

# TEA-21 a Significant Victory for Community Transportation

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by Scott Bogren and Chris Zeilinger

In late May, Congress overwhelmingly approved a transit reauthorization bill that truly signals the dawn of a new era for community transportation. The Transportation Equity Act of the 21st Century's passage (88 to 5 in the Senate; 297 to 86 in the House) is a meaningful victory for community transportation and its supporters. It features guaranteed funding increases for community transportation, a finalized Access to Jobs program and the end of limits on operating assistance for small-urban transit.

With its self-imposed Memorial Day recess deadline just hours away, the House and Senate hastily approved the massive Transportation Equity Act of the 21st Century (TEA-21) on Friday, May 22. The \$218 billion plan, which was signed into law by President Bill Clinton, represents the largest public works bill in U.S. history.

"I am very proud of the work CTAA and its members have done on this bill," says CTAA Executive Director Dale Marsico. "It proves that CTAA, working with its coalition partners, can expand the vision of our membership in positive and productive ways."

## Better Late than Never

The process that led to the eventual agreement of the Senate-House Conference Committee was long and arduous. Even two weeks after its passage highway, transit and congressional insiders had difficulty determining the total spending level authorized by the mammoth bill. The final \$218 billion funding level virtually matches the House's BESTEA proposal.

As the Memorial Day recess approached, it seemed as though another delay was inevitable until conferees spent several long days and nights ironing out controversial issues and hurrying the bill to a vote. As the conferees debated ISTEA, several controversial issues were shelved, including a Senate proposal to impose sanctions on states that fail to adopt more stringent drunk driving laws. The Clinton Administration, as well, objected to the large number of demonstration or so-called "pork" projects included with the House bill. Yet in the end, more than 1,800 road and bridge projects found their way into law.

As late as Thursday, May 21, transit spending levels, which became a real sticking point, were holding up the entire bill. A key to the final passage of this bill was a unique solution to fund the transit program through a blend of guaranteed Mass Transit Account trust funds, guaranteed general revenues and other general revenues subject to available appropriations. Of the final \$175 billion in highway spending, \$167 billion is guaranteed; while \$36 billion of the total \$41 billion for transit is walled-off. This \$5 billion in unprotected transit funding emerged out of last-minute negotiations with Sen. Al D'Amato (R-N.Y.). Most sources, however, do not expect congressional appropriators to provide all of these extra funds which some claim is a device for D'Amato to say he prevailed in the negotiations.

### **Paying for TEA-21**

To pay for all of the highway and transit spending not coming out of the mass transit account, Congress was forced to hunt down budget offsets. The largest offset comes from the Veteran's Affairs Department and the cutting of a smoking-related health benefits program — freeing up \$17 billion for the six-year life of TEA-21. Also, congressional conferees scaled back Social Services Block Grant spending by \$2.3 billion.

As it became apparent that the Administration and others were unsuccessful in their efforts to pare back the bill by dropping some of the road and bridge demonstration programs, budget offsets became the only real option. The eventual effect of these offsets is unknown.

### **Guaranteed Increases**

Total transit funding under TEA-21 increases by 35 percent, with formula funds growing by 24 percent and capital grants swelling by 53 percent. Most significantly, a predominance of these funding figures are — for the first time in the transit program's history — guaranteed or walled-off. These so-called firewalls assure transit an estimated 80 percent return on authorized funding levels (compared to highways which traditionally receive 98 percent of authorizations).

Guaranteeing TEA-21's funding increases is a considerable victory for public transportation. Throughout the original ISTEA, transit funding fell dramatically short of authorizations, leading to a general skepticism on the part of the public and community transportation advocates with regard to authorized funding levels. No more. Rather than having to justify the mere existence of transit programs with each annual appropriations, transit supporters can focus on specific issues like access to jobs or capital replacement.

### **Rural Gains**

For rural transit operators, the new bill is a benchmark on two fronts: (1) it changes the long-standing funding formula and (2) it provides profound funding increases. The rural program (Section 5311), for example, grows to nearly \$180 million in Fiscal Year 1999 — a 32 percent increase as compared with 17 percent increases for urban transit. During the life of TEA-21, rural funding is slated to hit \$240 million by 2003, an 80 percent increase from 1998 figures.

"The changes in funding for rural transportation was won mostly by the work of the association and its members and building on the successful record of accomplishment of our members," says Marsico.

Rural transit's share of formula funds increases from 5.5 percent to 6.4 percent — a meager but welcome adjustment, particularly in light of record funding levels. Additionally, the rural intercity bus set aside (Section 5311f) remains intact with TEA-21.

"We certainly didn't get everything we wanted, but it is a start and we will work hard to augment these rural transit levels in appropriations," said Sen. Tim Johnson (D- S.D.)

"I am encouraged that this bill begins to acknowledge the growing need some rural people have for getting to and from medical appointments, child care facilities and traveling to jobs," said Sen. Craig Thomas (R-Wyo.). "Clearly, there is more to do and we are prepared to continue pushing for fairness and equity."

## **Operating Freedom**

Small-urban transit agencies will not only enjoy funding increases, but will lose any limits on operating assistance — the same holds for large-urban agencies with less than 15 vehicles (designed to benefit small transit agencies operating within large metropolitan regions like Los Angeles and San Francisco). Small-urban transit funding (Section 5307) grows to \$251.6 million next year — a 17 percent increase. Elderly and Disabilities funding (Section 5310) grows by 8 percent to \$67.1 million in FY 1999.

## **New Starts a Big Winner**

In the Section 5309 capital program, new starts rail receives an 88 percent increase to \$1.5 billion. This considerable expansion seems to signal the ascendancy — at least politically — of new rail programs over traditional ones (rail modernization) which grow by 25 percent. Bus capital grows by 38 percent to \$551 million. The end result is the crashing down of another long-held transit formula. Gone is the 40 percent new starts, 40 percent rail modernization and 20 percent buses and

facilities rule (the so-called 40-40-20 formula). The new formula goes 49 percent new starts, 33 percent rail modernization and 18 percent bus and facilities.

But the news is mixed for new starts rail proponents as legislators decided to earmark projects thus limiting flexibility. Still, the Federal Transit Administration (FTA) retains the right to decide which new starts are most worthy.

"We're real happy with these numbers," says Jeff Boothe of the New Starts Coalition, "But the earmarks are a great concern to us because they skirt a lot of community responsiveness issues."

As for rural transit interests, the guarantee that 5.5 percent of all bus capital spending goes for rural areas still holds. And new with TEA-21, the Altoona (Pa.) Bus Testing Facility is paid for off the top of the bus capital program.

### **Access to Jobs Makes the Cut**

The Access to Jobs program's passage is another real victory for community transit. TEA-21 calls for \$150 million for access to jobs (taken from a combination of mass transit account, walled-off general fund and non-guaranteed general fund revenue sources) for the next six years. Of this \$150 million total, \$10 million must be spent on reverse commute projects.

Access to Jobs will receive \$50 million in secured funding and \$100 million in unsecured funding in Fiscal Year 1999. In each ensuing year, \$25 million will be shifted from the unguaranteed pot to the guaranteed one. By FY 2003, the program will receive all \$150 million in assured funding.

"Access to Jobs represents the victory of our work and that of our allies," says Marsico.

Community transportation providers in all 50 states will be able to apply for Access to Jobs funding as 60 percent of the total will go to large-urban areas (over 200,000 population), 20 percent to small-urban areas (50,000 to 200,000 population) and 20 percent to rural areas (less than 50,000 population).

In considering Access to Jobs grant requests, the FTA will examine the population of welfare recipients in the project target area, the extent to which the applicant demonstrates coordination with existing public and human services transit agencies, the innovativeness of the approach and more.

"In passing the Access to Jobs provision in TEA-21, Congress recognized the real difficulty low-income people face in trying to obtain employment. Studies across the country have recognized that lack of adequate transportation is one of the biggest

barriers faced in obtaining employment, this provision will give communities the tools they need to get the job done," says CTAA's Charles Dickson.

## **Hidden Gems**

With any bill as large as TEA-21, it takes more than a cursory glance to uncover all the layers. We found several new programs in the bill as well as smaller items of genuine interest to community transportation operators.

To help fixed-route transit operators pay for ADA complementary paratransit, all such costs are now eligible for FTA formula-based capital assistance — whether contracting out for complementary paratransit or providing it in-house. The limit on such expenses is 10 percent of an agency's total formula allocation.

And while on the subject of accessibility, TEA-21 also includes funding for Rural Over-the-Road Bus Accessibility to help intercity bus systems meet recently mandated ADA requirements. Notably, this rural program is paid for across-the-board out of formula funds, as opposed to the intercity bus set aside which is taken exclusively from rural formula funds.

Another new program with a decidedly urban focus is the Clean Fuel Bus Program. Beginning in FY 1999, a total of \$200 million will be available to urban transit agencies to purchase clean fuel buses (CNG, propane, electric, etc.). Two-thirds of these formula funds will go to the largest urban transit systems (more than 1 million population), while the other third is for urban transit agencies operating in areas with less than 1 million population.

Coordination and flexibility made the original ISTEA landmark legislation. They remain in TEA-21 with virtually no changes. Transit enhancements and Congestion Mitigation and Air Quality (CMAQ) funding are also intact. Additionally, there are a surprising number of multi-modal transportation projects included in the highway portion of the bill. Hopefully, the next six years will see increased use of these program's innovative flexibility.

Coordination, too, is a recurring theme in the new bill, including that between public transit and human services providers. For example, near the very beginning of the hefty bill, Congress sites facilities that incorporate community services such as day care and health care and intermodal transfer centers as eligible capital projects. This is new language, and new emphasis.

## **A New Beginning**

For community transportation, TEA-21 is the beginning of a new era. CTAA and its members entered the struggle to craft this new bill less than a year ago, and the

progress we made was both swift and decisive. Our work with the Campaign for Effective Passenger Transportation was critical to the success. But the real message to all Community Transportation readers is that the victories detailed in this article are just the beginning.

Now, we need to build upon these gains and provide more service, more efficiently and more flexibly. One of the primary impediments to many a community transit agency's innovation has always been lack of money. And while TEA-21 doesn't altogether satisfy our every funding wish, it does address many long-standing needs.

"We move forward toward the 21st century in a stronger position than anyone would have guessed just a short time ago — this is the reality of a vision that knows no limits," concludes CTAA's Dale Marsico.