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Transit Reauthorization in the 109th Congress

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Summary

Consideration of the future direction, scope, and funding level of federal transit programs is part of the debate over surface transportation reauthorization.[1] Congress is now conferencing a surface transportation reauthorization bill (H.R. 3). The House version of H.R. 3 would authorize \$52.4 billion for transit over FY2004-FY2009; the Senate version would authorize the equivalent of \$53.8 billion. Both the House and Senate bills would generally retain the current structure of the federal transit program. Both bills, however, propose some additions and modifications to the current transit program funding structure. Both would eliminate the combined Trust Fund-General Fund funding of individual federal transit programs, which due to accounting rules threatens to deplete the Mass Transit Account of the Highway Trust Fund. They would both create a new funding category within the New Starts program, which would provide streamlined review requirements for transit projects seeking less than \$75 million in federal funding. And both bills would create a new funding category within the Urbanized Area Formula Program for small cities that provide higher than average levels of transit service. Differences between the bills include the House's proposal to create a New Freedom Initiatives Program to provide access to jobs for persons with disabilities, in contrast to the Senate's New Freedom Initiatives emphasis on access to health care services; and the House's proposal to convert the existing Job Access and Reverse Commute Program to a formula basis. This report will be updated.

Congress is conferencing the House and Senate proposals for reauthorization of surface transportation programs, which includes federal transit programs. This report reviews the current structure and financing of federal transit programs, and briefly examines the financing issues and program changes proposed in the reauthorization bills.

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[1] The current surface transportation authorization legislation, the Transportation Equity Act for the 21st Century (TEA-21; P.L. 105-178), was scheduled to expire at the end of FY2003 (September 2003). It has been extended seven times, most recently to June 30, 2005.

Federal Transit Program: Current Structure and Financing

Current Structure. Federal transit programs are overseen by the Federal Transit Administration (FTA) of the Department of Transportation (DOT). The majority of federal transit funding is provided through two programs: the Urbanized Areas Formula Program and the Capital Investment Grants and Loans Program. The Urbanized Areas Formula Program provides funding to urbanized areas (i.e., areas defined by the Census Bureau with populations over 50,000), distributed according to formula, which may beused for capital expenses.[2] The Capital Investment Grants and Loans Program has three component programs: New Starts, which funds new fixed-guideway[3] transit lines or extensions to existing lines through a merit-based recommendation process; Fixed Guideway Modernization, which distributes funds by formula for the upkeep of fixed-guideway lines that are over seven years old; and Bus and Bus Facilities, which provides funds on a discretionary basis for the purchase of buses and construction of bus facilities.[4] Customarily, the Capital Investment Grants and Loans Program funding has been divided among these three programs on a 40-40-20 ratio, though in the past few years the share going to the New Starts program has grown. There are also a number of smaller transit programs that provide funding for other activities including planning, rural transit service, and service for the elderly and disabled, but the Urbanized Areas Formula program and the Capital Investment Grants and Loan Program represent around 90% of FTA's annual funding.

Financing. Funding for the transit program comes from a combination of trust funds and general funds. The Mass Transit Account within the Highway Trust Fund receives 2.84 cents of the 18.4 cents per gallon federal excise tax on gasoline and 24.4 cents per gallon tax on diesel fuel. Revenue from the Mass Transit Account customarily provides around 80% of annual transit funding. The remaining 20% comes from appropriations from the General Fund.

Not only is the overall transit program financed by a combination of trust funds and general funds, but so are most of the individual transit programs under the FTA. Under federal budgetary rules, this results in a more-rapid depletion of the Mass Transit Account than would be the case if individual programs were funded entirely from either the trust fund or general fund alone. The Congressional Budget Office has estimated that the Mass Transit Account will be entirely depleted by FY2007 if the current financing structure of FTA's programs is not changed. Both the House and the Senate version of H.R. 3 would prevent this by funding most, if not all, transit programs entirely from one or the other source. This change would forestall the depletion of the Mass Transit Account for the foreseeable future.

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[2] For urbanized areas with populations under 200,000, operating expenses are also an eligible expense for their federal funds.

[3] Fixed-guideway refers to systems whose vehicles operate only on a right-of-way dedicated to that purpose; e.g., heavy rail (subways), light rail, commuter rail. Bus rapid transit systems that operate on dedicated lanes separated from other traffic lanes are included under this definition.

[4] In practice, all of the Bus and Bus Facilities funding is earmarked each year.

Financing Issues

Transit finance issues in reauthorization include transit's total funding, its share of overall surface transportation funding, the share of transit funding derived from the General Fund, the division of funding among the components of the Capital Grants and Loans Program, and the share of transit funding going to rural areas.

Total Transit Funding. The House bill would authorize $52.4 billion in guaranteed[5] funding for transit over the period FY2004-FY2009; the Senate bill would authorize the equivalent of $53.8 billion in guaranteed funding.[6] These funds are important to state and local governments because federal funding represents nearly half of annual total national capital expenditures for transit.[7]

Transit's Share of Authorized Surface Transportation Funding. The major obstacle to surface transportation reauthorization has been the level of funding to be authorized. The House and Senate leadership has supported the Administration's limit of $284 billion over six years, while a majority in the Senate has sought more funding. One of the tradeoffs authorizers have struggled with is the division of funding between highway and transit programs. Under TEA-21, transit's share of the overall guaranteed surface transportation authorization was 18.29%. While the Senate bill provides $1.4 billion more for transit than the House bill, the House bill provides a slightly higher share of overall funding to transit: 18.66%, compared to 18.48% in the Senate bill.[8]

Transit Funding from the General Fund. As noted above, around 20% of federal transit funding customarily comes from the General Fund. The House bill stays closer to that division than does the Senate bill, drawing 18.90% of transit funding from the General Fund compared to the Senate's 15.65%. The policy rationale for drawing a portion of transit's funding from the General Fund is that transit benefits the public, including people who do not use transit, by providing (slight) reductions in auto usage and thus traffic congestion and air pollution. Reducing the share of General Fund moneys going to transit provides more flexibility in annual appropriations bills, since the General

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[5] Provisions in TEA-21, and similar provisions in both versions of H.R. 3, 'guarantee' that the highway and transit programs will receive their authorized level of funding by, in part, making it out of order to approve an appropriations bill providing less than the authorized funding level.

[6] The House bill includes authorization figures for FY2004-FY2009; the Senate bill provides authorization figures for FY2005-FY2009. The FY2004 transit appropriation figure has been added to the Senate total for purposes of comparison.

[7] The majority of federal transit funding is used for capital expenditures. As a result, federal funding represents a significant share of total national transit capital funding, but a small share of total transit operating funding. Over the period FY1998-FY2002, federal funding accounted for 46% of total capital expenditures for transit ($23.4 billion of $50.7 billion), but only 4% of total operating expenditures for transit ($5.1 billion of $119.5 billion). However, this distinction has been made less clear by a provision in TEA-21 defining "preventive maintenance" expenses, an operational cost, as an eligible capital expense. Combining both categories, federal funding represented 17% of total transit funding during FY1998-FY2002.

[8] Both the House and Senate bills continue the current flexibility that states have to transfer ("flex") highway funding to transit projects and vice versa. In practice, states have transferred considerably more funding from highway to transit projects than from transit to highway projects.

Fund moneys for transit count against the discretionary allocations provided to appropriations subcommittees, while the funds coming from the Mass Transit Account do not.

Division of Funding Within the Transit Capital Grants and Loans Program. The Senate bill would alter the customary 40-40-20 split in funding for the components of the Capital Grants and Loan program: New Starts, Fixed Guideway Modification, and Bus and Bus Facilities. The Senate bill would increase the share going to New Starts to 43%. Proponents of increasing the share going to New Starts argue that the share for New Starts should be increased because the demand for New Starts funding far exceeds the available level of funding. But that change requires reducing the share of funding going to one or both of the other components of the Capital Grants and Loans Program. Opponents of reducing the share going to Fixed-Guideway Modification argue that as more new fixed-guideway systems are built, more funding needs to be provided to maintain those systems, since with each passing year the number of projects qualifying for funding under the Fixed-Guideway Modification formula program increases. Opponents of reducing the share going to the Bus and Bus Facilities program note that most transit service is provided by buses rather than by fixed guideways. The House bill retains the customary 40-40-20 funding split between these programs.

Transit Funding For Rural Areas. Transit funding is concentrated in urban areas, where usage is highest. Yet rural areas have populations of older and less affluent people who may lack mobility and who might use transit service. The Administration has estimated that 40% of rural counties have no transit service, and in the 60% of rural counties that do provide public transit, one-third of the riders are transit-dependent.[9] Both the House and Senate bills would increase the share of federal transit funding going to support transit service in rural areas. Under TEA-21, the Non-Urbanized Area Formula program (Section 5311) received $1.2 billion (3.2% of total transit funding); the House bill would provide $2.1 billion (4.0% of total transit funding), the Senate bill $2.2 billion (4.0% of total transit funding) for that program.[10]

Program Changes

Program changes proposed in the House bill, the Senate bill, or both, include a new "Small Starts" program within the New Starts capital program to assist the development of less-costly transit systems; a High-Intensity Small Urbanized Area Program to reward small communities that provide a high level of transit service; a New Freedom Initiative to assist persons with disabilities with transportation access to employment opportunities; and changing the Job Access and Reverse Commute Program from a discretionary program to a formula program.

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[9] Jennifer L. Dorn, FTA Administrator, *Budget Briefing Remarks*, February 3, 2003. "Transit dependent population" is defined, in the study from which this statistic was taken — *The Status of Rural Public Transportation 2000*, prepared for FTA by the Community Transportation Association of America – as persons in households whose household income is below the poverty level, persons with a mobility impairment, or persons age 65 and older.

[10] Rural areas also receive some funding from other transit programs.

Small Starts. Both the House and Senate bills would create a new program — Small Starts — within the existing New Starts Program, which funds new fixed-guideway lines or extensions to existing lines. Under current law, New Starts projects are evaluated by FTA at several stages of development, and must receive a recommendation from FTA to proceed to the next stage. Projects requesting less than $25 million in federal funding are currently exempted from the approval requirement. The Small Starts program would provide a simpler evaluation process, with fewer review stages and fewer justification requirements, for projects requesting less than $75 million in federal funding. The Senate bill would eliminate the existing exception for projects under $25 million; the House bill would retain it. The Small Starts program would include bus rapid transit projects as eligible projects; depending on their design, bus rapid transit projects may not be eligible for funding under the existing New Starts program.

High-Intensity Small Urbanized Area Program. Both the House and Senate bills would create a new High-Intensity Small Urbanized Area program within the framework of the Urbanized Area Formula Program. This program responds to an issue regarding the formula for apportioning funds to communities under 200,000 in population. For communities larger than that, the apportionment formula includes several measures of transit activity, but for communities under 200,000, the apportionment formula considers only population size and population density. As a result, the current formula does not reward small communities that provide a higher than average level of transit service. This new program would provide additional resources to those communities; it does not, however, change the existing formula for the small communities tier under the Urbanized Area Formula Program.

New Freedom Initiative. Both the House and Senate bills would create a New Freedom Initiative program. This program would increase availability of transportation services to persons with disabilities. The House bill reflects the emphasis of the Administration's proposal for this program, which was to help persons with disabilities get and keep jobs by improving their transportation options.[11] This program would be in addition to the existing Elderly and Persons with Disabilities Formula Program. The Senate bill replaces the existing Elderly and Persons with Disabilities Formula Program with a New Freedom Initiative program, and emphasizes assistance with transportation to health care rather than to employment.

Job Access and Reverse Commute Program. This program is designed to increase access to jobs for low-income persons and to increase access to suburban work sites for all riders. The House bill would change the existing Job Access and Reverse Commute Program from a discretionary program to a formula program. The Senate bill does not propose such a change. In recent years the program's funding has been entirely earmarked in the annual appropriations process.

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[11] The Administration, in proposing this program, claimed that 70% of persons with disabilities are unemployed, in part due to difficulties with transportation.