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# Public Transportation Program and Funding Issues

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# Summary

The federal public transportation program, administered by the Federal Transit Administration (FTA), is the primary means by which the federal government funds and regulates public transportation, such as local buses, subways, and ferries. The program was reauthorized through FY2014 as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141) and extended through May 31, 2015, as part of the Highway and Transportation Funding Act of 2014 (P.L. 113-159). Funding was authorized at $10.6 billion in FY2013 and $10.7 billion in FY2014, with the extension continuing the FY2014 level of funding for eight months. About 80% of the funding for the federal public transportation program comes from the mass transit account of the highway trust fund and about 20% from the general fund of the U.S. Treasury, although the mass transit account, itself, has received transfers from the general fund, including $4.8 billion in FY2010 and another $4.0 billion in FY2014.

MAP-21 simplified the structure of the public transit program by eliminating some programs and consolidating others. The law also recast some discretionary programs as formula programs, strengthened FTA's role in safety oversight, and introduced performance management into the planning process. FTA's six major funding programs and their authorized funding shares are (1) Urbanized Area Formula, 42%; (2) State of Good Repair (SGR), 20%; (3) New Starts, 18%; (4) Rural Area Formula, 6%; (5) Bus and Bus Facilities Formula, 4%; and (6) Enhanced Mobility of Seniors and Individuals with Disabilities, 2%.

The authorization of the public transportation program expires May 31, 2015. Extension or reauthorization legislation will be considered in the context of a federal budget deficit that has put pressure on many areas of federal spending, including public transportation assistance. Some Members of Congress have urged that transit spending be supported mostly at the local level. Others argue for higher federal spending to address a backlog of capital expenditures, growing transit and paratransit ridership, and the desirability of encouraging use of public transportation. There has also been pressure to increase federal support of operating expenditures due to budget problems at the local level.

An obstacle to greater federal spending, however, is the condition of the highway trust fund. Over the past few years the revenue flowing to the mass transit account has been less than its outlays, a situation that is expected to continue under current law. The primary revenue source for the highway trust fund, the fuels tax, was last raised in 1993. The precarious situation of the mass transit account may require some action before the end of FY2015, depending on the actual amounts of revenue and outlays, but action will almost certainly be needed in FY2016 and beyond. This might involve a cut in program spending, an increase in revenues paid in to the account, or another transfer from the general fund.

Other issues that may come up in the debate are privatization and the operation of the New Starts program. Privatization, such as competitive contracting, is frequently touted as a means of controlling costs and improving quality in public transportation. Consequently there have been proposals in Congress for the federal government to promote greater private-sector involvement, and these might come up again in reauthorization. MAP-21 made several changes to the New Starts program to speed project delivery and to allow spending on expanding existing transit rail and other fixed guideway systems. How well these changes work may be an issue in reauthorization, as might the types of projects funded, particularly streetcar and bus rapid transit projects.

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# Introduction

Federal assistance to public transportation is provided primarily through the public transportation program administered by the Federal Transit Administration (FTA). The federal public transportation program was authorized through FY2014 as part of the Moving Ahead for Progress in the 21st Century Act (MAP-21; P.L. 112-141) and extended through May 31, 2015, as part of the Highway and Transportation Funding Act of 2014 (P.L. 113-159). MAP-21 made significant modifications to the public transportation program. While maintaining the previous funding level, MAP-21 simplified the structure of the public transit program by eliminating some programs and consolidating others, recast some discretionary programs as formula programs, strengthened FTA's role in safety oversight, and introduced performance management into the planning process.

This report highlights some of the issues likely to arise as Congress considers further extension of MAP-21 or reauthorization. It begins with an overview of public transportation, its funding, and the federal public transportation program as currently authorized.

# What Is Public Transportation?

Public transportation (also known as public transit, mass transit, and mass transportation) is defined in federal law (49 U.S.C. §5302) as

> regular, continuing shared-ride surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income; and … does not include—(i) intercity passenger rail transportation …; (ii) intercity bus service; (iii) charter bus service; (iv) school bus service; (v) sightseeing service; (vi) courtesy shuttle service for patrons of one or more specific establishments; or (vii) intra-terminal or intra-facility shuttle services.

The main forms of public transportation are bus, heavy rail (subway and elevated), commuter rail, light rail, paratransit (also known as demand response), and ferryboat.[1] About 51% of public transportation trips are made by bus, 35% by heavy rail, 5% by commuter rail, and 5% by light rail (including streetcars). Paratransit accounts for about 2% of all public transportation trips, and ferries less than 1%.[2]

Transit ridership dropped precipitously at the end of the Second World War due to a number of interrelated factors, particularly rising incomes, growing automobile availability and use, and residential and employment decentralization. Despite the longer-term downward trend, ridership has risen over the past two decades from a low of 7.8 billion trips in 1995 to 10.6 billion trips in 2012. Consequently, ridership is at a level not seen since the late 1950s, although the population has grown by about 140 million people since then.[3]

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[1] Heavy rail (often called metro, subway, or rapid transit) is electric-powered service with a separate right-of-way that can serve a heavy volume of passengers; commuter rail is diesel- or electric-propelled service within a metropolitan area typically on routes of current or former freight railroads; light rail (also called streetcar or trolley) is electric-powered service, often with power drawn from overhead wires, that may or may not be operated in a separate right-of-way using single cars or short trains of two or three cars.

[2] American Public Transportation Association, *Public Transportation Fact Book 2014: Appendix A* (Washington, DC, 2014), table 2, http://www.apta.com/resources/statistics/Pages/transitstats.aspx.

[3] Ibid., table 1. Census Bureau, "Population Estimates: Historical Data," http://www.census.gov/popest/data/historical/index.html.

Public transportation accounts for about 2% of all daily trips and about 5% of trips to and from work (commute trips).[4] Ridership is heavily concentrated in a few large cities and their suburbs. About 75% of all public transportation trips are made in 10 large urbanized areas: New York, Los Angeles, Chicago, Washington, San Francisco, Boston, Philadelphia, Seattle, Miami, and Atlanta. The New York City urbanized area alone, including parts of New Jersey and Connecticut, accounts for about 4 of every 10 public transportation trips nationally.[5] Almost a third of workers in the New York metropolitan area commute by public transportation, but in only four others (San Francisco, Washington, Boston, and Chicago) does the share exceed 10%.[6]

# Funding the Federal Transportation Program

Major federal involvement in public transportation dates to the Urban Mass Transportation Act of 1964 (P.L. 88-365). In the mid-1960s, with much lower ridership than existed at the end of World War II and mounting debts, many private transit companies were reorganized as public entities, and federal funding was initially used to recapitalize them. Today, most federal support still goes for capital projects, but the program has evolved to support operational expenses in some circumstances, as well as safety oversight, planning, and research.

MAP-21 authorized $10.6 billion for the federal public transportation program in FY2013 and $10.7 billion in FY2014. Funding made available for those years in appropriations bills was slightly higher (**Table 1**). The Highway and Transportation Funding Act of 2014 extends the FY2014 authorized funding level though May 31, 2015. Excluding funding provided in the American Recovery and Reinvestment Act (ARRA; P.L. 111-5) and the Disaster Relief Appropriations Act, 2013 (DRAA; P.L. 113-2), public transportation program funding has been between $10 billion and $11 billion since 2009 (**Figure 1**). ARRA provided an extra $8.4 billion in FY2009. DRAA provided $10.9 billion in FY2013 for FTA's Public Transportation Emergency Relief Program in response to Hurricane Sandy, particularly to repair the damage to the public transportation systems of New York and New Jersey. About 5% of the $10.9 billion, approximately $545 million, was subject to sequestration, leaving about $10.3 billion for emergency relief.

**Table 1. Funding Authorized and Appropriated for Federal Public Transportation Programs, FY2013 and FY2014**

($ millions)

| | FY2013 | | FY2014 | |
|---|---|---|---|---|
| | **Authorization** | **Appropriation**[a] | **Authorization** | **Appropriation** |
| Trust Funded Programs | 8,478 | 8,461 | 8,595 | 8,595 |
| *Formula and bus grants* | *8,478* | *8,461* | *8,595* | *8,595* |
| General Funded Programs | 2,100 | 2,136 | 2,100 | 2,151 |

[4] U.S. Department of Transportation, Bureau of Transportation Statistics, *Summary of Travel Trends: 2009 National Household Travel Survey* (Washington, DC, 2011), tables 9 and 25, http://nhts.ornl.gov/2009/pub/stt.pdf.

[5] CRS calculation based on U.S. Department of Transportation, Research and Innovative Technology Administration, Bureau of Transportation Statistics, *State Transportation Statistics 2013* (Washington, DC, 2013), table 4-3, http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/publications/state_transportation_statistics/state_transportation_statistics_2013/index.html.

[6] U.S. Census Bureau, *Commuting in the United States: 2009*, ACS-15, Washington, DC, September 2011, http://www.census.gov/prod/2011pubs/acs-15.pdf.

| | FY2013 | | FY2014 | |
|---|---|---|---|---|
| *Capital investment grants* | *1,907* | *1,855* | *1,907* | *1,943* |
| *Other* | *193* | *281* | *193* | *208* |
| Total | 10,578 | 10,597 | 10,695 | 10,746 |

**Source:** Federal Transit Administration, *MAP-21 Fact Sheet: Funding Summary*, http://www.fta.dot.gov/documents/FTA_Funding_Summary_Fact_Sheet.pdf; CRS Report R43582, *Transportation, Housing and Urban Development, and Related Agencies (THUD): FY2015 Appropriations*, by Libby Perl and David Randall Peterman; CRS Report R43156, *Transportation, Housing and Urban Development, and Related Agencies (THUD): FY2014 Appropriations*, by Libby Perl, David Randall Peterman, and Maggie McCarty.

a. Does not include funding for the Public Transportation Emergency Relief Program as provided by the Disaster Relief Appropriations Act, 2013 (DRAA; P.L. 113-2).

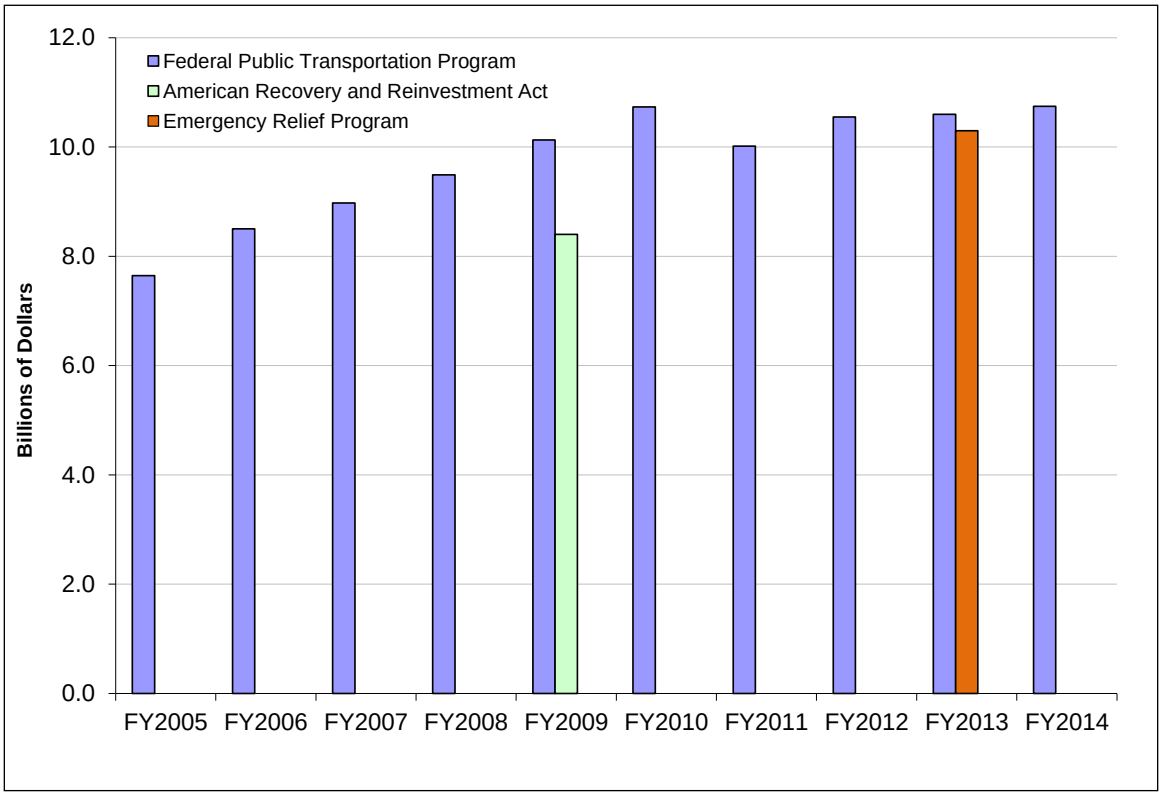
Typically, about 80% of federal public transportation program funding comes from the mass transit account of the highway trust fund and 20% comes from the general fund of the U.S. Treasury. It should be noted, however, that the distinction between money from the highway trust fund and money from the general fund has become artificial to an extent, in that Congress authorized a $4.8 billion transfer of general fund money into the mass transit account of the highway trust fund in FY2010 and another $4.0 billion transfer in FY2014.[7] Moreover, ARRA and DRAA funding for public transportation came exclusively from the general fund.

Public transportation also receives support through provisions that make it an allowable use of some federal highway funds. Most funds "flexed" to transit programs come from the Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality Improvement Program (CMAQ). Flexing is at the discretion of state and local decision-makers, so the amount transferred from highways to public transportation can vary widely from year to year. About $1 billion was flexed in FY2009, whereas $2.4 billion was flexed in FY2012. The percentage of highway funds transferred to transit has ranged from about 2.0% in FY1998 to about 5.7% in FY2012.[8]

[7] MAP-21 authorized a transfer of $2.2 billion and the Highway and Transportation Funding Act of 2014 authorized a transfer of $2 billion. The authorized transfer of $2.2 billion in MAP-21 was reduced $158,400,000 by sequestration.

[8] Calculated by CRS based on funding flexed divided by total highway funding. For a calculation based on the share of highway funding eligible to be flexed, see American Public Transportation Association, *APTA Primer on Transit Funding* (Washington, DC, May 2014), table 49, http://www.apta.com/resources/reportsandpublications/Documents/APTA-Primer-MAP-21-Funding.pdf.

**Figure 1. Federal Public Transportation Program Funding**




**Source:** Senate Appropriations Reports; CRS Report R43582, *Transportation, Housing and Urban Development, and Related Agencies (THUD): FY2015 Appropriations*, by Libby Perl and David Randall Peterman; CRS Report R43156, *Transportation, Housing and Urban Development, and Related Agencies (THUD): FY2014 Appropriations*, by Libby Perl, David Randall Peterman, and Maggie McCarty.

The Transportation Investment Generating Economic Recovery (TIGER) program has been another source of federal funding for public transportation over the past few years. Enacted initially as part of ARRA, the TIGER program has been funded in five subsequent appropriations bills. Funding, appropriated from the general fund, was $1.5 billion in FY2009, $600 million in FY2010, $527 million in FY2011, $500 million in FY2012, $474 million in FY2013 (after an across-the-board rescission and sequestration), and $600 million in FY2014. Of the $584 million awarded in FY2014, for example, $187 million (32%) went to transit projects.[9]

Special-needs paratransit is another area in which funding is available from the federal government outside the public transportation program. Special-needs paratransit, also known as demand response or dial-a-ride, is non-fixed-route service for people with disabilities and the elderly, and typically involves the use of small buses, vans, or passenger cars. The Government Accountability Office (GAO) has identified 73 federal programs in seven federal agencies other than the Department of Transportation (DOT) that fund special-needs transportation services.[10] Although GAO could not estimate the transportation spending in all of these programs, in 21 programs for which data were available transportation funding amounted to $2.3 billion in

[9] *Transportation Weekly*, "USDOT Announces $584 Million in FY14 TIGER Grants," September 17, 2014, p.4.

[10] U.S. Government Accountability Office, *Transportation-Disadvantaged Populations: Federal Coordination Efforts Could Be Further Strengthened*, GAO-12-647, June 2012, http://www.gao.gov/assets/600/591707.pdf.

FY2010. This compares with FTA spending on special-needs paratransit in the same year of about $270 million.[11]

# How Are Federal Dollars Spent?

The costs of providing public transportation service fall into two main categories, operating expenses and capital expenses. Operating expenses include vehicle operation and maintenance, maintenance of stations and other facilities, general administration, and purchase of transportation from private operators. Capital expenses are related to the purchase of equipment, such as buses, rail lines, and rail stations. In general, federal public transportation programs allow an 80% maximum federal share for capital projects and a 50% maximum share for operating expenses.

Operating costs account for about two-thirds of all costs for public transportation and capital expenditures for about one-third. Fares and other operating revenues cover only one-quarter of the total cost, with the remainder provided by federal, state, and local governments. The federal government supports less than 10% of operating expenditures, but more than 40% of capital expenditures (**Table 2**).

**Table 2. Sources of Funding for Operating and Capital Expenditures in Public Transportation Provision, 2012**

| | Operating | | Capital | | Total | |
|---|---|---|---|---|---|---|
| | Percent | Millions of Dollars | Percent | Millions of Dollars | Percent | Millions of Dollars |
| Fares and Other Income | 37.2 | $16,205 | 0.0 | $0 | 26.4 | $16,205 |
| Local Government | 28.4 | $12,371 | 43.7 | $7,770 | 32.8 | $20,141 |
| State Government | 25.6 | $11,139 | 11.9 | $2,123 | 21.6 | $13,262 |
| Federal Government | 8.9 | $3,863 | 44.4 | $7,907 | 19.2 | $11,770 |
| Total | 100.0 | $43,577 | 100.0 | $17,800 | 100.0 | $61,377 |

**Source:** American Public Transportation Association, *2014 Public Transportation Fact Book: Appendix A*, Washington, DC, 2014, Table 93, http://www.apta.com/resources/statistics/Pages/transitstats.aspx.

**Note:** Local government outlays include funds from local taxes, toll transfers, and bond proceeds.

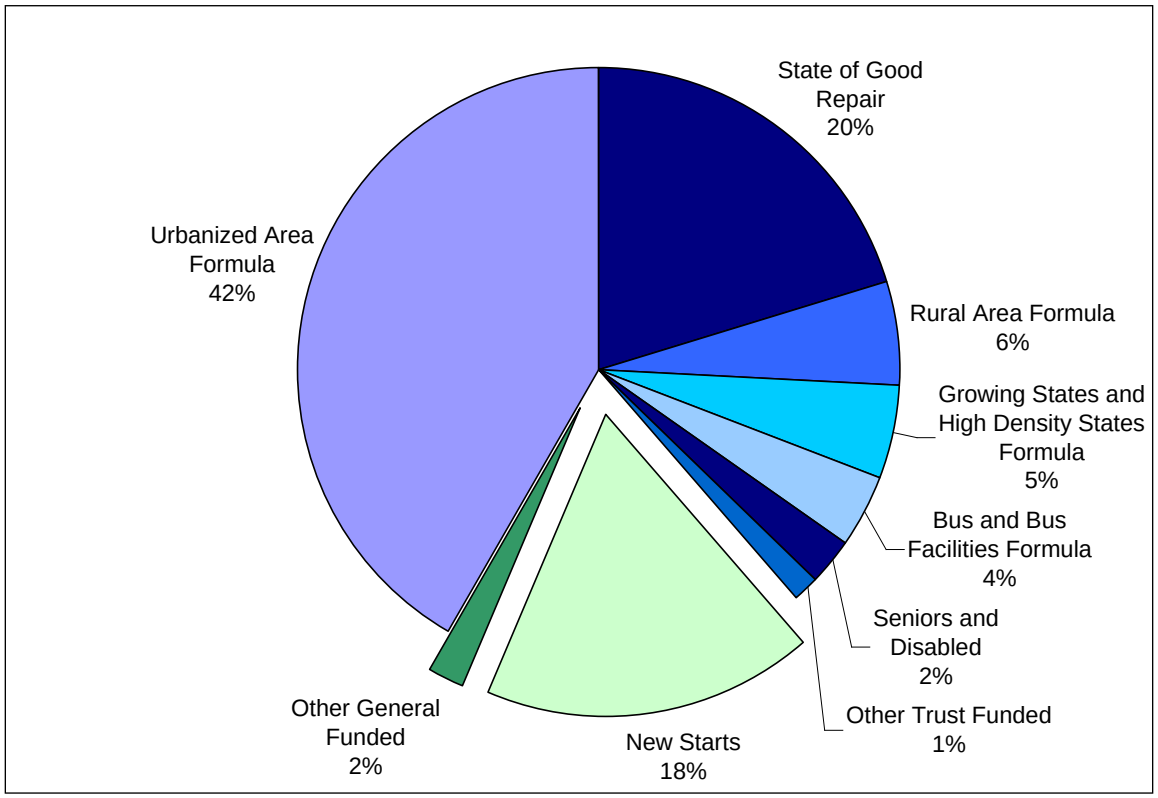
[11] Calculated by combining obligations for the Elderly and Individuals with Disabilities Program and the New Freedom Program. U.S. Department of Transportation, Federal Transit Administration, *FY2010 Statistical Summary*, table 4, http://www.fta.dot.gov/about_FTA_14899.html.

# Program Structure

There are six major funding programs administered by FTA: (1) Urbanized Area Formula; (2) State of Good Repair (SGR); (3) New Starts; (4) Rural Area Formula; (5) Bus and Bus Facilities Formula; and (6) Enhanced Mobility of Seniors and Individuals with Disabilities. In addition, about 5% of the public transportation program funding is authorized for the Growing States and High Density States Formula ($519 million in FY2013 and $526 million in FY2014). This is not a program per se, but provides additional money to some places and is distributed through the Urbanized and Rural Area Formula Programs (**Figure 2**). The Growing States apportionment is based on forecasted state population growth, and the High Density apportionment is to states with a population density greater than 370 persons per square mile. Funding for all of these programs, except New Starts, comes from the mass transit account of the highway trust fund. New Starts funding comes from the general fund. There are also several much smaller programs (see the **Appendix** for a full listing).

**Figure 2. Federal Public Transportation Program Funding Shares**

Authorized by MAP-21, FY2013-FY2014




**Source:** Federal Transit Administration, *MAP-21 Fact Sheet: Funding Summary*, http://www.fta.dot.gov/documents/FTA_Funding_Summary_Fact_Sheet.pdf.

## Urbanized Area Formula Program (49 U.S.C. §5307)

The Urbanized Area Formula Grants Program provides funding for public transportation in urbanized areas, the 497 places designated by the Census Bureau as having populations of 50,000 or more (based on the 2010 Census).[12] Funding was authorized at $4.398 billion in FY2013 and $4.459 billion in FY2014, up from $4.160 billion in FY2012. These amounts are mostly distributed by formula after funds are deducted for administration or reserved for specific purposes. Funds can be spent on capital, planning, job access and reverse commute projects, and, in some circumstances, operating expenses.

For urbanized areas under 200,000 the distribution of Urbanized Area program funds is mainly based on population and population density. In urbanized areas over 200,000 the formula also takes into account bus revenue vehicle miles, bus passenger miles, fixed guideway revenue miles, and fixed guideway route miles.

The Small Transit Intensive City (STIC) funding set-aside from the program is 1.5%. This boosts funding for urbanized areas with fewer than 200,000 residents that provide a relatively high level of transit service.[13] In addition, 0.5% is authorized to be apportioned to urbanized areas for state safety oversight program grants, 3% to be apportioned according to the number of low-income individuals in an urbanized area, and $30 million to be set aside for the discretionary ferry boat grants program.

## Rural Area Formula Program (49 U.S.C. §5311)

The Rural Area Formula Program provides funding to states and Indian tribes for public transportation outside of urbanized areas. Capital, operating, and planning are all eligible expenses. Funding was authorized at $600 million in FY2013 and $608 million in FY2014, up from $465 million in FY2012.

The apportionment formula for Rural Area Program funds includes rural land area, population, vehicle revenue miles, and number of low-income individuals. Funding from the program is set aside for the Rural Transit Assistance Program (RTAP), the Public Transportation on Indian Reservations Program, and the Appalachian Development Public Transportation Assistance Program. RTAP funding authorized was $11.9 million in FY2013 and $12.2 million in FY2014. Funding authorized for Public Transportation on Indian Reservations was $30 million annually; $25 million is to be distributed by formula and $5 million competitively. Funding authorized for Appalachian Development was $20 million annually.

## State of Good Repair Grant Program (49 U.S.C. §5337)

The State of Good Repair (SGR) Program was created by MAP-21 to replace the Fixed Guideway Modernization Program. The SGR Program provides funding primarily for repairing and upgrading rail transit systems, but also other fixed-guideway systems (such as passenger ferries and bus rapid transit)[14] and bus systems that use high occupancy vehicle (HOV) lanes.

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[12] Bureau of the Census, "Qualifying Urban Areas for the 2010 Census," 77 *Federal Register* 18652-18669, March 27, 2012.

[13] For the FY2014 distribution of STIC funds see Federal Transit Administration, "FTA Fiscal Year (FY) 2014 Apportionments, Allocations, and Program Information," 79 *Federal Register* 13462-13489, March 10, 2014, table 6, http://www.fta.dot.gov/documents/Table_6_FY_2014_STIC.pdf.

[14] In federal law, "fixed guideway" is defined as "a public transportation facility: using and occupying a separate right-

Funding for the SGR Program was authorized at $2.136 billion in FY2013 and $2.166 billion in FY2014, a good deal more than the $1.667 billion allotted to the Fixed Guideway Modernization Program in FY2012.

The State of Good Repair program has two components:

- The **High Intensity Fixed Guideway SGR Program** distributes 97.15% of the funding for maintaining fixed guideway transit systems in a state of good repair. The new formula for distributing these funds uses fixed guideway vehicle miles and route miles for facilities that have been operating for at least seven years.
- The **High Intensity Motorbus SGR** program distributes the remaining 2.85% of the funds for bus service provided on a high occupancy vehicle (HOV) facility. Funding is distributed by a formula that uses high-intensity bus vehicle miles and route miles for revenue services that have been operating for at least seven years.

## Bus and Bus Facilities Formula Program (49 U.S.C. §5339)

The Bus and Bus Facilities Program provides funding to purchase and rehabilitate buses and to construct bus-related facilities, such as maintenance depots. Funding was authorized at $422 million in FY2013 and $428 million in FY2014, down from $984 million in FY2012.

Under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA; P.L. 109-59), the Bus and Bus Facilities Program was a heavily earmarked discretionary program. MAP-21 directs funding to be distributed by formula. After each state and territory receives a minimum allocation ($1.25 million to states and $0.5 million to territories), the remaining funds are distributed according to population and service levels.

## New Starts (49 U.S.C. §5309)

The New Starts Program provides funding to support the construction of new fixed-guideway transit systems and to add to existing systems. Fixed-guideway includes transit rail, bus rapid transit, and ferry. Funding for the New Starts program was authorized from the general fund of the U.S. Treasury at $1.907 billion for both FY2013 and FY2014, a slight reduction from the $1.955 billion authorized in FY2012. Appropriations were $1.855 billion in FY2013 and $1.943 billion in FY2014 (**Table 1**).

MAP-21 made substantial changes to the New Starts Program, allowing program funds to be used for investments in *existing* fixed-guideway systems that increase the capacity of a corridor by at least 10%. These types of projects are termed "core capacity improvement projects." It also authorized the evaluation and funding of a program of interrelated projects.

A New Starts project must go through three distinct stages: project development, engineering, and construction.[15] To enter the project development phase, the applicant now only needs to apply in writing to the FTA and initiate review required under the National Environmental Policy Act (NEPA). A project sponsor does not need to complete an alternatives analysis separate from the alternatives analysis required by NEPA. Along with the NEPA work, during project development the project sponsor develops the information needed by FTA to review the project justification and the local financial commitment. Generally, the project applicant has two years to complete

of-way for the exclusive use of public transportation; using rail; using a fixed catenary system; for a passenger ferry system; or for a bus rapid transit system" (49 U.S.C. §5302(7)).

[15] Prior to MAP-21 the New Starts process involved four major phases: planning and alternatives analysis; preliminary engineering; final design; and construction.

project development. FTA is now also required to use an expedited review process of a sponsor's technical capacity if it has recently and successfully completed a fixed-guideway or core capacity project.

A project is permitted to enter into the engineering phase once the NEPA process is concluded, the project is selected as the locally preferred alternative, the project is adopted into the metropolitan plan, and the project is justified on its merits, considering local financial commitment; the mobility, environmental, economic development, and congestion relief benefits; and local land use plans and policies. After engineering, a project may then be approved to enter into a full funding grant agreement with FTA for federal funding assistance and to move into the construction phase. To advance projects more quickly, FTA may use special warrants for projects of which the federal share is $100 million or less or 50% or less of the total project cost. According to FTA, special warrants are "ways in which projects may qualify for automatic ratings on the project justification criteria,"[16] thus not requiring further detailed analysis. In a rulemaking, FTA provided this cost-effectiveness example:

> if there is a certain level of transit ridership in the corridor today, and the proposed project falls within total cost and cost per mile parameters defined by FTA, then it would be ''warranted'' by FTA as cost-effective, it would receive an automatic medium rating on the cost-effectiveness criterion, and the project sponsor would not need to undertake or submit the results of certain analyses.[17]

For Small Starts projects, those requesting $75 million or less in federal assistance and costing in total $250 million or less, there are just two phases, project development and construction. Small Starts are also defined to include corridor-based bus rapid transit, service that emulates transit rail but does not necessarily run in a separated right-of-way dedicated to public transportation use. Unlike SAFETEA, which reserved $200 million of the overall program authorization for Small Starts, MAP-21 did not reserve funds for Small Starts projects in FY2013 and FY2014.

MAP-21 created a pilot program for expediting New Starts project delivery. The purpose of this new pilot program, limited to three projects, is "to demonstrate whether innovative project development and delivery methods or innovative financing arrangements can expedite project delivery for certain meritorious new fixed guideway capital projects and core capacity improvement projects." To date, no projects have been selected for inclusion in the pilot program.

## Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. §5310)

The Enhanced Mobility of Seniors and Individuals with Disabilities Program was authorized at $255 million in FY2013 and $258 million in FY2014. This combines into a single program the former Elderly Individuals and Individuals with Disabilities Program and the New Freedom Program. In FY2012, these two programs were $226 million combined. According to the statutory formula, 60% of the funds are apportioned to large urbanized areas, 20% to small urbanized areas, and 20% to rural areas. Within these categories, funds are to be distributed to specific areas based on the relative size of their elderly and disabled population. The program requires that projects come from a locally developed, coordinated human services transportation plan.

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[16] Federal Transit Administration, *Fact Sheet: Fixed Guideway Capital Investment Grants ("New Starts"), Section 5309*, http://www.fta.dot.gov/documents/MAP-21_Fact_Sheet_-_Fixed_Guideway_Capital_Investment_Grants.pdf.

[17] Department of Transportation, Federal Transit Administration, "Major Capital Investment Projects," 78 *Federal Register* 1992-2037, January 9, 2013, p. 2026, http://www.gpo.gov/fdsys/pkg/FR-2013-01-09/pdf/2012-31540.pdf.

## Other Programs

The Jobs Access and Reverse Commute (JARC) formula program was eliminated in MAP-21, but the activities carried out under this former program were made eligible expenses under the Urbanized and Rural Area Formula programs. MAP-21 also eliminated several discretionary programs, including the Clean Fuels Grant Program, the Transit in Parks Program, the Over-the-Road Bus Program, and the Alternatives Analysis Program. These programs provided funding for specific purposes that in several cases were also eligible expenses under other programs. For example, public transportation serving national parks and other federal lands remains eligible for federal funding under the existing, but renamed, Federal Lands Transportation and Federal Lands Access programs administered by the Federal Highway Administration, and, in the case of the Alternatives Analysis Program, planning remains eligible under the Urbanized Area Formula Program and is newly eligible under the Rural Area Formula Program.

MAP-21 created the Public Transportation Emergency Relief Program, which, like the Appalachian Development Public Transportation Assistance Program, mirrors a previously existing highway program. The emergency relief program, akin to the existing Highway Emergency Relief Program, provides funding for capital and operating costs in the event of a natural or man-made disaster. MAP-21 authorized such sums as may be necessary to carry out this new program. In the aftermath of Hurricane Sandy, $10.3 billion was appropriated in the Disaster Relief Appropriations Act, 2013 (P.L. 113-2), for the Public Transportation Emergency Relief Program.

# Planning and Performance Measurement

Under MAP-21, the use of performance management is required throughout the transportation planning process. Performance management involves establishing performance measures and setting targets. For example, MAP-21 requires Metropolitan Planning Organizations (MPOs) to establish performance targets, including targets for public transportation, that address performance measures established by the Secretary of Transportation (49 U.S.C. §5303). Each MPO must include in its plan an evaluation of the region's progress toward achieving its performance targets and must develop its Transportation Improvement Program (TIP) to align with the performance targets. Performance targets pertaining to public transportation are to be coordinated with providers of public transportation "to the maximum extent practicable."

In a similar vein, public transportation agencies are required to develop an asset management system, including an asset management plan with performance targets based on metrics developed by the Secretary for state of good repair standards (49 U.S.C. §5326). Public transportation agencies must report their progress toward meeting their performance targets annually, but there are no sanctions for failing to meet those targets.

DOT is also required to develop performance measures with regard to the Enhanced Mobility of Seniors and Individuals with Disabilities Program. These performance measures are to be developed in consultation with national non-profit groups that advocate for transportation services on behalf of the elderly and disabled.

A new discretionary pilot program for transit-oriented development (TOD) planning was established by MAP-21, with funding authorized at $10 million per year in FY2013 and FY2104. Transit-oriented development is concerned with locating housing and businesses near transit stations to promote ridership, job accessibility, and local economic development. This new program provides grants to sponsors of new or expanded fixed-guideway systems to enhance their TOD planning. To date, no funding from this program has been made available.

# Public Transportation Safety Program (49 U.S.C. §5329)

FTA had a limited role in public transportation safety prior to MAP-21, but several provisions in the authorization expanded and strengthened that role. FTA is required to develop a national public transportation safety plan, with safety performance criteria for all modes of public transportation and minimum performance standards for public transportation vehicles (except commuter rail vehicles, which are regulated by the Federal Railroad Administration, or FRA). FTA is also required to establish a certification training program for federal, state, and local employees who conduct safety audits or are responsible for safety oversight. Recipients of urbanized and rural formula funds may use up to 0.5% of their apportionment, about $22 million annually, to pay for the training program. This funding requires a minimum 20% state or local match. Each public transportation agency and state is required to establish a comprehensive safety plan. Additionally, each state with a rail system not regulated by FRA must have a state safety oversight (SSO) program. Formula funding for the SSO program is set aside from the Urbanized Area Formula Program and is provided with an 80% maximum federal share. FTA has authority to inspect and audit the equipment and operations of transit agencies and may issue directives, require more frequent agency oversight, and require that federal funding be spent to correct safety deficiencies.

# Public Transportation Program Issues

Authorization in MAP-21 of the federal public transportation programs extends through September 30, 2014. Specific issues that may come up as Congress considers extending or reauthorizing the programs include funding levels and revenue sources (particularly as they relate to the highway trust fund), problems with the Bus and Bus Facilities Program, support for operating expenditures, privatization, the operation of the New Starts program, and special-needs paratransit.

## Program Funding

Growth in public transportation ridership has been used to support calls for significantly higher federal spending. These arguments are often buttressed by infrastructure needs assessments, a number of which have been conducted over the past few years.[18] All of these assessments estimate a substantial gap between current levels of public transportation capital spending and the amount required to prevent an overall deterioration in the condition of public transportation assets and ultimately operational performance. For example, in its most recent report on the condition and performance of highway and public transportation systems, DOT estimates that to bring transit assets up to a good state of repair over the next 20 years would cost about $2 billion more per year than is currently being expended by all levels of government (in 2010 dollars). This estimate does not include any funding for expanding systems. Paying for the backlog plus

[18] National Surface Transportation Policy and Revenue Study Commission, *Transportation for Tomorrow* (Washington, DC, 2007), http://www.transportationfortomorrow.org/final_report/; National Surface Transportation Infrastructure Financing Commission, *Paying Our Way: A New Framework for Transportation Finance*, Washington, DC, February 2009, http://financecommission.dot.gov/Documents/NSTIF_Commission_Final_Report_Mar09FNL.pdf; Federal Transit Administration, *National State of Good Repair Assessment, 2010*, http://www.fta.dot.gov/documents/National_SGR_Study_072010(2).pdf.

expanding systems is projected to cost between $5.5 billion and $8.0 billion per year over current spending depending on the expected level of ridership growth.[19] DOT does not make any recommendations about the relative shares of funding that should be borne by federal, state, and local governments.[20]

Another view is that funding of public transportation programs should be the responsibility of states and localities rather than the federal government (see, for example, H.R. 3486/S. 1702 in the 113th Congress). This does not directly challenge the notion that transportation infrastructure requires greater funding, but it suggests that decisions about funding levels and investment priorities should be made below the federal level. Absent a change in the taxes used to finance the highway trust fund, a reduction in federal involvement in public transportation would leave a greater share of motor-fuel tax revenues to be spent for the benefit of road users.

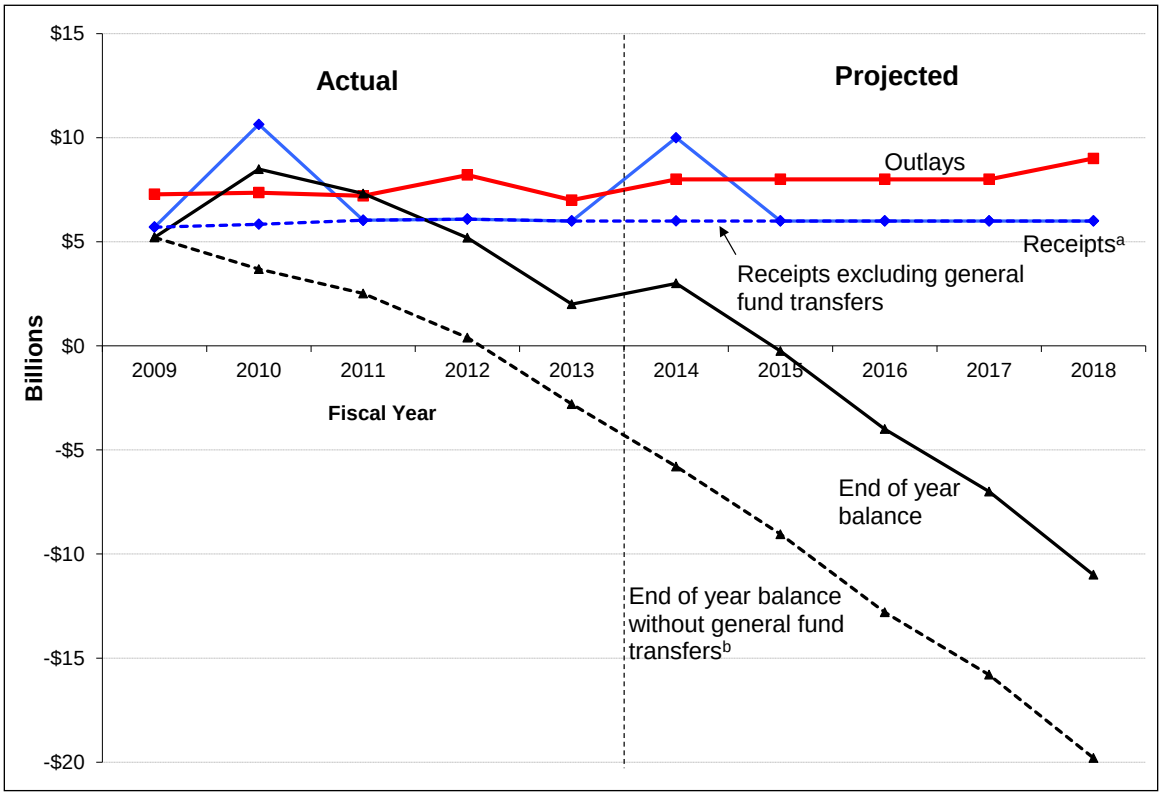
## Use of the Highway Trust Fund

Traditionally about 80% of the funding for the federal public transportation program has come from the mass transit account of the highway trust fund and about 20% from the general fund of the U.S. Treasury. Outlays from the mass transit account have outpaced receipts over the past few years, an imbalance the Congressional Budget Office (CBO) projects will continue in the future under current law. Congress has chosen to transfer general fund monies into the mass transit account to maintain the balance above a minimum prudent level (**Figure 3**).

[19] U.S. Department of Transportation, Federal Highway Administration and Federal Transit Administration, *2013 Status of the Nation's Highways, Bridges, and Transit: Conditions and Performance* (Washington, DC, 2014), Exhibit 8-29, http://www.fhwa.dot.gov/policy/2013cpr/pdfs/chap8.pdf.

[20] Theoretically, this might also include the share to be borne by public transportation users. However, system-generated funds are typically applied to cover a portion of operating costs.

**Figure 3. Status of the Mass Transit Account, FY2009-FY2018**




**Source:** 2013-2018: Congressional Budget Office, "Highway Trust Fund Accounts – Baseline Projections," August 27, 2014, http://www.cbo.gov/publication/43884; 2009-2012: Data provided to CRS by the Congressional Budget Office, February 12, 2013.

**Note:** By law, the mass transit account cannot incur a negative balance. Negative balances are shown for illustrative purposes.

a. Including general fund transfers and funding flexed from highway account.

b. Estimated by CRS.

The primary revenue source for the highway trust fund is the fuels tax. Currently, of the 18.3 cents-per-gallon tax on gasoline and 24.3 cents per gallon on diesel that go to the highway trust fund, 2.86 cents is deposited in the mass transit account. The tax was last raised in 1993. The revenue from the fuels tax for the mass transit account is about $5 billion a year, an amount that is not expected to change very much at the current tax rate. Revenue from the fuels tax and funds flexed from the highway account together amount to about $6 billion per year in total receipts, excluding transfers from the general fund. Outlays from the mass transit account are expected to be about $8 billion in FY2014, and are projected to grow to about $9 billion in FY2018.

According to CBO's estimates, the balance in the mass transit account will reach zero toward the end of FY2015, although a balance of $1 billion is low enough to create cash flow problems in the account. A balance of $1 billion or less would likely require some kind of administrative action, such as slowing payments to transit agencies, or legislative action, such as a general fund transfer. Because of the imbalance between receipts and outlays, a more sustainable solution for the mass transit account would have to involve a cut in program spending, an increase in revenues paid in to the account, or a combination of the two. An increase in revenues to the mass transit account could involve a commitment to regular transfers from the general fund.

Funding shortfalls in the highway account of the highway trust fund have also required general fund transfers. Consequently, actions will likely need to be taken in the highway program as well as the public transportation program. Like those in public transportation, actions in the highway program might involve a cut in program spending, an increase in revenues paid into the account, or another transfer from the general fund. Another possible solution, proposed in H.R. 7 (112th Congress) during the 2012 debate over reauthorization of surface transportation programs, is to redirect revenues from the mass transit account to the highway account and to fund the transit account with a general fund appropriation. This was not a popular idea at the time and was dropped from the legislation approved by the House of Representatives. However, this option or options like it may be proposed in the future, particularly as some argue that taxes paid by highway users should not be diverted to non-highway uses.

## Bus and Bus Facilities Program

Bus-only transit agencies in small urbanized and rural areas have expressed concern that the Bus and Bus Facilities program does not provide sufficient help for bus acquisition and bus-related investment needs such as construction of bus garages. Two changes made in MAP-21 contribute to the concern. First, funding directed specifically to buses was reduced by more than half, from $984 million in FY2012 to $421 million in FY2013 and $428 million in FY2014, although funding for other programs, which can be used for bus investment, was increased. Second, prior to MAP-21, the Bus and Bus Facilities Program was a heavily earmarked discretionary program that provided substantial sums of money to transit agencies at irregular intervals for large capital expenses, whereas MAP-21 directs smaller amounts to be distributed by formula annually. For small transit systems, these allocations may be too small to provide the resources necessary for substantial bus investments in a single year. To deal with these issues, the American Public Transportation Association has suggested "the restoration of funding to the bus and bus facilities program and the return of a transparent and efficient discretionary element of the program."[21]

## Operating Support

Federal operating support for public transportation in urbanized areas over 200,000 was largely eliminated in 1997 with the enactment of the Transportation Equity Act for the 21st Century (TEA-21). TEA-21 continued to allow providers in urbanized areas under 200,000 to use federal funding for both capital and operating expenses, at their option. Because of the serious budget problems faced by many transit agencies whose local revenue sources have been squeezed, there has been pressure to increase the availability of federal funding for operating expenditures. One way in which Congress has done this in the past is by liberalizing the definition of "capital expense" in federal law, allowing federal capital funding to be used to pay for items traditionally considered operating expenses, such as maintenance.

For the most part, MAP-21 maintained the prohibition on the use of federal funds for operating expenses in urbanized areas of 200,000 or more residents. However, it added an exception to this general prohibition that is generally known as the "100 bus rule." MAP-21 permitted transit systems in these larger urbanized areas operating 76 to 100 buses in peak service to use 50% of their Urbanized Area apportionment for operating expenses. For transit systems operating 75 or fewer buses in the peak period, the allowable amount is 75%. MAP-21 did not include a provision contained in S. 1813 (112th Congress) that would have allowed the use of Urbanized Area funds

[21] American Public Transportation Association, *APTA Recommendations on Federal Public Transportation Authorizing Law*, December 2013, p.12, http://www.apta.com/gap/legissues/authorization/Documents/APTA%20Authorizing%20Law%20Recommendations_FINAL_adopted%206Dec2013.pdf.

for operating expenses in urbanized areas of 200,000 or more residents with high unemployment rates.

Congress is likely to face calls for providing transit operating support in reauthorization legislation. One approach to doing this was included in S. 3189/H.R. 2746 (111th Congress), which proposed to allow transit agencies operating 100 or more fixed-route buses to use a portion of Urbanized Area Formula Program funds for operating expenses. Agencies in urbanized areas of between 200,000 and 400,000 people would have been allowed to use up to 50% of program funding for operating purposes, with lesser shares allowed in larger urbanized areas. This measure was not enacted.

Alternatively, Congress could consider eliminating federal transit operating assistance altogether. This might lead to improvements in productivity, as without federal support transit agencies might pay more attention to the cost-effectiveness of their services.[22]

## Private-Sector Involvement

Many government-owned transit agencies contract with private companies to operate some or all of their services, and in some cases private contractors have taken responsibility for building as well as operating rail lines. Congress has periodically considered whether to encourage privatization. In the 112th Congress, for example, H.R. 7 included a provision to increase the federal cost share of bus projects from 80% to 90% if the local transit agency contracted out at least 20% of fixed-route bus service. This idea was not adopted in MAP-21.[23] A related issue is federal labor requirements in the transit industry, known as 13(c).[24] As a precondition of federal transit funding 13(c) requires, among other things, the preservation of existing employment rights, privileges, and benefits and the continuation of collective bargaining rights. These protections are thought to be an impediment to privatization and, hence, advocates of privatization have often called for their repeal. Critics of privatization argue that cost savings, if there are any, typically come at the expense of employees in the form of lower wages and reduced benefits.

## New Starts Program

A common criticism of the New Starts program is the length of time required to develop and deliver projects, a criticism that several changes in MAP-21 sought to address.[25] An issue in reauthorization, therefore, will likely be whether the changes in MAP-21 do actually speed the project process, and whether or not this has any effect on the quality of New Starts projects. In addition, MAP-21 is likely to result in a change in the types of projects funded, as newly eligible core capacity projects may divert funds that would otherwise go to building new systems and extending existing systems, and streetcar and bus rapid transit projects may become more prominent in the mix. The net result may be to reduce federal funding available for traditional light rail and heavy rail projects.

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[22] Ibid., especially Figure 4.

[23] MAP-21 does direct the Secretary of Transportation to promote private-sector participation in public transit by providing technical assistance and education to transit agencies and by identifying impediments to public-private partnerships.

[24] The requirements were formerly in Section 13(c) of federal transit law. They are codified at 49 U.S.C. §5333(b).

[25] U.S. Government Accountability Office, *Public Transit: Length of Development Process, Cost Estimates, and Ridership Forecasts for Capital-Investment Grant Projects*, GAO-14-472, May 2014, http://www.gao.gov/assets/670/663716.pdf.

## Special-Needs Paratransit

Special-needs paratransit, also known as demand response or dial-a-ride, is non-fixed-route service for people with disabilities and the elderly, and typically involves the use of small buses, vans, or passenger cars. The demand for special-needs paratransit has grown relatively rapidly since the passage of the Americans with Disabilities Act of 1990 (P.L. 101-336) required that transit agencies with fixed-route service provide "complementary paratransit" to people unable to use fixed-route service due to a disability. Many communities offer a range of non-ADA paratransit services as well. Between 1991 and 2012 paratransit ridership tripled, compared with a 23% increase in public transportation ridership overall.[26] The general aging of the population may portend growing demand in future years.[27]

In 2012, operating expenditure per passenger trip for paratransit was $23.33, compared with $3.66 for motor buses and $3.75 for transit service on average. Between 2002 and 2012, paratransit operating expenses doubled in inflation-adjusted terms. The growth in costs means that special-needs paratransit is taking an ever larger slice of transit agency operating budgets, limiting the resources available for fixed-route service. Paratransit accounted for 12% of public transit systems' operating costs in 2012, up from about 4% in 1991.[28] As noted earlier, paratransit currently accounts for about 2% of all public transportation trips.

Increasing costs and service demands may lead to pressure for greater federal help for special-needs paratransit. One question is whether Congress wishes to widen or narrow the level of service mandated by the ADA, a change with immediate cost implications. Without addressing the quality or quantity of service, Congress may seek to rein in the costs of special-needs paratransit by requiring or encouraging greater enforcement of eligibility rules; making fixed-route service as accessible as possible; improving the coordination of all paratransit and human services transportation; and encouraging greater use of wheelchair-accessible taxicabs.[29] Some transit agencies already seek to control costs by providing travel training to persons with disabilities and allowing disabled riders to use fixed-route buses and rail systems for free, and such efforts could be encouraged in transit legislation.

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[26] American Public Transportation Association, *2014 Public Transportation Fact Book: Appendix A, Historical Tables* (Washington, DC, 2014), table 1, http://www.apta.com/resources/statistics/Pages/transitstats.aspx.

[27] American Public Transportation Association, *Funding the Public Transportation Needs of an Aging Population*, 2010, http://www.apta.com/resources/reportsandpublications/Documents/TCRP_J11_Funding_Transit_Needs_of_Aging_Population.pdf.

[28] American Public Transportation Association, *Public Transportation Fact Book 2014: Appendix A*, tables 67 and 72, http://www.apta.com/resources/statistics/Pages/transitstats.aspx.

[29] Transportation Research Board, *Guidebook for Attracting Paratransit Patrons to Fixed-Route Services*, TCRP Report 24, 1997, http://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_24-a.pdf; Metropolitan Washington Council of Governments, *Improving Demand Responsive Services for People with Disabilities in the Washington Region*, 2006, http://www.mwcog.org/uploads/pub-documents/9FpbXQ20060221102158.pdf; Metropolitan Transportation Commission, *Transit Sustainability Project: Final Recommendations*, May 23, 2012, http://apps.mtc.ca.gov/meeting_packet_documents/agenda_1880/TSP-May23-Commission.pdf.

# Appendix. Public Transportation Funding Authorized by MAP-21

(Thousands of Dollars)

| Program | FY2013 | FY2014 |
|---|---|---|
| **Total** | **10,578,000** | **10,695,000** |
| **Trust Funded Programs** | **8,478,000** | **8,595,000** |
| Urbanized Area Formula Program | 4,397,950 | 4,458,650 |
| *Passenger Ferry Boat Program (discretionary)* | *30,000* | *30,000* |
| *Operational Support of State Safety Oversight* | *21,990* | *22,293* |
| State of Good Repair | 2,136,300 | 2,165,900 |
| *High Intensity Fixed Guideway* | *2,075,415* | *2,104,172* |
| *High Intensity Motorbus* | *60,885* | *61,728* |
| Rural Area Formula Program | 599,500 | 607,800 |
| *Public Transportation on Indian Reservations* | *30,000* | *30,000* |
| *Appalachian Development Public Transportation* | *20,000* | *20,000* |
| *Rural Transportation Assistance Program (RTAP)* | *11,990* | *12,156* |
| *Projects of National Scope* | *1,799* | *1,823* |
| Growing States and High Density States Formula | 518,700 | 525,900 |
| Bus and Bus Facilities Formula | 422,000 | 427,800 |
| Enhanced Mobility of Seniors and Individuals with Disabilities | 254,800 | 258,300 |
| Planning | 126,900 | 128,800 |
| Pilot Program for Transit Oriented Development | 10,000 | 10,000 |
| National Transit Institute | 5,000 | 5,000 |
| National Transit Database | 3,850 | 3,850 |
| Bus Testing Facility | 3,000 | 3,000 |
| **General Funded Programs** | **2,100,000** | **2,100,000** |
| New Starts | 1,907,000 | 1,907,000 |
| FTA Administration | 104,000 | 104,000 |
| Research, Development, Demonstration, Deployment | 70,000 | 70,000 |
| *Low and no emissions buses* | *45,500* | *45,500* |
| *Low/no emissions bus facilities and equipment* | *7,000* | *7,000* |
| Transit Cooperative Research Program (TCRP) | 7,000 | 7,000 |
| Technical Assistance and Standards Development | 7,000 | 7,000 |
| Human Resources and Training | 5,000 | 5,000 |
| Emergency Relief Program | such sums as are necessary | |

**Source:** Federal Transit Administration, *MAP-21 Fact Sheet: Funding Summary*, http://www.fta.dot.gov/documents/FTA_Funding_Summary_Fact_Sheet.pdf.

## Author Information

William J. Mallett
Specialist in Transportation Policy

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