

June 30, 2004

The Honorable James M. Inhofe
Chairman
Committee on Environment and Public Works
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510-6175

Dear Mr. Chairman:

As the conference committee begins consideration of H.R. 3550 to reauthorize the Transportation Equity Act for the 21st Century (TEA-21), the Coalition of Northeastern Governors (CONEG), joined by Governor Ruth Ann Minner and Governor Ed Rendell, would like to express our strong, shared position on several key issues that must be resolved in the conference. We understand the challenges the Congress faces in providing for the current and future needs of the nation's transportation system. We appreciate your leadership in bringing this complex legislation to this point, and welcome the opportunity to share our concerns with you.

The CONEG Governors strongly urge the Congress to enact a six-year bill that will provide the States with predictable and robust funding and will maintain the effective and proven program and funding structure of TEA-21. Such a bill is essential to meeting the diverse transportation needs of the nation and the Northeast – now and in the future.

Highway Funding and Flexibility: We urge the conference to increase funding for highways; to preserve the flexible, needs-based program structure and funding formulas for the five core highway apportionment programs; and to make no change in the existing Minimum Guarantee that would impact negatively the Northeast states' existing share of highway and transit funding. These core programs – Interstate Maintenance, National Highway System, Highway Bridge, Surface Transportation Program, and Congestion Mitigation and Air Quality – are particularly important to the States because of their flexibility and their ability to meet diverse needs. Therefore, it is vital that the formulas and the distribution of these programs remain "needs-based." Additionally, the essential flexibility provided by these five core highway apportionment programs can best be maintained by keeping high-priority projects and projects of national and regional significance outside of the Minimum Guarantee/equity bonus calculation.

Transit Program and Funding: We urge the conference to protect the transit program by increasing transit funding and by maintaining the current program structure. Essential to this effort are preserving the traditional 80/20 split of the Highway Trust Fund revenues between the Highway Account and the Mass Transit Account, and also maintaining the 40/40/20 revenue split between the three major capital programs – New Starts, Fixed-Guideway Modernization (Rail-Mod), and Bus and Bus Facility. We welcome the increased investment in the current Rail-Mod program and in the urban area and rural transit programs, and urge minimal change in the urban area program funding ratio and in the rural transit program structure.

Firewalls and Funding Guarantees: Equally important, we urge the conference to maintain its commitment to preserving the firewalls and the General Fund guarantees for the highway and public transit programs. These budget mechanisms have proven successful in providing the funding predictability that all States need to meet their growing transportation needs.

We are pleased to share with you these overarching priority concerns of the Northeast Governors. The Northeast states have also identified other conference items dealing with highway, transit, and rail programs that are important to the region's integrated transportation system. These key policy priorities, as well as the broader highway, transit and related rail program issues, are more thoroughly discussed in the enclosed document. We hope you and your staff find this document helpful.

On behalf of these Northeast Governors, we thank you for taking the time to understand our position on these overarching regional policy issues. We appreciate your continuing work to improve the nation's integrated transportation system and its ability to serve as an effective underpinning of a productive national economy. We stand ready to work with you and your staff on this critical legislation.

Sincerely,

/o.s./
Mitt Romney
Chair
Governor of Massachusetts

/o.s./
John E. Baldacci
Vice-Chair
Governor of Maine

Enclosure

TEA-21 REAUTHORIZATION CONFERENCE NORTHEAST REGIONAL PRIORITIES

June 2004*

The Northeast¹ Governors support an integrated, safe, secure, and adequately financed national transportation system as the essential underpinning of the nation's economy, the well-being of communities, and the quality of life. The Governors urge the Congress to build upon and strengthen the progress and success of the Transportation Equity Act for the 21st Century (TEA-21).

NORTHEAST GOVERNORS – REGIONAL POLICY PRIORITIES

The Governors have identified three key priorities for a six-year bill with adequate and predictable funding that will maintain the effective and proven program and funding structure of TEA-21.

The Governors strongly support House and Senate actions to preserve and extend the firewalls and General Fund guarantees for highways and transit.

Both the House and Senate bills extend the discretionary “firewalls” and General Fund guarantees for highways and transit which provide the funding predictability needed by states to plan and build multiyear highway and transit projects. The discretionary “firewalls” prevent monies from the Highway Trust Fund from being spent on non-transportation program items. The “guarantees” secure certain amounts of General Fund monies (particularly transit) for transportation projects.

The Governors strongly support House and Senate action to preserve a flexible, needs-based highway program structure through the following provisions:

- **maintain the needs-based funding formulas for the five core apportionment programs;**
- **make no change in the existing Minimum Guarantee that would impact negatively the Northeast states' existing share of highway and transit program funding; and**
- **place high priority and projects of regional significance outside the Minimum Guarantee calculation.**

Both the House and Senate bills, for the most part, maintain the needs-based funding formulas for the five core apportionment programs – Interstate Maintenance, National Highway System, Highway Bridge, Surface Transportation Program, and Congestion Mitigation and Air Quality Program. It is critical that funding for these programs continue to be distributed on a needs basis rather than earmarked or distributed in some other arbitrary manner. Consistent with a needs-based approach, there should be no changes in the existing Minimum Guarantee that would impact negatively the Northeast states' existing highway and transit program funding.

The House bill keeps High-Priority/Member Projects, as well as the new category of Projects of Regional and National Significance, outside of the Minimum Guarantee calculation. This position, consistent with the Intermodal Surface Transportation Equity Act (ISTEA), is vital to ensuring that states have the optimal flexibility in funding to meet the needs of their highway system. Including these earmark projects within the Minimum Guarantee reduces the level of flexible core funding available to states. The Senate has not taken an official position on the matter but appears to be leaning toward keeping the projects outside of the calculation.

The Northeast Governors strongly support House and Senate actions that protect and increase public transit funding and largely maintain the current transit program, particularly the following current provisions:

- **the 80/20 split of Highway Trust Fund revenues between the Highway Account and the Mass Transit Account, and**
- **the 40/40/20 revenue split between the three major capital programs – New Starts, Fixed Guideway Modernization (Rail-Mod), and Bus and Bus Facility.**

Under existing law, the 80/20 split of the Highway Trust Fund revenues between the Highway Account and the Mass Transit Account provides essential funding reliability and stability for both highway and transit programs and projects.

Under existing law, funds allocated and apportioned under the transit capital program have been authorized pursuant to the following ratio: 40 percent to the New Starts Program; 40 percent to the Fixed-Guideway Modernization Program; and 20 percent to the Bus and Bus Facility Program. While the Senate bill would change the funding ratios to 40/37/23, the House bill maintains the 40/40/20 historical program funding distribution.

¹ The Northeast States are: Connecticut, Delaware, Maine, Massachusetts, New York, Pennsylvania, Rhode Island and Vermont.

NORTHEAST STATES - REGIONAL PROGRAM INTERESTS

The Northeast states have identified a number of transportation provisions contained in the House and Senate transportation reauthorization bills that are important to the states' ability to maintain and improve the Northeast's integrated transportation system. The regional interests deal with revenue mechanisms, highway, transit and related rail provisions.

FINANCE

Revenue Aligned Budget Authority (RABA)

The Northeast States support the House and Senate actions to adjust the RABA calculation.

Both the House and Senate proposals make changes in the Revenue Aligned Budget Authority (RABA) calculation to eliminate the large upward – and particularly the downward – funding swings that have plagued the calculation in the past.

HIGHWAYS

National Surface Transportation System Study

The Northeast States support efforts to study the future needs and funding of an integrated surface transportation system as provided in the Senate bill. The issues of future transportation needs and revenues are interconnected and should not be studied independently. Therefore, the Congress is encouraged to combine the study of future surface transportation needs with the study of future revenue needs.

Both the House and Senate bills authorize separate commissions or studies to examine and make recommendations on future revenue sources to the Highway Trust Fund and to study the future needs of the nation's transportation system. However, the Senate bill calls for a more comprehensive examination of an integrated surface transportation system, including highways, transit, intercity passenger rail, freight, waterways, and other key components of the nation's surface transportation system.

Border Program

The Northeast States support the separate Border Program as provided in the Senate bill.

Both the Senate and House proposals create a new Border Program that distributes funding to Border States under a formula program. In contrast, TEA-21 combined border funding within the Borders and Corridors Program and provided funding to States on a discretionary basis. The Senate bill is preferable to the Northeast, for it distributes funds based upon cargo value and allows funds to be spent throughout the State. The House bill distributes funds based on the number of crossings and restricts expenditures to activities within 20 miles of the border – regardless of where the impact might occur.

Construction of Ferry Boats and Ferry Terminal Facilities

The Northeast States support the ferry boat and terminal facilities programs as provided in the House, but with the inclusion of the Senate language on ferry maintenance facilities.

Both the House and Senate bills provide discretionary grants for the construction of ferry boats and ferry terminal facilities. The House bill, with a total funding of \$430 million over the six-year life of the bill, also sets aside \$20 million per year for the three states with ferries on the National Highway System (Alaska - \$10 million, New Jersey - \$5 million, Washington - \$5 million). The Senate bill provides a lower funding level (\$300 million over the six-year life of the bill) but it permits the funding to be used on ferry maintenance facilities as well as construction of boats and terminals.

I-95 Corridor Coalition

The Northeast States support funding for the I-95 Corridor Coalition as provided in the Senate bill.

The Senate bill provides over the six-year bill \$66 million – as a takedown from the Research Title with no impact on the Minimum Guarantee – for the I-95 Corridor Coalition. The House has no such provision. The I-95 Corridor Coalition is an alliance of transportation agencies, toll authorities, and related organizations, from the State of Maine to the State of Florida. It provides a forum for key decision and policy makers to address transportation management and operations issues of common interest. The I-95 Corridor Coalition was created in ISTEA and was funded in TEA-21 through a \$5 million per year takedown from the Intelligent Transportation Systems deployment program.

High Priority Corridor Designation

The Northeast States support adding Interstate 95 from Houlton, Maine through Washington, D.C. to the list of designated High Priority Corridors in the House bill.

The House bill designates several corridors across the nation as High Priority Corridors on the National Highway System under current authority (Section 2205 (c) of Title 23). These include I-87 in New York, the East-West Corridor connecting Watertown, New York and Calais, Maine, as well as corridors in Florida (I-95), Arkansas, Texas-Kansas, Kansas-Nebraska, and California. This designation would allow projects on the designated portion of these corridors to qualify for funding under the Multistate Corridor Program.

TRANSIT

Section 5309: Fixed-Guideway Modernization Program (Rail-Mod)

The Northeast States support the current Rail-Mod program with increased funding, including the 40 percent share of the capital program funds as provided in the House bill.

The Fixed-Guideway Modernization Program or “Rail-Mod” provides funding to maintain, modernize, and/or improve existing fixed-guideway rail transit systems. The funding comes from the capital program and is distributed by formula. This funding program is essential to Northeast states. Much of the transit rail infrastructure serving the region’s metropolitan areas was built without the assistance of the federal government; it is heavily used (supporting over 75 percent of the nation’s transit ridership); and is in need of significant investment to maintain the system and strengthen its basic capacity. The Senate bill reduced the percentage of funds dedicated to Rail-Mod under the discretionary capital program from 40 percent to 37 percent. The House bill retains the current apportionment formula and keeps it within the capital program.

Section 5307: Urbanized Area Formula Program (UZA)

The Northeast States support the current Urbanized Area Formula Program structure, with increased funding, and with minimal change in the funding ratio as provided in the House bill.

The Section 5307 Urbanized Area Formula Program, which provides funding to transit providers in areas of 50,000 or more in population, is critical to the sustainability and enhancement of transit services in the Northeast. Approximately 37 percent of the annual funding is apportioned to the heavy transit-oriented Northeast states. Both the House and the Senate bills continue funding for this formula program, and both bills change the ratio of Formula Program funding that is apportioned under this program – from the current 91.2 percent to 89.5 percent in the House bill and to 86.8 percent in the Senate bill.

Section 5311: Non-Urbanized Area Formula Program (Rural Transit)

The Northeast States support the rural transit program with minimal changes in the current program structure as provided in the House bill.

This program provides formula funding to states for supporting public transportation in areas of less than 50,000 population. Both the House and the Senate bills change the ratio of Formula Program funding that is made available and apportioned under the Section 5311 program from the existing 6.3 percent (TEA-21) to 8.0 percent (House) or 9.0 percent (Senate). The Senate bill makes additional changes by including a Growing States tier and a takedown for Indian Reservations.

Section 5309: Bus and Bus Facility Discretionary Grant Program

The Northeast States support the Bus and Bus Facility Discretionary Funding, with increased funding, and with minimal change in the program structure as provided in the House bill.

The Bus and Bus Facilities Discretionary Grant Program provides funding to address the replacement, rehabilitation and purchase of buses and related equipment and the construction of bus related facilities that cannot otherwise be addressed through funding provided under the transit formula programs. The program provides essential funding for bus transit systems in communities throughout the Northeast States. In contrast to the Administration’s proposal which would eliminate this capital program, both the House and Senate retain this important program in its existing form. The Senate provides increased funding for this important program by increasing the percentage of funds dedicated to the Bus and Bus Facilities Grant Program, but this much needed increase in rural transit funding is taken from the equally important Rail-Mod program.

Section 5309: New Starts & 80/20 Match

The Northeast States support the current New Starts Program structure as provided in the House bill.

The New Starts program provides discretionary grants for the construction of new rail transit projects (light rail, subways, etc.). In contrast to the Administration’s proposal which would change the federal/state match for the New Starts program to a 50/50 match, both the House and Senate would retain the current 80/20 match requirement. In addition, the House bill has favorable language because a project that does not increase its match beyond the legally required 20 percent is not disadvantaged. This provision provides an important level playing field among the applicants.

Transit in the Parks Program

The Northeast States support the higher funding levels and broader eligibility provisions for the Transit in the Parks program as provided in the Senate bill.

Both the Senate and the House bills include funding for transit in National Parks – with the House bill authorizing \$80 million over six years and the Senate bill providing for \$125 million over six years. However, the Senate bill has broader eligibility provisions that make funding available for all federally owned parks and refuges. Funding would be particularly useful in reducing congestion and improving air quality in Acadia National Park in Maine.

RAIL

Use of Highway Funding for Rail Projects

The Northeast States support continuation of the current authority for states to flex core highway program funds to eligible rail projects as provided in the House bill.

States, including those in the Northeast, flex highway funds for rail-related projects that are consistent with achieving goals of core highway programs. Language in the Senate bill would limit the use of Highway Trust Fund monies for rail projects. The House bill contains no such language, and would therefore continue current law and practice.

Section 130: Highway-Rail Grade Crossing Program

The Northeast States support the Highway-Rail Grade Crossing Program, including the greater distribution and flexibility changes provided in the House bill.

The current Section 130 Highway-Rail Grade Crossing Program provides funding to make highway-rail grade crossings safer by eliminating hazards or installing protective devices at railway-highway crossings. The Senate bill requires that at least \$200 million per year be set-aside from the Highway Safety Improvement Program for Section 130 purposes. While the House bill would contain no set-aside, it provides the distribution and flexibility changes sought by many states.

Operation Lifesaver

The Northeast States support federal funding of the Operation Lifesaver Program as provided in both the House and Senate bills.

This program provides funding to carry out a public information and education program to help prevent and reduce accidents, injuries, and fatalities at highway-rail grade crossings. The House and Senate bills would provide \$600,000 per year over the six-year life of the bill.

Short Line Infrastructure Grant Program

The Northeast States support federal investment as provided in the Senate bill that helps short-line and regional railroads with effective and competitive connections to national markets.

This program creates a grant program for short-line railroads to upgrade their track to handle heavier rail cars. It is an important step in helping the regional and short-line railroads be more efficient and competitive in offering rail access to markets for businesses in communities throughout the Northeast and the nation.

Rail Line Relocation Grant Program

The Northeast States support the Senate's effort to provide states with rail line relocation assistance for municipalities.

This program creates a grant program to states for assistance to municipalities in relocating rail track in order to improve public safety, the flow of motor vehicle traffic, and economic development. There is no similar provision in the House bill.

Regional Corridor Development - Swift High-Speed Rail Development Act

The Northeast States support stronger federal partnerships with states to improve intercity passenger rail corridor development as provided in the Swift Program provisions in the House bill.

The House bill reauthorizes and improves the Swift High-Speed Rail Development Act by increasing the current authorization to \$100 million per year and expanding eligibility from planning to include development (including equipment and technology). These improvements to the Swift program will assist states in developing improved passenger rail corridor service, and encourage investments that could strengthen the nation's rail supply industry. There is no similar language in the Senate bill.

Reauthorize the Railroad Rehabilitation and Improvement Financing (RRIF) Loan Program

The Northeast Governors encourage the conferees to include language to reauthorize and improve RRIF.

Technical clarifying language to streamline the Railroad Rehabilitation and Improvement Financing Program (RRIF) – which permits railroads to apply for loans and/or loan guarantees from the federal government for rail infrastructure projects – has been developed in Congress. Neither the House nor Senate bill includes such language.

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