National Association of City Transportation Officials

Principles for Reauthorization of the Transportation Equity Act for the 21st Century

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**ABOUT NACTO**

The National Association of City Transportation Officials (NACTO) is comprised of city transportation officials representing nine of the nation’s largest metropolitan areas: Atlanta, Baltimore, Boston, Chicago, Detroit, Houston, Los Angeles, New York, and Philadelphia. NACTO was formed to better represent the unique and complex transportation needs of very large cities. This includes advocating for change in transportation law, regulations, and financing that will enable cities to better provide the integrated transportation services envisioned by the Transportation Efficiency Act for the 21st Century (TEA-21).

NACTO views the transportation departments of major cities as effective and necessary partners in regional transportation efforts. The representative involvement of major cities should be a required institutional element of metropolitan planning organizations, particularly in the areas of technology deployment and transportation operations.

Over twenty million people live in the nine NACTO cities, accounting for more than seven percent of the nation’s population. NACTO cities are among the most diverse places in the nation and provide over twenty-five percent of the labor force participation. They are the nation’s gateways, the focus of international trade and tourism. NACTO cities manage the nation’s most intensive intermodal and multimodal transportation facilities and are home to the nation’s largest mass transit services.
**EXECUTIVE SUMMARY**

NACTO advocates that TEA-21 be reauthorized within its existing policy framework and that it receive full funding – especially with regard to mass transportation programs. TEA-21 and its predecessor ISTEA are progressive legislative programs that have enabled the use of federal funds for broader and more effective transportation programs and have provided for increased participation at the regional and local level. Any reforms to the current legislative structure should be made in the context of the basic vision and framework of TEA-21. Furthermore, in light of the current climate of fiscal austerity and the value of monies collected, it is critical that transportation funds be fully utilized for their intended purpose.

There are five policy principles that NACTO believes deserve particular attention at the national level. They are outlined in this position paper to facilitate dialogue among stakeholders and to further improve this landmark legislation. The principles are identified with no specific priority accorded – they are all considered important to the NACTO cities.

**NACTO Principles for Reauthorization**

- **Protect and Enhance Federal Funding** using the following means:  
  (a) Protect Firewalls and the Revenue Aligned Budget Authority (RABA) mechanisms for the Highway Trust Fund (HTF), which are essential to the success of highway maintenance and construction programs;  
  (b) End diversion of ethanol and railroad diesel tax revenues to the General Fund, and direct that the Railroad fuel tax be used to leverage projects that improve facilities at the railroad/roadway interface that are in disrepair or are obsolete; and,  
  (c) End diversion of interest earned by outstanding balances in the HTF to the General Fund.

- **Streamline Federal and State Transportation Regulations and Institutional Arrangements** to achieve timely and cost-efficient results in the delivery of transportation projects and services.

- **Provide Direct Funding for ITS to Large Cities** along the nation’s most congested urban corridors for ITS deployment, as part of a new Intelligent and Secure Urban Corridors Program proposed by NACTO. Further, adopt the USDOT Infostructure Proposal at the $500 million per year level.

- **Provide More Explicit Definition of Context-Sensitive Roadway Design** standards to minimize delays in implementing federally-funded projects in constrained urban environments. Further, create an urban context-sensitive solutions demonstration program to bring into focus the design flexibility that is allowable yet underutilized.

- **Promote Further Development of Transit Services** and integrated parking, land use, and pedestrian improvements. Protect the CMAQ program to enable and facilitate such programs.
DISCUSSION OF THE PRINCIPLES

**Protect and Enhance Federal Funding** using the following means: (a) Protect Firewalls and the Revenue Aligned Budget Authority (RABA) mechanisms for the Highway Trust Fund (HTF), which are essential to the success of highway maintenance and construction programs; (b) End diversion of ethanol and railroad diesel tax revenues to the General Fund, and direct that the Railroad fuel tax be used to leverage projects that improve facilities at the railroad/roadway interface that are in disrepair or are obsolete; and, (c) End diversion of interest earned by outstanding balances in the HTF to the General Fund.

(a) Protect Firewalls, RABA Monies and Minimum Guarantees for the HTF

From FY 2000 - FY 2002 RABA increased funding by $4.5 billion nationwide. It is essential to the success of highway maintenance and construction that these programs exist. It would be detrimental to the safety of our national roadways to revert to policies that would result in transportation and domestic programs competing for funding. These programs provide the most accurate, efficient, and equitable means of transportation funding available currently.

(b) End Diversion of Ethanol and Railroad Diesel Tax Revenues to the General Fund…

**Ethanol Tax Diversion** – A portion of the tax on ethanol is credited to the General Fund, reducing revenue to the Highway Trust Fund. Of the current tax on gasohol, 2.5¢ per gallon goes to the General Fund rather than the Highway Trust Fund. There is no compelling reason why this provision should be retained in the next authorization. Redirecting this revenue would increase the Trust Fund by about $400 million in 2002, and this figure is likely to grow as MTBE (an alternative to ethanol where oxygenated fuels are required) is phased out. These revenues should go into the Trust Fund, 80% to the Highway Account, and 20% to the Mass Transit Account.

**Trust Fund Interest Diversion** -Interest earned by the balance in the Highway Trust Fund when other federal programs borrow funds is now credited to the General Fund. This reduces the funds available for transportation investment, and is contrary to sound accounting and financial management principles, which require interest to be credited to the same purpose as the assets that earn it. Interest should be credited to the purpose for which the tax funds were collected, namely, the Highway Trust Fund, to the Highway and Mass Transit Accounts, respectively, in proportion to their balances. (TEA-21 ended the practice of paying interest to the HTF; in 1998, the last year in which such interest payments were made, the HTF earned $2B.)

... And Direct That the Railroad Fuel Tax Be Used to Leverage Projects That Improve Facilities at the Railroad/Roadway Interface That Are in Disrepair Or Are Obsolete

Railroads now pay a Federal excise tax of 4.3¢ per gallon of diesel fuel. This money goes into the General Revenue Fund for deficit reduction. From 1990 through 2001 this
has totaled $1.9 billion. The American Association of Railroads is working to repeal this tax, with the proviso that a like amount would be committed by railroads to infrastructure improvements. It is unclear how this could be enforced, both as to the reservation of funds and the selection of projects with public benefit. NACTO recommends that the 4.3¢ tax be retained, but that the revenue be placed in the Highway Trust Fund. Such funds would be dedicated to leverage public/private partnership projects that improve railroad facilities that are in disrepair or are obsolete, and are creating problems such as inadequate clearances or lane closures on streets and highways, or create a blighted environment.

Streamline Federal and State Transportation Regulations and Institutional Arrangements to achieve timely and cost-efficient results in the delivery of transportation projects and services.

Burdensome regulations and layers of administrative requirements result in significant delays in project implementation. These delays increase the cost of a project beyond its reasonable scope, and drains scarce staff and financial resources. TEA-21 acknowledges the need to streamline and simplify the processes through which federal funds flow to local governments through states and metropolitan planning organizations. NACTO proposes establishment of a cooperative interagency review and revision process, and recommends that the U.S. Department of Transportation spearhead this effort. NACTO commits to participate fully in this review and suggests the following areas be addressed during the first phase of review.

Avoiding unintended consequences of federal legislation such as unfunded mandates. NACTO strongly urges that special attention be given to the tasks of legislative rulemaking to avoid such negative consequences.

Clarifying the role of planning versus operating agencies at all levels of government so that agencies with expertise in operating transportation systems are directly involved in the design and implementation of new operational initiatives.

Ensuring that funding flexibility provisions do not have the unintended effect of enabling state transportation departments and regional planning agencies to absorb an even larger share of scarce fiscal resources.

Ensuring that metropolitan planning organizations provide equitable representation regarding the distribution of federal resources. TEA-21 should provide that the metropolitan planning processes are structured to take into account the size, population, and special transportation needs of major cities.

Establishing a process to review and address the impact of intercity rail, truck, and bus operations on major cities. While activities that encompass interstate commerce are conducted within a framework of regulations, city governments lack the institutional ‘entrée’ to address quality-of-life problems, such as maintenance of blighted railroad viaducts and excessive diesel engine idling of intercity charter buses at major visitor centers in the core of cities. NACTO requests that the Surface
Transportation Board be charged with the responsibility for establishing such a process to review and address the impact of intercity rail, truck, and bus operations on major cities.

- Fostering city/state joint design review through a process that eliminates state design review prior to authorization of approved projects and relies instead on post-project audits. The experience of cities with FTA grant awards has shown this to be a more effective and efficient process.

- Modifying the eligibility criteria for funding to accelerate the actual deployment of intelligent transportation technologies.

- Pursuing new ways to simplify federal funding and procurement processes for highway and mass transportation programs by means of a demonstration program that provides direct funding for cities in these areas. It is suggested that the Federal Transit Administration (FTA) direct funding model be reviewed for its applicability on the highway side since the FTA process has proven to be a more straightforward and preferred model for large cities. Revised funding provisions could be tested and implemented via the focused pilot program. (Attached to this document is a proposal for an Urban Initiative Program that NACTO members would like to discuss further as one potential demonstration program.)

- Streamlining the requirements for replacement-in-kind projects such as resurfacing and/or reconstruction where no changes to geometrics are proposed. Such projects should be self-certified by the local agency and subject to a post project audit.

- **Provide Direct Funding for ITS to Large Cities** along the nation’s most congested urban corridors for ITS deployment, as part of a new Intelligent and Secure Urban Corridors Program proposed by NACTO. Further, adopt the USDOT Infostructure Proposal at the $500 million per year level.

NACTO strongly believes that special federal efforts should be undertaken to accelerate the deployment of ITS technologies and operation in major urban areas.

Large cities operate multimodal transportation networks that support the nation’s vital activity centers – airports, harbors, truck terminals, sports centers and major retail centers. The nation’s economy depends on adequate and secure transportation facilities near these sites, including state freeways, mass transit systems and city arterial street networks.

However, for the most part, large cities receive virtually no federal ITS funding and have been unable to develop intelligent transportation strategies on their systems, due to the relative expense of financing the necessary infrastructure. FHWA funding provided directly to large cities in the nation’s most congested urban corridors, as part of a NACTO proposal for concerted new Intelligent and Secure Urban Corridors Program, would overcome this obstacle and accelerate the deployment of infrastructure to serve the nation’s vital activity centers.
The federal government should use major cities as a national platform for ITS application. The Intelligent and Secure Urban Corridors Program would enable large cities and urban areas to monitor arterial street and transit systems in real-time and strategically respond in an automated, coordinated and complementary fashion with other systems that comprise the corridors. Intelligent system monitoring is vital for managing recurrent conditions, special events, emergencies, security and national defense operations. NACTO urges action that will accelerate deployment of ITS technologies to the nation’s urban transportation corridors to accomplish the following:

- Accelerate deployment of technologies in major cities to facilitate disaster prevention, response, and recovery.
- Affirm the importance of intelligent transportation systems and accelerate their deployment by making these investments eligible for federal aid and eliminating procedural barriers to their implementation.
- Assist major cities provide the public with real-time travel information services for use in event management and emergency preparedness and response.
- Charge the U.S. Department of Transportation to return to a position of a resource and dissemination center of operational and advanced technology improvements to facilitate and accelerate the deployment of intelligent transportation systems.
- Foster planning to support technology selection, sharing of information, and command, control, and communication functions during event situations.
- Invest in the continued implementation of automated Traffic Signal Systems in major cities.
- Promote the application of telematics and intelligent vehicle technology in the fleets of all public agencies. Provide that the fleets of local transportation departments of major cities are eligible for funding through this initiative since transportation staffs are among the first responders to emergency situations.

Provide More Explicit Definition of Context-Sensitive Roadway Design standards to minimize delays in implementing federally-funded projects in constrained urban environments. Further, create an urban context-sensitive solutions demonstration program to bring into focus the design flexibility that is allowable yet underutilized.

TEA-21 addressed the need to achieve a balance in the design of roadway projects and included provisions to increase roadway reconstruction design flexibility in implementation of federally funded projects. It also promoted a “context sensitive” design process to foster innovative thinking to achieve good design. NACTO’s experience suggests that the benefits of these initiatives often are not being realized in our urban centers.
Roadway projects undertaken in the built urban environment routinely necessitate design variances that result in significant project delays and higher costs. The routine and certainty with which the variances process is imposed is evidence of the design-process failure to regularly account for realities of the built-environment, community values, and quality of life considerations. Thus, the flexibility that is supposed to exist within the standards adopted for each State has not been fully realized.

Context-sensitive design is an urgent issue with urban areas and should be a national priority because of the need to balance traffic safety, preservation of historic and established districts in constrained built-up environments. However, traditional designers who review urban projects often are not fully aware of the sensibilities behind context-sensitive design principles. As a result, many project designs tend to be conservatively reviewed, resulting in protracted delays. It would be helpful to local agencies using federal funding and instructive to state reviewing staffs to revise the AASHTO Green Book to more explicitly identify the range of options to balance traffic safety and community values. Further, it would be in the national interest for the FHWA to more proactively publicize and showcase successful urban context-sensitive design projects.

In conjunction with the municipalities within their jurisdictions, NACTO urges AASHTO to require states to develop a program of context sensitive design standards reflective of the conditions within these municipalities. Additionally, a process through which these standards can be applied that will minimize delays in implementing federally-funded projects in these constrained urban environments must also be developed.

**Promote Further Development of Transit Services** and integrated parking, land use, and pedestrian improvements. Protect the CMAQ program to enable and facilitate such programs.

Public transit benefits the quality of life in all communities, however effective and efficient service is the lifeline of our nation’s major cities. In times of crisis, the service is essential to help with evacuation and emergency services. Almost all of the nation’s largest transit agencies, in terms of passenger trips, are located in NACTO cities. NACTO cities are also the predominant providers of heavy rail, and bus transit services and many also encompass commuter and light rail services.

NACTO fully understands the importance of effective public transit services because they provide significant opportunities for people from every walk of life to make significant choices for work, school, shopping, social visits, and medical purposes.

Recent national studies underscore the need for increased investment in mass transit systems. The American Society of Civil Engineers released a report on condition of the nation’s infrastructure. They reported that improvements to transit bus and rail facilities are not keeping pace with the strain on the transit systems caused by increased ridership. The report concluded that a forty-one percent increase in investment is needed to maintain current conditions.
NACTO recommends that reauthorization of TEA-21 accomplish the following:

- Continue federal funding of the transit system at least at the level provided under TEA-21. NACTO joins the American Public Transportation Association in recommending that the program be doubled to a $14 billion level by FY2009. This will require a twelve-percent annual growth rate over the life of the reauthorization period.

- Extend the transit commute benefit for all workers and provide it at the same level as the parking benefit.

- Maintain federal initiatives to create stronger planning and design linkages between transit service, parking availability, pedestrian, and bicycle improvements. These components when provided in combination result in choices for the traveling public, reduced congestion, targeted growth, and a sustainable tax base.

- Retain the flexibility provided for highway and transit programs under TEA-21 and continue the existing 20% matching share requirement for such programs.