



Transfer

Surface Transportation Policy Project's Electronic Update

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Announcements

October 8 - Walk A Child To School Day

Communities around the country are organizing events for children and parents to walk to school as part of International Walk to School Week, October 6-10. Such events are excellent opportunities to discuss opportunities for increasing funding for pedestrian facilities and safety when TEA-21 is renewed. Currently only about 1% of federal funds are dedicated to pedestrian and bicycle projects through the Enhancements program.

A toolkit for organizing a local event, including a sample press release, a listing of health professionals and other allies in your area, and a walkability checklist may be found at www.walktoschool.org

Find and advocacy packet with sample op-ed and letter to Congress [here](#).

Transfer Archives

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Congress Sends 5-Month Extension of TEA-21 to President

The U.S. House of Representatives and U.S. Senate have approved legislation (H.R. 3087) authorizing a 5-month extension of TEA-21. H.R. 3087 was officially sent to the President September 29 for his signature before the nation's surface transportation law expires September 30.

H.R. 3087 provides for 5/12 of expected funding for existing transportation programs for the new fiscal year beginning October 1, providing \$14.73 billion for highways and \$3.04 billion for transit.

During House debate September 24, House Transportation and Infrastructure Committee Chair, Don Young (R-AK), indicated his intention to have a six-year TEA-21 renewal package completed before the end of this Session. "I want to stress my continued commitment to the multiyear reauthorization bill, but I am also committed to introducing a bill that meets the needs and improves our highways and transit systems and provides jobs. Obviously, we have to find the revenues necessary to enact the authorization that best meets the needs of the country. It is my intent, all with the help of God and everybody else, to introduce a bill before we adjourn this session of Congress," he said.

When the Senate acts, H.R. 3087 will be sent immediately to President Bush for his signature, avoiding disruption to any operations of key agencies within the U.S. Department of Transportation and the many hundreds of state and local transportation providers and partners.

Among the issues that surfaced during initial House Committee consideration of the measure was inclusion of new flexibility language allowing state transportation departments broader flexibility in the use of funds provided under the bill. A similar provision was included in 1997 when the ISTEA law expired.

Circumstances today are much different than what existed in 1997, leading the nation's mayors and other local elected officials, including leaders of the nation's metropolitan planning organizations, to weigh in and express concerns about provisions of H.R. 3087.

During House debate on the bill, a number of assurances were made, helping to ensure that states would access this flexibility where needed and that repayment of any transferred funds would occur after February 29, when the new law expires. This discussion is important in that there was no Committee action or public record on the measure since it was taken directly to the House floor under a special rule.

Representative Ellen Tauscher (D-CA) from the San Francisco Bay area engaged Committee leaders - Reps. Tom Petri (R-WI) and James Oberstar (D-MN) - in a discussion on the intent of the flexibility provisions included in H.R. 3087. "This provision, as I understand it, allows States during this interim period to transfer funds from critical highway safety, transportation enhancement, and congestion mitigation and air quality programs. I want to be assured that the real intent of this provision is to give States additional

authority for those cases where it is needed on a project-by-project basis to move funds beyond which current law would allow. Further, it is my understanding that in cases where funds are transferred, section 3(c) specifically requires the restoration of any transferred funds promptly after the date of enactment of any subsequent law reauthorizing the Federal aid highway program, whether it be a short-term extension act or multiyear reauthorization legislation. Therefore, this transferability provision expires at the end of the 5-month period on February 29, 2004; and any funds borrowed are required to be restored," she said.

During debate on the bill, Rep. Earl Blumenauer (D-OR) underscored the importance of keeping to the structure of TEA-21. "One point I want to make this afternoon, however, is that there is a broad coalition of support for the policy structure of TEA 21. It is not broken and it does not need to be fixed. Recently the House sent a strong message when it soundly rejected the weakening of guaranteed funding for transportation enhancement activities as outlined in TEA 21. It would send the wrong message about our commitment if we would allow dollars to be redirected from investments critical in areas like highway safety, transportation enhancement activities, metropolitan congestion, and clean air. These are part of the coalition that are going to permit our leadership to bring a strong package to the floor and get overwhelming support. So I was concerned about the provision that had State departments of transportation having wider latitude to shift dollars. I am pleased that we are going to be clear that this provision will not extend the transferability clause. I am pleased that there is a commitment to make sure that it does not ultimately result in shortchanging the programs," he said.

On September 25, the U.S. Senate approved H.R. 3087 on a voice vote, sending the legislation to the President for his signature.👍

Children's Lack of Travel Choices Taking Toll on Parents, Traffic, and Pocketbooks

California's transportation system is failing the state's children and youth, as kids are forced to choose between navigating dangerous streets on foot or by bike or depending on parents for a ride. The report, released statewide at press events at local schools in Sacramento, Oakland and Los Angeles, features new survey data from the California Department of Transportation showing that California children now make about three-quarters (74.3%) of all their trips in automobiles, while walking and bicycling now account for just 16 percent of children's trips.



The report also documents how today's travel patterns are taking a toll on the health of California's children. New statistics from the state's Department of Health Services show that the number one cause of accidental death for children under 18 is as a passenger during an automobile accident, and the third leading cause of accidental death is being hit by a car as a pedestrian. Particularly vulnerable are minority children and children from low-income households, who make a higher percentage of their trips on foot and are more likely than other children to be hurt in pedestrian-vehicle accidents. The financial toll of motor vehicle accidents in 2001 involving child pedestrians and bicyclists in California was \$138 million in medical expenses.

"We need to provide more transportation options and do more to protect the millions of kids in California who depend on walking and bicycling from the dangers of traffic," explained Luis Arteaga, Executive Director of the Latino

Issues Forum, one of the co-authors of the study.

The report includes the following recommendations: (1) boost funding for Safe Routes to School programs throughout the state that help promote safer walking and bicycling options for children to get to school, (2) remove regulatory barriers at the state level that currently discourage the construction of smaller, neighborhood schools, (3) promote free and discounted public transit pass programs for children, (4) prioritizing school bus service and providing funding for school buses from transportation programs, and (5) involving youth in transportation decision-making.

Released by the Surface Transportation Policy Project (STPP), the Transportation and Land Use Coalition (TALC) and the Latino Issues Forum (LIF), "Can't Get There From Here" is available online at www.transact.org/ca/

FTA Administrator, Lawmakers, Transit Leaders, Advocates Join Together in Atlanta for Rail-Volution

Prospects for Multi-Modal Investments in TEA-21 Renewal Examined

Federal Transit Administrator Jenna Dorn and Representatives Earl Blumenauer (D-OR), John Lewis (D-GA) and John Mica (R-FL) were among the many officials and others who took part in the 2003 Rail-Volution conference that was held earlier this month in Atlanta, GA.

Administrator Dorn in her remarks urged project sponsors to better define the economic benefits of transit when seeking New Starts funding to help bolster the case for these investments.

"These benefits are one of the best-kept secrets of public transit. As a nation, we cannot afford to keep it that way," Dorn said in remarks at one of the plenary sessions.

Rep. Blumenauer, who serves as a Member of the House Transportation and Infrastructure Committee and chairs the Congressional Bike Caucus, talked about the need for government actions to remove barriers to transit oriented development. During his remarks, he recognized the leadership of Rep. Tom Petri (R-WI) who led the amendment to restore Transportation Enhancements during action on the FY 04 Appropriations bill (the Petri/Olver amendment passed 327-90).

Another T&I Committee leader, Rep. Mica, who chairs the panel's Aviation Subcommittee, suggested the nation's rail and intermodal networks deserve the same level of commitment today as that of the Interstate System.


Similarly, Rep. Lewis, a former T&I Committee member and a national civil rights leader, described the limited support extended by state and county decision-makers towards building critical multi-modal transit projects in the Atlanta region. Lewis noted the impact "super highways" have had on communities in Atlanta and the public's right to know about their air quality and water quality throughout the country.

"More than anything, we are talking about improving the quality of life of the average Atlanta resident. We are talking about giving people an option to their cars," said Lewis.

Rollback Threats to Transit and Barriers to Transit Oriented Development Also Discussed

Among the many sessions held through the Rail-Volution conference, a cross-section of transit and municipal agencies, developers, business leaders, housing authorities and environmental justice advocates reported on successful efforts to generate economic development with transit despite the many policy, funding, and market barriers.

In a session on TEA-21 reauthorization, STPP President Anne Canby described efforts to reduce federal support for New Starts and weaken the NEPA process as key examples of misplaced priorities during early deliberations on the renewal legislation. Jeff Boothe, Chair of the New Starts Working Group, raised concerns that without differentiation between "enhanced bus service" and "bus rapid transit" within the New Starts program, transit dollars might increasingly fund dedicated bus lanes, with the potential that these facilities are eventually converted to HOV and then SOV lanes, as has occurred already in several places. Mayor Richard Kaplan of Lauderhill, FL spoke about the need for greater suballocation (i.e. requirements that states pass more federal transportation dollars down to MPOs) when Congress takes up the TEA-21 reauthorization, particularly given that his state is shifting transportation dollars to its general fund


Efforts to use transit to forge a regional vision for growth, catalyze mixed-use development at HOPE VI projects, and provide equitable access to regional job markets were among the issues reviewed in other sessions. 

Report Finds Disconnect Between State Economic Development Efforts and Transit Investments

Among other events in Atlanta during Rail-Volution was the release of a new 50-state study - "Missing the Bus" - documenting the disconnect between state economic development efforts and transit investments.

Although states have more than 1,500 economic development subsidy programs and states and cities spend more than \$50 billion a year for economic development, none encourages or requires companies that receive the subsidies to locate at transit-accessible places. The study found that not one state coordinates its economic development spending with public transportation, despite great potential for both types of spending to leverage private investment and maximize returns on taxpayer investments.

STPP President Anne Canby joined report author Greg LeRoy and others to release the report, saying "For low-income families who are supposed to be the main beneficiaries of economic development programs, this means great hardships. If jobs can only be accessed by automobile, low-income families are forced to spend an enormous amount of their household budgets on transportation. It is time for states to 'get on the bus.'" The full press release is online at <http://www.transact.org/news.asp?id=33>

The study was conducted by the non-profit Washington D.C.-based research center, Good Jobs First, which also recently released "Labor Leaders as Smart Growth Advocates: How Unions See Suburban Sprawl and Work for Smart Growth Solutions," a survey of union federation leaders revealing the serious problems they see in their regions being caused by suburban sprawl. Executive Director Greg LeRoy is helping to organize a conference for pro-labor allies that will focus on labor, sprawl, and smart growth, "Tools for Communities that Work," from November 9-12 in Milwaukee. More details about both reports and the conference may be found at www.goodjobsfirst.org 

Rail and TOD Yields Tax Relief and Economic Benefits in Northern Virginia

A recent editorial by Hank Dittmar, President of Reconnecting America, not only solidifies evidence that rail is generating economic development in the Washington, DC region, but is also reducing taxes and traffic in local areas with the most transit supportive land use policies. Citing a study by TransManagement for the new Center for Transit Oriented Development, the editorial notes that in Arlington County, a commitment to locate commercial development and multi-family housing within walking distance of the Rosslyn-Ballston MetroRail Corridor, has yielded 22.5 million square feet of office development, 3 million square feet of retail development, and a doubling of households over 30 years.

"The development around the five stations has an assessed value of more than \$9 billion, generating 32.8 percent of the country's real estate tax revenue in only 7.6 percent of its land area. As a result, Arlington County has the lowest real estate property tax rates of any county in Northern Virginia - and that's one way that transit benefits every resident of the county, whether they use transit or live near MetroRail," wrote Dittmar in the Washington Business Journal on 8/22/03.

For similar case studies, see the forthcoming book "The New Transit Town" or the Center for Transit Oriented Development's webpage at www.transittown.org

U.S. Commission on Civil Rights Finds Slow Progress on Environmental Justice

The U.S. Commission on Civil Rights released a draft report September 11 finding that federal agencies, including the U.S. Department of Transportation, have failed to incorporate the 1994 Executive Order on Environmental Justice into their core program activities. Specifically, the report notes that air pollution caused by vehicular emissions is a serious environmental justice challenge. It also includes diesel buses, the location of bus depots, and light rail at street level in low income and minority communities, compared to cleaner, less impact investments in affluent communities as core EJ issues facing DOT.

While DOT requires MPOs to collect information on race, national origin, and income level of persons affected by transportation in the planning process and project sponsors as part of the NEPA review, the federal agency does not collect, maintain, and analyze the information on a national level to determine compliance with Title VI or the Executive Order on Environmental Justice. The report also finds that while agencies rely on NEPA compliance as evidence of sufficient disparate impact analysis, socioeconomic impacts are only considered when tied closely to environmental factors.

It also points to the Supreme Court's decision in *Alexander v. Sandoval*, which requires communities to establish intentional discrimination rather than disparate impact. Sixty-five percent of African Americans and 80 percent of Hispanics live in counties with substandard air quality largely caused by vehicle emissions, compared to just 57 percent of whites, according to the Environmental Justice Resource Center.

For a draft of "Not In My Backyard: Executive Order 12,898 and Title VI as Tools for Achieving Environmental Justice," visit www.usccr.gov

FHWA/FTA Guidance on Purpose and Need Threatens Efforts at Interagency Coordination

FHWA and FTA recently released guidance directing field offices to reconsider interagency coordination efforts that require non-DOT agencies to concur on project purpose and need. The FHWA/FTA memorandum, dated July 23, but only recently released, follows from correspondence between DOT Secretary Mineta and James Connaughton, Chairman of the Council on Environmental Quality (CEQ), the federal agency responsible for administering NEPA.

The discussion of purpose and need is required in an Environmental Impact Statement (EIS) under CEQ regulations. The purpose and need statement is intended to explain the underlying reason that a proposed action is needed. As Secretary Mineta's letter noted, this is a critically important section because it "serves as the basis for developing a reasonable range of alternatives."

According to Secretary Mineta's letter to Chairman Connaughton, disagreements on the purpose and need of a project have unnecessarily delayed projects for as long as several years. The FHWA/FTA guidance on purpose and need is intended to "streamline environmental reviews" by reducing these delays. However, a September 8 BNA article reported that a DOT official acknowledged that only a few projects are actually delayed because of disputes over the purpose and need. In an answer to the question posed by Secretary Mineta regarding the appropriate role of cooperating agencies in reviewing purpose and need for a project, CEQ's Connaughton stated that USDOT as the lead agency has the authority to define purpose and need, but he noted that federal courts have recognized that federal agencies should respect the role of local and state authorities in the transportation planning process and reflect the results in the NEPA analysis.

The CEQ chairman further stated that, "In situations involving two or more agencies that have a decision to make for the same proposed action and responsibility to comply with NEPA or a similar statute, it is prudent to jointly develop a purpose and need statement that can be utilized by both agencies." Although Connaughton wrote that, in considering projects intended to address transportation needs, "joint lead or cooperating agencies should afford *substantial deference* to the DOT agency's articulation of purpose and need," he also said that "this deference reflects CEQ's expectation [that] where an agency has the primary substantive expertise and program responsibility," it is owed deference. Connaughton cautioned that if a cooperating agency identifies substantive or procedural problems with the purpose and need statement including omission of factors important to the agency's independent legal responsibilities, the agency should raise those issues immediately and get them resolved. FHWA and FTA missed this note of caution and mutual deference.

The FHWA/FTA guidance has the potential to significantly undermine interagency coordination agreements. Concurrence, which typically occurs between federal and state transportation departments, natural and cultural resource agencies, and other affected agencies, has usually resulted in better protection for the environment, and in some cases reduced project delays, because they bring natural resource agencies to the table earlier. The FHWA/FTA guidance eliminates the concurrence requirement, stating that "deference is due to the Department of Transportation (DOT) for transportation projects because of our primary substantive expertise and program responsibility."

But deference due and deference given are two different things. No law

requires natural resource agencies to defer to transportation agencies on purpose and need, and they may not do so if their ability to carry out their duties under substantive environmental laws would be impaired - a fact the guidance fails to mention.

USDOT's guidance may backfire, and have the opposite effect of that intended (i.e., streamlining the project pipeline) because without concurrence on each major point of decision, natural resource agencies will be more likely to raise any objections to the project sponsor's unreasonable selection, range, or narrowing of alternatives (all premised on a faulty purpose and need statement) much later in the process, thereby delaying the project's actual construction.🔗

Report Links Highway Lobby Political Contributions with Agenda for Weakening of Environmental Protections

A new report from U.S. PIRG finds that major road lobby groups have contributed \$8.5 million in PAC contributions to the 127 lawmakers sitting on committees responsible for TEA-21 reauthorization. The report, "Driven By Dollars: How The Road to Destructive Transportation Policy is Paved with Special Interest Money," examines political contributions from four groups -- ARTBA, AHUA, the Associated General Contractors of America, and the National Association of Home Builders -- chosen because they have testified before Congress pressing to weaken the Clean Air Act's transportation conformity rules, open the CMAQ program's eligibility to road-building, undermine NEPA, delay rules to reduce smog levels, boost highway funding at the expense of transit programs, and allow development in and around parks, historic sites, and wildlife and waterfowl refuges.

U.S. PIRG recommends increasing funding for public transit, strengthening clean air protections, and increasing public participation in highway projects planning and development.

"Driven to Dollars" can be found on U.S. PIRG's website at <http://uspirg.org/uspirg.asp?id2=10770&id3=USPIRG& .>🔗

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