

# Report for Congress

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## Transit Program Reauthorization in the 108<sup>th</sup> Congress

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# Transit Reauthorization in the 108<sup>th</sup> Congress

## Summary

Transit programs are authorized as part of surface transportation authorizing legislation. The current transit authorizing legislation, the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21; P.L. 105-178) expires at the end of FY2003. The 108<sup>th</sup> Congress is considering surface transportation reauthorization, including reauthorizing transit programs. Transit programs are overseen by the Federal Transit Administration (FTA) of the Department of Transportation (DOT).

Among the issues which may be debated in the course of reauthorizing transit programs are the FTA's funding level. The Administration's FY2004 budget requests the same level of funding for FTA—\$7.2 billion—as it received for FY2003, and projects an average annual appropriation of \$7.2 billion for FTA over FY2004-FY2008, which represents no increase over FTA's FY2003 appropriation (or a potential reduction when inflation is considered). The DOT's estimates of transit needs would require an FTA appropriation of around \$9 billion annually to maintain the status quo and \$12 billion annually to accommodate growth in transit demand; industry groups have higher estimates of those needs.

Another issue with potentially far-reaching effects is the Administration's proposal to lower the maximum federal share for New Starts capital projects from 80% to 50%. This would enable federal funding to go to more projects; it would also make highway projects relatively more attractive than transit projects in the eyes of state and local agencies, as the federal share for highway projects will likely remain 80%.

A further issue likely to be debated is the preservation of TEA-21's so-called "firewalls" and guaranteed funding provisions. The guaranteed funding provisions provide a minimum level of FTA funding for each year; the "firewalls" prevent funds in the Mass Transit Account of the Highway Trust Fund from being used for any purpose other than transit funding. These provisions made it more likely that appropriators would fully fund FTA's programs each year. Appropriators criticize this arrangement for limiting their flexibility to balance all the competing demands for funding.

Other issues which may be debated in the course of transit reauthorization include funding levels for small transit-intensive cities, rural transit, and bus purchases; earmarking of discretionary programs; and ways to improve program delivery. This report will be updated as warranted by events.

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# Transit Program Reauthorization in the 108<sup>th</sup> Congress

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## Federal Transit Funding Structure

The vast majority of federal transit funding is provided through two programs: the Urbanized Areas Formula Program and the Capital Investment Grants and Loans Program (which has three component programs: New Starts, Fixed Guideway Modernization, and Bus and Bus Facilities). There are also a number of smaller transit programs in addition to these, but these major programs represent around 90% of FTA's annual funding.

### Urbanized Areas Formula Program (Section 5307)

This program apportions \$3.6 billion (FY2003) to urbanized areas according to a formula that takes into account population size, population density, and transit service data. Areas with populations over 1 million receive two-thirds of the funding; those with populations between 50,000 and 1 million receive the remaining one-third. These funds are to be used for capital expenses;<sup>1</sup> areas under 200,000 in population can use their funds for operating expenses as well. Areas over 200,000 in population are required to use at least 1% of their formula funds for transit enhancements.<sup>2</sup>

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<sup>1</sup> Capital expenses are defined in 49 U.S.C. 5302(a)(1).

<sup>2</sup> Transit enhancements are defined in 49 U.S.C. 5302(a)(15), and include such things as bus shelters, landscaping, pedestrian walkways, and bike storage facilities.

## Capital Investment Grants and Loans Program (Section 5309)

This program provides \$3.0 billion (FY2003) for capital projects, divided 40%-40%-20% among three component programs: New Starts, Fixed Guideway Modernization, and Bus and Bus Facilities.

**New Starts.** This program provides \$1.2 billion (FY2003) to metropolitan areas that are building new fixed guideway<sup>3</sup> systems or extensions to existing systems. Projects are evaluated by the Federal Transit Administration (FTA) at several stages. Near the beginning of each appropriations cycle, FTA issues a report to Congress in which they recommend projects for funding.<sup>4</sup> Funding has to be appropriated annually by Congress.

**Fixed Guideway Modernization.** This program apportions \$1.2 billion (FY2003) to metropolitan areas that have fixed guideway systems (light rail, heavy rail, commuter rail, bus rapid transit, etc.) that are at least 7 years old, according to a formula that takes into account the size of the system.

**Bus and Bus Facilities.** This program provides \$657 million (FY2003) to communities for purchase of buses and bus-related facilities. This is a discretionary grant program; virtually all of the funding is earmarked by Congress each year.

## Reauthorization Issues

### Capital Funding Level

From 1997 to 2000, transit ridership (passenger miles) increased by 12%; for rail systems, the increase was 16%.<sup>5</sup> Faced with growing use of transit systems and growing traffic congestion, many communities with transit systems want to expand them and many communities without transit systems want to provide them.

The FTA, as well as several transportation organizations, provide estimates of the level of transit capital spending needs. These capital spending needs cover the replacement of aging vehicles, maintenance of infrastructure, and other system capital costs, as well as purchase of new vehicles and construction of new infrastructure where new systems are being built or existing systems expanded. In FTA's analysis, the cost for maintaining the status quo is based on estimates of spending required to maintain vehicle fleets and facilities in a condition rated as good or excellent (compared with ratings of fair, marginal or poor), assuming some level

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<sup>3</sup> A fixed guideway system can be heavy rail, light rail, or a bus rapid transit system.

<sup>4</sup> Federal Transit Administration, *Annual Report on New Starts*. Available in hard copy and at [<http://www.fta.dot.gov/library/policy/ns/annreports.htm>].

<sup>5</sup> United States Department of Transportation, Federal Highway Administration and Federal Transit Administration, *2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance Report*, Chapter 2, Exhibit 2-19, "Urban Transit Passenger Miles" [<http://www.fhwa.dot.gov/policy/2002cpr/>].

of future ridership. FTA's cost for accommodating growth is an estimate of costs required to attain a national average condition of good or excellent for vehicles and facilities, and a certain national average level of performance,<sup>6</sup> by the year 2020, assuming a level of future ridership. The cost estimates for accommodating growth in the non-governmental studies include the costs of proposed new fixed guideway systems and expansions to existing systems in the list of authorized New Starts projects (or, as the American Public Transportation Association [APTA]'s report puts it, "all potential investments in transit in an unconstrained environment"). There is no way to evaluate the accuracy of the numbers in these reports, because there are no comprehensive studies of transit needs by independent sources (that is, entities not dependent on transit funding). This report uses numbers from these studies, because they are the best information available, but the numbers should be viewed with caution.

To maintain the status quo level of transit service, the American Association of State Highway and Transportation Officials (AASHTO) estimated it would cost \$19 billion annually over the next six years,<sup>7</sup> while the FTA estimated it would cost \$15 billion<sup>8</sup>; APTA did not provide an estimate for maintaining the status quo. To accommodate forecast growth based on recent ridership trends, AASHTO estimated a need for \$44 billion annually; APTA estimated a need for \$42 billion annually;<sup>9</sup> and the FTA estimated a need for \$20 billion annually. Note that these figures are for capital spending only; capital spending represents only about one-third of all transit spending, with the rest going to operating costs. But capital costs are the focus of federal transit spending; about 81% of federal transit spending is for capital costs.

To put these numbers in perspective, total transit capital spending in FY2000 (the most recent year for which data are available), across all levels of government, was \$9.1 billion; of that amount, \$4.3 billion (47%) came from federal sources.<sup>10</sup> Assuming the ratio of federal transit funding going to capital costs remains at 81%, and the federal proportion of all transit capital spending remains at 47%, then the \$15 billion FTA estimates is needed for maintaining the status quo would require an FTA

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<sup>6</sup> The estimate of the cost for attaining the performance level is partially based on shifting from bus to rail (in urbanized areas with populations over 500,000 and average operating speeds below a certain threshold) until the national average vehicle speed reaches a specified level by 2020.

<sup>7</sup> American Association of State Highway and Transportation Officials, *Transportation: Invest in America—The Bottom Line*, "Transit Capital Investment Scenarios," 2002, [<http://www.transportation.org/bottomline/>].

<sup>8</sup> United States Department of Transportation, Federal Highway Administration and Federal Transit Administration, *op. cit.*, Chapter 7: "Capital Investment Requirements." [<http://www.fhwa.dot.gov/policy/2002cpr/es7.htm>].

<sup>9</sup> American Public Transportation Association (APTA), *Transit Needs Synthesis Report*, preliminary version, February 25, 2002, available on the APTA Web site at [<http://www.apta.com/govt/record/aptatest/needs.htm>].

<sup>10</sup> United States Department of Transportation, Federal Highway Administration and Federal Transit Administration, *op. cit.*, Chapter 6: "Finance," Exhibit 6-27. [<http://www.fhwa.dot.gov/policy/2002cpr/ch6.htm>].

annual appropriation of around \$9 billion (compared to \$7.2 billion in FY2003); the \$20 billion FTA estimates is needed to accommodate growth would require an annual appropriation of around \$12 billion, and the \$42-\$44 billion APTA and AASHTO estimate is required to accommodate growth would require an annual FTA appropriation of around \$25 billion.

TEA-21 produced a significant increase in FTA's annual appropriation. From a peak of \$4.7 billion in FY1981 to the passage of TEA21 in FY1998, FTA's annual appropriation ranged between \$3.2 and \$4.6 billion. Since passage of TEA-21, FTA's annual appropriation has grown from \$4.8 billion in FY1998 to \$7.2 billion in FY2003 (see Table 1 in the Appendix).

The Bush Administration has not yet released a proposal for surface transportation reauthorization. However, the budget projections in their FY2004 budget show an average annual appropriation of \$7.2 billion for FTA over FY2004-FY2008,<sup>11</sup> which represents no increase over FTA's FY2003 appropriation (or a potential reduction when inflation is considered).

The Leadership of the House Committee on Transportation and Infrastructure has proposed a 72% increase in authorized funding for the next six years;<sup>12</sup> the allocation of the proposed increase among highway, transit and highway safety programs has not been determined. Interest groups have also supported increases in transit funding for the next authorization period; for example, AASHTO recommends increasing transit funding to at least \$11 billion by FY2009,<sup>13</sup> and APTA recommends increasing transit funding to \$14 billion by FY2009.<sup>14</sup>

The transit account currently receives 2.86¢ of the 18.4¢ federal motor fuels tax (15.5% of the tax); in FY2001, the Mass Transit Account received \$4.6 billion from this tax. The Administration and some Members of Congress oppose an increase in the federal motor fuels tax, and Congress is operating in a constrained budget environment. It is not clear, therefore, where the funds for a significant increase in the size of the transit program would come from. Representative Don Young, Chairman of the House Committee on Transportation and Infrastructure, has mentioned a number of possible sources for increased surface transportation funding, including crediting the Highway Trust Fund with interest, spending down the Fund's balance, directing all gasohol revenues to the Fund, reimbursing the Fund for

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<sup>11</sup> White House, Office of Management and Budget, *Analytical Perspectives, Budget of the United States government, FY2004*, Table 25-2: Outlays.

<sup>12</sup> House Committee on Transportation and Infrastructure, "\$375 Billion Investment for Highway & Transit Programs Proposal Outlined by U.S. House Transportation Committee Leadership," Press Release, March 12, 2003. Available at [<http://www.house.gov/transportation>].

<sup>13</sup> American Association of State Highway and Transportation Officials (AASHTO), *AASHTO Journal*, 103:8 (February 21, 2003), 7.

<sup>14</sup> American Public Transportation Association, Testimony before the Highways and Transit Subcommittee of the House Transportation and Infrastructure Committee, September 19, 2002. Available at [<http://www.apta.com/govt/record/apatatest/020919.htm>].

gasohol's 5.3¢ exemption, and indexing the motor fuels tax for inflation (retroactive to 1993, the date of the last increase in the tax).<sup>15</sup>

There is support from transportation groups, such as AASHTO<sup>16</sup> and the American Road & Transportation Builders Association (ARTBA),<sup>17</sup> for increasing the federal motor fuels tax to provide more money for highway and transit projects. Transit interests, such as APTA, also support increases in the fuels tax. A longstanding informal arrangement provides that 20% of any increase in the federal motor fuels tax be provided to the Mass Transit Account of the Highway Trust Fund.

## The Federal Share for New Starts

One response to the alleged gap between transit capital funding needs (or desires) and the level of federal funding has been a proposal to reduce the federal matching share for FTA New Starts projects.

The Administration has proposed reducing the federal share from the current level of (up to) 80% (the same level as most highway programs) to 50% starting in FY2004. In 2001, Congress directed FTA not to sign any New Starts project full-funding grant agreements<sup>18</sup> that provide a federal share of more than 60% after FY2002.<sup>19</sup>

FTA reports that the federal share for New Starts projects with full funding grant agreements has averaged around 50% over the past 10 years (56% for agreements signed between 1992-1997, and 46% for agreements signed between October 1999-November 2001). The federal share in the individual agreements making up this average ranged from a low of 19% to a high of 80%.<sup>20</sup>

Critics of the Administration's proposal to formally cap the federal share at a lower level point to the success of FTA's efforts to reduce the average federal share as evidence that a lower cap is unnecessary. They argue that a lower cap would

<sup>15</sup> Statement of U.S. Rep. Don Young, *Highway & Transit Reauthorization*, Press Conference, March 12, 2003. Available at [<http://www.house.gov/transportation>].

<sup>16</sup> American Association of State Highway and Transportation Officials, *Transit: An Essential Part of a Balanced Transportation System* (2003 Issue Paper), available at [<http://www.transportation.org/aashto/issues.nsf/allpages/issues2003?opendocument>].

<sup>17</sup> American Road and Transportation Builders Association, Testimony before the Highways and Transit Subcommittee, House Committee on Transportation and Infrastructure, September 19, 2002, available at [[http://www.artba.org/government/tea-21/tea\\_21.htm](http://www.artba.org/government/tea-21/tea_21.htm)].

<sup>18</sup> Full-funding grant agreements are used to finance New Starts projects after they have been approved for final design and construction. These agreements define the project, including its cost and schedule, and commit to a maximum level of federal financial assistance (subject to appropriations).

<sup>19</sup> H.Rept. 107-308, to accompany H.R. 2299 (the FY2002 Department of Transportation and Related Agencies Appropriations Bill), p. 114.

<sup>20</sup> General Accounting Office, *FTA's New Starts Commitments for Fiscal Year 2003*, GAO-02-603, 24.



penalize projects already partly through the New Starts process whose plans are premised on receiving a higher federal share, and that the change could disproportionately hurt poorer communities which might not have the fiscal resources to provide a higher local match. State and local officials have testified that lowering the cap on the federal share could bias transportation planning decisions away from transit projects toward highway projects, where the federal match is likely to remain 80%. They have also said that a lower cap might lead to redirecting funds from highway or other transit projects to make up the difference, or force the scaling back, postponement or cancellation of individual proposed New Start projects.<sup>21</sup>

The Administration and other supporters of lowering the federal share argue that the change would formalize the current FTA policy of promoting a lower level of federal cost-sharing in New Starts projects. They also argue that requiring a higher local match would promote a more rigorous review of a project's merits at the local level. They note that the varying levels of federal cost-sharing in New Starts projects does not seem to be related to the relative fiscal ability of a community to raise revenue, but rather to the relative willingness of a community to ask for a higher federal match;<sup>22</sup> thus, the variance in federal match levels seems to penalize communities that have provided a higher local match. Even though FTA policy has produced a lower average federal share recently, lowering the cap on the federal share would still make a significant amount of additional money available for projects.<sup>23</sup>

## The Guaranteed Obligation Limit

A major component of the TEA-21 authorizing legislation was the creation of guaranteed funding provisions for the highway and transit programs. TEA-21 provided obligation limits for highway and transit programs for each fiscal year, and made it out of order to reduce those levels.<sup>24</sup> In addition, TEA-21 created budgetary "firewalls" that provide that the money in the Mass Transit Account and Highway Account of the Highway Trust Fund cannot be used for any other program. This has the effect of encouraging appropriators to appropriate the full obligation limit for highway and transit programs. This change removed these programs from the normal appropriations process; it also gave these programs an advantage relative to those transportation programs that do have to compete for the limited supply of funding that is available to appropriators each year.

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<sup>21</sup> General Accounting Office, *FTA's New Starts Commitments for FY2003*, April 2002. GAO-02-603, pps. 25-26.

<sup>22</sup> The Honorable Martin Olav Sabo, Ranking Member, House Committee on Appropriations Subcommittee on Transportation, *Hearings on Department of Transportation and Related Agencies Appropriations for 2002*, March 29, 2001, pps. 16-17.

<sup>23</sup> Of the 49 projects currently in final design or preliminary engineering that GAO reviewed for the report cited in footnotes #9 and #19, a 60% cap on the federal share would save about \$500 million of the proposed \$20.59 billion; a 50% cap would save about \$1 billion. GAO-02-603, p. 24. The report does not predict the impact of a lower cap on the viability of those projects.

<sup>24</sup> P.L. 105-178, as amended by Title IX of P.L. 105-206, Section 8101(d).

As a result of these changes, spending on transit has grown significantly since passage of TEA-21 (see Appendix, Table 1). These changes, as suggested, also limit the discretion of appropriators, especially transportation appropriators, who find that most of the transportation budget is on “automatic” and is not under their control. Appropriators have been unhappy with this situation and view the firewalls as having reduced their traditional discretion in balancing competing demands in the appropriations process.

Proponents of these changes note that they have produced a steady increase in transit funding during the current authorization period. They maintain that these changes enable recipients (states and local transit agencies) to better predict their future funding level, which helps their long-term capital planning, and makes it easier to implement innovations in project financing.<sup>25</sup>

## **Funding for Small Transit-Intensive Urbanized Areas**

There are three tiers in the Urbanized Areas Formula Program: areas with populations between 50,000-200,000, between 200,000-1,000,000, and areas over 1,000,000 in population. The formula for apportioning transit funding to areas in the first tier uses only population and population density as factors, while that for other two tiers includes factors reflecting the amount of transit service that each area provides. One reason for this difference was to relieve transit providers in small areas of the burden of having to collect and report to FTA the same amount of data about their operations as agencies in the larger areas report. But one result of the difference in treatment is that small areas that provide higher-than-average levels of transit service do not receive a level of funding that recognizes their efforts, compared to similar small areas that do not offer a comparable level of service.

Section 3033 of TEA-21 directed DOT to study the issue. DOT concluded that sufficient issues existed to consider changes in the Urbanized Areas Formula Program apportionment formulas to reward the extra effort of these transit-intensive areas.<sup>26</sup> Their study presented three possible alternatives:

1. adding transit service factors to the small area tier formula, which would have had the effect of doubling the funds available in FY2000 to 20 small transit-intensive areas identified in the report, while reducing the funding available to small areas that provided no transit service;
2. applying the bus formula component of the Urbanized Areas Formula Program apportionment formulas to all urbanized areas (it currently does not apply to small areas), which would have increased the funding of 17 of the 20 transit-intensive small areas in FY2000, while reducing funding to both small areas with little service and areas between 200,000 and 1,000,000 in population; and
3. setting aside a portion of the bus funding component of Urbanized Areas Formula Program formula apportionments, which would be reserved for

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<sup>25</sup> For example, the use of Grant Anticipation Revenue Vehicles (GARVEE Bonds), which are secured by the issuer’s anticipated future federal transportation funding.

<sup>26</sup> The study is available at [<http://www.fta.dot.gov/library/policy/rtc/>].

small areas, and could be distributed to them either through formula or grants to areas that met certain service criteria.

Each of these alternatives has costs: the first alternative would have cut the funding available to small urbanized areas that do not provide transit service (approximately 75 areas) by increasing the share going to the 20 more transit-intensive areas; the second alternative would have cut funding available to other areas in both tier 1 and tier 2; and the third alternative would have cut funding available to other areas in both tier 1 and 2 while also increasing the reporting requirements for small transit agencies.

## Funding for Rural Transit

Rural areas (areas with populations less than 50,000 people) are estimated to contain 36% of the United States population and 38% of the transit-dependent population.<sup>27</sup> 40% of rural counties have no public transportation at all, and in the 60% that do provide public transportation, one-third of the riders are transit dependent.<sup>28</sup> In light of this, some advocate that rural areas, should receive a larger share of transit funding than at present. In a related vein, some contend that states should receive transit funding in some proportion to their contribution to the Mass Transit Account of the Highway Trust Fund; this might have the effect of increasing the amount of transit funding going to lightly populated rural states.

Others argue that directing a larger share of transit funding to rural areas would reduce the funding available to larger urban areas, where the vast majority of transit ridership takes place. Rural and small urban areas already receive a share of federal transit funding that is higher than their share of transit ridership.<sup>29</sup>

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<sup>27</sup> Federal Highway Administration & Federal Transit Administration, *2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance Report*, Chapter 6: "Finance," 6-33. [<http://www.fhwa.dot.gov/policy/2002cpr/ch6.htm>]. "Transit dependent population" is defined as persons in households whose household income was below the poverty level, persons with a mobility impairment, or persons age 65 and older.

<sup>28</sup> Jennifer L. Dorn, Federal Transit Administrator, *Budget Briefing Remarks, February 3, 2003*. Available at [<http://www.fta.dot.gov/ftafy2004budget.html>].

<sup>29</sup> In FY2001 areas under 200,000 in population represented about 13% of federal transit funding obligations, while in 2000 those areas represented around 9% of transit ridership. For obligations, see Federal Transit Administration, *2001 Statistical Summaries, Grant Assistance Programs*, Table 5: FY2001 Obligations for Capital, Operating and Planning by Program and by Population Group. For ridership, see American Public Transportation Association, *2002 Public Transportation Fact Book*, Table 27: Bus unlinked passenger trips by population of Urbanized Area. That table shows areas under 250,000 in population with 15% of total bus ridership, but bus ridership represented only 61% of all unlinked passenger trips in 2000; most of the other 39% of trips were taken in large urban areas on heavy rail, light rail and commuter rail. Adjusting that 15% of total bus ridership for bus's share of all transit ridership gives a share of 9% (15% of 61%) of transit ridership for areas under 250,000 in population.

## Funding for Buses and Bus Facilities

The Bus and Bus Facilities Program receives around 20% of Capital Investment Grants and Loans Program funds each year. Some argue that a greater share of those funds should go to buses, since buses carry the majority of all transit riders, and the vast majority of communities have no fixed guideway service and so are not eligible for the fixed guideway programs that receive the remaining 80% of the Capital Investment Grants and Loans Program funds.

However, when capital expenditures from all FTA programs, not just the Capital Investment Grants and Loans Program, are considered, buses receive a large share of federal transit funding: 45% of total capital obligations in FY2001 were for buses.<sup>30</sup> Also, the capital costs of bus service are much lower than for fixed guideway systems because fixed guideway systems have to build and maintain their infrastructure (the fixed guideway), while the infrastructure for bus systems (roads) is largely built and maintained by highway programs.

In its Fiscal Year 2004 budget, the Administration proposes eliminating the Bus and Bus Facilities Program component of the Capital Investment Grants and Loans Program. The funding previously provided for the Bus component would be divided among the Urbanized Areas and Non-Urbanized Areas Formula Programs and the New Starts Program. This proposal is certain to be controversial, as it would significantly change FTA's program structure. It would also reduce the money available annually for purchases of buses and bus facilities while providing more flexibility to transit agencies in the use of that money (since it would no longer be earmarked), and it would increase the amount of money available for new or enlarged fixed guideway systems (including bus rapid transit systems).

## Earmarking

As mentioned above, in its FY2004 budget request, the Administration proposed eliminating the largest purely discretionary transit program, the Bus and Bus Facilities Program component of the Capital Investment Grants and Loans Program, and shifting its funding to other programs. It also proposed converting the Job Access and Reverse Commute discretionary program to a formula program. These changes would greatly reduce the opportunities for earmarking transit funding in the annual appropriations process.

The level of earmarking of discretionary transit programs in annual appropriations legislation has grown in recent years (as it has in other discretionary transportation programs). Critics attack the practice of earmarking as defeating the intent of the authorizing legislation which established the discretionary nature of these programs. In principle, FTA would award funds for discretionary programs to applicants on the basis of merit, as evaluated by some established criteria. Critics see earmarking as a process that ignores the objective merits of projects in favor of the

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<sup>30</sup> Federal Transit Administration, Grant Administration Programs, *2001 Statistical Summaries*, Table 52: Summation of Obligations by Capital Categories, Planning and Operating, Fiscal Years 1992-2001 (calculations by CRS).

political power of legislators. The Administration argues that shifting these programs to a formula basis will provide transit aid recipients with more funding stability, predictability, and flexibility.

Defenders of earmarking see it as providing congressional appropriators with some control over the allocation of federal funding. They note that earmarking may be no more subjective than the process employed by FTA in selecting grant recipients for their discretionary programs, that administrative decisions may also be influenced by political considerations, and that only a relatively small portion of the FTA budget is subject to earmarking.<sup>31</sup>

## Improving Program Delivery

Advocates of changes to elements of FTA programs note that there are a number of areas in which procedures appear unnecessarily cumbersome, and that there are other areas where better coordination between transit providers and others could improve service without increased spending.

One example is overlapping regulation of small local transit providers by FTA and the Federal Motor Carrier Safety Administration (FMCSA). In addition to the regulation of their transit services under FTA regulations, many small local transit providers, because they are organized as private non-profit organizations rather than as public agencies, are subject to general regulation under FMCSA. Thus, these providers find themselves in the same regulatory environment as large trucking companies and over-the-road bus companies, the organizations FMCSA was created to oversee. This overlapping regulation leads to duplication of activity, as in the case of DOT drug and alcohol testing programs: these local transit providers are subject to the drug and alcohol regulation of both FTA and FMCSA. Also, many of these local transit agencies are already subject to regulation from their state department of transportation, from which much of their funding comes.

Other examples mentioned by advocates of improved program delivery include coordinating and consolidating federal reviews and audits, extending the emergency relief authority available in the highway program (that is, the authority of the Secretary of Transportation to provide funds for repair of federal-aid highways damaged by natural disasters or catastrophes caused by others) to transit,<sup>32</sup> and improving the coordination between transit providers and social service agencies around transporting social service program clients.

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<sup>31</sup> Not counting the New Starts program, which has elements of earmarking but also a merit-based qualification process, around 10% of FTA's budget was earmarked in FY2003.

<sup>32</sup> American Public Transportation Association, Testimony before the House Committee on Transportation and Infrastructure Subcommittee on Highways and Transit, September 19, 2002. Available at [<http://www.apta.com/govt/record/aptatest/020919.htm>].

## Appendix: Federal Transit Funding

Federal funding for transit has grown significantly under TEA-21. Table 1 shows the annual FTA funding level under TEA-21.

**Table 1: Federal Transit Administration's Annual Appropriations under TEA-21**  
(\$ billions)

	FY1998	FY1999	FY2000	FY2001	FY2002 <sup>a</sup>	FY2003
FTA	\$4.8	\$5.4	\$5.8	\$6.3	\$6.9	\$7.2

**Source:** Federal Transit Administration, *2001 Statistical Summaries*, Table 3: FTA Budget Authorities for FY1961-2002; FY2003 figure from P.L. 108-7.

<sup>a</sup> Does not include a \$1.8 billion supplemental appropriation for repair of New York City transit facilities damaged by the World Trade Center attack.

The primary federal funding source for FTA is the Mass Transit Account of the Highway Trust Fund. In FY2003, Congress appropriated \$7.2 billion to FTA; of that amount, approximately 80% (\$5.8 billion) came from the Highway Trust Fund's transit account, the remainder came from the General Fund. Most federal transit funding is for capital expenses, and represents a significant portion of total transit capital spending.

**Table 2: Federal Share of Total Transit Spending, by Type of Expenditure, FY2000**  
(\$ billions)

	Expenditures	Funded From Federal Sources	Percent from Federal Sources
Capital	\$ 9.1	\$4.3	47%
Operating	\$20.0	\$1.0	5%
Total	\$29.1	\$5.3	18%

**Source:** Federal Highway Administration & Federal Transit Administration, *2002 Status of the Nation's Highways, Bridges and Transit: Conditions and Performance Report*, Chapter 6: "Finance," Exhibits 6-16 & 6-27 [<http://www.fhwa.dot.gov/policy/2002cpr/ch6.htm>]. Calculations by CRS.

The Mass Transit Account was created in the Surface Transportation Act of 1982; the federal motor fuels tax was raised from 4¢ per gallon to 9¢, with 1¢ (20% of the increase) going to the transit account. Since that time, each time the federal motor fuels tax has been increased, the transit account has received 20% of the portion of the increase dedicated to transportation.<sup>33</sup> Currently the federal motor

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<sup>33</sup> Between 1990 and 1997, a portion of the federal gas tax went into general revenues to (continued...)

fuels tax is 18.4¢ per gallon of gasoline (other fuels have different rates), with 2.86¢ going to the mass transit account. Table 3 shows the history of transit's portion of the federal motor fuels tax.

**Table 3: History of the Mass Transit Account's Portion of the Federal Motor Fuels Tax**

Fiscal Year of Tax Rate Change	MTA Tax Rate (cents per gallon)
1983	1.00¢
1991	1.50¢
1996	2.00¢
1998	2.86¢

**Source:** William Buechner, American Road & Transportation Builders Association, *History of the Gasoline Tax*. Available online at [[http://www.artba.org/economics\\_research/reports/gas\\_tax\\_history.htm](http://www.artba.org/economics_research/reports/gas_tax_history.htm)].