
TRANSPORTATION INFRASTRUCTURE AND SERVICES (2012)

5.00 Transportation Principles

The United States' transportation systems contribute to the economic growth and vitality of our nation's cities and towns. These systems can preserve and strengthen local and regional economies, stimulate economic growth and strengthen our competitive position in world trade. The safe and efficient movement of people and goods must be the prime objective of transportation policy at all levels of government, and federal, state and local governments should be guided by the following principles in the development and implementation of transportation policies and programs.

A. Local Control

Fundamental responsibility for transportation decision-making should be at the local level. NLC supports the ability of states and municipalities to set their own priorities in transportation investment, and to have a greater voice in influencing transportation plans that satisfy local needs and objectives.

Where there are overriding national or statewide transportation concerns, federal and state governments have a legitimate role in planning and decision-making, but local governments should never be excluded from those processes. Congress should strengthen provisions for local decision-making as a central component of any federal transportation program, and any funds intended for local use must not be diverted to state governments.

B. Flexibility

NLC supports local flexibility to build, operate and maintain transportation projects. It is important that state and local government officials have the ability to "flex funds," or use federal transportation funding as they properly determine.

C. Equity

Federal policy should treat all transportation modes with equity and should urge federal, state, and local officials work together on the safe, efficient, and environmentally-friendly designs for solving transportation problems. No single transportation mode to move people and goods should have a competitive advantage over another as a result of federal public policy choices. Public subsidies for particular modes of transportation, if used, must be explicit in the outcomes required and must support

and enhance the efficient operation of our market-based economic system. Rural and urban transportation needs should be treated equitably.

D. Intermodalism/Multimodalism

It is essential that the nation's transportation system be seamless. Federal policy should encourage "closing the gap" of independent modal elements of the transportation system, with the goal of ensuring that efficient connections between modes are available for the movement of people and goods.

NLC supports federal priority funding for improving the efficiency of the connecting modes of intermodal/multimodal facilities.

E. Management and Operations

Federal policy must encourage integrated management and operation of all transportation systems at regional and local levels, maximizing the use of information technology for traffic management, monitoring structural integrity, and enforcement for public safety.

F. Priorities/Prioritization

The federal government should give highest priority to the efficient utilization, management, and maintenance of the nation's existing transportation infrastructure. Second priority should be given to adding capacity to existing systems. Third priority should be given to the development of new transportation systems. None of the above priorities are meant to preclude the utilization of new, cost effective technology that provides the same level of service.

G. Disadvantaged Business Enterprise (DBE) Requirements

The federal government should seek greater economic opportunity for disadvantaged businesses in federal procurement and financial assistance programs. DBE goals should be high enough to be effective, and enforcement should be reasonably consistent. Furthermore, a flexible, efficient waiver procedure should be instituted to take into account the percentages of DBEs in an area and the availability of DBEs.

5.01 Transportation Policies

A. Transportation Planning

1. Metropolitan Planning Organizations

The federal government must continue to require that Metropolitan Planning Organizations (MPOs) be responsible for a continuing, comprehensive, and coordinated transportation planning process that develops multimodal transportation programs in cooperation with state transportation departments, public transportation agencies, and local implementing agencies. The MPO endorsement of these plans and programs must be a prerequisite for approval of federally assisted transportation projects in urbanized areas. The federal government should continue to provide adequate financial assistance to MPOs for planning efforts.

The federal government should allow the MPO and/or the local government to plan projects that use alternate design standards when the use of rigid federal design standards is inconsistent with local needs.

Federal regulations should continue to require that the elected officials of general purpose local governments be adequately represented on the MPO and that such officials participate in the designation and re-designation of the planning organization and its membership.

MPOs representing metropolitan areas with populations of more than 50,000 must be the direct recipients of federal transportation funding for all transportation planning and program efforts in those areas. Small cities with populations less than 50,000 should have the option to receive federal transportation funding directly or retain the current practice of state suballocation.

The federal government shall require states to work cooperatively with MPOs to develop joint forecasts of anticipated federal transportation funding to create more accountability in federal highway projects.

2. Rural Consultation

The federal government must require states to implement a process for consulting with local jurisdictions in rural, non-MPO areas, regarding transportation project planning and decision making.

3. Project Identification

States should be prohibited from implementing projects unless they are first included in the

transportation improvement plans, except for Management and Operations (M/O) projects.

NLC urges the federal government to require states to consult with affected local communities on transportation projects regarding the inclusion of environmental retrofits, such as storm water runoff and noise abatement, as part of projects that are exempt from federal environmental requirements, including categorical exclusions.

4. Project Delivery

The federal government must streamline the federal transportation project delivery process to facilitate construction of federally funded projects and reduce project delays. Delays in the implementation of federally funded transportation projects must be eliminated in order to increase local control and make more effective use of limited financial resources. The federal government should require states to implement transportation projects identified on the local level and of local importance with the same timeliness and priority as other regional transportation projects.

The project delivery process must:

- Mandate concurrent reviews among all federal and state agencies involved in the environmental review of all federally funded transportation projects;
- Standardize environmental policy and the review/approval process within DOT modes;
- Develop clearly defined procedures for resolving disputes among those agencies;
- Require all agencies to determine appropriate time frames to complete their reviews;
- Eliminate duplicative environmental review by crediting equal or more stringent state environmental review actions during the federal environmental review process;
- Continue to allow federal transportation dollars to be used by local and state government to provide the resources necessary to meet the time limits established for the federal environmental process; and
- Include locally elected officials in any pilot program created to examine environmental streamlining efforts.

5. Municipal Impact Analysis

The social, environmental, economic, and energy impacts of proposed federal transportation legislation and regulations should be identified by the MPO or local jurisdictional body prior to implementation, and steps should be taken to mitigate any adverse

impacts. Existing and proposed federal transportation programs and regulations must be carefully designed to ensure that actions taken support municipal elected officials and their constituents' efforts to improve the social, economic and environmental sustainability of their communities and flexibility in the use of federal dollars to achieve local goals.

6. *Research and Development*

The federal government should continue to research and develop new technologies through federally-financed programs, and include local governments as key partners.

B. Transportation Finance and Administration

1. *The Federal Role*

The current federal surface transportation programs are not meeting the financial needs of the transportation system. NLC supports broadening the definition of innovative financing techniques beyond debt financing to include:

a. *Innovative Management of Funds*

NLC encourages the federal government to permit municipalities to use innovative financial management techniques in connection with federal transportation funds. Innovative management must follow generally-applicable accounting principles. NLC believes that advanced construction financing, toll credits and the use of flexible and tapered federal-local match options are examples of innovative financial management techniques that would help maximize limited public funds and leverage private capital to deliver needed surface transportation projects.

b. *Credit Assistance*

Credit assistance, tax incentives and other transportation finance tools have been effective tools in expanding the available revenue for transportation investments. NLC supports federal direct loans, loan guarantees and credit line assistance with favorable terms through programs like Infrastructure Banks and the Transportation Infrastructure Finance and Innovation Act (TIFIA). NLC supports the application of objective approval criteria for credit assistance. Approval factors should include, but not be limited to, threshold cost requirements, consistency with long-range regional and state transportation plans, generation of economic benefits, goods movement and congestion relief improvements, leveraged private capital, and the promotion of innovative technologies.

While TIFIA has provided flexible funding for major transportation projects and helped local governments leverage private and other non-federal investments, limited budget authority and delays in the approval process can result in cost increases. NLC supports an increase in the available funding for the TIFIA program and greater flexibility for DOT in approving projects that can take advantage of favorable financing.

c. *Revenue Generation*

The federal government should encourage a new generation of creative and innovative revenue generation options at the state and local levels such as public-private partnerships to help finance critical transportation infrastructure needs. (*See also FAIR Section 1.02C.5, Increasing the Supply of Municipal Capital*)

d. *Debt Financing*

Debt financing for highway and transit projects is an important financial tool, but one that must be exercised prudently. Where federal funds are involved, NLC recommends ensuring sufficient protections to balance immediate transportation needs against the financial burden on future generations. Such protections include, but are not limited to, debt ceiling caps and required public referenda.

2. *Surface Transportation Revenue Sources*

a. *Guiding Principles*

NLC endorses the preservation of federal fuel taxes to fund the Highway Trust Fund (HTF), which funds national surface transportation needs. Dynamic economic, technological, and social conditions affect HTF revenue collections, and trends indicate the need for the careful and collaborative development by the public and private sectors of a complementary or, if necessary, alternative transportation funding system to meet the nation's long-term needs. Vehicle miles traveled (VMT) and other experimental ideas hold promise and should be encouraged.

The following principles should guide federal efforts to achieve this objective:

- i. *Fairness:* Any new transportation revenue system must ensure that no single segment of the population bears an inequitable financial burden.
- ii. *Privacy:* The design of any new transportation revenue and related tax collection system must integrate privacy protections.

- iii. *Administrative Ease*: The design of any new transportation revenue system should improve administrative effectiveness and efficiency. At minimum, there must be no administrative deterioration from the current system.
- iv. *Seamless Transition*: The implementation of any new transportation revenue system must provide for a seamless transition to ensure stable revenue collections, tax fairness, administrative ease, and policy stability.
- v. *Revenue Generation*: Any new transportation revenue system must be able to generate more revenue than collected currently, and it must maintain the precedent under the current system's design that protects against cheating to avoid paying one's fair share of fuel taxes.
- vi. *Reliability*: Revenue streams must be reliable and sufficient to meet the diverse and growing transportation infrastructure needs of the nation.
- vii. *Technology Improvements*: The increasing shortfall of revenues from fuel taxes caused by the reduction in gasoline usage from fuel efficient vehicles and alternative fuel cars and trucks (i.e., hybrid, all-electric, alternative fuel, and hydrogen-electric vehicles), and higher use of alternative transportation systems that utilize no gasoline.

b. Fuel Taxes as HTF Revenue Source

Until a new, national transportation financing system is in place, Congress must maintain a dedicated federal fuel tax on diesel, gasoline, and gasohol that generates sufficient annual revenues dedicated to the HTF for transportation purposes only.

- Congress should require heavier trucks to increase their contribution to the HTF so that they pay in proportion to the costs they impose on the highway system. The heavy-use truck fee should continue to be required until such time as the Department of Transportation can recommend to Congress an alternative tax which is more equitable than the heavy-use tax, easy to administer, and will generate at least as much revenue as the use tax.
- Congress should allow the use of toll financing on federally aided highway, tunnel and bridge projects.
- Congress should develop incentives for local governments to increase their contribution to the federal highway program, for instance, by

allowing localities to increase the local matching share of highway funds at their discretion. However, those increased contributions should not be considered a substitute for the federal highway funds to which a state or locality is entitled.

c. Funding Public Transportation

NLC supports an increase in funds designated for public transportation, and urges the federal government to preserve current guaranteed funding mechanisms and increase the percentages allocated to the federal transit program.

To provide a viable alternative to the automobile, public transportation services need to be of quality and frequency if they are to attract a significant number of passengers, and this can only be accomplished with an increased commitment of public funds for essential equipment, staff, and maintenance. Because it is unlikely that public transportation will ever be self-supporting, transit should not be measured exclusively in terms of revenue generated and should continue to be subsidized by a partnership of federal, state and local governments. Federal mandates related to the Clean Air Act, the Americans with Disabilities Act, and others, require additional federal funding.

NLC opposes state-by-state minimum allocations for federal transit funding. NLC opposes the imposition of "caps" on the amount of federal transit funding a state may receive. Caps do not address differences in transit needs in the country, and force a "one-size-fits-all" approach to federal spending on transit programs.

A federal commitment should be made to new funding and not by shifting funding from existing transportation programs. States or localities that provide a greater financial commitment shall receive higher priority for federal funding for public transportation systems.

Maintenance and productivity indices should be incorporated into federal allocation formulae and there should be incentives in the matching-ratio to encourage productivity improvements and maintenance of existing transit facilities. However, productivity improvements alone will not mitigate the problems of rising transit costs and inadequate transit revenues.

Federal policy should also continue to emphasize the proper management of existing transit systems and the implementation of low cost transit improvements.

3. Transportation Tax Policy to Encourage Commute Alternatives

NLC supports changes to the tax code and federal tax incentives to encourage vanpooling, ridesharing, transit usage, telecommuting and other commute alternatives. Current law prohibits employers from providing tax-free commuter benefits. NLC seeks reinstatement of those tax-free benefits that were deleted by Congress as part of the 1986 Tax Reform Act. NLC urges the federal government to ensure that pretax benefits offered for commute alternatives, including transit, are equal to or greater than those offered for parking.

NLC strongly urges the federal government to promote transportation demand management programs and other commute alternatives. NLC supports federal tax incentives for small employers to coordinate and promote ridesharing programs.

4. Federal Aid Turnback

NLC strongly opposes proposals to dismantle federal transportation finance by turning back all or a portion of the federal aid to the states.

5. Federal Earmarks

NLC is opposed to federal earmarks in the congressional transportation funding process that are inconsistent with regional and local priorities. NLC believes that such earmarks are inefficient, and often reduce the funding available to a state or locality for higher priority projects.

C. Air Quality

Specific air quality policies are contained in Section 2.02 of the EENR chapter.

Transportation sources are significant contributors to the levels of pollutants, and as congestion increases in cities and the nation, levels of these pollutants increase as well, despite efforts to reduce emissions from mobile sources. Addressing transportation issues is an effective way of reducing emissions in cities. Therefore, NLC urges the federal government to offer a funding program for non-attainment areas and those cities struggling to maintain attainment to address emissions from mobile sources. The United States Department of Transportation (DOT), and not the states, should administer this program.

D. Congestion Mitigation

To maintain economic viability, congestion mitigation programs must be available to all cities. A comprehensive, federal funding program to address

congestion would foster project innovation, enhance intermodal planning, promote savings in infrastructure investment, and increase the livability and economic viability of communities across the country. The federal government must develop a congestion mitigation program that provides direct funding to all cities to address congestion problems in their communities. Eligible projects could include Intelligent Transportation Systems, projects to increase vehicle occupancy, demand management strategies, traffic flow improvement projects, congestion pricing, innovative transportation technologies such as Personal Rapid Transit, and other projects that would address the efficiency of cities' transportation networks. NLC recognizes the need for regional strategies to create a seamless, national transportation system.

E. Transportation of Hazardous Materials

The condition of the nation's roads and railroad infrastructure impacts the frequency and severity of accidents. Consequently, increased investment in this infrastructure will also help reduce the number and severity of accidents involving hazardous materials by improving the safety of roads, bridges, and rail. Therefore, NLC continues to advocate for increased federal investment in this critical infrastructure.

NLC supports existing federal performance standards to guide the selection of highway and rail routes along which hazardous materials can be shipped including shipments made by or under the direction of the United States Department of Energy or Defense.

States and localities must be allowed to adopt and enforce highway and rail route requirements (including time-of-day restrictions, escorting, and local bans) that are consistent with the federal performance standards. NLC supports federal exemptions when a state or locality can demonstrate that it has unique local safety requirements.

F. Surface Transportation Security

NLC does not support diverting any portion of the federal fuel tax to fund security measures for surface transportation systems. Securing these systems is a matter of national security and must be funded as part of our national defense.

Any federal attempts to secure the surface transportation system shall include affected locally elected officials in the planning process. NLC urges the federal government, in cooperation with local

governments and transportation system operators, to assess the vulnerabilities of the entire surface transportation system. Federal agencies must assist local governments by sharing information, intelligence, technology, and best practices, and by providing adequate funding for vulnerability assessments.

NLC urges all sectors of the transportation industry, including public transportation systems, water transportation, public and private transit and rail companies, and highway systems, to participate in cooperative vulnerability assessments, emergency response plans, and drills. Federal financial assistance must be made available to implement these plans and assessments.

NLC expects the federal government to:

- Provide technical assistance to local governments to develop possible countermeasures to deter, detect and delay the consequences of terrorist threats against vulnerable assets;
- Continue to research technologies to detect chemical, biological, and nuclear contaminants in transit systems and provide technical and financial assistance to local governments to implement these technologies;
- Develop methods to harden assets deemed most vulnerable;
- Provide current security guidelines for all transportation systems; and
- Encourage the use of information technology in traffic management, including the enforcement of traffic laws, monitoring infrastructure integrity, and public safety.

5.02 Streets and Highways

A. Highway Trust Fund Finance

NLC supports increased federal fuel taxes to support the ever growing infrastructure needs of the transportation system and to balance the effects of inflation on the Highway Trust Fund by indexing the gas tax to the consumer price index (CPI), never to decrease and not to exceed five percent annually. NLC strongly opposes diverting any of these funds, including reducing or masking the federal deficit.

Unobligated revenues should not be allowed to accumulate in the HTF, and must continue to have the protection of budget “firewalls.”

Every state should also be guaranteed a minimum percentage of funds to cushion any negative annual shifts in a state’s historical share of federal transportation funds. Any funds that may be distributed by the federal government to the states should be distributed in each state on an equitable basis.

B. Bridges

NLC urges the federal government to maintain the current Bridge Replacement and Rehabilitation program with sufficient funding to repair bridges that are structurally or operationally deficient. Off-system bridges should continue to be eligible for federal bridge funds, and the discretionary bridge program should be preserved.

NLC urges the use of information technology in monitoring the structural integrity of bridges.

NLC also strongly urges efforts at all levels of government to review road and bridge needs and work to provide adequate revenue to ensure the safety of our transportation infrastructure.

C. Highway Beautification

NLC recommends that the responsibility for controlling outdoor advertising and junkyards should be returned to municipalities, and to states in areas outside municipalities. These governments should have the authority to order the removal of those signs and the relocation of those junkyards that are incompatible with state and local land use plans and zoning laws, and allow sign and junkyard owners to amortize their losses through advertising revenues.

Federal controls over outdoor advertising should be retained only on interstate highways outside the jurisdictions of municipalities and on federally aided primary highways selected as scenic highways by states.

D. Enhancements Programs

NLC encourages the federal government to support a program for enhancement projects that strengthens our nation’s multimodal transportation system. Projects eligible for this funding should include bicycle and pedestrian facilities, rails-to-trails projects, landscaping and scenic beautification, and environmental retrofit programs. Funding from this program should be distributed to cities in its entirety.

NLC supports a dedicated funding source for enhancements such as bike and pedestrian facilities and rails-to-trails projects that have a direct impact

on congestion mitigation and contribute to a cleaner environment.

NLC opposes the abuse of the rescission process to subvert the minimum transportation enhancement funding allotments mandated by transportation legislation.

E. Intelligent Transportation Systems

NLC supports intelligent transportation systems (ITS) technology development and deployment and an increase in federal funding for these purposes. By applying ITS technologies and services, we can improve the safety and efficiency of goods movement, and thus the competitiveness of America's intermodal and international freight transportation systems.

The federal government should give funding priority to ITS projects that improve traffic flow on existing streets and highways as alternatives to major new construction, especially in high-density areas. Priority should also be given to street and highway improvements which benefit public transit, such as preferential lanes for high occupancy vehicles, bus lanes, ramp metering, computerized traffic control, one-way streets, reversible traffic lanes, traffic signal priority for buses, parking management strategies.

The federal government should facilitate the use of uniform technology in the collection of tolls on roads across jurisdictions and transportation systems such as vehicle mounted toll tags or passes and transit stickers or passes.

F. Highway Safety

Greater consideration should be given to safety in planning, design and construction. Additional resources need to be focused at all levels of government on research, education and enforcement to increase highway safety, including work zones. NLC supports the use of incentive grants to encourage states to adopt more stringent impaired driving and seat belt use laws. NLC also supports the use of information technology in traffic enforcement, such as red light cameras.

G. Motor Carriers

1. Truck Weight and Size Limits

NLC opposes increases in truck weight limits unless and until such increases are accompanied by simultaneous and sufficient increases in the heavy truck-user tax.

NLC opposes allowing the longer combination trucks (i.e., "triple-trailers" or "truck trains") both on and off the designated national network of truck highways until the impact of increased truck length and width standards on highway costs and safety is assessed and reflected in highway user fees and appropriate safety regulations. NLC supports demonstration projects to determine safety.

2. Truck Routing

NLC supports federal performance standards for the designation of routes along which longer, wider trucks may travel. State and local governments should also retain authority to designate truck routes, truck access pickup and delivery points on roads which are not a part of the designated truck network.

3. Regulation of the Motor Carrier Industry

The federal government should encourage increased competition within the trucking industry and remove barriers to free entry by increasing the flexibility of carriers to set rates and establish routes. No federal action should be taken to weaken truck safety requirements in any way. NLC also urges that federal motor carrier safety requirements be applied uniformly for both domestically-registered and foreign-registered vehicles. NLC opposes any reduced level of truck service to small and rural communities.

4. National Commercial Truck Driver Standards

NLC continues to support federal national uniform standards for licensing interstate and intrastate drivers of commercial motor carriers and states should administer those standards.

5. Enforcement of Motor Carrier Safety Regulations

The federal government should continue adequate Highway Trust Fund funding for the Motor Carrier Safety Assistance Program (MCSAP). This program provides grants to states for development and implementation of programs (including roadside vehicle inspection programs), which enforce federal and compatible state motor carrier safety regulations.

The federal and state governments should identify and develop new technologies and innovative strategies, which will enhance and improve commercial motor carrier safety, protect the driving public from commercial motor carriers that do not pass safety inspections, and promote and enforce much stricter safety standards for commercial motor carriers, such as adequately securing truck loads and imposing penalties for missing treads.

6. *Motor Carrier Substance Abuse Assistance Program*

NLC supports a federal incentive grant program for states that wish to conduct random roadside inspections for driver alcohol and drug abuse.

7. *Motor Carrier Data Collection*

NLC urges the federal government to develop a centralized system for collecting and disseminating information on motor carrier drivers and vehicles. The federal government should:

- Expedite the development of the National Driver Register (NDR);
- Ensure that commercial truck driver records are included in the Register;
- Adequately fund the program; and
- Assist states with collecting, exchanging, and maintaining comprehensive truck accident and violation data and truck driver and inspection records.

5.03 Public Transportation

A. **Support for Public Transportation**

Public transportation can contribute to the viability of the nation's cities by helping to reduce congestion, protect the environment, stimulate economic development and create employment opportunities; therefore, its provision is in the national interest.

Public transportation is an essential public service that provides mobility for all people, including the disabled, elderly, and economically disadvantaged, in all places and is not simply for those who can afford to pay for the service.

B. **Role of the Private Sector**

Decisions about the terms and conditions of private sector participation in transit, including the decisions to subcontract with private providers if warranted, should be made at the local level, not the federal level.

NLC opposes federally imposed, competitive privatization of transit service because such privatization undermines the public-serving nature of transit and may have deleterious effects on the ridership and revenue base supporting transit. Further, since privately provided transit services will never serve all transit needs, the burden of meeting transit needs should continue to rest on the shoulders of the public transit authority or other public transportation providers.

C. **Local Control**

NLC encourages the federal government to require a public transit operator that accepts federal funding to cooperate with cities whose residents contribute to the funding of the operator concerning the location, operation, and maintenance of transit stops, routes and facilities within those cities.

D. **Federal Role in Public Transportation**

NLC urges a continued federal role in public transportation policy, and strongly opposes federal actions which would reduce or eliminate the federal commitment by turning back the transit program to states, eliminating funding eligibility for new fixed rail starts, or phasing out operating assistance.

The federal government should facilitate the use of uniform technology in the collection of tolls on roads across jurisdictions and transportation systems such as vehicle mounted toll tags or passes and transit tickets or passes.

E. **Labor**

Section 13(c) of the Urban Mass Transit Act (UMTA), as amended (49 USCS Appx 5333(b)), should be repealed.

With regard to the Fair Labor Standards Act, the federal government should not make determinations on "traditional and integral" functions of state and local government without consulting local governments and documenting the fiscal impact on state and local governments.

F. **Handicapped Accessibility Requirements**

NLC supports federal performance standards that indicate the level of handicapped-accessible service that is to be provided without specifying the means for achieving the service levels. Decisions regarding the specific nature and level of service for citizens with special mobility needs should be made at the local level, based upon locally identified needs, goals, and resources.

Existing accessible services, where it is demonstrated that such services adequately serve the needs of those with mobility impairments, should constitute local compliance with federal accessibility requirements. Under no circumstances should the federal government impose additional accessibility requirements (beyond the performance requirements) on existing fixed guideway systems, or require existing bus fleets or rail systems to be retrofitted with accessibility equipment.

G. Procurement Requirements

NLC supports federal procurement policies that expedite the production and procurement of transit vehicles. Alternative bidding procedures which are better suited to present transit production conditions should be given due consideration. Additionally, NLC supports federal performance and equipment standards that replace the present transit design specifications, and that give manufacturers latitude in choosing an appropriate technology to meet a specific technical objective.

H. Innovative Transportation Technologies and Demonstration Projects for a Seamless Transportation Network

Recognizing the nation's dependency on a single type of transportation fuel, which has serious negative impacts on both the environment and economy, and the need to explore other fuel sources and transportation alternatives, NLC endorses the use of innovative transportation technologies and demonstration projects, such as Personal Rapid Transit or congestion pricing, that are specific to the needs and requirements of each city to further enhance mass transit and transportation efficiency. These transportation technologies should complement and work with existing regional technologies to create a seamless, national transportation network.

5.04 Air Transportation

NLC advocates federal policy that provides adequate, predictable, and long-term funding for airport development projects which enhance system capacity and ensure aviation safety.

However, NLC opposes attempts by the federal government to mandate expansion of federally-aided airport facilities, or to otherwise limit the ability of local governments to continue to determine the scope and type of airport facilities needed, or the type of airport use restrictions, including airport noise or airport access restrictions, imposed in their particular location. Local airport operators and local governments must have the authority to regulate airport use and development in order to protect the public health and safety of surrounding communities, to enforce airport uses that are appropriate to the airport's capacity and to ensure that local transportation, environmental (including noise control) and economic needs are met.

A. Funding

1. Airport Trust Fund

The user-generated Airport and Airway Trust Fund should continue to be used to finance airport development and improvements. Funds from aviation user fees and tax receipts should be appropriated and should not accumulate unspent in the Trust Fund. Aviation users should benefit from the aviation-related taxes they pay.

2. Federal Airport Improvement Program

The federal Airport Improvement Program (AIP) should continue to be disbursed to air carrier airport sponsors through existing funding mechanisms. Eligible airports should be allowed to compete for discretionary funds.

NLC supports increased AIP flexibility, including extending AIP eligibility to groundside improvement projects. However, NLC opposes diversion of AIP funds for federally mandated security projects.

3. Block Grants to States

NLC strongly opposes proposals to restructure the airport grant program for small- and medium-sized airports into a state block grant program. Local governments and airports sponsors must continue to be directly responsible for airport planning and development.

4. Off-Airport User Fees

NLC opposes federal preemption of a local government's ability to charge off-airport user fees.

5. Passenger Facilities Charges

NLC supports local jurisdictions setting passenger facilities charges (PFCs), which give local airport authorities the flexibility to address capacity and to implement major capital equipment upgrades, new technologies, and operational costs.

B. Small Communities

Insufficient service and unreasonably high fares have left some small communities without commercial air transportation service. To address these problems, NLC recommends the following policies:

1. Essential Air Service Programs

The federal government should maintain current funding for the Essential Air Service (EAS) program and NLC urges Congress to fully fund the EAS program.

To promote competition and ensure efficient use of federal dollars, the USDOT should hold designated EAS air carriers to existing performance standards.

2. *Small Community Air Service Development Program*

Projects funded through this program have the potential to identify a broad variety of options to expand and improve service in small communities. NLC urges continued Congressional support of this program.

C. Airport Noise and Pollution

The federal government must intensify its efforts to provide prompt relief to residents of cities located close to airports from unacceptable levels of aircraft noise and aircraft pollution. (*See clarifications at EENR Section 2.09, Noise Control, and CED Section 3.06, Land Use*)

Increased funding should be made available to airports for noise abatement projects and compatibility planning.

The Federal Aviation Administration should require adherence to fly-quiet programs, preferred runway usage, preferred flight paths, and local curfews as established by local governments and authorities.

NLC encourages the appropriation of funds to cities and towns that adjoin an airport but do not operate the facility for compatible land use and noise mitigation planning purposes.

D. Federal Role in Air Traffic Control

The federal government should provide funding for and ensure all airports are participants in a national air navigation system which provides for safe aircraft operation such as the conversion of radar based guidance systems to GPS.

E. Competition and the Air Transportation System

The federal government must guarantee that all airlines have a fair opportunity to compete in the air transportation system. NLC urges the federal government to issue guidelines that would clarify the definition of unfair exclusionary practices and anticompetitive behavior to facilitate enforcement of current laws that prohibit unfair exclusionary conduct.

NLC urges Congress to direct and provide funding for the U.S. Department of Transportation (DOT) and the U.S. Department of Justice (DOJ) to pursue allegations of unfair competitive practices in the air

transportation system, and rigorously prosecute cases against airlines that engage in such practices.

DOJ and DOT must carefully examine all mergers and acquisitions to ensure that they offer benefits to all consumers. DOJ must exercise its authority, through current antitrust laws, to prevent any mergers or acquisitions that do not provide these benefits.

F. Aviation Security

A thorough assessment of the current and potential threat to the air transportation industry is required. The Transportation Security Administration (TSA), the FAA and other aviation experts, in partnership with locally elected officials and law enforcement, must work cooperatively and take immediate action to ensure that the aviation security system is capable of responding to specified threat levels. The public interest demands an aviation system capable of deploying a mix of technology and procedures as a unified system capable of countering all vulnerabilities, while considering effects on passenger convenience.

NLC strongly urges the federal government to ensure air travel safety through implementing the screening of commercial cargo on passenger planes, improving passenger and airport employee screening procedures and improving terminal safety requirements. NLC also encourages Congress, or the U.S. Department of Homeland Security through the regulatory process, to further strengthen the “known-shipper” program by improving procedures for monitoring and auditing “known-shippers” of cargo.

To develop an effective aviation security policy, Congress must clearly define responsibilities within the structure of the federal transportation program. The TSA, FAA, state and local governments, and the US DOT must develop a coordinated plan to determine the level of authority each agency and government entity controls in any situation.

Since aviation security is a matter of national defense, any funds necessary to assure security must come from defense funding, not from additional fees levied on passengers. NLC opposes continued diversion of AIP and PFC funds for aviation security measures. The federal government must reimburse local governments for the expenses incurred from the mandated local law enforcement presence at airports. Congress should also reimburse costs to airports accrued from compliance with mandated security upgrades, including installation and deployment of Explosive Detection Systems.

5.05 Rail

A. Rail Principles

1. Local Role in Federal Rail Program

The federal government should require states to involve local governments in state rail planning efforts required under federal law to ensure that local needs and objectives are satisfied.

2. Financing

NLC supports investment in the nation's rail infrastructure and encourages the federal government to enact policies and programs that would expand public and private investment in both passenger and freight rail mobility.

3. Rail Safety

NLC urges the federal government to promote safe and efficient passenger and freight rail transportation and to seek creative solutions.

Federal and state governments should fund local rail safety programs to reduce safety hazards at railroad crossings through rail relocation, sealed quiet zones, grade separation, or by other means. To increase traffic safety at crossings, stricter penalties for rail crossing violations should be imposed.

Based on all digital technology, positive train control (PTC) is the first major advancement in controlling trains in decades. It will severely limit incidents caused by human error, a safety advantage not now found in most U.S. railroad signal systems.

Congress passed the Rail Safety Improvement Act of 2008, which requires railroads to implement positive train control systems on specific rail lines by the end of 2015. While the Rail Safety Improvement Act authorizes \$50 million annually to support PTC deployment, the funding is yet to be authorized and is grossly inadequate to fund PTC on rail lines by the end of 2015.

NLC supports authorizing the \$50 million annually to support PTC and also the development of a funding mechanism under the Railroad Rehabilitation & Improvement Financing (RRIF) Program that allows direct loans and loan guarantees up to \$35 billion.

4. Operations and Maintenance

NLC urges the federal government to readdress rail track standards for dual freight and national intercity passenger rail uses.

NLC further urges the federal government to redefine the responsibility and funding mechanisms for maintaining tracks that carry both freight and national intercity passenger rail traffic.

5. Environmental Impacts

Federal law regulating railroad activity should not preempt local, state, or federal environmental review and requirements for permitting and mitigation of railroad activities. The environmental impacts of railway activities and facilities, including pollution, poor air quality, land use, vibration, and noise, should not be exempt from local environmental, public health, safety, or welfare-based regulations.

Railroads should be subject to noise constraints and calls for uniformity among the different federal agencies in their policies governing acceptable noise levels. (*See also EENR Section 2.08, Railroad Noise Policies*)

B. Passenger Rail

NLC urges Congress and the Administration to develop a long-range vision and fund for passenger rail in the United States. Amtrak, in cooperation with state and local transportation officials, citizen groups, and other stakeholders, must develop such a plan as expeditiously as possible. National passenger rail plans should include acquiring and improving rail lines that would otherwise be abandoned. NLC urges the Administration to prioritize the safety review and approval of the use of information technology and crashworthy vehicles, such as passenger rail cars on low speed urban dual use passenger and freight lines.

NLC recommends the following:

1. Amtrak's Self Sufficiency Requirement

NLC urges repeal of Amtrak's statutory self-sufficiency requirement, since no known passenger rail system operates without government subsidies.

2. Development of and Access to a High Speed Rail Network

NLC supports high-speed rail development. Cities up to 500 miles apart in densely populated corridors hold the most promise for competitive service. NLC urges Congress to support creation of new high-speed rail along such corridors.

3. Funding Options for Amtrak and High Speed Rail

NLC supports the development of a long-term funding mechanism for infrastructure acquisitions, improvements, and rights-of-way and operating costs. In addition to appropriations, options include:

- Increasing the federal fuel tax specifically for passenger rail;
- Directing the diesel fuel tax currently levied and deposited into the general fund into a newly created Trust Fund for rail improvements;
- Allowing state, regional and local government entities to spend a portion of their federal transportation allocation on intercity rail; and
- Allowing federal and state governments to issue tax-exempt or tax-credit bonds for financing rail improvements.

C. Freight Railroads

1. Freight Rail Service

Congress and the public and private sectors must cooperate to ensure and provide for the efficient movement of freight, especially with regards to the relocation of rail lines and increased rail traffic within metropolitan areas, which could constitute a safety hazard and disrupt municipal functions.

2. Funding Options for Freight Rail

Federal monies should be available to state and/or local governments for light density branch lines, the abandonment of which would have serious adverse economic and social impacts.

3. Freight Rail Safety

NLC urges Congress to review the following freight rail safety issues:

- The hazard of reduced crews or lack of current safety technology use undermines the safe and efficient movement of trains and takes away the trained first responder at rail incidents and accidents. This action leaves no other person to monitor quickly changing circumstances or affirm, discuss or point out critical operations and safety issues;
- The lack of railroad maintenance has jeopardized safety. The closure of poorly maintained crossings cause congestion on remaining crossings and cause short trips to be substantially extended due to poor road access, putting operators and passengers of motor vehicles at a greater risk; and
- The switching and storage of railroad cars containing hazardous materials in urban and residential neighborhoods.

4. Rail Line Abandonment

Congress must protect national, state and local government interest in alternative public transportation regarding the use of abandoned rail corridors.

Congress should:

- Specify how the federal government should balance the impact on shippers and the community of losing rail service against the burden upon the railroad of continued service and the potential use of the corridor for public transportation, including biking and hiking.
- Require railroads to provide specific information concerning traffic trends, profitability, and rail line conditions to rail users and state and local governments six months prior to the filing of the abandonment application.
- Require a railroad to transfer an abandoned rail corridor to a state or local agency for no more than the constitutional minimum valuation, for alternative public uses including walking and biking, and public-private transportation initiatives. Public interest in alternative use of rights-of-way should be fully considered during rail merger proceedings.
- Provide federal financial assistance for the purpose of converting existing rail terminals into intermodal/ multimodal facilities.

5. Rail Mergers

Freight rail operations in the United States are expanding through rail mergers, often resulting in the implementation of new routes, or intensified use of existing ones, as well as new and expanded rail yards. Because of the potential impact mergers can have on local municipalities, federal law should ensure that local governments have police, zoning, and land use authority for the protection of the environment and public safety.

The Surface Transportation Board should be required to consider all aspects of a railroad's safety record as one of the criteria for approving railroad mergers or expansions.

5.06 Waterways, Ports and Landside Connections

Waterways and ports are an integral part of a comprehensive, intermodal transportation system vital to our nation's economic security and the financial health of cities.

The effects of ports go beyond their immediate boundaries. NLC recommends that the federal government consider the following funding and public safety issues related to ports:

A. Funding for Harbor Maintenance and Dredging to Increase Capacity

Recognizing the importance of ports and their impact on the national economy and job creation, NLC supports funding for harbor maintenance and funding for dredging to increase capacity. NLC urges Congress to recommend a defined revenue source for this purpose and provide support for development of environmentally friendly ship channel shoreline systems. NLC further calls on Congress to provide financial and technical assistance to communities and their watershed partners to promote innovative approaches for the construction and maintenance of shorelines in the vicinity of federally maintained navigable waters.

B. Local Infrastructure, which Connects Land Transportation to Ports

NLC expects the federal government to provide the needed financial resources to support the landside infrastructure required to operate an efficient intermodal system and to support efficient port operations including commuter transportation at port facilities such as ferries.

C. Operations Funding to Implement the Transfer of Cargo to Portside Distribution

NLC supports the design and implementation of equitable waterway commercial user fees and customs duties necessary to generate sufficient revenues to finance waterway and port operations and improvements.

D. Security

Because cargo containers are distributed throughout the country, any dangerous cargo in a particular container could pose a threat to any city in the nation. Greater security can be achieved by establishing partnerships with industry and foreign ports to encourage increased security in their supply chains and the federal government should continue to establish such partnerships as quickly as possible. To reduce cities' vulnerability from cargo containers, NLC recommends that the federal government:

- Increase funding for waterways and port security;
- Allow locally elected officials to coordinate waterway and port security at the local level, in conjunction with the U.S. Coast Guard and other affected federal agencies;
- Continue to provide technical guidance and oversight for port vulnerability assessments, entrusting one federal agency with this responsibility;

- Require screening and background checks of port personnel;
- Establish a grant program for ports to acquire new security technology;
- Increase inspections on cargo containers, through the U.S. Customs Service, and provide additional funding and equipment to Customs to monitor cargo without slowing the movement of commerce;
- Establish criteria for identifying high risk containers;
- Pre-screen containers, according to international agreements, before shipment; and
- Develop and require the use of containers that are resistant to tampering.

Port security measures should be funded through national defense programs and general fund revenues, not through increased user fees.

E. Funding for Maintenance of Inland Waterways

Recognizing the importance of inland waterways and their impact on the national economy and local economies, NLC supports sufficient funding for inland waterways infrastructure, fully funding the Inland Waterways Trust Fund.

F. Federal Responsibility for Planning and Funding Freight Mobility

The U.S. goods movement system needs greater federal leadership. Freight bottlenecks can be found all over the country, but the task of prioritizing and fixing them is often beyond the means of the states, counties, and cities in which projects are located. A national freight strategy and dedicated, competitive and formula funding is critical in order to maintain the efficiency of the transportation system and the U.S. economic competitiveness. NLC urges the federal government to adopt the following specific measures:

1. *National Freight Strategy*: The Secretary of Transportation should be directed to develop a national freight strategy that addresses multi-modal freight needs in the United States. In addition to covering domestic freight, the strategy should address the movement of U.S. imports and exports through U.S. ports.

2. *Senior, Focused Freight Leadership*: A multi-modal freight office led by an official at least at the assistant secretary level should be established with the Office of the Secretary of Transportation. This official would develop the national freight strategy

and associated policies, advocate for freight across the modal administrations, and award funding for goods movement programs and projects.

3. *Dedicated Freight Program and Funding:* A dedicated, formula-based goods movement program with dedicated funding should be created within the Department of Transportation. Ports should be eligible to seek funding from this program for freight projects both inside and outside their terminals.

4. *Projects of Regional/National Significance:* A discretionary, merit-based grant program for projects of national significance should be established. Freight measures should be heavily weighted among the criteria used to select projects for funding.

5. *Freight Eligibility for Existing Programs:* Eligibility requirements for existing surface transportation programs should be expanded to better address freight requirements.

a. *Congestion Mitigation and Air Quality (CMAQ):* Although freight projects are currently eligible for CMAQ funding, they are not major recipients of funds. CMAQ criteria should be refined to more appropriately recognize freight's potential to contribute to air quality improvements.

b. *Road-rail grade separations:* The criteria for funding grade separation projects should be expanded to acknowledge congestion relief and freight benefits, as well as safety benefits.

c. *TIFIA:* The TIFIA program should be clarified to include projects located within a port terminal that improve the intermodal interchange, transfer, and surface access of goods into and out of ports and that reduce environmental impacts of freight movement.

6. *Tax Credit for Rail Infrastructure Investment:* To encourage the expansion of freight rail capacity, a tax credit should be created for certain rail infrastructure investments that generate public benefits.

7. *States' Freight Planning:* Each state should be required to develop a freight plan and establish a freight advisory committee.

5.07 Pipelines

The system of gaseous and liquid pipelines is an important component of an efficient transportation network for moving hazardous material. Our nation's pipelines keep portions of these hazardous materials off of our roads, waterways, and rail lines, making those modes of transportation safer for all users.

Unremitting attention to the safety of this system is vital to cities, due to the hazardous nature of these materials, the proximity of many pipelines to homes and businesses, and the potential environmental impacts of any failure in the system.

To improve the safety of the system, the federal government, through the Office of Pipeline Safety (OPS), must:

- Continue to allow states the flexibility to impose safety requirements beyond federal requirements, and extend the right to enforce those safety requirements to states that have imposed such requirements;
- Develop standards for periodic testing of pipelines and periodic hydrostatic tests;
- Define "environmentally sensitive areas" and "high density population areas" which would be severely impacted if a failure in a pipeline were to occur; and
- Strengthen rules regarding pipeline operation, maintenance, and public reporting.

To reach the goals stated above, NLC recommends that the federal government:

- Require formal testing and certification of pipeline operators;
- Mandate and enforce a pipeline integrity management plan to reduce failures associated with corrosion;
- Require study and implementation of new technologies to detect leaks;
- Impose equivalent safety standards for both liquid fuel and natural gas pipelines;
- Require pipeline operators to report all spills to the Office of Pipeline Safety and affected jurisdictions, except those spills truly de minimis in nature;
- Require pipeline operators to disclose to local and state authorities the results of all pipeline inspections;
- Require the Office of Pipeline Safety to work with local emergency response providers to develop preparedness and response plans, and to provide appropriate funding, including grants, to local jurisdictions to implement such plans;
- Recognize the right of local governments through franchise provisions to require pipeline operators to 1) provide to local governments the data and results from internal and external pipeline testing along with a description of the testing methods to allow for their analysis of the potential risks to public safety; 2) require pipeline operators to cooperate with local

governments in emergency preparedness and response and 3) require pipeline operators to have state of the art safety, warning, detection and emergency response capabilities to protect cities and their citizens and to mitigate potential damages from an accident;

- Require pipeline operators to provide data to the National Pipeline Mapping system administered by OPS and make this data available to local jurisdictions;
- Require periodic management audits of pipeline companies to assure compliance with the foregoing;
- Provide enhanced funding to federal agencies and states charged with the implementation and oversight of pipeline safety laws and regulations; and
- Require pipeline operators to provide for anti-tampering devices and surveillance systems to protect pipelines from criminal activity, including terrorist attacks to deny service, and drug cartel use of the pipelines for drug deliveries.