation in the U.S. transportation design and construction industry, ARTBA supports the adoption of open data standards, the model as the legal document (MALD), and modern, commercially proven, and competitively acquired digital construction technologies and processes for public transportation projects.

The following represents system-specific perspectives on behalf of the transportation construction industry perspectives.

Fixed Guideway Systems

Fixed guideway systems represent an effective component of urban transportation networks, serving major travel corridors in large metropolitan areas and central business districts. Fixed guideway systems can be an effective part of a comprehensive strategy for urban revitalization and transit-oriented development. ARTBA supports the development of fixed guideway systems, where projects can be economically justified by a comprehensive transportation, economic and social analysis.

General Fund appropriations for the Federal Transit Administration Capital Investment Grants should grow to meet the growing demand reflected in the pipeline of projects, while also fulfilling obligations to projects with Full Funding Grant Agreements.

Bus Rapid Transit (BRT)

A BRT facility will often operate in the same corridor as a roadway. If communities choose to pursue BRT systems, ARTBA supports flexibility for communities to design projects either in separate right-of-way (ROW) for the exclusive use of public transportation vehicles or in preferential lanes.

Low/No Emission Buses

As bus fleets transition to low and no emission alternative fuels, there is significant opportunity to reduce carbon emissions. However, upgrading technology and constructing charging capabilities is costly and complicated. ARTBA encourages transit agencies that are electrifying their fleets to consider the design and construction of charging stations and to consider non-stationary charging options.

Bus, Streetcar and Related Facilities

ARTBA supports the use of federal funds for bus and streetcar capital projects. The route flexibility inherent in bus transportation combined with the ability of the buses to share roadways with other highway motor vehicles provides significant potential benefits for investment in buses and bus facilities. At the same time, as buses are often connectors between other transportation systems, intermodalism is an important consideration.

To fully realize the benefits of federal investments in bus and bus facilities, highway-related improvements such as preferential lanes, traffic signalization and bus turnoffs must be made. Many streets—particularly in residential areas—must be upgraded to accommodate the weight of buses. These highway-related improvements should be financed with Highway Trust Fund–Highway Account (HTF-HA) funds.

Passenger Rail: Intercity and High-Speed Rail

Passenger rail systems are key components of the nation’s integrated transportation system, facilitating intercity and interstate mobility. The national rail network provides energy-efficient, cost-effective transportation, and is essential to the nation’s economy and national security. To ensure the full utilization of this network, continued public and private resources must be invested in freight and passenger rail infrastructure improvements. State or multi-state authorities should be responsible for planning, design, construction and operation of new intercity passenger rail systems – contracting for these functions as appropriate with private contractors.

To increase the efficiency and trip time competitiveness of the intercity passenger rail system, ARTBA supports the development of high-speed rail (HSR) corridors, where justified by marketing forecasts, economic feasibility or social requirements, with a goal to be a competitive alternative to aviation or automobile travel.

To generate the additional investments required to maintain, improve, and expand the intercity passenger rail network and to develop high speed rail corridors, ARTBA supports the following:

- **Protect and Acquire Rail Right-of-Way (ROW)**—The abandonment of rail lines and the utilization of the unused ROW for non-rail purposes is an impediment to the development of the nation’s rail network. ARTBA encourages the adoption of policies to protect or recapture rail ROW. Such policies would ensure necessary rail lines and connections can be developed to improve the operations of the freight rail system and provide ROW for the development of high-speed rail corridors—as well as fixed guideway transit in metropolitan areas. ARTBA supports legislation that specifically allows public agencies to restore future rail service whenever they choose.
- **Dedicated Funding Mechanism**—ARTBA supports the creation of a long-term, dedicated funding mechanism to finance capital investments in intercity passenger rail infrastructure. These capital

improvements should be financed by levying appropriate user fees, in addition to fair box charges, such as a rail passenger facility charge and/or the use of tax advantaged bonding. Operational activities are appropriately financed by the federal General Fund.

- Federal/State Matching Grant Fund Program—ARTBA supports the creation of a federal/state matching fund program to provide investments in intercity high speed rail corridor development.
- Tax-based incentives—ARTBA supports the enactment of federal tax incentives—such as tax credits for owners of rail infrastructure who invest private resources in upgrading the rail network where passenger rail service utilizes privately-owned freight rail track.
- Appropriate Use of Federal Rail Funding—ARTBA supports the use of federal revenues for long-term capital costs, including right-of-way acquisition, design, construction, project management and oversight of high speed or high-density rail corridors, and the purchase of rolling stock and major infrastructure rehabilitation activities.
- Privatization—ARTBA believes that states and public authorities should be encouraged to initiate competitions between qualified private operators, with approval of track owners, to provide intercity passenger service. Private sector entities, like Brightline, offer opportunities for state agencies to expand intercity passenger rail, including HSR, service. These public-private partnerships should be encouraged where best-suited to expand intercity rail connections.
- Capital grants—ARTBA supports programs that provide capital grants to states from outside the Highway Trust Fund, like the Federal-State Partnership for Intercity Passenger Rail Grant Program and Consolidated Rail Infrastructure and Safety Improvements Program, to develop traditional corridors and to initiate a new program for HSR corridors with a process that encourages rail corridor development through public private partnerships.
- Corridor Identification and Development Program—ARTBA supports federal programs to generate a pipeline of viable intercity passenger rail corridors where federal support is directed. Programs, like Corridor ID, should assess projects on a range of criteria and not disadvantage larger, more complex projects.

Safety:

Public transportation offers safety benefits for its riders, who are statistically less likely to be in an accident than car collisions. ARTBA supports the National Public Transportation Safety Plan, which establishes voluntary minimum safety standards for public transportation systems, including roadway worker protections.

As intermodality and microtransit use increases, taking appropriate measures to ensure the safety of all transportation system users, including those that build and maintain these systems, is paramount.

Railway/Highway Grade Crossings

ARTBA believes the development and expansion of safe and efficient rail networks depends on improving highway-railway grade crossings. Unsafe or inefficient grade crossings have a severe impact on quality of life and the movement of goods.

To help improve grade crossings, ARTBA supports the continuation and expansion of the Railway/Highway Crossing Program (RHCP). While incidents have improved since the program's creation in 1973, the number of incidents has stagnated over the past 15 years, indicating new approaches and increased investment may be needed.

To ensure that funding provided under this program is used most effectively, ARTBA supports:

- Providing state highway agencies the authority to determine grade crossing priorities.
- Expanding eligibility under the RHCP to include certain "private grade crossings" that are now fully accessible and used by the general public.
- Use of engineering studies to determine the location and type of crossing improvements, ensuring the most efficient and cost-effective improvements possible.
- Use of technology and innovative approaches to reduce or eliminate hazards, like active warning systems, positive protection and photo enforcement should be explored.
- Establishment of a long-term RHCP priority to improve safety at grade crossings on the National Highway System.
- When possible, at-grade crossings should be eliminated if present at the site of a capital improvement project or close to another at-grade crossing.

Research

ARTBA encourages and supports federal involvement and funding of education and research programs to improve public transportation technology and safety, including enhancing public awareness and understanding of transit operations and safety matters.

The National Transit Cooperative Research Program should be continued and expanded. The program is funded through the Mass Transit Account, which will ensure stable and certain funding for the program going forward. Research should concentrate on improving the convenience, security, safety and comfort of public transportation, in addition to increasing the financial viability of public transportation services. Research efforts should also consider management and marketing techniques, innovative improvements to existing systems and methods of reducing operating costs. Continuation of the university transportation centers program is supported.

The federal government should continue to provide support for the development and testing of next generation high-speed rail technology and for development of low and no emission transit technologies.

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