Introduction:
Federalism and Surface Transportation

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The articles for this symposium address federal, state, and local relationships in surface-transportation programs. These programs support access to and mobility within specific locations, but the benefits do not uniquely belong to any one political jurisdiction. Transportation investments link jurisdictions and produce dynamic interactions among them that both follow and create strong competitive economic, land-development, intergovernmental, and political forces.

Against this real-world backdrop, federal legislation requires cooperation and coordination. This is a good and necessary policy. Ports and airports need good access to surface transportation if their goods and passengers are to continue trips without interruption. Highways, transit, bicycle and pedestrian facilities, commuter railroads, and ferries must fit together as part of a transportation network if they are to unlock commuter congestion. At the same time, air quality, noise, and numerous other quality-of-life considerations must be addressed. Serving the public, ensuring equity among diverse groups, and improving transportation safety are key goals.

The Federal government’s interest in transportation stems from multiple sources, principally including interstate commerce and military preparedness. State and local interests are produced much more directly by traditional geographic responsibilities for providing services. The resulting patchwork of ownership and funding for the physical system is complicated and complex.

But getting cooperation and coordination to occur can be hard and frustrating work. American federalism has been evolving shared responsibilities for transportation facilities and services for more than 100 years. Over this period, the federal role has shifted from facilitating farm-to-market commerce, to connecting all the nation’s metropolitan areas to each other, to solving urban mobility and congestion problems, and to promoting global competitiveness. Along the historical path of nation-building there have been doses of military preparedness, urban renewal, disaster relief, social equity, and, most recently, homeland security. As the Canadian comparison in this symposium illustrates, however, this path is by no means the only one the United States could have taken. It reflects, instead, the uniquely American experiment in governing.
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accountability for results. However, GPRA applies differently from one agency to another, even within the U.S. Department of Transportation. For example, while the administrator of the Federal Transit Administration has direct authority to decide which rail projects receive funding, often with the benefit of congressional insight on priority setting, the Federal Highway Administrator presides over a program where the direct responsibility of deciding which projects get selected for federal funding rests with state and local decision-makers. In both instances, success depends heavily on the ability of federal participants to induce state and local grant recipients to serve federal interests. Curristine points out that the fundamental challenge for GPRA and the surface-transportation program is not just establishing measures of desired outcomes but somehow transferring their ownership to non-federal partners. The author's research explores the limits of federal policy objectives when pursued through the "remote control" strategy of grant programs.

Joseph Marbach and Wesley Leckrone focus on how intergovernmental lobbyists participated in the formulation of TEA-21 and how they sought to influence Congress as it reauthorized the highway and transit programs in 1998. They characterize this process as the "politics of strange bedfellows" that formed when groups representing cities, states, and other interests established coalitions to support commonly desired outcomes. This bargaining and horse-trading among intergovernmental lobbyists has seldom been examined. More often, analysts have been content to identify the participants and their stakes without assessing how coalitions produce outcomes greater than the sum of the parts. As the federal "role" became blurred following completion of the interstate highway system, new coalitions to support the federal program have become more important, and they have pushed hard to alter the program's purposes. Traditional stakeholders, including the American Association of State Highway and Transportation Officials (AASHTO), have been frustrated by the claims these new groups have levied on a program they perceived as their primary domain.

Robert J. Dilger provides a longitudinal perspective on the difference that the intergovernmental lobbying effort has made in the surface-transportation program. Comparing the results of a 1987 survey of state and local officials' perspectives with a similar survey in 2000, he attempts to determine what has changed. Dilger finds that current state and local officials exhibit somewhat higher levels of satisfaction with the program than did the 1987 respondents. Although these respondents seem satisfied with the ISTEA/TEA-21 changes, they also see room for improvement. The consensus conclusion is that decentralization under TEA-21 has at least not worsened intergovernmental relationships.

The centerpiece of planning reforms in ISTEA and TEA-21 was the "increased" authority given to metropolitan planning organizations (MPOs). The "successes" of MPOs in utilizing this new authority occupy the attention
of Andrew R. Goetz, Paul Stephen Dempsey and Carl Larson. They focus on how to distinguish the more successful MPOs from their less successful peers. Identifying a number of criteria that can serve as benchmarks, the authors describe how this critical institutional mechanism can make a difference in the overall federalism partnership. They also suggest ways to further improve the MPO role in the transportation planning process, highlighting the importance of understanding how state and local governments can work through an improved planning “forum” to produce more effective decisions and institutional outcomes.

Ronald K. Vogel and Norman Nezelkevich provide a case study of how the Louisville, Kentucky MPO might have addressed the sprawl-inducing impacts of transportation improvements, notably highways, that many advocates supporting smart growth and the new urbanism now expect MPOs to tame. Their analysis underscores how limited this MPO role was in Louisville. Nevertheless, this expectation may become a recurring theme in the reauthorization debates beginning in 2002.

Patrick Fisher and David Nice explore the impact of funding flexibility under ISTEA and TEA-21. Proposed by environmentalists, local officials, and transit advocates to enhance the ability to transfer funding from highways to transit (and the reverse), these proposals were touted as a means of supporting local decision-making to meet metropolitan needs. Under the new rules, up to 65 percent of highway funding could be shifted to transit. Success to date has been less than expected. Many states made no use of this flexibility, and some simply shifted funding from one highway-oriented program to another. The authors were not surprised at this finding because there is always a certain inertia in public policymaking. For highways, however, the momentum of the capital funding effort, the political power of many highway-oriented interest groups, and the American fascination with automobiles combined to favor the status quo. The authors did find that politically liberal and more populous states tended to shift funding more than others. Additionally, states having more experience with non-traditional transportation programs were more likely to transfer funds.

Mathieu Turgeon and François Vaillancourt present an analysis of the Canadian national role in highway investments since 1867. In contrast to the United States, the Canadian federal government has played a very small role, applying, in the words of the authors, “no policy” as opposed to the aggressive American effort to foster cooperation and coordination in the provision of mobility and connectivity. The basis for the difference in the Canadian and U.S. experiences is the absence of (1) perceived intergovernmental impacts on individual jurisdiction decisions (i.e., impacts of one federal partner on another), (2) a need for a sophisticated highway network to serve national security and defense goals, and (3) opportunities for political-favor trading through pork-barrel politics.
Surface-Transportation Funding in a New Century: Assessing One Slice of the Federal Marble Cake

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This article examines American federalism through the prism of the surface transportation program, one of the nation's largest grant-in-aid programs. No matter how pragmatic or intense the desire to express assessments in simple terms, federalism is a time-sensitive reflection of our collective experiential understanding. Facts, values, hypotheses, and concepts are derived from this collective understanding. The experience of the surface transportation program under ISTEA and TEA-21 illustrates the challenge of achieving a clear picture of federalism when radical changes occur. ISTEA and TEA-21 have significantly altered traditional intergovernmental relationships, particularly as the federal role in transportation appears to have become more ambiguous than at any time in the past 45 years. Thus, at the outset of the twenty-first century, the federal role in transportation is shifting, becoming far less focused. Other goals are emerging, leading the federal transportation role to become more of a means to an end than the central focal point.

During the past two decades, American federalism has been anything but static. Efforts at reform have been many; taking the pulse of the system has been difficult. Contending political agendas in and between presidential administration's and Congress have wrought significant changes in the character and direction of federalism. Presidents Jimmy Carter, Ronald Reagan, George Bush, and Bill Clinton each sought reforms to simplify intergovernmental relationships and return some responsibilities to the states, but these efforts remain a work in progress. Coupled with continuing crosscurrents in congressional actions, these presidential efforts have combined to further stir the batter in America's marble-cake federalism. The outcomes have been hard to characterize with clarity. Transportation is one of the policy areas that has been a bellwether in characterizing the status of the federal-state relationship.

AUTHORS' NOTE: The views expressed herein are not those of the FHWA or the U.S. Department of Transportation. In addition, the comments of Paul Verchinski, Team Leader, Statewide and Intermodal Planning, Federal Transit Administration, Barna Juhasz, Director, Office of Highway Policy Information, Federal Highway Administration, and Richard Osborne, Transportation Finance Specialist, Office of Legislation and Strategic Planning, Federal Highway Administration have substantially enhanced the accuracy of the program descriptions presented. George Schoener, Director, Office of Metropolitan Planning and Programs, also reviewed the manuscript.

With roots that reach back to 1916, the U.S. Department of Transportation’s (DOT) surface-transportation program is among the most widely touted but most misunderstood grant-in-aid programs. It is a composite of several different forms of grants, including categorical, formula, discretionary, and competitive programs. The current program is authorized at roughly $218 billion, spread over six years. It is slated for reauthorization in FY 2004. Primary responsibility for its implementation rests jointly with the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA).

The last two reauthorizations of the program—the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the Transportation Equity Act for the 21st Century of 1998 (TEA-21)—have both been identified as environmentally supportive infrastructure enhancement programs. For some observers, the provisions in these acts that support flexibility and transferability of highway and transit funds are consistent with a continuing devolution of federal responsibility to state and local decision-makers. For others, the continuation of multiple categorical grants—such as the bridge program, the Congestion Mitigation and Air Quality program (CMAQ), and the National Highway System (NHS)—reflects the continuation of centralized, yet balkanized programs aimed at supporting key interest-group priorities. Decentralization of program responsibility through devolution of certain decisions to local officials who agree to work together in metropolitan planning organizations (MPOs) is combined with continuing national and state responsibility for ensuring the implementation of the Clean Air, Americans with Disabilities, National Environmental Policy, and Civil Rights acts. This combination supports competing claims and counterclaims that there has been both grant reform and a shoring up of the status quo in federal control. In this complex setting, many misunderstandings have flourished about the structure and implementation of the surface transportation program.

The purpose of this article is to articulate more clearly how the surface-transportation program is structured and implemented. An examination of how the program has changed over the past decade reveals significant departures from traditional intergovernmental relationships. It also helps to explain how shifting political forces have created greater ambiguity in the federal system and to set the stage for considering the future federal role.

HISTORICAL CONTEXT OF THE FEDERAL SURFACE-TRANSPORTATION PROGRAM

The history of the federal highway program originated more than 100 years ago with the creation of the Office of Road Inquiry in the U.S. Department of Agriculture (USDA). Its director, General Roy Stone, used this small office during his eight-year tenure to foster the development of the “Good Roads Movement.” In 1916, the Federal-Aid Highway Program was created in the USDA with an initial formula-allocation program based on post-road mileage, total state area, and total state mileage. The federal government’s share of cost was 50 percent per mile up to $10,000. As the program developed, it moved to the Department of Commerce where the Bureau of Public Roads administered it.

The real acceleration of federal transportation investment came in 1956 with the creation of the Interstate Highway System, the Highway Trust Fund, and an authorization of more than $25 billion for the period 1957-1969. Since its inception, the federal-aid highway program has emphasized dedicated funding and formula distribution of monies to the states based on a clear national transportation purpose (e.g., economic development, mobility, national defense, connectivity, and technological innovation). Since the mid-1950s, the focus has included a national interest in supporting state and local program efforts.

The FTA was created much more recently and reflects the emerging responsibility of the federal government in urban issues. The federal government’s first mass transportation effort was the Housing Act of 1961. This act created a small, low-interest loan program in the Housing and Home Finance Agency (the predecessor of the U.S. Department of Housing and Urban Development (HUD)). This program provided federal aid for acquisitions and capital improvements for mass-transit systems; basically, it helped local governments to buy out failing private transit agencies. This initiative was followed in 1964 by the Urban Mass Transportation Act, which was designed to encourage the establishment of area-wide urban mass-transportation systems. The act provided grants for up to two-thirds of project costs for acquisition of mass-transportation facilities and equipment. It emphasized urban planning and locally initiated project identification. Authorizations were at $164 million annually, but actual appropriations often fell significantly below this level. A nickel gas-tax increase during the Reagan administration, and the ISTEA and TEA-21 reauthorization efforts in the 1990s, created the first permanent funding stream for FTA from the highway trust fund. TEA-21 later protected this funding with budgetary “firewalls.”

The federal-aid highway and transit programs were brought together in the U.S. Department of Transportation when it was created in 1966. Today, the legacy of separately created programs continues to challenge an integrated federal approach to transportation; leading several secretarys of transportation in search of means to encourage "one-DOT" approaches to surface transportation.

In the American context, grants-in-aid have had a positive political history for many reasons, including, among others, stimulating innovation, avoiding
direct federal program responsibility, providing flexibility, allowing mergers of federal and recipient agendas, and providing a conduit for other policy agenda items (cross-cutting policies). For the surface-transportation program, highways have relied on a federal/state grant-in-aid relationship based on the need to stimulate investment while avoiding federal decision-making or programs. The hallmark of the highway program has been leveraging the federal capacity to raise revenue in pursuit of broad national policy goals, such as economic development, military defense, connectivity, and support for technological development, as implemented through projects identified by state and local governments.

The transit effort has been more limited in scope. A product of the growing federal intervention in "urban" issues, it has reflected a more targeted interest in supporting livable communities and vibrant metropolitan areas. It has often had to compete in the national, state, and local arenas with localized priorities for education, public works, and social services. Until 1991, when the transit program received permanent funding from the highway trust fund, the program was perceived as a targeted grant-in-aid effort to support larger metropolitan areas with alternative transportation services for travelers without access to automobiles. Starting initially as a bailout effort to ease the demise of private transit providers, the transit program gradually shifted to a maintenance-of-effort and technology-innovation program in support of system operation and the provision of capital for the creation of new mass-transportation systems. The FTA's large grant awards for new systems and formula allocations for capital and operating assistance keep it close to the churning debate about whether the federal government should have an aggressive urban policy. As an interventionist, targeted, supplemental support effort, the transit program has been tossed around by the vagaries of politics far more than its highway counterpart. It has lacked both the clear national support base and policy direction consensus that have underpinned the more popular natural constituency for bus, van, and taxi systems. Unfortunately, these potential patrons are also the least able to afford transit (or lobby for it), and they often abandon it when they can afford an automobile. Moreover, transit operators are prone to plan service for middle-income commuters who represent a larger market share more able and willing to pay significant transit fares.

In the case of highways, the federal program has provided substantial environmental funding, although it often has been piecemeal and inconsistent over large geographic areas. Support for increased highway travel is not positively connected with air-quality improvement. Thus, transportation funding has had mixed agendas and mixed success over the last decade in leveraging its increasing funds for social and environmental purposes. The result is increasing ambiguity in the goals of the surface-transportation programs.

**HIGHWAY AND TRANSIT GRANT PROGRAMS: THE MULTIPLE PERSONALITIES OF SURFACE TRANSPORTATION**

The FTA and FHWA share responsibility for administering the surface-transportation program. TEA-21 reauthorized this combination of several disparate grant programs at $218 billion over six years (FY 1998-2003). This reauthorization amended two separate sections of public law: (1) Title 23 of the United States Code (USC), which authorizes the highway and multimodal programs, and (2) Title 49, Chapter 53 USC, which authorizes the transit programs. The FHWA administers the bulk of the surface-transportation program funds under five core program categories: Interstate Maintenance (IM), National Highway System (NHS), Highway Bridge Replacement and Rehabilitation (Bridge), Surface Transportation Program (STP), and CMAQ. In addition, the FHWA administers several other small grant programs targeted at a range of narrow recipient groups.

The FTA’s much more modest share of the funding is approximately $41 billion. Two FTA program categories account for almost 90 percent of the FTA’s funding: formula grants and discretionary capital grants. The formula category is allocated between two types of recipients—transit agencies and states. The discretionary capital-investment program supports three categorical areas: bus and bus-related facilities, fixed guideway modernization, and new fixed guideway systems (“new starts”). Formula grants are approximately 60 percent of all FTA funds, but the new-starts program tends to attract extensive attention because the funding concentrates on a small number of recipients that are initiating major new systems through these large individual grant awards.

*Footnote:
A fixed guideway may be a dedicated busway, light rail or heavy rail transit. While some older rail cities (e.g., Boston, Philadelphia and New York) face major capital rehabilitation issues, on occasion they also extend existing systems through new lines and extensions. There are an increasing number of new rail cities, which have been adding new service entirely. The San Francisco Bay Area was first among these, followed by San Diego, Portland and other US cities.*
The highway and transit programs are both funded from the highway trust fund and general funds. However, the bulk of the guaranteed funding for both the FTA and FHWA is trust-fund monies. The FTA receives about 20 percent of its annual program funding from guaranteed general funds. The significance of this difference is that the transit program must compete directly for remaining authorized general funds. Under the "firewall" provisions of TEA-21, trust funds are mandated for expenditure at the levels authorized, while additional non-guaranteed monies from general funds are subject to annual appropriations. Highway funds (and most FTA funds) are "contract authority," which is distributed on the first day of the federal fiscal year, subject to the annual spending limit (i.e., obligation authority). Apportioned annually by formula, these funds are typically available for a period of four years before they lapse. Consequently, they represent a very reliable and predictable source of funding for state and regional transportation programs. As an example, in the midst of the Clinton/congressional budget stand-offs that led to shut downs and personnel furloughs, the FHWA and the FTA both stayed open for business, and funds continued to flow to the states.

The traditional FHWA characterization of the federal-aid highway program is a "federally assisted state and local program." Responsibility for identifying and advancing projects rests with the state departments of transportation (SDOTs) and their transportation partners, not with the federal government (except for certain congressionally earmarked projects). While federal project oversight has been substantial in the past, program administration has changed significantly as the states have "exempted" the FHWA from project oversight in substantial parts of the program. An example is the STP where a full exemption can mean the submission by a SDOT of a quarterly listing of projects funded with STP funds. All oversight is conducted by the SDOT if it self-certifies compliance with appropriate federal requirements. FHWA staff has focused increasingly on program management, reducing its direct project oversight to major projects having significant costs or potential environmental impacts.

A new approach to highway program management is emerging for the FHWA in the context of the global economy. ISTEA established the importance of freight movement as a transportation focus. During the ISTEA years, the North American Free Trade Agreement (NAFTA) set an international context for freight movement, which was recognized more formally in TEA-21 through "NAFTA highways" and a new borders and corridors program. The emphasis on international economic competitiveness is slowly moving the FHWA away from a traditional infrastructure focus to a more macro international role in economic activity.

The FTA's increasing use of formula funding also is bringing new approaches to managing the transit program. This program now operates similar to the highway program, making quarterly grant awards to support overall programs of eligible recipients (which are generally local transit operators and state transportation agencies). Two major exceptions to this consolidated approach are the big-ticket new-starts and rail-modernization programs. In the latter case, funding is restricted to transit operators in metropolitan areas that already have rail systems. The new-starts program provides capital assistance for bus and rail system expansion, including grants to operators in metropolitan areas that do not have transit systems of the type to be funded (i.e., transit operators of bus systems that seek to add light rail). While states have "exempted" the FHWA from project oversight of STP funds in many cases, the FTA continues to conduct extensive project and financial oversight of new-starts projects.

The new-starts program authorizes the U.S. DOT secretary to award funds to transit operators serving metropolitan areas (and occasional rural exceptions like Glenwood Springs, Colorado), based on a congressional selection process that begins with competitive FTA ratings and evaluates all pending candidate projects. The FTA ratings are made twice a year and reported to Congress. Congress identified 191 candidate new-starts in TEA-21, constituting the primary pool of projects to be rated by the FTA. The criteria for rating are stipulated in legislation and regulation. The source of data for rating the projects is the metropolitan planning processes for the areas in which the projects are located.

On the highway side of the program, all funds are administered by the SDOT, which is directly accountable to the FHWA for their use. The FHWA does not make any money available directly to MPOs or to local governments for the construction of projects. Rather, their funds are taken from annual apportionments to states and are utilized either directly by the state to do work in metropolitan areas or, under state subcontract, to MPOs, cities, counties, and other sub-state entities. The SDOT is responsible to the federal government for administering these funds. Even the planning funds for MPOs are administered by the SDOTs. The MPOs and project sponsors are accountable to the SDOTs for the use of funds. The SDOTs, in turn, are accountable to the FHWA for program management.

The FTA's formula-apportioned funds also bypass the MPOs, going directly to local and state transit operators or to the SDOT. FTA new-starts and rail-modernization funds are granted through individual grant agreements negotiated between the federal government and the fund recipient. The recipients are typically, but not always, transit service providers who will operate the completed project. The administrative
mechanism for committing funds is a Full Funding Grant Agreement (FFGA), which is signed by the U.S. DOT after congressional vetting. It is common for Congress to direct negotiation and completion of an FFGA as part of an appropriations bill.

**ISTEA/TEA-21 IMPACTS: MYTHS AND REALITIES IN METROPOLITAN PLANNING**

Both ISTEA and TEA-21 have been perceived as providing substantial new authority to local officials in metropolitan areas who have agreed to work together in MPOs. Although this perception is true with respect to making some planning and project-selection decisions, there has been no change in how funds are administered or awarded. The funding for highways still flows directly to the SDOTs, which manage it and ensure its commitment. The majority of the FTA's formula funds continue to flow, as before, directly to transit operators, although there is an increasing tendency for the FTA to disburse funds directly to the states (e.g., funds under 49 USC 5310, 5311 and 9 percent of the funds under 49 USC 5307). For example, ISTEA directed all metropolitan planning funds to flow to the states instead of directly to MPOs. Most recently, the Bush administration's FY 2002 budget proposals would direct additional funding to the states (e.g., the discretionary bus program). On the FTA capital side, there has been no change in the handling of capital funds (except that the rating process is new under TEA-21). However, all FTA formula funds for planning are now administered by state DOTs.

Although the planning roles of MPOs in metropolitan areas with urbanized area populations of 200,000 or more have been strengthened (which are designated Transportation Management Areas (TMA)), those MPOs still do not receive direct funding for the construction of facilities, except in rare cases. Consequently, MPOs really must rely on others to implement their priorities. Furthermore, because MPOs do not raise money for funding purposes, their fiscal planning is really a matter of integrating others' plans for producing revenues.

The shift in the role of MPOs can be more fully understood by examining the "condition of aid" nature of the surface-transportation program. Although MPOs were not given direct authority over the administration of funds, those MPOs that include TMAs are given the authority to identify projects for which STP "attributable funds" will be utilized. These formula funds authorized under 23 USC 133 are identified for use in TMAs, based on the area's share of overall TMA population within the state. Each MPO, which includes a TMA, has the ability to decide how these formula funds will be used within its planning area boundary. The allocation process is accomplished simply by identifying the projects within the MPO plan as being funded from the funds attributable to the TMA. The SDOT then supports the project from these funds when it is advanced to implementation.

More broadly, a project cannot be supported with federal-aid funds unless it is included in a metropolitan transportation plan and program (TIP) and also in an approved state Transportation Improvement Program (STIP). Metropolitan plans, by statute, must be project specific and address a twenty-year planning horizon for the area. They also must be "fiscally constrained" (limited) to those projects for which funds can be identified to be "reasonably available." It is this fiscal constraint component that has given the MPO planning process more "clout" in the decision making for transportation investments. Failure to include a project in a plan means that it cannot be implemented with federal funds. In addition, projects cannot be included if they cannot be funded with dollars that are "reasonably expected to be available." Therefore, many projects that once would have been included in plans cannot be included today. The decision to include a project is a product of negotiations between the participants in the MPO planning process. Sponsors of excluded projects are prevented from seeking implementation.

However, it has been argued that the SDOT often has the upper hand in project funding negotiations with MPOs because it can reallocate monies to other parts of the state (with the exception of a relatively small amount of attributable funding). At the same time, projects of significant interest to states and transit operators cannot proceed until included in an MPO plan, so the MPOs may have some significant leverage in the negotiations.

The institutional integrity of the MPO is a major factor in the effectiveness of this federally defined decision-making process. There is a common perception that MPOs are independent entities with institutional autonomy and clout comparable to cities and counties when they deal with the states. Practically speaking, however, this is seldom true. The MPOs were created largely as a condition of federal aid, and they have only the powers granted to them under state statutes or other sources of their charters. The metropolitan planning process requirement was created in the early 1960s but was predominantly the responsibility of the states with participation from local officials. Designation of MPOs was required for the first time in the early 1970s. The MPO was to serve as a "forum," charged with developing a metropolitan consensus on transportation investments. Prior to ISTEA, however, transportation plans were not fiscally constrained. They could include (and usually did) many projects for which funding and implementation might never be achieved. Consequently, pre-ISTEA MPOs did not have to make tough decisions to prioritize and exclude projects.

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The majority of the TMA's population includes a TMA, has the ability to decide how these formula funds are served by multiple MPOs and at least one MPO has multiple TMAs (Title 23 USC 134).
The result was to continue a tradition of project emphasis rather than comprehensive planning and multimodal problem-solving. For many environmental critics of the federal transportation program, the weak link was “wish list” planning. The required plans, although comprehensive, carried no real implementation priorities. They were largely compilations of all known projects. States still determined which highway projects were funded, and transit operators determined which transit projects were funded. In the context of grant-in-aid implementation, the federal choice between oversight (promoting change) and keeping the money flowing is often made in favor of traditional, single-mode funding patterns.

**ISTEA: REVOLUTION OR BLIP?**

The extent of ISTEA’s changes in the federal surface-transportation program, however, was often in the eye of the beholder. For example, in the context of metropolitan transportation planning, it was perceived by many that MPOs ascended to a new pinnacle of decision-making authority. In point of fact, while metropolitan planning was given new emphasis, ISTEA did little to change the decision making role of MPOs. They are still planning organizations seeking to achieve a change by building consensus on investment priorities among many powerful players. As forums for decision-making, they remain a meeting ground where key organizations can come together to coordinate their priorities. ISTEA did little to enhance the authority and autonomy of MPOs as independent institutional entities. One reason was simply that all existing MPOs were “grandfathered” in place. Hence, while the law seemed to retool them in principle, the old institutional context remained largely unchanged.

Key changes under ISTEA were more in the grants-administration aspects of the program than in the institutional and power relationships. The program’s funding categories were substantially restructured, the number of programs was reduced, and the matching ratios were equalized at 80-20 across the highway and transit modes in order to level the playing field for making choices among modes. In addition, provision was made to transfer funds from highways to transit and vice versa. A clear connection was made between transportation-funding decisions and air-quality considerations by the “transportation conformity” requirement of the Clean Air Act of 1990 and a companion provision in ISTEA that required fiscally constrained funds from highways to transit and vice versa. A clear connection was made between transportation-funding decisions and air-quality considerations by the “transportation conformity” requirement of the Clean Air Act of 1990 and a companion provision in ISTEA that required fiscally constrained transit and highway programs. Federal oversight of project implementation was streamlined, and emphasis was increased on broader environmental considerations. The emphasis on multimodal and intermodal considerations was clearly established, even though independent funding programs for transit and highways were maintained.

The actual change in MPO authority, however, is located in the area of program funding categories. The creation of the STP program gave MPOs a specific funding category over which to exercise discretion. It is a “tempered” discretionary authority, however, because the MPO neither receives a totally new funding responsibility nor does it expend the funds and implement projects. The metropolitan portion of the STP program actually replaced the Federal Aid Urban System (FAUS) program funds.11

STP funds are similarly available in metropolitan areas, but there are some notable differences. FAUS funds could only be spent in urbanized areas or urban places.12 STP funds are split between metropolitan areas with an urbanized area over 200,000 in population, urbanized areas between 5,000 and 200,000, and relatively rural areas less than 5,000 in population.

The state DOT controls decisions about the use of funds for areas below 200,000, which amount to approximately two-thirds of the annual monies available nationwide. The funds available to metropolitan areas of more than 200,000 populations are the “attributable” funds identified earlier. The MPO has the authority to determine which projects are funded with STP “attributable” funds. The state must make obligation authority available to these projects in the same ratio that obligation authority is made available to the state.13 Every three years, the state must ensure that this balance has occurred. It is noteworthy, however, that the state must make the funding available, but does not actually have to expend it. Hence, if a metropolitan project is not ready to proceed when obligation authority is made available, the state may reallocate that portion of the obligation authority to projects inside or outside the metropolitan area to which it is attributable.

This matter of reallocation points out another dimension to the limits on MPO authority. Given that the MPO does not control construction directly, it may not be able to ensure implementation of projects. If a project sponsor (e.g., state DOT, city, county, transit agency, or other) does not expeditiously implement an STP-funded project, the MPO’s priority determination may be undermined. Indeed, the MPO may find its priorities dependent on whether the sponsor chooses to move a project quickly or is exposed to delaying factors beyond its control (such as discovery of an unanticipated archaeological site). Indeed, the lack of familiarity with federal requirements can be a two-edged sword. Sponsors can secure MPO priority only to lose momentum because of inadequate project management. In the end, the MPO is dependent on its ability to partner with others, and their enthusiasm and skills to make its priorities mean something.

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11The FAUS program (Title 23 USC 810(D)) was available to fund highways in metropolitan areas. The non-metropolitan portion of the STP program replaced the Secondary Road program that counties generally relied on to help support their roads.

12Urban places were defined by the US Bureau of the Census and constituted population concentrations under 50,000 but over 2,500 with urban densities (1990 Urban and Rural Definitions—www.census.gov/population/censusdata/urdef.txt).

13Annually Congress establishes the percentage of authorizations that may be obligated by States. States may manage total obligation authority by utilizing some categories for projects more than others so long as total obligation authority is not exceeded. The exception is STP attributable funds, which must be offered to eligible metropolitan areas at the same rate as the overall percentage. If not utilized by a metropolitan area, the state can under or over obligate funds in this category.
By 1976, 82 percent of MPOs were councils of governments (COGs) or other multi-purpose regional planning commissions. However, reductions in non-transportation federal support for regionalism during the 1980s, and the creation of many small, new MPOs as a result of the 1980 and 1990 censuses, changed this situation. The most recent assessment of this issue by Bruce McDowell suggests that less than half the MPOs are COGs now. Indeed, several of the MPOs identified as COGs may not actually be a COG. As examples, consider Albuquerque and Washington D.C. In Albuquerque, New Mexico, the Middle Rio Grande Council of Governments (MRGCOG) serves the entire metropolitan area, including several relatively rural counties. The MPO policy board for the area is a subset (geographically and institutionally) of the policy board that develops a plan for a portion of the area served by MRGCOG. In Washington D.C., the Transportation Planning Board (a subset of the Metropolitan Washington Council of Governments) serves as the MPO for transportation planning purposes (and both operate under the umbrella of a nonprofit, nongovernmental corporate charter). In the State of New York, MPOs do not have corporate identity under state law and must be hosted by other governmental entities for the purposes of conducting business.

The diversity that exists largely reflects the authorizing statute of each state. They also reflect the grandfathering of institutions created over time. Once established, it has been very difficult to generate momentum locally or nationally for institutional change in MPO structures. Hence, there has been little change in structural forms even where prompted by federal requirements (which have tended to be permissive rather than mandatory). A few examples of notable institutional strength do exist (typified by the San Francisco Bay Area Metropolitan Transportation Commission, an independent local government formed under state statute, and Portland, Oregon's METRO, which is also the product of state law and popular referendum). In general, however, MPOs do not have the functional and institutional strength of cities and counties, and they exist primarily to develop federally required transportation plans and financial implementation programs.

FOCUS OF SURFACE TRANSPORTATION: BALKANIZATION AS A MEANS OF SERVING MODAL INTERESTS

Transportation-system planning has reflected the creation and authorization of independent surface-transportation programs. The planning requirement for a “3C” (continuing, comprehensive, and cooperative) urban planning process stems from the 1962 Federal-Aid Highway Act, which mandated an urban planning process in all urbanized areas. Initially, the

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*Bureau of Public Roads (BPR—precursor to the FHWA) required that the states and local communities do this cooperatively. The BPR required each urbanized area to form some entity to represent an entire urban area rather than separate local communities. The 1973 Federal-Aid Highway Act, which added the formal requirement for an MPO, also provided highway-planning funds that were specifically designated to go to the MPOs to support transportation planning. Although a set-aside for planning had existed previously in the federal-aid highway program, it was not required to go to the MPOs. The FTA began funding MPOs directly in 1969 to foster transit-related planning. With the passage of ISTEA, both FHWA (PL funds) and FTA (metropolitan planning funds) monies finally became eligible for planning for both modes. The primary emphasis in the law requiring designation of the MPO was on coordinating local decision-making rather than institution-building. From a federal perspective, developing an effective transportation planning process focused on the regional transportation system rather than on individual jurisdictional project priorities. The process sought to utilize techniques of transportation modeling that could provide an empirical basis for designing region-wide transportation systems rather than relying on local project advocacy.

Actions in the 1970s focused on regions and began multimodal systems thinking to replace modal balkanization. Little institutional support for this existed at first, because the organizations involved in transportation decision-making were mission-oriented transportation operating agencies (transit agencies and state DOTs) rather than regional planning organizations. The program was still focused on building projects rather than on shaping regions and solving interrelated transportation problems. It took another 20 years of federal program evolution to lead to the ISTEA reforms that emphasize multimodal transportation planning and decision-making, and provide flexible planning and capital grant funding to support the multimodal approach.

This evolution began in 1978 when a multimodal approach to transportation planning emerged in the transportation planning regulations developed and issued jointly by the Urban Mass Transportation Administration (UMTA was the predecessor of FTA) and the FHWA. However, implementation of the program remained with mode-specific operating agencies. Hence, while planning began to emphasize integration and system development, investments were still oriented to separate modal funding patterns. The decade of the 1980s did little to change this. Instead, it reinforced the traditional modal foci and de-emphasized regional planning initiatives. Indeed, the FTA's and FHWA's transportation funding for planning was one of the few federal regional programs to survive federal downsizing and devolution.10

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In other areas of the highway funding program, the state still controls the utilization of funds, and the MPOs must negotiate projects in these categories with the state. In a similar vein, transit agencies control transit funds, and the MPOs still must negotiate the use of these funds to meet metropolitan priorities. Finally, the transfer of funding is negotiated also, depending on the willingness of parties with control over the funding sources to see them utilized for non-traditional projects (e.g., highway funds for transit).

CMAQ funding is also a very flexible part of the federal-aid highway program, even though its use may be somewhat limited. In states with “non-air attainment areas” for air quality, CMAQ funds may be used in only those areas; in states with no such areas, these funds are fully flexible and under the control of the state. The reason for the high degree of flexibility is simply that CMAQ funding was the primary “new pot” of funding under ISTEA. Because the old FAUS monies were replaced by STP funds, projects in line for FAUS funding simply were placed in the queue for STP funding. For example, one major MPO simply agreed that STP funds would be shared among local governments in its planning area in the same ratio as FAUS funds had been shared, even though the STP funds were not guaranteed to local governments directly. In contrast, CMAQ funds had no prior claimants and were “up for grabs” within the eligibility limits of the funds. There were no queues of established funding, although such queues emerged as soon as the program was implemented. Indeed, CMAQ has been utilized extensively for non-traditional highway projects, such as transit projects.

In summary, the extent of new authority for MPOs was situational rather than absolute. MPOs with attributable STP funding had to make the funding priorities stand up by getting others to implement them. They had to further ensure that when projects were ready to be funded, they were also ready to be implemented. Flexibility was available, but negotiations with others who controlled the funds were required to succeed. In most states, long-standing programs of backlogged projects often got higher priority than experimenting with untried flexing of funds. Only CMAQ-funded projects seemed to give MPOs real new authority, and that occurred only where air-quality needs were identified. The MPOs found that they were given an opportunity to claim a seat at the table, rather than being given new “power.” They needed to find other reasons why their transportation “partners” were willing to listen to their claims and enforce them.

It appears that the maxim “the devil is in the details” has been validated again. The reality of program administration and implementation under ISTEA and TEA-21 has revealed a different reality than that touted in the broad policy thrust of the legislation.

Surface-Transportation Funding

INTERGOVERNMENTAL CONTEXT OF TRANSPORTATION: WHERE IS IT HEADED?

One of the indirect consequences of the ISTEA changes was the awakening of interest in transportation funding on the part of non-transportation interest groups. The Clinton administration fostered an undeclared policy of quietly developing integrated urban programs. In this effort, the U.S. DOT’s surface-transportation programs became a beacon for urban-oriented interests. U.S. DOT became a player in welfare-to-work issues, brownfield programs, empowerment zones and enterprise communities, housing, and other similar activities. The planning program requirements of ISTEA, with their 16 enumerated factors, suggested that transportation funding could be utilized to serve a number of interrelated social policy goals. Chief among these was air quality by virtue of its hard-wired connection to highway sanctions where clean-air standards were exceeded. Other perspectives were touted in addition, and some even called ISTEA the planners full employment act, suspecting that comprehensive metropolitan and statewide planning was about to take a great leap forward.

The U.S. Environmental Protection Agency (EPA) has major responsibility for reviewing the air-quality aspects of the U.S. DOT program and supporting initiatives to consider land-use, sustainable development, livable communities, environmental justice, and anti-sprawl programs. The umbrella for these concerns was the need to address the strong trends toward decreasing density of metropolitan areas and the underlying consumption of green fields even while environmental goals were calling for more dense development patterns.

HUD also played a key role in sponsoring more regional approaches to housing and urban redevelopment through the empowerment zone/enterprise community program. HUD sought a coordinated regional approach to housing through the metropolitan transportation-planning program. In their eyes, the 16 planning factors mandated by ISTEA needed to be addressed completely. From a housing perspective, this represented a reopening of the regional planning effort that had prospered under the long-defunct HUD Section 701 comprehensive planning assistance program.蔷

Similarly, federal welfare reform of 1996 sparked the U.S. Department of Health and Human Services (HHS) to seize an opportunity to address the spatial mismatch that existed between inner-city residents and suburban jobs by coordinating planning for welfare-to-work participants through the metropolitan transportation planning process. HHS recognized transportation planning in its Temporary Assistance for Needy Families (TANF) program, most notably by authorizing TANF funds to be used as a local match to support other federal program funding. Both as part of a

蔷The last remnants of that program were abolished in 1991.
livable-communities initiative sponsored by the FTA and, in general, in support of metropolitan concerns championed by the Clinton White House, support emerged for integrating welfare job-access planning into MPO planning programs. The FHWA and the FTA even waived matching requirements for welfare-to-work job-planning activities.

The cumulative effect of these efforts was to arouse an entirely new cast of players, who clamored for access to the transportation planning process. Supported by stronger public involvement requirements adopted by the FHWA and the FTA, metropolitan and statewide planning processes (newly required by ISTEAD focused on engaging a broader range of community interests. The potential for accessing federal transportation dollars, in addition to HHS dollars, made players out of many of the traditional social-service agencies involved in welfare. For MPOs traditionally focused on new physical facilities, the new players and funds from HHS posed new challenges. In the end, new money was not in great supply for social-program interests, but expectations were raised very high by the promise of coordinating federal programs and leveraging multiple funding pots. Provisions in TEA-21 that directed the secretary of the U.S. DOT to encourage the coordination of federally funded non-emergency services further reinforced this rising expectation. For some MPOs that already had a strong social-service constituency (such as Provo-Orem, Utah, which is also the Area Agency on Aging, and the Lane Council of Governments in Eugene, Oregon) this further reinforced their multi-purpose regional agenda.

The engagement by transportation planners in these regional social-service agendas reinforced the image of expanded purpose, mission, and capacity on behalf of MPOs. In the reauthorization effort and subsequent regulatory process, the Transportation Equity Network (TEN) and related organizations became aggressive players seeking to modify federal transportation funding requirements. The traditional dominance of road-building agencies and transportation operating agencies, if not broken, was certainly challenged. With the next reauthorization effort already underway, these interests are lining up to further cement and extend the gains made under TEA-21.

**REAAUTHORIZATION UNCERTAINTY**

The course of future federal surface-transportation funding is unclear. During the last reauthorization effort, serious initiatives surfaced to reduce federal expenditures. The debate over an appropriate federal role generated bills in Congress in both 1996 and 1997 that would have cut the federal gasoline tax from 18.3 cents per gallon to just 6.3 cents, of which only 2 cents would have been for transportation. The federal transportation role would have been reduced to helping the states maintain the Interstate Highway System. This challenge to the federal role was serious enough to spur the EPA to commission a special forum by the Eno Transportation Foundation to explore the environmental consequences of a reduced federal role in transportation.15 Seemingly, the sheer size of the federal funding effort, more than the specific national benefits of transportation services, made the compelling argument for continuing the current federal role. Continuing laments of inadequate funding and the appeal of earmarks as a coalition-builder fueled this argument.

The size of the transportation program and its discretionary flexibility are like magnets attracting greater attention from other advocates who sense the availability of funds to support their priorities. Even growth-management advocates, who regard new highways as the root of problems, find transportation funding hard to resist. Although they blame increased highway funding for inducing travel beyond that which already exists or would otherwise exist, they sense that simply killing federal funding would eliminate a substantial source of money to support alternative transportation modes. Similarly, in the context of environmental justice, the construction of more impervious surfaces has, in some older communities, increased storm-water run-off, which has stressed already overloaded storm-sewer systems in minority communities. Highway funds can be used to help mitigate this environmental impact by supporting the elimination of combined sewer systems. In these examples, supporters of non-traditional issues, indirectly related to transportation, find that they can benefit directly from transportation funding. While traditional transportation advocates see these issues as diluting available transportation funding, the new advocates articulate an “Its about time attitude,” which reflects a perspective that it is about time that transportation paid for its consequences.

Despite three decades of increasingly integrated surface-transportation funding for highways and transit, the national mindset is less clear today about the direction and purpose of the national transportation initiative. The 1990s were particularly tumultuous, reflecting the changing character of the federal role. Despite the continuation of the grant-in-aid tradition for both transit and highways, the competition from other sources of funding and dilution of public sentiment regarding a justifiable role for a federal transportation policy have led to a growing ambiguity of purpose and direction in the federal transportation role. The result has been to create significant gaps in expectations regarding the future of federal involvement.

15The federal highway and transit programs affect virtually everyone in the nation, and they carry with them a wide array of environmental regulations, planning requirements, and program funds to mitigate air, water, and noise pollution problems. The absence of these federal programs would not remove some of the environmental regulations that operate through EPA and the states, but it would remove many of the tools that are now used to comply with them. Especially missed would be the heavily funded air-quality planning and mitigation activities. In a few states, most notably California, state programs could step in to take up the slack, but in most states the removal of the federal transportation programs would most likely leave a substantial void in the arsenal of planning and funding tools for protecting the environment. Bruce McDowell, Environmental Consequences of a Reduced Federal Role in Transportation, proceedings of an Eno Foundation Forum (Lansdowne, VA: The Eno Foundation, Inc., 1997).
It also has opened the door to greater uncertainty regarding expected outcomes and consequences.

As the 106th Congress organized and began to address the Bush administration's policy agenda, concern for ameliorating congestion as a means of improving travel began to increase. However, building new capacity is not a universal answer to increased trip-making and trip lengths in many metropolitan areas, especially in those areas facing air-quality challenges. For slow-growth or no-growth areas, congestion is an issue, but for different reasons. In many of these areas, decreased density rather than absolute growth in trip-making is raising serious questions about whether it is possible to build a way out of congestion and whether the motorist should pay an increased share of the added costs of such development. Finally, for some states, particularly those in the upper Midwest, new capacity is not the issue; infrastructure reconstruction and replacement is a more pressing concern. Are any of these goals justification for continuing a large federal program? Alternatively, do stronger justifications lie in emerging economic, social, and environmental goals?

The state of the American federal system, as reflected in the transportation programs, has not been more uncertain and ambiguous for over 200 years. Although the huge amount of funding is extraordinarily attractive, the purposes to which it should be put may become increasingly poorly defined in the heat of legislative debate. The future of the program may not be determined by the outcome of the substantive debate over the purpose and function of federal transportation funding but rather on the more generalized concern of what overall federal funding, spending, and budgeting should be.

As we look at the state of American federalism, the pending reauthorization of the surface-transportation program presents a reflection of the increasingly complex political tug-of-war for control of the policy agenda. Traditional stakeholders, such as the American Association of State Highway and Transportation Officials and the American Public Transportation Association, find themselves struggling with policy initiatives from new aspirants to federal funding. It has not been uncommon for these organizations to lament the loss of their traditional "special relationship" with the FHWA and FTA. Special interest lobbying also has fueled the earmarking process as a means of building coalitions that can achieve passage of a bill (authorization or appropriation). Increasing earmarks, add-ons, special studies, and expanded eligibilities are symptomatic of both a growing diffusion of the public purpose and federal role in the transportation policy agenda.