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INSIGHT

Biden Administration Proposes Temporary Operating Assistance Authority for Larger Transit Agencies

March 31, 2023

In the FY2024 budget, the Biden Administration proposes allowing larger public transportation agencies greater flexibility in the use of Urbanized Area Formula funds to cope with the larger operating deficits caused by the Coronavirus Disease 2019 (COVID-19) pandemic. Currently, agencies in urbanized areas with populations above 200,000 can use federal funds only for capital expenses or maintenance, unless they operate 100 buses or fewer. This excludes the main operating expenses of labor and fuel. Small bus agencies along with public transportation providers in small urbanized areas and rural areas are already permitted to use federal funding for all types of operating expenses.

The Administration's proposal includes a few other elements: it would exempt operating expenses from inclusion in transportation plans; it would allow federal highway program funding transferred ("flexed") to the public transportation program to be used for operating expenses; and it would also require a "maintenance-of-effort" for state and local funding. Maintenance-of-effort requirements typically attempt to address the possibility that federal dollars would replace state and local dollars. The FY2024 budget does not propose changing the minimum non-federal matching share for operating costs, which at 50% is higher than the 20% non-federal minimum for capital costs. However, current law generally allows flexed highway funds to be used with a non-federal matching share of 20%.

Background

COVID-19 had an unprecedented effect on public transportation ridership, operating revenues, and public transportation agency budgets. Taxes and tolls dedicated to public transportation agencies recovered relatively quickly from the disruptions, but ridership and fare revenue have been slower to bounce back. Ridership in 2020 was about half of what it had been pre-pandemic. Consequently, fares collected in 2020 amounted to $9 billion, down from $16 billion in 2019, and total operating revenue was $11 billion in 2020, down from $19 billion in 2019. Ridership remained at about 50% of its pre-pandemic level in 2021, rising to 62% in 2022. Subway and commuter rail ridership declined more than bus ridership due to COVID-19, particularly early in the pandemic (**Figure 1**).

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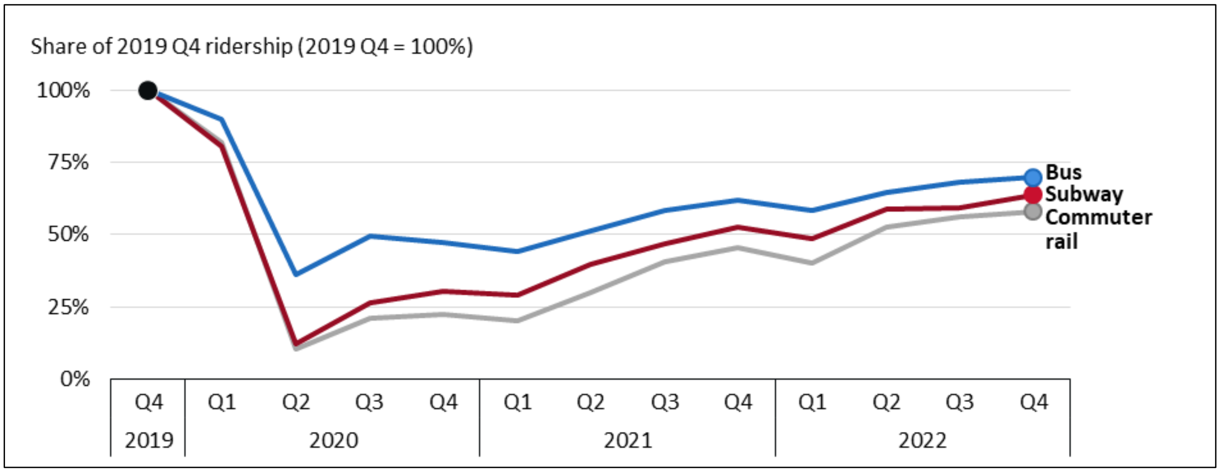
IN12135

Figure 1. Quarterly Public Transportation Ridership by Mode



Source: American Public Transportation Association (APTA), *Public Transportation Ridership Report*.

To maintain services and jobs, public transportation agency budgets were supported by federal supplemental appropriations in FY2020 and FY2021 totaling $69.5 billion, about five times the pre-pandemic $12 billion in annual federal public transportation support and more than three times the $19 billion coming from fares and other operating revenue annually. Many transit agencies, including some of the largest, expect the emergency operating support they received from the federal government to be exhausted by FY2025.

Federal Funding for Operations

Without a new source of support, keeping transit operations ongoing in the face of larger sustained operating deficits may require fare increases, service cuts, fewer employees, or a combination of these measures. Some transit agencies are currently struggling with staff shortages, a situation that complicates their financial outlook. Reduced or more expensive service could lead to falling ridership, requiring further fare hikes and service cuts. These difficulties are likely to fall most heavily on public transportation agencies that operate rail systems. Not only has rail ridership suffered greater disruption than bus ridership, but rail systems have traditionally had a greater share of their expenses covered by fares than bus systems.

Federal operating support has been of concern since the creation of the federal public transportation program in the 1960s. Issues include its effects on service, productivity (i.e., service provided per dollar of input), and asset condition. Research on the rapid expansion of operating support in the 1970s generally concluded that it allowed transit agencies to maintain a higher level of transit service than would have prevailed without it, but such support also caused productivity to decline. The decline was related to the increased cost of providing service, particularly in wages and fringe benefits. The effects of operating support on asset condition are less clear. It is possible that transit systems using federal funding for operating expenses may neglect bus and rail replacement.

The effect of the proposal on highways would depend on the amount of money flexed to support the operations of public transportation agencies. For the past five years, an average of about $1.3 billion was flexed from highway programs to public transportation, about 3% of outlays from the highway account of the Highway Trust Fund.

Maintenance-of-Effort Requirements

The Administration's maintenance-of-effort proposal raises several possible issues. A transit agency would have to certify that it is continuing non-federal spending at a comparable level under the Urbanized Area Formula program. It is not clear whether a maintenance-of-effort requirement is necessary when the minimum non-federal match of 50% for operational expenditures is higher than the 20% for capital expenditures. Nevertheless, the provision might also allow transit agencies to transfer state and local funds under other transit programs to meet the requirement. Another issue is that there would be no highway spending maintenance-of-effort associated with additional funding flexed to support operational expenditures.

A maintenance-of-effort requirement in the American Recovery and Reinvestment Act (ARRA; P.L. 111-5) was linked to the $48 billion in additional support it provided for transportation programs and because the federal share of transportation projects using ARRA funds was generally 100%. Governors were required to certify that their state would spend amounts already planned.

In a study of transportation ARRA funding, the Government Accountability Office found that although maintenance-of-effort requirements might keep non-federal spending from falling, they were challenging to comply with and to administer. Certification involved multiple transportation programs—some administered by the state and some administered by local governments and independent authorities—and they typically had different and complex revenue sources. In many cases, states did not have a way to identify planned expenditures. Because of ambiguities in the law and practicalities that became known with experience, DOT issued maintenance-of-effort guidance to the states seven times in the first year after ARRA enactment.

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