



*Second National People of Color Environmental
Leadership Summit - Summit II*

Resource Paper Series

October 23, 2002

**TEA-3 and Environmental Justice
Nancy Jakowitsch**

**Surface Transportation Policy Project
1100 17th Street, NW, 10th Floor
Washington, DC 20036
Phone: 202.974.5130
Fax: 202.466.2247
e-mail: njakowitsch@transact.org
Web Page: <http://www.transact.org>**

Summit II National Office
1612 K Street, N.W. Suite 904
Washington, DC 20006
Toll free: 800-736-0986
Phone: 202-833-1333
Fax: 202-833-9770
e-mail: ejsummit2@aol.com
Web Page: <http://www.summit2.org/>

Disclaimer: The Summit II Resource Paper Series was commissioned and assembled by the Environmental Justice Resource Center at Clark Atlanta University with funding support from the Ford Foundation, Turner Foundation, Public Welfare Foundation, Agency for Toxic Substances and Disease Registry, National Institute for Environmental Health Sciences, U.S. Department of Energy, and U.S. Environmental Protection Agency. The opinions expressed in this commissioned paper represent those of the author(s) and not those of the commissioning institutions or the funding agencies.

TEA-3 and Environmental Justice

Nancy Jakowitsch
Surface Transportation Policy Project

Abstract

2003 is a crucial year for transportation justice. Congress is expected to pass a federal transportation bill that will determine the rules and spending priorities for the next six years. For TEA-3, as the bill is currently known, to advance environmental justice, local grassroots organizations must participate in shaping and advocate for an equity agenda. Language in the next transportation law must hold federal, state, and local transportation agencies accountable for performance in creating a transportation system that supports community priorities. Also critical is the strengthening of an existing provision that suballocates or shifts federal transportation funds to the regional and potentially subregional level. As a result of the current law, local elected officials, community groups, planners, and other stakeholders have a voice in the planning process.

TEA-3, however, could improve provisions so that local decision-makers and the community have greater control over resources invested in their metropolitan areas. The change should bring a greater scale of investments in transit, cleaner fuel buses, affordable housing near transit stations, neighborhood planning grants, and traffic calming for make bicycling and walking safer around neighborhood schools. To ensure these investments are equitable, TEA-3 must clarify and enforce environmental justice performance measures in the planning process.

Introduction

“The national transportation system should be socially equitable and strengthen civil rights; enabling all people to gain access to good jobs, education and training, and needed services. Where possible, personal transportation expenses should be minimized in ways that support wealth creation. Integrated with land use planning, transportation should also enhance the quality, livability and character of communities and support revitalization without displacement. The transportation system should allow every American to participate fully in society whether or not they own a car and regardless of age, ability, ethnicity, or income.”

–**New Transportation Charter**¹

Environmental justice issues are woven throughout transportation reform. Hallmarks of the Civil Rights Movement such as *Brown v. Board of Education*, the Montgomery Bus Boycott, and opposition to Interstate construction in urban communities continue to shape the contemporary transportation justice movement. A major consequence of transportation and urban development policies during the Interstate era has been the erection of barriers to mobility for the 30 percent or more of Americans who cannot or do not drive personal vehicles. Many African-Americans, Latinos, and other racial, ethnic, disabled and age minorities in the U.S. are denied access to jobs, affordable housing, and educational and entrepreneurial opportunities located in new suburbs as a result of inadequate transit service and car ownership that is unaffordable. Systemic change is needed to ensure equitable access for communities of color, as well as children, the elderly, people with disabilities, as well as protection from transportation burdens.

¹ *adopted December 11, 2001*

Interstate highways that hollowed out thriving commercial districts in African-American neighborhoods throughout the U.S. during the 1960's and 70's now attract higher levels of traffic, pedestrian fatalities, and air pollution to communities of color. Bus depots are often overrepresented in these communities, while the benefits of transit service are inadequate or non-existent outside the urban core. These facilities also contribute to higher rates of asthma, respiratory illnesses and premature deaths, and like toxic landfills, deter economic development in disadvantaged communities. Highway construction that generates sprawl in outlying areas also undermines transportation investments in economically disadvantaged communities, including those facing gentrification pressures. In Montgomery, Alabama, however, the transportation challenge is no longer about discrimination on the city's bus system but to restore and improve the fixed-route service that was completely eliminated in 1998.

Recent transportation laws, namely, the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act of the 21st Century of 1998 (TEA-21), have affirmed the equity provisions established by Title VI of the 1964 Civil Rights Act and other laws. ISTEA and TEA-21 specifically reinforced Title VI by requiring an outcome-oriented approach to transportation planning, a stronger role for public involvement, and a greater degree of funds for regional and local transportation decision-makers

The next transportation bill, called TEA-3, will be one of the most important issues facing Congress in 2003. Because of the potential damage and benefit transportation investments can inflict on communities, TEA-3 is also a critical issue for the environmental justice community. (TEA-3, which will provide more than \$200 billion in federal transportation money and rules that govern transportation over the next five to six years, is expected to pass in Congress by September 2003.) This paper describes existing laws that support transportation justice, four challenges to systemic change, and policy recommendations for transportation justice for the on-going TEA-3 campaign.

I. Transportation Justice: It's the Law!

Several legal statutes and regulations exist to protect people of color and economically disadvantaged communities from discrimination related to transportation, including Title VI of the Civil Rights Act of 1964, the National Environmental Policy Act of 1969 (NEPA), Section 109 (h) of Title 23 of the Federal-aid Highway Act of 1970, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), the 1994 Executive Order on 12898 and subsequent policies interpreting the EJ order for the Department of Transportation and respective administrations. In addition, the Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation Equity Act of the 21st Century of 1998 provide the policy tools for agencies and communities to develop an integrated transportation system that supports community outcomes. Key to the effectiveness of the legal apparatus, which clearly states support for environmental justice, is how these legal tools are carried out.

Title VI of the Civil Rights Act of 1964 prohibits all federal-aid recipients, including federal transportation agencies, state departments of transportation, metropolitan planning organizations, and transit agencies, from engaging in discriminatory practices. The three main components to a valid disparate impact claim under Title VI are: 1) an action by an agency that receives federal funding has a disparate adverse impact based on race, ethnicity or national origin; 2) any action that has such a disparate impact must be justified by business necessity; and 3) even if the action would otherwise be justified by business necessity, the action may be prohibited if there are less discriminatory alternatives to accomplish the same end.

Disparate impact may be demonstrated with statistical evidence, numerical disparities or anecdotal evidence.² West Harlem Environmental Action, Inc (WE ACT) filed a Title VI complaint with U.S. DOT after learning the Metropolitan Transportation Authority planned to store additional diesel buses in Northern Manhattan which already houses six of the MTA's eight diesel bus depots. Evidence of civil rights violations cited by WE ACT included the estimated 20% of Harlem residents who suffer from asthma as a result of chronic exposure to diesel exhaust, the agency's decision to close bus depots in lower

² See *United States Department of Justice, Civil Rights Division, Title VI Legal Manual (Sept. 1998)* ("DOJ Title VI Legal Manual") at 53-59 and cases cited.

Manhattan and the South Bronx and expand facilities in Northern Manhattan to accommodate displaced buses; and MTA's cleaner bus fleet serving Long Island's predominately white commuters.³

The National Environmental Policy Act of 1969 (NEPA), which is currently under attack, is also a key tool for environmental justice advocates because of the public and environmental review process it requires. Key aspects of NEPA are 1) identification of the purpose and need for a proposed project or program, 2) an assessment of a project's or program's significant impacts on the human environment, 3) consideration of alternatives when significant impacts are expected, 4) identification of mitigation measures to eliminate or minimize significant impacts, and 5) a public process for review of need, impacts, alternatives and mitigation options.

NEPA challenges to highway proposals are increasingly raising the lack of cumulative impact analysis in efforts to stop socially and environmentally destructive transportation projects. Metropolitan planning organizations and state transportation departments need to consider not only induced travel and secondary land use impacts, but to also take into account consequences for access and mobility, household expenditures for transportation, and urban congestion.

Congress, however, is currently considering legislation strongly opposed by the environmental community to "streamline" the environmental and public review process required by NEPA. While these bills and the recent Executive Order on Environmental Streamlining are suggested to enhance coordination between federal agencies, they may simply mask community concerns with a controversial highway proposal or prevent multi-modal investments that could serve existing communities better. Weakening environmental laws is also a major threat to communities of color and low income because NEPA triggers the Title VI requirements of many transportation decisions.

Section 109 (h) of Title 23 of the Federal-aid Highway Act of 1970 also affects transportation project reviews and requires mitigation to reduce negative impacts. Section 109 specifically calls for assurances that "possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

1. air, noise, and water pollution;
2. destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;
3. adverse employment effects, and tax and property values losses;
4. injurious displacement of people, businesses and farms; and
5. disruption of desirable community and regional growth.

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) is intended to ensure "uniform, fair, and equitable treatment of persons whose real property is acquired or who are displaced in connection with Federally funded projects." Although the Uniform Act was enacted after hundreds of African-American and minority communities were displaced due to the construction of urban freeways, the law builds on the Fifth Amendment of the U.S. Constitution by defining "just compensation" for persons affected by the government's power of eminent domain.

The law's uniform policy and procedures for real property acquisition apply to all government agencies who receive federal funds in any phase of the project. Other critical provisions include the definition of just compensation as a price agreed to by a willing and informed buyer and seller no less than the appraisal

³ See WE ACT, Inc press release, *Title VI Discrimination Complaint Against the MTA*, 11/15/00. <http://www.weact.org>.

of the property's fair market value; the minimum 90 day notice to vacate, and up to \$10,000 for businesses that must reestablish as a result of the project.⁴

The Clean Air Act amendments of 1990 also provide federal air quality standards for assessing intentional and disparate impact discrimination claims. In particular, Section 42 U.S.C. § 7401 calls for the reduction of air pollution at the state and local level with federal support to promote the public health, welfare, and the productive capacity of its population. Because mobile source pollution disproportionately impacts low income communities and communities of color, transportation projects that compromise clean air attainment are potentially in violation of the Clean Air Act and Title VI. New investments or improvements to existing transit service, land use in station areas, and bike and pedestrian connectivity could, alternatively, satisfy public health and civil rights requirements.

Signed in 1994, the Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations requires that each Federal agency shall, to the greatest extent allowed by law, shall make achieving environmental justice part of its mission by identifying and avoiding "disproportionately high and adverse" effects on minority and low-income populations. In order to monitor and transform its practices, each federal agency is supposed to collect, maintain, and analyze information for environmental human health research. Whenever practicable and appropriate, agencies are required to identify multiple and cumulative exposures and include diverse segments of the population in epidemiological and clinical studies, including minority and low income populations and other segments at high risk from environmental hazards. Interagency cooperation....

In April 1997, the U.S. Department of Transportation (DOT) issued the DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 5610.2) to summarize and expand upon the requirements of Executive Order 12898 on Environmental Justice. While the order describes the process for incorporating environmental justice principles into all DOT existing programs, policies, and activities, it generally suggests that agencies and transportation-aid recipients continue their emphasis on the actual implementation of NEPA, Title VI, the URA and ISTEA planning requirements so as to prevent. Although it seeks to reaffirm the EJ Executive Order and critical environmental and civil rights laws, the DOT Order on EJ is wrong headed because it implies that deferring to existing practices, data collection, and research functions are adequate for implementation. The guidance also minimizes the interpretation of environmental justice by indicating that "insignificant" effects on human and environmental health can be excluded, despite federal requirements to measure cumulative impacts. In addition, the DOT Order is an internal directive to agency's administrations and does not any right to judicial review for compliance or noncompliance with its provisions.

The FHWA and the Federal Transit Administration (FTA) issued a memorandum Implementing Title VI Requirements in Metropolitan and Statewide Planning in 1999. The memorandum clarifies that field and division offices must consider environmental justice when considering current and future planning certification reviews. While Title VI and environmental justice have often been raised during project development, it is important to recognize that the law also applies equally to the processes and products of planning. The appropriate time for FTA and FHWA to ensure compliance with Title VI in the planning process is during the planning certification reviews conducted for the Transportation Management Areas (TMAs) and through the statewide planning finding rendered at approval of the Statewide Transportation Improvement Program (STIP).

In addition, in 1998, the FHWA issued FHWA Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (DOT Order 6640.23) that requires the FHWA to implement the principles of the DOT Order 5610.2 and E.O. 12898 by incorporating environmental justice principles in all FHWA programs, policies and activities. While several good efforts are taking place to address

⁴ Acquiring Real Property for Federal and Federal-Aid Programs and Projects
<http://www.fhwa.dot.gov/realestate/aqrpde.htm>, or for FHWA's Uniform Act Tutorial, visit
<http://www.fhwa.dot.gov/realestate/uaintro.htm>

environmental justice, including development of best practices and EJ trainings for regional staff, the need for greater technical assistance for states, metropolitan transportation organizations, and agencies are far greater than current resources can provide. In addition, the FHWA order suggested that field offices rely on existing provisions to implement EJ, while including an attachment on “processing allegations of disproportionate effects and discrimination involving environmental justice claims”, but none such on moving forward with the process.

There is also currently a proposal before the U.S. Department of Transportation to consider the costs and benefits of consolidating the civil rights functions of the FHWA, FTA and other modal administrations within the Office of the Secretary. Although equal employment opportunity issues for women, people of color, and people with disabilities are very important and progress should continue at U.S. DOT in this area, the impact transportation investments have on communities is tremendous. Such a move will only be positive if it provides technical assistance on equitable transportation that permeates the culture of federal, state, and local agencies. Transportation agencies need resources for long-term capacity-building such as FTA’s Environmental Justice Challenge Grants. Resources should also be made available in creative ways for community groups to fully participate in a meaningful and informative ways.

II. Transportation Justice: Implementation is Weak

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act of the 21st Century of 1998 (TEA-21) also added strength to civil rights statutes and environmental justice principles. These transportation laws created and reaffirmed a bold, new vision for transportation for the post-Interstate era. This vision, however, is largely dependent on public institutions for their implementation although the public is able to play a stronger role in the decision-making process. Analysis of transportation spending over the past decade indicates that while some states and many metropolitan areas have seized new opportunities during the ISTEA-TEA-21 decade, most have not. Innovation is happening, although at a much slower pace than expected, and too often with few rewards or incentives by federal or state agencies overseeing transportation programs. These laws have also leveled the playing field between highway and transit investments (most projects are now eligible for an 80 percent federal match regardless of type), introduced the option to flex highway dollars to new transit projects, and dedicated funds specifically for land use planning, community enhancements, and transit services connecting low income neighborhoods to jobs.

Lawmakers must prioritize the following goals identified in the New Transportation Charter to ensure that the next \$200 billion of federal transportation investments are well spent: 1) Promotion of Social Equity and Livable Communities, 2) Improved Energy Use and Environmental Protection, 3) Enhanced Public Health, Safety & Security, and 4) Sustained Economic Prosperity.

However to advance these ends, transportation agencies must address four basic challenges that currently block reform efforts. These challenges, also outlined in the New Transportation Charter, provide an important framework for TEA-21 renewal and beyond for the Surface Transportation Policy Project and the growing public interest coalition known as the Alliance for a New Transportation Charter. These challenges and their impacts on achieving transportation justice are namely: (1) the need to make government agencies cooperate, especially state and regional transportation planning agencies, (2) reinvestment in distressed communities through a “fix it first” policy, (3) focusing transportation investments on inter-modal facilities that serve both as nodes of commerce and mixed use, mixed income developments that build community (“making places that work”), and (4) making transportation decision-making more transparent and accountable through reforms that teach transportation agencies how to serve people and communities. Specific ideas for this platform include:

Require Accountability and Reward Performance.

Taxpayer dollars are tight. The need to spend resources more efficiently and equitably is clear, although current industry groups suggest that environmental regulations are to blame for project delays and thus the shortfall in transportation funds. Research by federal and state transportation agencies, however, find delays are due to lack of funds, controversial projects, and the complexity of projects, yet a major effort is

underway to “streamline the environmental process.” NEPA is the only federal law that currently has teeth in the transportation decision making process, and the mechanism that triggers Title VI.

Research by STPP finds that state departments of transportation are shortchanging program categories that support public outcomes. Instead, they are transferring funds to the Surface Transportation Program’s State Flex category, which compromises resources for metropolitan planning organizations responsible for complying with federal air quality standards (Congestion Mitigation & Air Quality), and bicycle and pedestrian facilities, the restoration of historic transit stations, and other investments that add value to communities (Transportation Enhancements). The complete lack of accountability in transportation spending also undermines communities who want their region to invest more heavily and equitably in transit.

Fix it first.

America’s interstate system is approaching middle age, local streets, bridges, and sidewalks are in need of repair, our trains runs slower than they did in the 1940s and public transit systems also need maintenance. Politics still win out over potholes, leaving fewer resources for maintaining and operating our road, rail, and transit infrastructure. The U.S. Conference of Mayors recently surveyed Mayors on city infrastructure needs and found highway and street maintenance and rehabilitation to be the top priority for surface transportation. Research by the Surface Transportation Policy Project finds that from 1998 – 2001 states shortchanged all TEA-21 formula programs, including Interstate Maintenance, but the one that gave states the most flexibility.

The next transportation bill must contain a strong “Fix it First” provision that prioritizes maintenance, operations, and efficiency over new construction. TEA-3 must also remove current restrictions on the expenditure of federal transportation funds on the maintenance and operation of locally-owned streets, bridges and mass transit systems.

Create More Choices and Build Livable Communities.

A comprehensive approach to intermodal transportation and transit oriented development can also address multiple challenges facing low income communities, including community development, access to jobs and affordable housing. Although there is strong public demand for such investments, there is also adamant support for capacity improvements amongst highway, trucking, and automobile industry groups. Greater access to resources through suballocation and clear performance measures could provide constituency groups for alternatives with greater leverage in the reauthorization debate—and more importantly, during implementation. Without key reforms for suballocation and accountability, however, advocates for better transit service will have to compete for limited dollars with light rail and bus interests, seniors, and people with disabilities. While sufficient resources for all is the ideal, provisions for equitable transportation planning and funding are needed to ensure that quality transit and other amenities are accessible to the transportation disadvantaged.

Learn to serve people.

Many of the challenges before the transportation sector today are due to growing public demands for better performance and a combination of other factors, including unwillingness by agencies and providers to address community concerns.

III. Moving Forward with TEA-21 Reauthorization

While the time for fundamental change that supports environmental justice is everpresent, 2003 is a crucial year. Congress is expected to pass a federal transportation bill that will determine the rules and spending priorities for the next six years. For TEA-3, as the bill is currently known, to advance environmental justice, local grassroots organizations must participate in shaping and advocate for an equity agenda. Ultimately, Members of Congress on the Senate Environment and Public Works, Senate Banking, Housing,

and Urban Affairs, and House Transportation and Infrastructure Committees as well as other committees must champion legislation that reflects EJ concerns.

TEA-3 will be the third iteration in what we hope is a series of progressive, equity-oriented transportation laws. Implementation, however, has been weak. The next transportation law must hold federal, state, and local transportation agencies accountable for community-oriented outcomes. Also critical is the strengthening of an existing provision that suballocates or shifts federal transportation funds to the regional and potentially subregional level. As a result of the current law, local elected officials, community groups, planners, and other stakeholders have a voice in the planning process.

A major recommendation to suballocate or shift more federal transportation dollars to the regional and potentially subregional level is currently being developed by the Surface Transportation Policy Project and several other organizations. Metropolitan areas in California receive 75% of the state's highway account as a result of legislation implementing ISTEA in 1992 and a more far-reaching bill passed 1997. Comparatively, metropolitan planning organizations in all states except California control on average only 6% of the federal transportation dollars.

TEA-3, however, could allow local decision-makers and the community have greater control over resources invested in their metropolitan areas. It is believed that such a change will bring to scale investments in transit, cleaner fuel buses, affordable housing near transit stations, neighborhood planning grants, and traffic calming for make bicycling and walking safer around neighborhood schools as seen in California. TEA-3 must also require performance and capacity building for environmental justice to ensure these investments are equitable and enjoyed by all communities.

TEA-3 Policy Recommendations for Advancing Transportation Justice

Equitable Transportation Planning

1. Require accountability for equity outcomes by state, regional, and local transportation agencies. Add teeth to the requirement that the long-range transportation plan, the transportation improvement program (TIP), and NEPA activities advance the purposes of environmental justice requirements and Title VI of the Civil Rights Act.
2. Build capacity for equitable transportation planning. Establish clear policy guidance, goals, and performance measures for equity outcomes in the transportation planning process that can be customized with community input. Provide resources for state and regional agencies to develop the capability for equity impact analysis.
3. Provide incentives for modern modeling tools and planning techniques. Federal law calls for the cumulative impacts of transportation investments and alternatives be considered, and that the strongest data and science be used to determine impacts. Models that can predict impacts on different socioeconomic groups should be improved and mainstreamed into the transportation planning process. Additionally, MPOs, states and transit agencies should present geographic data visually to depict long range outcomes related to transportation *and* land use scenarios.
4. Improve opportunities for public participation. Evaluate public involvement processes to determine and remove participation barriers facing minority and low-income populations in transportation decision making. Make resources available to community groups, non-profit organizations, and academic centers to actively participate, including funds for neighborhood planning grants, data collection and analysis, and community-based trainings, and ensure a more informed decision making process. Many community-based groups currently conduct outreach, research, design, and planning work to improve transportation decisions. Perhaps it is now time that stable community-based groups with legal status become eligible for funding to provide additional capacity.

5. Collect and analyze data relating to transportation needs of different population groups. States and metropolitan planning organizations lack a consistent or uniform method for analyzing data or making the measured impacts of their decisions accessible the public. Transportation agencies must routinely identify residential, employment, and transportation patterns of low-income and minority populations, and distribute the benefits and burdens of transportation investments fairly.
6. Require MPOs, states and transit agencies to incorporate geographic data from other agencies in developing transportation plans. Numerous state, regional and municipal agencies map a variety of geographic data that are relevant to transportation planning such as where TANF recipients live, affordable housing units, employment centers, job training facilities, and social service facilities. The availability of such data to transportation planners can immediately provide some guidance regarding places that need improved access and mobility services—as well as encourage other agencies to locate future services and jobs (and subsidies) in transit accessible areas. *The Temporary Assistance for Needy Families (TANF) program and the Workforce Investment Act, both of which provide funds for transportation, will be reauthorized next year.*
7. Encourage interagency coordination during the transportation planning process, as called for by the Executive Order on Environmental Justice. In addition to utilizing data from other agencies to inform the transportation planning process, coordination amongst transit agencies, community transportation providers, as well as other relevant agencies is needed to address spatial and temporal gaps to ensure reliable and efficient transit service. For example, many communities have transit shuttles for low income workers, ADA-paratransit service for people with disabilities, a separate program for seniors, and yet another for children in Head Start programs. Incentives are needed to encourage the co-location of senior services, medical assistance, employment and job training services, TANF-related programs, and housing assistance in transit accessible areas.
8. Invest in intermodal transportation and choices for communities, especially economically disadvantaged communities. Key opportunities for improving transit service in metropolitan areas and rural communities include eliminating policy barriers to funding transit operations and linking transit systems to airports, train stations, and other intermodal centers. All three major transportation laws will be reauthorized by Congress next year, namely TEA-21 (highways and transit), RAIL-21, and AIR-21.
9. Strengthen equity provisions in the transit program. Guarantee that investments in transit facilities, services, maintenance and vehicle replacement provide equitable benefits to communities of color and low income. In addition, clarify New Starts criteria to ensure that investments in light rail do not bypass transit dependent communities in attempt to garner new riders as recommended by current guidelines. Also, EJ criteria should be refined to maximize transit benefits to low income communities through creative ways. The Location Efficient Mortgage, car sharing, and incentives for affordable housing are some examples. 47 out of 50 metropolitan areas are in the planning, design, and/or construction phase of a major capital investment in rail. Bus rapid transit, a lower cost alternative to light rail, may become eligible for New Starts funding in TEA-3.
10. Reauthorize the Job Access and Reverse Commute (JARC) program. Make the program easier for non-traditional transit providers to administer and clarify language in the TANF reauthorization to ensure TANF funds continue to be eligible as a JARC match. Key features of the Job Access and Reverse Commute program; including the emphasis on community and stakeholder involvement and new dollars as an incentive for collaboration, build a strong foundation for the program. Key needs now are to increase the frequency of existing transit service; including evening and weekend hours, and better connections to key destinations within existing communities.
11. Reauthorize the Clean Fuel Bus Program and prioritize funding for low income communities. Although TEA-21 authorized \$100 million in funds for cleaner fuel bus vehicles, it is unclear whether these resources accelerated commercial development of cleaner fuel vehicles as intended by Congress. At the same time, EJ groups in Boston, New York, Baltimore, and Austin have raised concerns about higher rates of asthma, respiratory illnesses and lung cancer due to chronic

exposure to diesel exhaust from nearby transit facilities. The needs for cleaner fuel buses and vehicles are clear, and in low income communities especially.

- 12.** Expand the Commuter Choice program. Lower transit costs by educating employers, low income workers, and transportation agencies about commute benefits and other related initiatives. Encourage health and human service agencies to purchase commute benefits in bulk and to make subsidized transit passes available to TANF recipients. Make transit passes available to students enrolled in school lunch programs using innovative funding sources that do not compromise the operational budgets of transit agencies.
- 13.** Create a new Safe Routes to School program. There is a strong interest amongst key transportation leaders in Congress to create a Safe Routes to School program. The disproportionately high rate of pedestrian fatalities amongst low income communities and Latino and African American children should be reflected in this program.
- 14.** Encourage transit agencies to modernize and improve service. Intelligent Transportation Systems that can inform the traveling public such as information to transit riders when the next bus will arrive; GIS mapping programs that can readily identify low-income neighborhoods, employment centers, and even childcare facilities to inform transit routing and scheduling; and cleaner, low floor buses that can accommodate mothers, seniors, and people with disabilities more easily..

Transportation and Community Development

- 15.** Remove barriers to transit-oriented development projects and Early Warning System tools to encourage “development without displacement.” Emphasis and incentives should be geared toward mixed use, mixed income developments create places as well as transportation nodes for inter-modal transfers.
- 16.** Provide incentives to build low income housing near transit using either the New Market Tax Credit or creating a special transit-oriented development tax credit specifically crafted for this purpose.
- 17.** Create a dedicated fund for Transit Oriented Development or further refine funding eligibilities for the development of mixed-use stations, infrastructure around stations, etc. under TEA-21 program categories, such as the Surface Transportation Program. In addition, TOD policy recommendations should identify and eliminate current barriers to joint development, encourage TOD through innovative finance (public private partnerships, even with non-profits, community development corporations, etc.), mandate TOD in new starts (currently selection criterion, but not required), discourage park n’ ride in favor of TOD, etc.
- 18.** Create a Housing Incentive Program similar to a program in San Mateo County (CA), which offers municipalities \$2,000 per bedroom for transit-oriented housing developments containing at least 40 units per acres and located within one-third of a mile. *A federal version of this should prominently feature affordable housing.*

2002	<i>Projected Timeline for TEA-21 Reauthorization</i>
May-October	House Transportation & Infrastructure, Senate Environment and Public Works, Senate Banking, Housing and Urban Affairs hold TEA-21 reauthorization hearings.
	Individual Members expected to introduce bills to feed into TEA-21 reauthorization process.
May-August	DOT Task forces, Modal Administrators, and political appointees assemble U.S. DOT recommendations.
September	Administration submits TEA-21 reauthorization proposal to OMB.
October	107 th Congress adjourns, potentially reconvenes for Lame Duck session in November.
November	02 Election results will adjust what we ask for in reauthorization and from whom. Balance of power in House & Senate at stake, and 36 governor races will alter leadership of state DOTs.
	After elections, Senate EPW and House T&I Committee likely to focus efforts on drafting legislative proposals.
2003	
January	108 th Congress convenes, Administration to submit TEA-21 renewal plan to Congress.
February	House T&I expected to introduce TEA-21 renewal package. Senate has not set schedule but wants final bill by Sept. 30.
March	House Subcommittee action on renewal bill expected.
	Budget Resolution considered debated in Committee.
April	Congress passes budget resolution for FY'03 (contains assumptions about spending under TEA-21 renewal bill.)
May	Full House T& I Committee expected to vote on package before Memorial Day.
June	House Committee wants House to pass bill before July 4.
Summer/Fall	Committee leaders would hope to begin conference committee by Summer and reach agreement by Sept. 30 expiration date.

STPP's Web Resources

<http://www.transact.org>
<http://www.tea3.org>
<http://www.antc.org>

STPP's homepage on transportation reform
TEA-21 reauthorization infobahn
For local advocates participating in the TEA-3 campaign

Author:

Nancy Jakowitsch is the Director of Policy Development at the Surface Transportation Policy Project. She coordinates the Social Equity and Livable Communities working group and similar efforts to organize local elected officials, transportation leaders, social justice advocates, business leaders, public health professionals, and the environmental community in the TEA-3 campaign. Nancy previously managed STPP's multi-year project to introduce state and local elected officials, transportation decision-makers, and advocates to European approaches to integrated transportation and land use; and edited STPP's two major publications.

Before joining STPP in 1998, she authored a chapter on transportation and land use best practices for the National Center for Economic and Security Alternatives and worked at the Bank Information Center, an information clearinghouse for international NGOs and individuals seeking to stop environmentally and socially destructive projects funded by Multilateral Development Banks.