Legislative & Policy Update

Community Transportation EXPO
Wednesday, May 22, 2019

Charles Dickson
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
First, Let’s Review the Process

**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

- Urban (5307)
- Specialized (5310)
- Rural (5311)
- Bus & Facilities (5339)
- Capital Invest. Grants

FAST Act Authorization
Trump Budget Request
Congressional Approps.
• 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.
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
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
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.

THREATS TO

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)

"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)."

MARCH 2017

HHS and CMS Joint Letter to the Nation’s Governors

"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"

MARCH 2017

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

"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]"

FEBRUARY 2018

HHS and CMS Annual Unified Agenda

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.

FALL 2018

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.

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.
Questions and Discussion

Charles Dickson
dickson@ctaa.org
202.247.8356
Twitter: @OfficialCTAA