

# CITY PRIORITIES FOR THE 2021 SURFACE TRANSPORTATION BILL

A once-in-a-five-year opportunity to rethink America's transportation program

America's cities and the people who live in them are struggling with three intertwined crises: a global pandemic, systemic racism, and accelerating climate change. For the past 70 years, U.S. transportation policy has exacerbated these problems rather than mitigating them. The nation has been locked into patterns of sprawl, automobile dependence, and design practices that are unsustainable, unjust, and vulnerable to external shocks. **The 117th Congress, in partnership with the Biden-Harris administration, has a responsibility and an opportunity to put the country and its transportation system on a better path.**

The FAST Act, the current federal transportation law, directs \$50 billion in annual transportation spending, and governs nearly every aspect of U.S. transportation policy. This bill will expire in September 2021, offering an opportunity to reset the country's transportation priorities. **Congress must use the reauthorization process to rethink how our transportation systems are built, funded, and evaluated—an opportunity that arrives only once every five years.** With a better bill, Congress can address the safety, environmental, and equity impacts of transportation while reviving the national economy.

By passing a transformative bill, Congress could:

- **End the epidemic of traffic deaths on the country's streets**, through thoughtful investments in safer infrastructure for all road users.
- **Put the majority of Americans within reach of reliable, frequent transit**, providing convenient, low-cost, and low-carbon access to jobs, education, and essential amenities.
- **Remedy the long legacy of racial injustice in transportation** and make critical investments in communities harmed or neglected by past planning decisions.
- **Ensure the timely implementation of projects that create local jobs** while advancing safety, sustainability, and equity goals.
- **Bring project decisions closer to taxpayers**, at the local level.

To correct the mistakes of the past and allow cities, transportation systems, and the communities they serve to emerge from the current crisis stronger than we entered it, NACTO urges Congress to enact the following recommendations as part of any reauthorization bill.

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## 1 Empower cities to realize their vision of designing safe, multimodal streets for all users.

Designing streets for people remains an uphill battle for cities. From one-size-fits-all design requirements unsuitable for urban contexts to repetitive regulatory reviews to limited internal capacity, cities face serious barriers accessing and using the federal funds allocated to them by Congress. The next reauthorization can and should address these obstacles by incorporating the following recommendations:

- **Provide transportation funding directly to cities:** Congress should create a federal direct aid program for cities focused on investments in safety, state-of-good-repair, transit, walking, cycling, and resilience. This program should distribute funding to cities by two mechanisms:
  - **Require state DOTs to sub-allocate a portion of CMAQ, HSIP, and Surface Transportation Block Grant (STGBP) funds to cities.** To ensure cities of all sizes and resource levels can achieve the economic benefits of faster project delivery, Congress and the administration should require states to sub-allocate federal formula funds to metro areas at a level equivalent to their economic contribution to the state. The law should specify that cities have programmatic control over these funds, as opposed to allowing other entities to spend them on projects within a city's borders.
  - **Create a new opt-in program for cities to enter into a direct recipient relationship with FHWA.** Cities cannot move a federally-funded project forward without state DOT approval, even after meeting all FHWA requirements. This presents an acute problem for the nation's largest cities, almost all of which maintain more roadway miles and complete more annual projects than many state DOTs. FHWA should adopt a direct aid model that includes an optional grant of 'self-certification' and delegation of design authority directly to the cities with the capacity to meet federal requirements.
- **Enable local control over project selection, design, and development.** State departments of transportation already have the ability to waive their oversight over federally funded projects in cities, but rarely do so. For cities, this often results in long delays, duplicative design and environmental reviews, and requirements that may contradict local safety or sustainability goals. To ensure state DOTs support their local counterparts and defer to their authority as required by the law, Congress should:
  - **Incorporate language into the law explicitly granting default design authority to cities,** provided they are using an approved design guide. When states administer federal funds to cities, they are neither required nor permitted to require cities to comply with state design standards or safety policy. Language stating that cities have design authority by default must appear in the next reauthorization.
  - **Extend any flexibilities states receive to cities.** State DOTs are authorized to exercise a great deal of flexibility to streamline project delivery. This includes exempting small projects from environmental review, transferring funds between formula programs, and expanding design options. To ensure these flexibilities are put to use to achieve improved safety, climate, and state-of-good-repair outcomes, the law must require states to extend these flexibilities to cities. States must demonstrate that they are doing so as a requirement for recertification. Along these lines, and particularly for

small projects (e.g. less than \$5 million of federal participation), allowing cities to self-certify NEPA and other federal considerations would streamline project delivery.

- **Create an appeal process for cities to request a review of a state's decision from FHWA**, and track which states are interfering most with city projects. To hold state DOTs accountable for imposing requirements that delay federally-funded projects or conflict with local design priorities, the next reauthorization must create a mechanism by which cities can appeal to FHWA to review a state's decision.
- **Require concurrence from cities in order for states to expend federal funds on projects within their borders.** State DOTs often withhold a significant portion of metro area formula funding for their own projects, with little or no input from the jurisdictions the projects are in. To prevent states from spending sub-allocated funds on projects that conflict with local priorities, the next reauthorization must require states to seek city concurrence before moving forward.
- **Require states to provide cities with technical assistance to manage federal funds and grants.** To build capacity and technical expertise within cities to independently administer federal funding or projects, states should offer support in the form of technical assistance. This would allow cities to expand internal capacity and exert a greater degree of control over their own projects.
- **Fund the ADA mandate:** The Americans with Disabilities Act mandate to make streets and transit accessible remains unfunded, leaving too many people isolated in their homes. Cities and transit agencies responsible for maintaining infrastructure built prior to the passage of the ADA in 1990 need significant capital funding to make their systems fully accessible. To enact these improvements, Congress should create a federal capital funding program dedicated to accessibility improvements for both transit and roadways.
  - **Create a Pedestrian Priority set-aside** within the Surface Transportation Block Grant Program. This set-aside should explicitly be for sidewalks, curb ramps, crosswalks, ADA transition plans, and roadway/street narrowing such as road diets that add missing sidewalks or improve crossing for pedestrian safety.
  - **Remove design review requirements** for small-scale pedestrian, curb, and ramp ADA improvements. This will allow cities to be more nimble with their use of federal funds and contracting for these improvements.

## 2 Put every American living in an urbanized area within a ten-minute walk of frequent, high-quality public transit.

A reliable transit system provides affordable, efficient, and sustainable access to jobs, school, services, errands, and the vital life that attracts people to cities. Yet, **fewer than 10 percent of Americans in urban areas are within walking distance of transit** that runs at least once every 15 minutes. With the ongoing suburbanization of poverty, frequent and accessible transit is necessary in places beyond major urban centers. The ongoing COVID-19 pandemic has devastated the nation's largest transit systems and the communities reliant on them. In addition to providing immediate operating support to transit agencies, Congress can make access to high-quality transit a reality for millions of Americans through the following policy changes:

- **Fund transit operations** in addition to capital projects. Since the pandemic began, transit agencies and their workers have stepped up to continue providing frequent service and ensure riders can reach essential jobs and amenities. At the same time, lost revenues from fares and local taxes have agencies facing multibillion dollar deficits and significant service cuts even as millions of people ride transit every day. Long-term federal support for transit operations will help agencies cover the costs of frequent, reliable service not only for the duration of the pandemic but also provide a new mobility backbone for economic recovery.
- **Authorize congestion pricing.** Over the past several years, congestion and productivity lost to traffic hit an all-time high in the U.S.. While the pandemic may have initially reduced the total amount of driving happening on city streets, congestion and vehicle traffic quickly returned to regular levels as more people retreated from public transit into private vehicles. Congress must give localities the authority to price corridors and zones to raise the revenue to improve transit, maintain critical infrastructure, and manage demand on their most congested roadways, so long as basic guidelines are met. To fulfill policy objectives around sustainability, safety, and equity, it is essential cities retain control over revenues and have the flexibility to fund improvements to transit and active transportation.
  - Congress should fund the conversion of general purpose lanes to HOV or BRT lanes on federal highways. As tools that can help move more people on our roadways, Congress should direct FHWA to encourage, not obstruct, such projects.
- **End the 80-20 funding split between highways and transit.** 80 percent of federal transportation spending in the U.S. is allocated for roads, with a meager 20 percent left over for sustainable modes like transit, walking, and biking. This has enabled decades of unsustainable highway expansion while the nation's bus and rail systems struggle to expand service and infrastructure at the scale necessary to achieve reductions in transportation emissions or provide viable alternatives to driving. Following the precedent set by the CARES Act in 2020, Congress should repeal the 80-20 split in favor of an equal split as proposed in the [Transit Parity Resolution](#).

- **Reform how the U.S. funds transit expansion projects.** In addition to increasing funding, there are a number of reforms Congress and USDOT can make to the Capital Investment Grant program (CIG) to strengthen the program's successful record of expanding mass transit across the country:
  - Provide a CIG Share of 80 percent for all CIG Projects through FY 24 and allow all other flexible funds to be considered "local match."
  - Permit project sponsors to use 2019 ridership and revenues to rate and evaluate a project under the project justification criteria for 2021 through FY 2024.
  - Extend the project development (PD) phase beyond the current two-year time limit.
  - Index Small Starts thresholds to inflation, raise the overall \$100 million cap, and adjust grant amounts to reflect the increase in project construction costs since 2015.
  - Ease the Local Financial Commitment criteria used to evaluate CIG projects for older transit systems.
  - Reduce the Federal oversight where non-CIG contribution is below 50 percent or where the project sponsor has successfully implemented one or more CIG projects of similar complexity in the past five years.
  - Continue to include and/or strengthen existing practices to coordinate transit, affordable housing, and community development investments in the CIG evaluation criteria and ratings process.
  - Consider accessibility components as eligible expenses in Core Capacity projects, rather than State of Good Repair and general station elements.

### 3 Reorient the surface transportation program around safety, equity, and sustainability.

Numerous crises have roots in today's transportation system and the policies that govern it. The U.S. has the worst per-capita fatality rate in the industrialized world and the fatality rate for pedestrians and cyclists is increasing at a disturbing pace. Transportation accounts for the largest share of greenhouse gas emissions in the country, exacerbating existing inequalities for low-income and communities of color. Congress must use its power and resources to confront these trends, rather than continuing to enable them. The upcoming reauthorization can be a powerful vehicle for ensuring transportation is a force for positive change through the following actions.

- **Set and enforce different performance metrics.** Currently, the federal surface transportation program is structured to meet the goal of moving high volumes of cars at high speeds. In order to achieve outcomes aligned with key safety, equity, and sustainability goals, federal support must be tied to different metrics:
  - **Safety:** Some states have set annual safety goals for fatalities and serious injuries (KSI) among people walking or biking that are higher from year-to-year, not lower. The next reauthorization must prohibit states from setting regressive safety performance targets and deny funding for plans that do not contain a strategy for improving road safety, especially in disproportionately impacted communities.
  - **Speed:** End the bias against lower speed limits in performance measures such as the Peak Hour Excessive Delay (PHED), particularly in contexts where low speeds are necessary for the protection of those traveling outside of single-occupancy vehicles.
  - **Equitable Access:** Congress should direct USDOT to establish multi-modal access metrics to ensure projects equitably connect people to jobs, services, and schools, with a specific focus on marginalized communities including immigrants, Black communities, low income communities, people with disabilities, women, transit-reliant individuals, and those without a personal vehicle.
  - **Transit:** Evaluate the quality of transit through metrics such as person throughput and frequency, rather than ridership alone.
  - **Climate:** The next reauthorization should require states to measure and cut their transportation emissions, as well as to set a goal to reduce vehicle miles traveled.
- **Prioritize maintenance over new roadways and major expansion projects.** Despite near-universal awareness of the deteriorating state of roads and bridges in the US, Federal and state policies do not require or prioritize the use of funds for maintaining or repairing infrastructure. Congress should require State DOTs to create a maintenance plan for highways, bridges, pavements, and other assets, similar to what is already required of transit agencies. The maintenance plan should reach a state of good repair in the lifetime of the 12-year TIP as a condition of spending any funds on new single occupancy vehicle capacity.
- **Invest resources in neglected communities and communities harmed by past infrastructure projects.** Race, transportation, and inequity have been closely connected for decades. Federally-funded highway construction divided and isolated predominantly Black communities while spurring land use patterns hostile to density, walking, biking, and transit.

Public transportation, particularly bus systems, was either dismantled or underfunded leading to infrequent, unreliable service. To end the racist, ableist legacy of transportation policy and planning, the next reauthorization must heavily invest in improving safety and environmental quality, expanding transit and bus service, enhancing aesthetics with green infrastructure including street trees, and removing or capping highways that cut through urban neighborhoods.

- **Fund street safety improvements.** An estimated 38,800 people were killed in motor vehicle crashes in the U.S. in 2019, and 6,590 people were killed while walking—a five percent increase from 2018’s 30-year high for pedestrian deaths. People of color, low income individuals, and older adults are killed and seriously injured in disproportionate numbers while walking on our streets. Simultaneously, social distancing guidelines over the past year have led to more people using active transportation on a regular basis. To improve safety, both during the pandemic and beyond, as well as provide connections to riders returning to transit systems, Congress should:
  - **Scale up resources for Complete Streets implementation nationwide.** In order to expand walking and biking networks, and strengthen connections to transit, Congress should increase funding for the Surface Transportation Block Grant, Transportation Alternatives Program to \$1.7 billion over five years. The federal share for projects funded through this program should be 90 percent through FY 24.
  - **Authorize and fund the use of automated traffic enforcement technologies in cities.** Data shows that speed camera enforcement is one of the most effective forms of traffic enforcement, reducing unlawful, dangerous speeding by over 60 percent. Camera enforcement of red lights, bus lanes, and clear intersections (“blocking the box”) is also critical for maintaining safe streets. Congress should make implementing automated enforcement programs an eligible expense for HSIP funds, with a focus on reducing armed enforcement and reinvesting revenues into safety improvements.
- **Codify the National Transportation Safety Board’s (NTSB) most recent recommendations into law** to reduce speeding-related crashes on the nation’s roadways. Congress should direct USDOT to complete actions called for in the 2014 Speed Management Plan while publishing periodic progress reports. These actions include revising the Manual on Uniform Traffic Control Devices (MUTCD) to remove guidance that speed limits should be within 5 mph of the 85th percentile speed. Instead, the Manual should use a safe-systems approach to protect vulnerable roads users and identify speeding-related performance measures to inform additional actions.
- **Downsize and retrofit dangerous vehicles.** Since 2010, NHTSA has documented that large vehicles present increased risks to people walking and biking. By creating a nationwide program modeled after the UK’s direct vision standards for heavy goods vehicles, Congress can end the deployment of increasingly large, heavy trucks and passenger vehicles and improve driver visibility for the protection of all road users. To address safety risks posed by vehicles already on the road, Congress should direct NHTSA to adopt requirements for Angel Wing-style side impact guards and cross-over mirrors on all trucks to prevent underride and increase protections for other road users.