

Legislative & Policy Update



Community Transportation EXPO
Wednesday, May 22, 2019

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Deputy Director

CTAA's Legislative Priorities

Approved by CTAA's Board of Directors

- Continued Growth for Bus & Facilities Funding
- On-Demand Mobility for Rural & Specialized Communities
- Right-Sized Regulations
- Preserve the Medicaid NEMT Benefit
- NEMT Opportunities Beyond Medicaid
- Prepare for the 2020 Census
- Create Local Match Relief During Disasters



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FULL DETAILS: www.ctaa.org

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2019 Legislative & Policy Agenda

for Community and Public Transportation

NEED	CTAA RESPONSE
On-demand mobility is needed in rural areas and for specialized needs	Inventory obstacles to successful on-demand scheduling in rural areas, develop turn-key solutions, and secure dedicated federal investment to inspire change and advance the industry.
Bus and Bus Facility Funding is still recovering from years of inadequate investment	Ensure \$1.2 Billion is the new baseline for Sect. 5309 Bus and Bus Facility funding, recognize the annual replacement cost nationwide and continue to advocate for adequate capital investment for rural and small-urban transit.
Federal oversight of small urban and rural providers is often not right-sized and wastes resources for FTA and providers alike	Work with Congress and the Administration to right-size and introduce risk-based approaches to all regulations, focusing on triennial and state management reviews oversight processes.
Preserve and support the non-emergency medical transportation benefit (NEMT) in the Medicaid program	Work with the broad-based healthcare and transportation coalition, as well as Congress and the Administration, to defend the Medicaid NEMT benefit.
Considerable growth in NEMT is outside of Medicaid and transitioning into private-sector healthcare providers, insurers (MCOs), Medicare and beyond	Educate CTAA members about the opportunities before them in communities of all sizes and provide real-world technical assistance and promising practices on the emerging nexus of NEMT, technology, and on-demand mobility.
Census driven regulations result in financial and regulatory turmoil for rural providers on a national scale	Partner with FTA to create a formal five-year transition plan to successfully move rural providers to robust small urban status and allow localities to manage major changes brought about by the 2020 Census.
In the aftermath of hurricanes, earthquakes, floods, fires and other disasters, transit providers and the communities they serve are hard pressed for local share	Work with Congress and FTA to establish a temporary local match relief program for areas struck by natural disasters, including those not declared as federal disaster areas.

First, Let's Review the Process

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AUTHORIZATION

The level at which funding is approved by law (passed by Congress, signed by President) for various federal programs.

For surface transportation programs, conducted via a multi-year authorization – currently the FAST Act (previously MAP-21, SAFETEA-LU, TEA-21 and ISTEA)

APPROPRIATIONS

Annual approval (Congress & President) of authorized investment level; may be different than authorized level. Conducted as part of the federal budget process.

APPORTIONMENTS

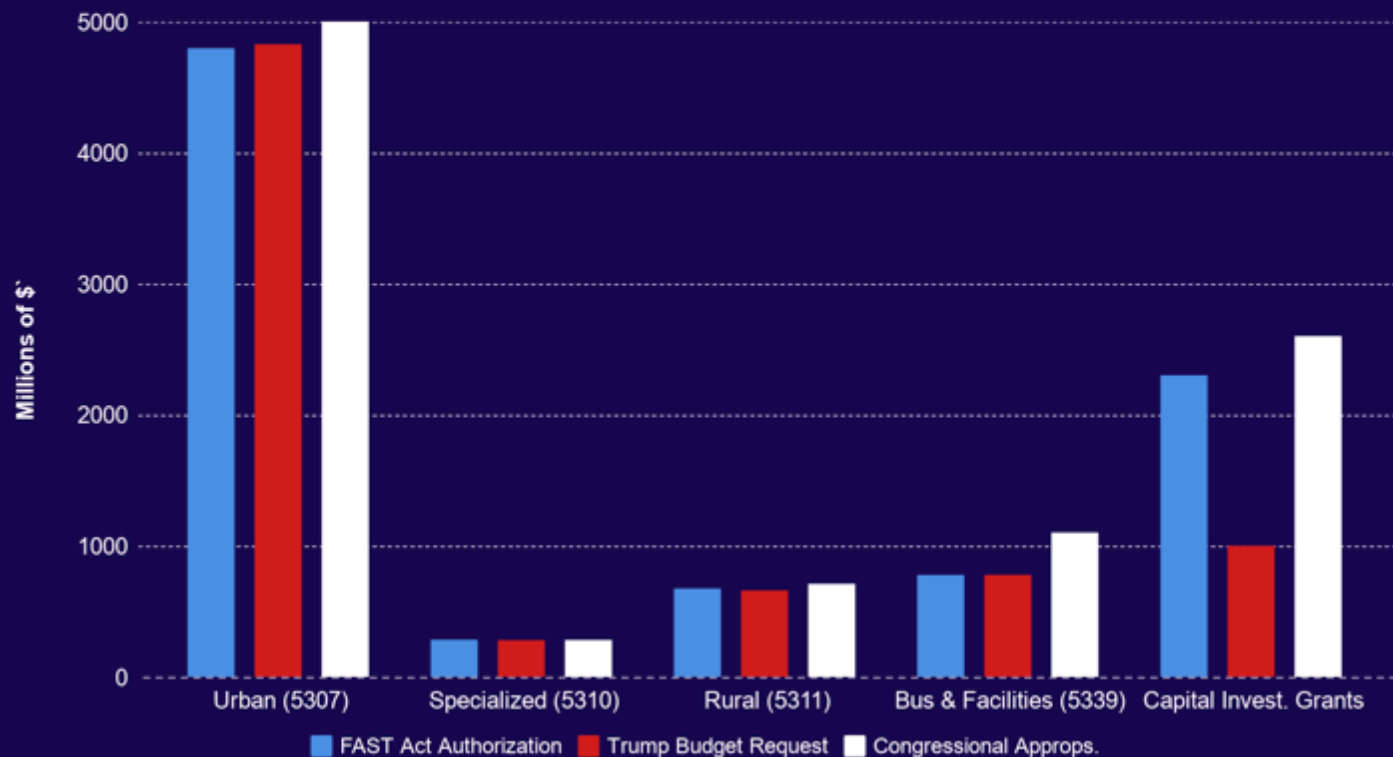
Annual distribution of funds to recipients by FTA according to the appropriated funding levels for that year.

FY 2019 Appropriations Update

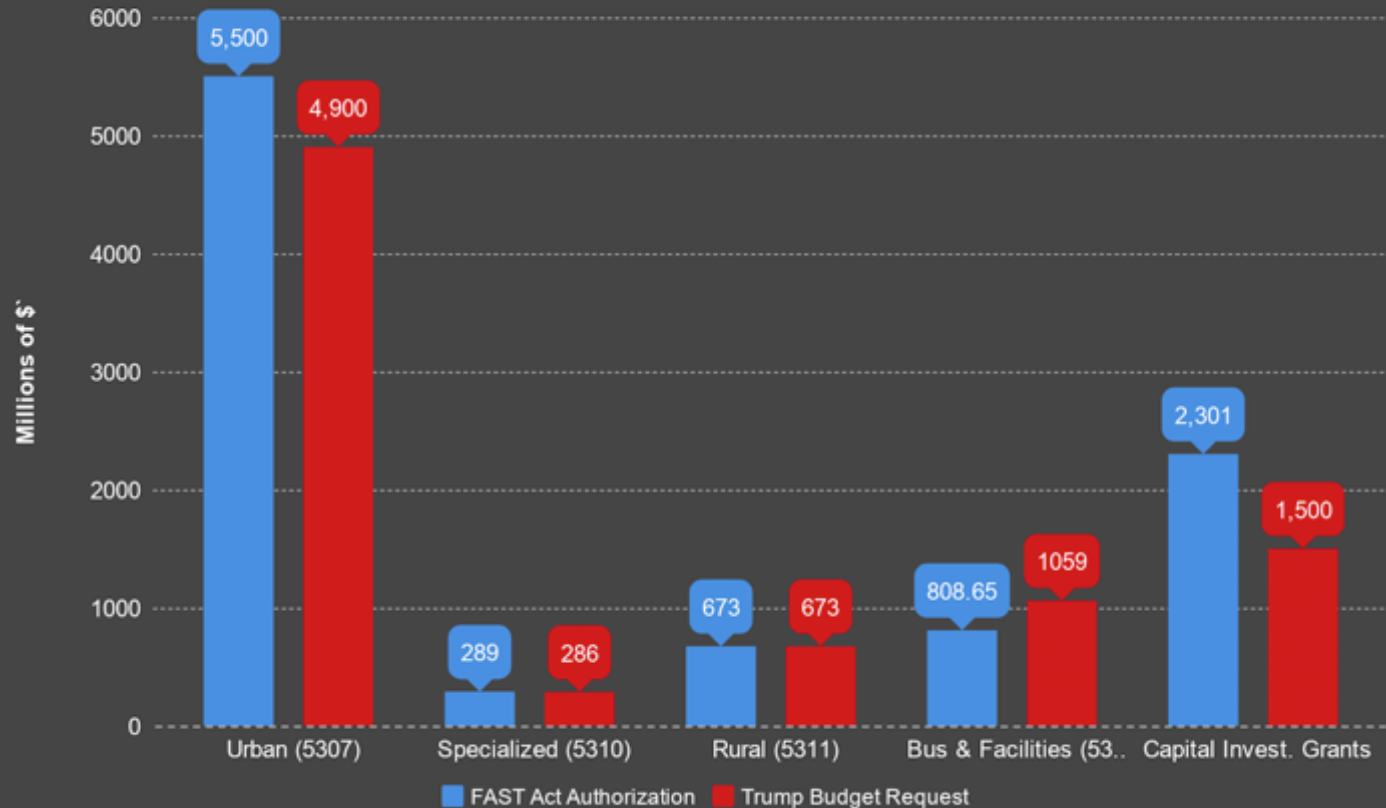
- Overall @FTA_DOT funding at \$13.4b (under both House and Senate proposals of \$13.6b and \$13.5b, respectively)
- Follows FAST Act authorized levels of formula funding (Sections 5307, 5310, 5311, 5339)
- \$350m in additional funding for bus capital (Section 5339), divided \$160m to formula, \$160m competitive and \$30m no-low emission
- \$40m in additional Section 5311 funding
- \$40m in additional Section 5340 high-density state funding

Honoring the FAST Act

FY 2019 Spending Levels



FY 2020 Spending Proposals



President's Budget

- Formula program proposals largely match FAST Act
- Capital Investment Grants outside Trust Fund
- 5339 identified for significant increase in President's proposal

Outlook for FY 2020 Approps

- ⌚ No budget deal in place
- ⌚ Delayed due to Government Shutdown
- ⌚ Approps committees lack financial direction right now
- ⌚ CTAA goals: FAST Act formula programs, increases in Section 5339



CTAA Analysis: What's Best for Federal Transit Investment – a new VMT Tax or an Increased Gas Tax?

February 2019

The reauthorization of the Fixing America's Surface Transportation Act (FAST Act) is rapidly approaching and so are discussions on what should be included in the new legislation. A dominating conversation around reauthorization goals has been, "How can Congress increase revenue for the Highway Trust Fund?"

Before we can answer that question, we should examine how the current deficit came to be. Since 1956 (the HTF's year of creation), federal surface transportation programs have been [largely](#) funded by taxes on motor fuels that flow into the HTF. These trust fund-based taxes have historically been user-fee based; governed by the principal "if you use it, you pay for it." As the highway system continued to expand, maintenance costs piled on and more people started driving, the gas tax was steadily increased to alleviate financial burdens. Gas taxes have increased four times since the HTF's creation: in 1959, 1982, 1990, and 1993.

1982 marked a significant year for transit. It was the year the HTF was divided into two accounts: the Highway Account and the Mass Transit Account, beginning the flow of funds to support transit directly. The gas tax was increased to nine cents that year, with the Highway Account receiving eight cents and the Mass Transit Account receiving one cent.

As noted above, the gas tax hasn't increased since 1993, with the current rate taxing at [18.4 cents](#) for each gallon of gasoline and [24.4 cents](#) for each gallon of diesel. Due to the lack of gas tax indexing, the Congressional Budget Office predicts that by 2026, the HTF will have a cumulative shortfall of [\\$75 billion](#). When the gas tax was initially implemented, present-day challenges such as electric vehicles and Corporate Average Fuel Economy (CAFE) standards were not yet in existence. CAFE standards have dramatically improved auto fuel efficiency since the 1990s and have contributed to the [decline](#) in gas tax revenues per mile. In order to adjust for these lacking funds, the U.S. Treasury has transferred more than [\\$140 billion](#) of general funds to the HTF (over the last ten years) in order to keep it solvent.

Not only has the transfer of general funds to the HTF demonstrated the overwhelming budget shortfalls, but it also has the potential to severely impact the work of government agencies such as the Federal Transit Administration, as observed in the most recent 32-day government shutdown. Because the Mass Transit Account, which funds FTA, has been almost entirely funded by general funds over the past decade (rather than already-authorized HTF funds), government shut downs leads to FTA employees being sent home. The latest shutdown critically impacted many small-urban and rural transit agencies because they were not able to receive their approved federal grants, let alone have any of their questions answered by an employee.

FAST Act Reauthorization: The Funding Issue



Priorities for Reauthorization of Federal Surface Transportation Legislation

Community Transportation Association of America

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OBJECTIVE

Ensuring investment in mobility that generates improved outcomes for people and communities

CTAA – on behalf of its more than 1,200 members – supports reauthorization of federal surface transportation legislation (currently known as the FAST Act) that is responsive, predictable and flexible in order to leverage state, local and private-sector investment and meet ever-changing mobility needs in communities across the country.

Raise the Gas Tax...Now



Recent federal surface transportation authorizations (MAP-21, FAST Act) have relied on short-term, stopgap measures and general fund transfers by Congress to make up the shortfall between declining federal gas tax receipts and investment needs across the range of federal surface transportation programs.

A multi-year authorization must be paired with an increase in the federal gas tax for at least the duration of the authorization period to provide stability to the transportation trust fund accounts.

Explore Long-Term Revenue Mechanisms

While the federal gas tax has generated revenue to support surface transportation investments in community and public transportation for more than a half century, its purchasing power is dwindling as vehicles become more fuel efficient and its purpose is misaligned with transit's objective to provide mobility alternatives to single-occupant car use.

New authorization legislation is an opportunity to consider and test out new revenue collection mechanisms that have the potential to replace the federal gas tax, including a Vehicle Miles Traveled (VMT) fee as well as value capture tools that can translate the improved individual and societal outcomes that reliable, effective and efficient mobility options can provide.



These objectives outline CTAA's core areas of focus in the reauthorization of federal surface transportation legislation. There are many complex details that underlie each general area. Those specifics are provided on focus sheets for each objective that correspond with this overview document.

Maintain & Grow Transit Formula Programs

Formalized federal transit programs – including those for rural and urban areas, specialized mobility for seniors and people with disabilities, and for new buses & facilities – are the lifeblood of the community and public transportation industry.

Bipartisan leaders in both Congress and across multiple administrations have recognized funding in both the authorization and appropriations cycles. This growth must continue in order so mobility providers may continue to effectively meet their communities' increasing and evolving needs.

Sensible Regulations

Transit managers often tell us that reduced administrative burdens would almost be as valuable as increased funding.

The intentions behind many federal transit regulations are noble, but in application, they are often too broadly applied across our industry, regardless of the size or performance.

CTAA has identified a number of challenges from – and more importantly – solutions to current regulations to provide relief to many small-urban, rural and specialized mobility providers. In an era of constrained resources, these changes can significantly reduce administrative time and expenses.

Data-Driven, Performance-Based Innovation

Every day, new technologies and concepts are impacting mobility in communities of all sizes.

Mobility providers have always been nimble and adept, responding to both opportunities and challenges with flexible and responsive solutions to meet needs.

Federal transit programs should reward performance and incentivize innovation to achieve even better outcomes and adapt to changing trends.

The current Small Transit-Intensive Cities (STIC) program – benefiting high-performing, small-urban communities – should find its set-aside increased from 2 to 3 percent, and is a model worthy for replication to foster more and better service in both larger urban and rural areas.



Non-Investment Topics for Reauthorization

- Increase STIC set-aside from 2 to 3 percent
- Temporary local match relief during disasters
- Formula funds distribution during shutdowns
- Raising \$5000 limit on used vehicle sales
- Accounting for transit's fully-allocated benefits

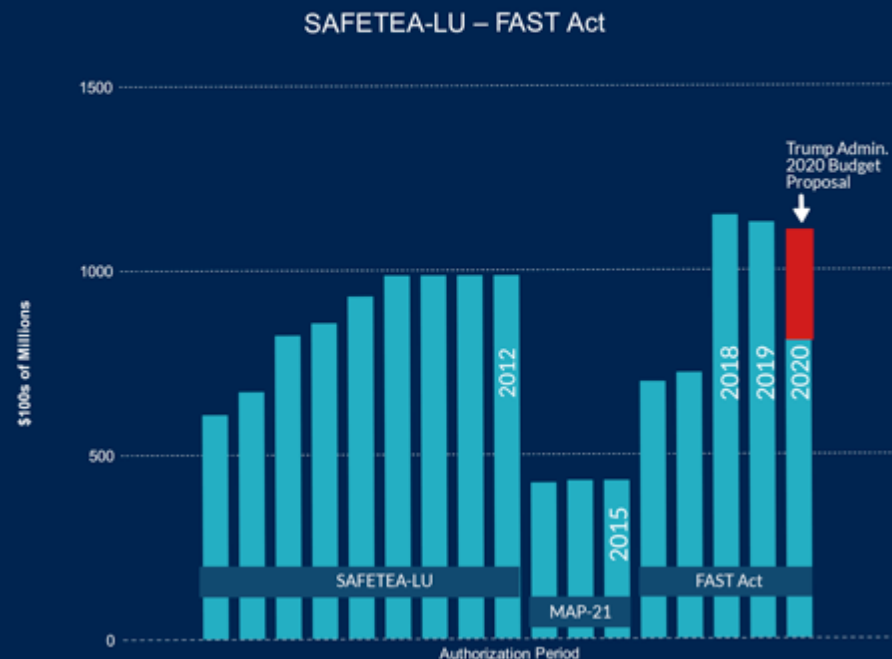
Section 5339 Growth



- Total of \$1.127 billion in FY 2019
- Compare to \$720 million in FY '17, \$1.147b in '19
- \$615 million through formula portion
\$427 million through competitive grants
- \$85 million for Low/No Vehicles competitive grants
- Largest growth of federal transit programs in FY '19



FEDERAL BUS CAPITAL INVESTMENT LEVELS



On-Demand Mobility for Rural & Specialized Communities



Concepts & Developments

- FY '19 Appropriations includes funding for applied technology technical assistance center
- CTAA Member Julia Castillo (HIRTA – Iowa) testifies before House T&I Committee in fall 2018
- CTAA members deploying limited use of on-demand solutions (Wheels2U – Norwalk Transit District, Connecticut)
- EXPO: It's Time to Be Bold – Road Map Session



Right-Sized Regulations



- Build off momentum from safety rules deferment (rural) & exemption (specialized)
- Solutions-oriented approach
- Partnership with AASHTO
- Consultation with FTA & DOT on improvements on circulars and guidance
- Risk-based approach
- Statutory changes for reauthorization

THREATS TO

State Medicaid programs are required to provide necessary transportation for beneficiaries to and from providers through the non-emergency medical transportation (NEMT) benefit, which facilitates access to care, and positively impacts an individual's health care outcomes.

Despite the positive outcomes from providing transportation, there have been gathering threats against the benefit that could potentially eliminate an important benefit for millions of Medicaid beneficiaries, impacting access to care, and damaging health care outcomes.

H.R.1394 (Introduced by Rep. Brooks R-IN-5)

MARCH 2017

"Nonemergency Medical Transportation.—Nothing [...] shall be construed as requiring a State plan under this title (or a waiver of the plan) to provide for transportation to and from providers as specified in section 431.53 of title 42, Code of Federal Regulations (as in effect on the date of the enactment of this subsection)."

HHS and CMS Joint Letter to the Nation's Governors

MARCH 2017

*"States may also consider creating greater alignment between Medicaid's design and benefit structure with common features of commercial health insurance, to help working age, nonpregnant, non-disabled adults prepare for private coverage. These state-led reforms could include[...] **Waivers of non-emergency transportation benefit***

Putting America First – The President's Budget for HHS FY2019

FEBRUARY
2018

*"**Make Medicaid Non-Emergency Medical Transportation Optional.** Under current regulations, states are required to provide Non-Emergency Medical Transportation to all Medicaid beneficiaries. The Budget commits to using regulatory authority to **change provision of this benefit from mandatory to optional.** [No budget impact]"*

HHS and CMS Annual Unified Agenda

FALL 2018

*"This proposal will **reexamine current regulations under which States are required to assure NEMT for all Medicaid beneficiaries** when they have no other means of accessing medical services. The goal of this proposed rule is to provide States with greater flexibility as part of the administration's reform initiatives."*

Help Us Defend the NEMT Benefit

Create a long term statutory safeguard for the NEMT benefit and move it from regulation into Medicaid statutes.

Support the Congressional Black Caucus' appropriations limitation language blocking against the potential policy changes that could eliminate the NEMT Benefit.



NEMT is an essential component of our Nation's health care delivery system, particularly in rural areas.

Over half of Medicaid transportation services are utilized by patients with the highest burden of chronic disease.

Currently NEMT is utilized by roughly 10% of Medicaid beneficiaries, and only accounts for 1% of Medicaid spending.

Elimination of the NEMT benefit would have adverse impacts on patients, the health care system, and state budgets.

CTAA is currently tracking developments around the NEMT benefit and is working with a number of key stakeholders in this arena to develop and implement an advocacy and policy strategy. Contact CTAA Health Care and Transportation Associate, Alex King at king@ctaa.org or 202-340-5284 for more information.

Questions and Discussion



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