

Transportation Authorization 101: ch. 2 A Backgrounder

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ABSTRACT >> *For most people, federal policy seems removed from day-to-day life in their communities. But the federal surface transportation bill is a critical determinant of how our communities are formed, how they grow, and what types of transportation choices—if any—are available to us. Highways, rail systems, sidewalks, biking and walking paths, transit oriented development—all of these, and more—are shaped in large part by the federal transportation authorization. And federal transportation dollars are a major source of funding for states and metropolitan areas as they build new infrastructure and maintain existing transportation systems.*

This publication discusses the connections between transportation and health; the analysis and the recommendations focus on the upcoming authorization of the federal surface transportation bill as a key opportunity for promoting health and equity. This section orients readers to the bill by briefly describing what the legislation includes, how it is authorized, and by whom—naming key committees and policymakers. This chapter also explains how federal funding is allocated to states and metropolitan regions to pay for public transportation systems, highways, bridges, sidewalks, bike paths, and other transportation projects in our communities.

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Overview

Approximately every five years, Congress passes a new surface transportation bill and authorizes the U.S. Department of Transportation (DOT) to implement it. This bill sets federal transportation policy and designates transportation funding to states directly through formulas or through competitive grant programs for which states can apply. The programs and projects in the bill are funded through the Highway Trust Fund, which draws on a nationwide 18-cent per gallon tax on gas. The current law, passed in 2005, is called the *Safe, Accountable, Flexible, Efficient, Transportation Equity: A Legacy for Users*, or *SAFETEA-LU*. It represents a \$244.1 billion federal investment in transportation infrastructure. *SAFETEA-LU* is set to expire September 30, 2009, and Congress must authorize a new bill. A new bill may also be postponed through extension of *SAFETEA-LU* until lawmakers are prepared to pass a new bill.

This report intentionally uses the term *authorization* and **not** *reauthorization* when referring to the process of developing a new surface transportation bill. “Authorization” symbolizes the significant reform necessary in the existing bill to meet current and future needs of a changing and diverse U.S. population. Reform is long overdue. With imperatives such as climate change, growing rates of chronic diseases and health disparities, increasing poverty rates, and an economic downturn, transportation policy must connect with national priorities, consider its impacts on these critical issues, and help to significantly change them. A reauthorization of the current bill will not address these challenges. A new federal transportation policy is needed to align its goals and actions to national priorities, address critical issues facing Americans, and ensure accountability and equity.

SAFETEA-LU includes a whopping 108 programs, each with distinct funding allocations and eligible activities for which funding may be used. For example, the eligible activities for one

program, the Safe Routes to School Program, includes activities related to the planning, design, and construction of infrastructure projects that improve the ability of students to walk and bike to school; states can use a portion of the funds for noninfrastructure-related activities to encourage walking and bicycling to school. The overall goal of the program is to enable and encourage walking and bicycling to school in a safe and appealing manner.¹

An authorization establishes programs and sets ground rules under which the programs operate including the amount of funding available, how the funds are distributed, the length of time the funds can be used, and a list of eligible activities. Subsequent authorizations can change programs, eliminate programs, and create programs.

In the past several months, Congress and the DOT have been preparing to introduce a new federal surface transportation bill. Advocates have been gearing up to make sure this immense investment reflects the needs of *all* Americans. Right now is a crucial time to engage in transportation policy and to work to ensure that the policies and funding levels set for the next several years are aligned with important goals and ideals—health, safety, sustainability, economic opportunity, and equity.

The new bill could have enormous impacts on the funding available for various modes of travel as well as specific projects, thus influencing the decisions transportation planners and engineers make at the local level. For example, a region could expand a roadway instead of creating a subway system because there is more federal funding readily available for the highway project and the project evaluation and approval process for major transit investments is substantially more burdensome than the highway process. The federal pot of money for highway projects is far bigger than the pot available for public transportation. Currently, approximately 80 percent of federal transportation dollars go to the Federal Highway Administration (FHWA) as part of highway programs, while merely

one-fifth, or 20 percent, goes to the Federal Transit Agency (FTA) to be used for public transportation infrastructure. Only a very small portion of overall transportation funds are used for walking and biking infrastructure or other programs and most are administered through FHWA and FTA.

The first federal surface transportation bill, the *Federal Aid Highway Act* (popularly known as the *National Interstate Defense Highways Act*), was passed in 1956 as a means to fund a massive interstate highway system from coast to coast. Since the inception of the federal surface transportation bill, it has focused on highways as the key mode of travel. The 1991 surface transportation bill, the *Intermodal Surface Transportation Efficiency Act (ISTEA)*, critically shifted the focus of federal transportation policy. In addition to funding traditional highway and transit programs, *ISTEA* included money for projects aimed at improving air quality, reducing congestion, and providing pedestrian and biking infrastructure. It launched the beginning of a more environmentally sensitive and multi-modal approach to transportation planning.² While these laws made great strides at the time, we are far from implementing a truly multi-modal system where public transportation, walking, and biking are on equal footing with highways.

The next surface transportation bill must set about the urgent task of repairing and maintaining our transportation assets, building new transportation connections, and making our current system work more efficiently and safely to create complete and healthy communities that address the transportation needs of all communities. Modern and affordable public transportation, safe places to walk and bicycle, smarter highways that use technology to better manage congestion, land use policies that reduce travel demand by locating more affordable housing near jobs and services, and long-distance rail networks all have the potential to help us reduce our dependency on foreign oil, slow climate change, improve social equity, enhance public health, and fashion a vibrant new economy.

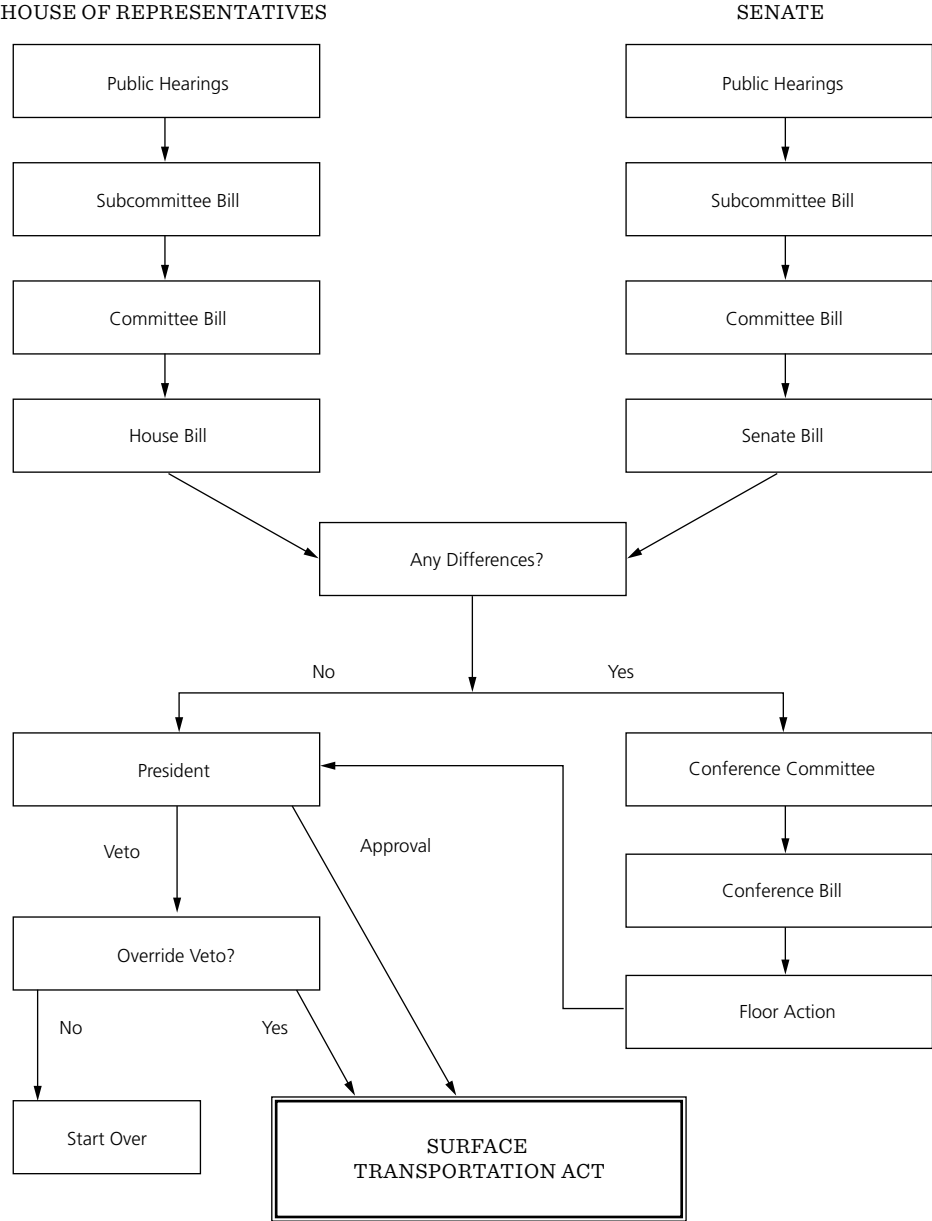
The Authorization Process

The U.S. Senate and the U.S. House each develops a transportation bill and then reconciles their differences before presenting a final bill to the president. In the House, the Transportation and Infrastructure Committee (T&I Committee), chaired by Rep. James Oberstar (D-MN), has primary jurisdiction over the bill. At time of printing, Chairman Oberstar has been working hard to write and pass a new bill with limited to no extensions to the current bill, SAFETEA-LU. Since SAFETEA-LU expires on September 30, 2009, some form of extension is likely to take place though it still remains unclear whether it will be a short extension or a longer 18-month extension as suggested by the administration.

The House T&I Committee has two counterparts in the Senate, where the jurisdiction is slightly more diffused. The Senate Environment and Public Works Committee (EPW Committee), chaired by Sen. Barbara Boxer (D-CA), has primary jurisdiction over the highway portion of the transportation bill, while the Senate Banking, Housing and Urban Affairs Committee (Banking Committee), chaired by Sen. Christopher Dodd (D-CT), has primary jurisdiction over public transportation portions. Both T&I, EPW and Banking have subcommittees focused on surface transportation that must develop and pass the first draft of the bill out of the subcommittees: the Highway and Transit Subcommittee of T&I, chaired by Rep. Peter DeFazio (D-OR); EPW's Transportation and Infrastructure Subcommittee, chaired by Sen. Max Baucus (D-MT), and the Banking Committee's Housing, Transportation and Community Development Subcommittee, chaired by Sen. Robert Menendez (D-NJ). Because of its financing mechanisms, the bill must also go through the House Ways and Means Committee, chaired by Rep. Charles Rangel (D-NY), and the Senate Finance Committee, chaired by Sen. Baucus. Other committees are also involved on the Senate side to a lesser degree. The following diagram traces the path of the transportation bill

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Diagram 1. *Surface Transportation Bill Authorization Process through Congress*



Source: Chart from Federal Highway Administration, <http://www.fhwa.dot.gov/reports/financingfederalaid/authact.htm>.

through Congress.

At each level of deliberation—whether subcommittee, committee, or floor—there is an opportunity to educate policymakers and their staff about the connections among transportation, equity, and health and to propose recommendations that will benefit the American public. While all representatives are important when the bill hits the floor of the Senate and House, key committee members are particularly influential in how the bill develops. Each subcommittee and committee has numerous representatives who can weigh in. Members of Congress are elected to serve us, the American people, and they often look to their various constituencies for advice. Advocates on Capitol Hill are making their interests known, and those outside of the nation’s capital are building coalitions, calling their elected representatives, and setting up appointments to voice their needs. The time to act is now.

Federal Oversight and Administration

The U.S. Department of Transportation and its implementing agencies—including the Federal Transit Agency, the Federal Highway Administration, and the National Traffic Highway Safety Administration—administer the funds authorized by the surface transportation bill.

The Highway Trust Fund (HTF) is the primary funding source for transportation. Like other federal trust funds the HTF is a financing mechanism to account for taxes collected by the federal government which are earmarked for a specific purpose or program. Initially, the HTF funded highways only. Later, Congress established that a portion of the funds should be used for public transportation creating the Mass Transit Account as part of HTF in 1983. Currently the Mass Transit Account receives 2.86 cents out of the 18 cent per gallon gasoline tax.³ Recently the HTF has not collected

enough revenue from the gas tax to cover the expenditures it supports. Congress has supplied funds from the general treasury to stop the gap, but this is not a sustainable solution. Congress and advocates are exploring new revenue streams to close the immense funding shortfalls. These include indexing the gas tax to inflation, imposing user fees such as toll or congestion pricing, or levying a sales tax on oil. Financing is an important debate, given the regressive nature of some forms of taxation and fees and the public’s resistance to raising taxes.

At the national level, there are three broad categories of federal transportation funding—highways, public transportation, and highway and motor vehicle safety. Each of these categories represents funding from numerous programs. Walking and biking infrastructure is not listed as a category because it is only a sliver of overall federal transportation spending, primarily through the Transportation Enhancements Program.

Most of the money from the surface transportation bill is distributed to states in two ways—through formula grant programs and through competitive grant programs. Formula-funded programs are by far the largest portion of this funding. The Surface Transportation Program (STP)—the largest program authorized in the surface transportation bill, which many call the highway program—allocates funds directly to state Departments of Transportation using the following formula:

- 25 percent based on total lane miles of federal-aid highways
- 40 percent based on vehicle miles traveled on lanes of federal-aid highways
- 35 percent based on estimated state contributions to the Highway Account⁴

This program therefore rewards states and regions that drive more, build more highways, and use more gas—a combination that does little

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to promote health and environmental quality.

Another significant formula-funded program is the Urbanized Area Formula Grants Program (also called the Large Urban Cities Program), which allocates funds used for public transportation. Urbanized areas of 200,000 or more receive this money directly instead of having the funds go through state departments of transportation. The funds are distributed based on the following formulas:

For areas of 50,000 to 199,999 in population, the formula is based on population and population density. For areas with populations of 200,000 and more, the formula is based on a combination of: (1) the distance in miles that a revenue vehicle (a vehicle that is charging a fare) is operated while it is available for passenger service (also called bus revenue vehicle miles), (2) bus passenger miles, (3) revenue vehicle miles that run along exclusive or controlled rights-of-way or rails (also called fixed guideway revenue vehicle miles), (4) the number of miles of exclusive or controlled right-of-ways or rails for transit (also called fixed guideway route miles), and (5) population and population density.⁵

The Urbanized Area Formula Grants Program provides funds for public transportation, both rail and bus service. Transit dollars are explicitly prohibited from being used for operations in jurisdictions of 200,000 people and above. Therefore, most federal transit dollars can only be used on capital expenditures and not on operations. Many transit operators have huge gaps in their budgets and are raising fares and decreasing services—often at the same time—to stay afloat; many transit-dependent populations are suffering from this combination. Cutting routes that many residents depend on can create a situation where people cannot get to work or access goods and services. Raising fares particularly hurts low-income people who comprise the majority of the transit-dependent population. Many find themselves struggling even more to budget their transportation costs.

Another important formula program, the Highway Safety Improvement Program, is allocated via formula. The program was specifically created to improve highway safety. Funds are distributed to states based on the following three factors, all of which are weighed equally: (1) lane miles of Federal-aid highways, (2) vehicle miles traveled on Federal aid-highways, and (3) the number of fatalities on the Federal-aid system.⁶ Thus, the program awards more money to states which drive more, have more highways and more fatalities.

Some programs allow, encourage, or require a portion of the formula funds to be used for specific programmatic goals. For example, the Transportation Enhancements Program (TEP) is allocated using a portion of STP funds. TEP requires the use of a small percent of STP dollars for 12 eligible activities of which walking and biking infrastructure is a significant portion.

Competitive grants are also available for which states and locales can compete. These programs include money for specific program goals. For example, the Job Access and Reverse Commute Program (JARC) provides funding for projects that specifically help connect low-income workers to job centers.⁷ Another key example of competitive grant programs is the New Starts Program. This is the federal government's primary financial resource for supporting locally planned, implemented, and operated major transit capital investments. It funds new and extensions to commuter rail, light rail, heavy rail, bus rapid transit, streetcars, and ferries, among others.⁸ Local entities must match the dollars provided by the Program. While the federal portion of the match can be up to about 80 percent, in reality locales have paid about 50 percent for projects funded by New Starts due to the high demand for this program and the competitive nature of funding. This adds a high financial burden on locales to support the creation of new transit projects.

State and Local Oversight

Federal dollars typically require a match by states or local agencies. The exact requirement of matching funds for competitive grants and formula grants varies by program.

Generally, transportation projects have been funded accordingly:

- Highways: 25 percent federal, mostly for capital investments; 50 percent states, for capital and maintenance; remaining 25 percent local governments⁹
- Transit: 25 percent federal, for largely capital investment; the remaining funds are split, 70–80 percent funded directly from transit users and local governments for operational costs; the remaining 20–30 percent is provided by state governments.¹⁰

At the local level, metropolitan planning organizations (MPOs) share \$300 million a year in federal transportation funds. MPOs make policy at the regional level and work with state transportation agencies and regional officials to develop regional transportation plans. MPOs' composition varies significantly from region to region, with representatives from local government, transportation authorities, and other stakeholders. About 385 MPOs operate in the United States. MPOs are required for urbanized areas with populations of more than 50,000 residents. The U.S. Secretary of Transportation can also designate transportation management areas (TMAs) for metropolitan areas with populations greater than 200,000.

While the needs of rural communities have been somewhat overlooked in transportation planning and decision making, rural planning organizations (RPOs)—consisting of networks of local planners, officials, and other stakeholders—do exist in smaller communities.



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RPOs are not federally mandated. State DOTs control planning and project selection outside of MPO areas. Therefore, rural areas have very little say in how transportation investments are made in their communities. Previous transportation bills provided some flexibility for transferring funds and suballocating dollars to cities and regions, but they lacked federal direction on what kind of national objectives should be promoted through these investments. Local and regional empowerment has been stunted in most states, given the lack of authority at the regional or local level in the project selection process or the direct funding allocation decision making. The impending bill should seek to provide direction on national objectives and create opportunities for appropriate ways to empower regional and local decision making that is equitable and provides a voice for all residents.

A Time for Reform

There is no doubt that the U.S. transportation system critically needs reforming. Many of the most pressing issues and challenges our nation faces today—obesity, air quality, climate change, congestion, energy independence, lack of access, and sprawl—are linked to transportation.

Public health and equity advocates have vital roles to play among the many partners who will shape this new system. In fact, *all* of our transportation policies, programs, and decisions should be steeped in the understanding that safety, health, equity, and well-being of the general public is a *national* priority, that public health and equity must always be considered when creating transportation policy. National transportation objectives are being considered in the next surface transportation bill. Objectives would guide transportation investments to correspond with national goals of environmental quality, safety, equity and public health. National objectives also improve accountability of transportation investments by setting performance measures which help eliminate disparate funding between modes and ensure the country's transportation system helps America move towards a healthy and sustainable future.

The coming authorization of the federal surface transportation bill affords the crucial opportunity to help shape and, more importantly, reform our transportation system. And this time around: *public health and equity considerations must not be confined to a small number of specialty program areas; they should be an overriding theme throughout **all** transportation programming.*

Chapter 2: Transportation Authorization 101: A Backgrounder

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