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CONGRESSIONAL TESTIMONY

21st-Century Communities: Public Transportation Infrastructure Investment

Testimony before the

Committee on Banking, Housing, and Urban Affairs

U.S. Senate

April 15, 2021

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My name is David Ditch. I am a research associate at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

Authorization for federal spending from the Highway Trust Fund expires on September 30 this year. Since the Banking and Urban Affairs Committee's jurisdiction covers the public transportation portion of the trust fund, it has an opportunity to adjust long-standing flaws in federal policy.

The Highway Trust Fund was originally established in 1956 to pay for construction of the interstate highway system using revenue from the federal gas tax.[1] Over time, Congress has expanded the eligibility scope of the trust fund to include mass transit, bike paths, sidewalks, streetcars, and other non-highway surface-transportation modes.

The most significant change to the Highway Trust Fund came in 1982, when Congress and the Reagan Administration agreed to create a separate fund that diverts gas tax revenue toward mass transit.[2] Currently, the shorthand way of describing Highway Trust Fund spending is that highways receive 80 percent, and mass transit receives 20 percent.

Although the transit funding diversion has been the status quo for nearly 40 years, it is worth examining the underpinnings of this policy. I believe that the diversion has created a

[1] Richard F. Weingroff, "Federal-Aid Highway Act of 1956: Creating the Interstate System," *Public Roads*, Vol. 60, No. 1 (Summer 1996), https://www.fhwa.dot.gov/publications/publicroads/96summer/p96su10.cfm (accessed April 12, 2021).

[2] Jeff Davis, "Reagan Devolution: The Real Story of the 1982 Gas Tax Increase," Eno Center for Transportation, September 9, 2015, https://www.enotrans.org/etl-material/reagan-devolution-the-real-story-of-the-1982-gas-tax-increase-2 (accessed April 12, 2021).

multitude of problems that legislators should address.

First, the transit diversion represents a significant departure from the "user pays, user benefits" principle, which exists to promote fairness and discourage free riding for one group at the expense of another. While the federal gas tax is not a perfect user fee, in general it has meant that drivers are paying for the cost of building and operating the national highway system.[3] Similar funding mechanisms exist for airports and harbors.

In contrast, mass transit users do not pay into the Highway Trust Fund, which means that the transit account has represented a long-term transfer from automobile users to users of public transportation. It is also a transfer from rural areas to urban areas, since mass transit is not a meaningful part of transportation for rural Americans. Both types of transfers are unfair.

The transit diversion is also a significant factor in the Highway Trust Fund's growing annual deficit. Between 25 percent and 30 percent of Highway Trust Fund spending does not go to the fund's original purpose.[4] Removing diversions to transit and other non-highway programs would bring the fund close to balance, at which point mild reforms to highway policy could close the gap entirely.

Second, federal transit funding is wildly disproportionate relative to its share of transportation use.

As of 2019, roughly 5 percent of commuting was done through public transportation, far less than its share of federal funding.[5] This is the case despite the high level of total subsidies for transit systems, which derive less than one-third of their funds from user fees on average, especially outside of the New York City metropolitan area.[6]

Federally mandated funding formulas force even highly rural states to send a significant portion of their highway bill allotment to mass transit.[7] Transit funds are allocated to metropolitan areas above 50,000 people, which means that there are qualifying metro areas in each state. However, the transit needs for a metro area of under 1 million people are extremely limited, which means that residents of low-density states get very little value from transit spending. This exemplifies the folly of one-size-fits-all federal policies, along with the sorts of problems that come with the federal government involving itself in an issue that is relevant at local and regional levels but not nationally.

Disproportionate aid to transit systems was also present in COVID-19 relief legislation. Bills passed in 2020 contained $37 billion in payments to mass transit systems, which had suffered a sharp drop in fare revenue during the

[3] Federal spending on highways has overtaken gas tax revenue in recent years. However, on a historical basis, gas tax revenues have exceeded highway spending. The depletion of the Highway Trust Fund was caused primarily by diversions, such as to mass transit. See David A. Ditch and Nicolas D. Loris, "Improving Surface Transportation Through Federalism," Heritage Foundation *Backgrounder* No. 3450, November 12, 2019, https://www.heritage.org/budget-and-spending/report/improving-surface-transportation-through-federalism.

[4] Ibid.

[5] United States Census Bureau, "American Community Survey 2019," Table B08119, https://data.census.gov/cedsci/table?q=b08119&tid=ACSDT1Y2019.B08119&hidePreview=false (accessed April 12, 2021).

[6] Federal Transit Administration, "2019 Data Tables," https://www.transit.dot.gov/ntd/data-product/2019-data-tables (accessed April 12, 2021).

[7] Federal Transit Administration, "Table 3: FY 2019 Section 5307 and 5340 Urbanized Area Formula Appropriations (Full Year)," last updated August 30, 2019, https://www.transit.dot.gov/funding/apportionments/table-3-fy-2019-section-5307-and-5340-urbanized-area-formula-appropriations (accessed April 12, 2021).

pandemic.[8] This would have been more than sufficient to cover transit losses in fiscal years (FYs) 2020 and 2021, since revenue from transit users is just over $20 billion per year, and since COVID-19 did not strike until well into FY 2020.[9]

However, Congress then provided an additional $30 billion to transit agencies in March 2021.[10] That brought the total amount of COVID-19 transit relief to $67 billion—roughly three full years of user fees. Since user revenue did not drop to zero during the pandemic, this means that transit agencies received a net financial benefit due to the size of the relief payments. Congress should take this fact into consideration when setting funding levels for the mass transit account.

Third, continual large-scale subsidies for transit agencies have turned these agencies into inefficient jobs programs rather than public service providers.

Based on my examination of budgets for major transit agencies, labor costs represent 60 percent to 80 percent of operating expenses. The total cost per employee is staggering in city after city: $151,000 in New York,[11] $144,000 in Washington, DC, [12] $120,000 in Philadelphia,[13] $187,000 in San Francisco,[14] $112,000 in Chicago, [15] $136,000 in Los Angeles,[16] and $91,000 in Atlanta.[17] Employee compensation at transit agencies is well above average for each of the respective metro areas,[18] and well above average for private-sector transportation work.[19]

It is important to note that base salaries are not driving the transit-worker compensation premium. Instead, it is overtime pay, defined benefit pension plans, and other fringe benefits that boost compensation to such astonishing levels. The conflict of interest that is present in negotiations between transit-worker labor unions and metro-area officials, coupled with layers of subsidies, has allowed the rapid growth of pension and health-benefit costs to continue unabated for decades.

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8 Committee for a Responsible Federal Budget, "COVID Money Tracker," https://www.covidmoneytracker.org (accessed April 12, 20210.

9 Federal Transit Administration, "2019 Data Tables."

10 Committee for a Responsible Federal Budget, "COVID Money Tracker."

11 Metropolitan Transportation Authority, "MTA 2021 Adopted Budget," February 2021, https://new.mta.info/document/30186 (accessed April 12, 2021).

12 Operational employees only. See Washington Metropolitan Area Transit Authority, "FY 2022 Proposed Budget," https://www.wmata.com/about/records/upload/Proposed-FY2022-Budget.pdf (accessed April 12, 2021).

13 Southeastern Pennsylvania Transportation Authority, "Fiscal Year 2021 Operating Budget," https://planning.septa.org/wp-content/uploads/2021/02/Operating-Budget-FY2021.pdf (accessed April 12, 2021).

14 Bay Area Rapid Transit, "Fiscal Year 2021 Adopted Budget," https://www.bart.gov/sites/default/files/docs/FY21%20Adopted%20Budget%20Manual%20Final%2009.23x.pdf (accessed April 12, 2021).

15 Chicago Transit Authority, "Public Transit: An Essential Key to Recovery—President's 2021 Budget Recommendations," https://www.transitchicago.com/assets/1/6/FY2021_BUDGET_BOOK_-_FINAL_(Online_Version).pdf (accessed April 12, 2021).

16 Los Angeles Metropolitan Transportation Authority, "Fiscal Year 2021 Adopted Budget," https://media.metro.net/2020/FY21-Adopted-Budget.pdf (accessed April 12, 2021).

17 Metropolitan Atlanta Rapid Transit Authority, "FY2021 Proposed Budget Book," June 2020, https://www.itsmarta.com/uploadedfiles/FY21-Proposed-Budget-Book.pdf (accessed April 12, 2021).

18 Bureau of Economic Analysis, "Personal Income by County, Metro, and Other Areas," 2019, https://www.bea.gov/data/income-saving/personal-income-county-metro-and-other-areas (accessed April 12, 2021).

19 Bureau of Labor Statistics, "Employer Costs for Employee Compensation for Private Industry Workers by Occupational and Industry Group (December 2020)," March 18, 2021, https://www.bls.gov/news.release/ecec.t04.htm (accessed April 12, 2021).

If transit agencies prioritized self-sufficiency and the needs of customers the way a business does, they would provide better service with the same amount—or a smaller amount—of taxpayer assistance. Reining in the unsustainable growth of fringe benefits would allow room in transit budgets to hire more workers and increase the frequency of buses and trains, which would benefit transit users, or allow budgets and subsidies to shrink, which would benefit taxpayers, or a combination of the two. Instead, transit agencies consistently make politically motivated choices to prioritize high employee compensation.

This pattern was exemplified recently when some transit agencies threatened severe service reductions if they did not receive a new round of federal COVID-19 relief.[20] Rather than adjusting budgets by reforming exorbitant fringe benefits, these agencies chose to maximize public anxiety over service cuts in order to pressure federal legislators for additional bailouts.[21] When the bailouts materialized, transit agencies were able to avoid making tough choices on compensation, temporarily sustaining the flawed status quo.[22]

Another accountability flaw is the non-transparent nature of the gas tax diversion to the mass transit fund. Transit agencies are guaranteed to receive a pre-set amount of gas tax revenue regardless of how they perform their duties. Since most drivers are unaware of the diversion, they have no incentive to monitor transit performance. This disconnect significantly reduces the incentives for transit agencies to use their funds prudently.

The fourth problem with continuing substantial federal transit subsidies is the uncertainty surrounding the post-pandemic transportation environment.

One of the key purposes of mass transit is providing a transportation option for people to use during daily work commutes, whether they live downtown or in the suburbs.

The COVID-19 pandemic led to a surge in remote work, especially for white-collar jobs that are prevalent in city office buildings. One can reasonably expect that most people who currently work remotely will return to office commutes as vaccinations finally bring the pandemic under control. However, one can also expect a permanent increase in remote work compared to 2019, as some people commute only a few days per week and others hardly commute at all.

This permanent increase in remote work will have a two-fold effect on transit compared to before the pandemic. First, it will directly reduce transit use due to the lower volume of commuters. Second, it will reduce the volume of people who commute by car. This could further reduce transit use if there is a reduction in rush hour traffic congestion, leading some transit users to switch to commuting by car. The question is not whether remote work will

[20] Justin George, "Here's What to Know About Metro's Proposed Service Cuts," *The Washington Post*, December 3, 2020, https://www.washingtonpost.com/transportation/2020/12/03/metro-budget-cuts-faq/ (accessed April 12, 2021), and David A. Ditch, "Blame Unions for NY Transit Agency's Deep Red Ink. A Federal Bailout Won't Fix That," The Daily Signal, December 1, 2020, https://www.heritage.org/transportation/commentary/blame-unions-ny-transit-agencys-deep-red-ink-federal-bailout-wont-fix.

[21] Using highly visible service cuts to pressure legislators into approving additional funding is sometimes referred to as Washington Monument Syndrome. See Daniel J. Mitchell, "The 'Washington Monument Syndrome' Backfires in Massachusetts," Cato Institute blog, July 15, 2009, https://www.cato.org/blog/washington-monument-syndrome-backfires-massachusetts (accessed April 12, 2021).

[22] David Meyer, "MTA Calls Off Wage Freeze After Biden Signs COVID-19 Stimulus," *New York Post*, March 11, 2021, https://nypost.com/2021/03/11/mta-calls-off-wage-freeze-after-biden-signs-covid-stimulus/ (accessed April 12, 2021).

reduce the long-term need for transit, but rather the degree of that change.

Considering the problems outlined above, continuing or increasing the status quo of federal transit subsidies would be a poor use of public funds.

Rather than throwing good money after bad, Congress should use this year's highway bill to promote reforms that will increase the value of federal transit spending.

The first option would be to provide flexibility to low-density states regarding how much of their Highway Trust Fund allocation they must spend on transit. This flexibility would enable these states to better match their transportation spending with the needs of their residents.

Second, the federal government should reduce or eliminate funding for projects to expand transit systems. Since existing transit infrastructure is significantly underused, there is no reason to subsidize expansion.

Third, the federal government should eliminate mandates, such as the Davis–Bacon Act and "Buy American" rules, which increase the cost of transit construction projects.[23] Alternately, the U.S. Department of Transportation should be allowed to issue waivers on a project-by-project basis if a state can show that a given regulation will substantially increase the project's cost.

Fourth, the federal government should reduce or eliminate the practice of cross-subsidizing users of one mode of transportation at the expense of users of a different mode, especially as it relates to the Highway Trust Fund. This would improve transparency, fairness, and the financial health of the trust fund.

I hope that Members of the committee will take full advantage of the opportunity they have to reform federal transit policy with this year's highway bill.

Thank you.

[23] David A. Ditch, Nicolas D. Loris, and Adam N. Michel, "Highway Bill Reauthorization: Three Do's, Three Don'ts," Heritage Foundation *Backgrounder* No. 3585, February 18, 2021, https://www.heritage.org/budget-and-spending/report/highway-bill-reauthorization-three-dos-three-donts.

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