

## TEA-21 Users Guide - Foreword

As the fight over ISTEA was gearing up in 1996, more than a few people let me know, politely of course, that we didn't stand a chance. "Don't get me wrong, I think ISTEA was great. It's done a lot. But you won't be so lucky this time."

And strictly speaking they weren't wrong, at least about being lucky in 1991. As ISTEA approached, Daniel Patrick Moynihan, one of the earliest and most intelligent critics of the federal highway program, was in charge of the Senate's "highway" bill. Had it been someone else, ISTEA would never have happened.

But his position was not entirely a matter of luck. It was the fulfillment of a slow but steady journey that began the day he entered the Senate in 1977 and asked for a seat on the Environment and Public Works Committee. Some Committee assignments a matter of convenience; this one was a matter of passion.

As 1991 approached, Moynihan was clear on what he didn't want another Interstate system and billions more spent to suck the life out of the cities but was less clear on what should happen instead. The arrangement he and others arrived at what I will call the "ISTEA system" has four familiar hallmarks:

1. Half of all federal funding is flexible for highways, transit or other uses;
2. Decisions about how to use funds are made through inclusive and honest planning at the state and metropolitan levels;
3. Significant funding is reserved for maintenance of existing highway, bridge and transit systems; and
4. A small but important sum is set aside to support alternatives to the highway system and reduce its negative effects on society.

Although many factors made the success of TEA-21 possible, I am convinced that it was the basic common sense of this formula that allowed ISTEA to win another lease on life. Yes, without the hard work of many members of Congress and their staffs, the efforts of people all over the country to show that ISTEA was working, and the support of the President and his team, TEA-21 probably would have been a failure. But many good ideas have had all these advantages and gone nowhere.

Now the legislative fight is over and the work on the ground begins. But before we start, let's take a moment to look past the horizon to the year 2003 when TEA-21 will expire. When that day comes, will the ISTEA system still be relevant? Or will the world just be too different than it was in 1991?

When that day comes, I hope it will be time for a change. I hope we'll actually have learned something from ISTEA. Its flexibility gives us a chance to see what works and

what doesn't; different communities are going down different paths, and maybe, just maybe, the knowledge this produces can be put to use. My fondest hope for ISTEA will come true if the experiments it creates teach us that highways aren't the only way. That it's better to live where you need only two cars instead of three, or one instead of two, or even none at all. That places where people can walk to school, bike to the store, or ride the train to work are worth having, and worth making. That having a choice is better than not having a choice.

For the last 8 years, STPP has been an expert voice for those trying to change the system, and enormous progress has resulted. But as the world changes, so must we. Starting now, STPP will focus less on being the reform-minded experts in Washington and more on changing the way Americans think about transportation. We've worked hard to become experts, but changing transportation in this country is too important to leave to the experts. For our efforts to result in real, lasting change, ordinary people will have to begin wanting something different—a process that has already begun—and ask their leaders to make it happen.

To make this happen, we'll need to work together and learn some new skills. Since ISTEA was born, many people who previously knew nothing about transportation have learned a great deal. Now, just as we're mastering the jargon, it's time to stop using it. If we want to lead people to think about transportation in a new way, we can't expect them to speak our language. We have to speak theirs. If we do, we can start a national conversation about choice, about safety, about healthy places to live, about saving money, and about having more time for family and friends. If we do this, we can make America a better place to live.

I look forward to the journey.

Roy Kienitz  
Washington, DC  
August 1998

## **TEA-21 Users Guide - Chapter 1**

### **The Big Picture**

#### What Was Everyone Fighting About?

On June 9, 1998, President Clinton signed into law a new federal transportation bill called TEA-21, The Transportation Equity Act for the 21st Century. It is in every sense a direct successor to the 1991 Intermodal Surface Transportation Efficiency Act (ISTEA). In spite of TEA-21's complexity and the many disagreements it provoked during almost two years of debate, this new law both leaves the groundbreaking reforms of ISTEA intact and provides new opportunities for innovation. Now that TEA-21 is here, the transformation of our 1950s-era highway building program into a flexible transportation program achieved in 1991 can no longer be called an aberration. ISTEA was created by a Democratic Congress dominated by Northeasterners and a Republican President, and its reforms have been continued by a Republican Congress led by Southerners and a Democratic President. ISTEA, and all it represents, is here to stay.

This means that ISTEA's weaknesses live on as well. It allowed people to rethink their choices about spending money, but did not require them to. TEA-21 is no different, and making it a success on the ground will take hard work.

The purpose of this guide is to explain in simple terms the major elements of TEA-21 and how they came to be, highlight the parts of the new law that create new opportunities for progress, and draw attention to some new threats.

#### Let's Talk About Money

1. TEA-21 authorizes \$217 billion in funding over six years, 40 percent more than ISTEA.

Actual funding flowing to the states is unlikely to go up by 40 percent. In most states funding will be higher, but the difference will be incremental rather than revolutionary.

The amount of highway money available in future years will depend on how much money flows into the Highway Trust Fund.

Category	Total 6-year funding (billions)
<b>1. Total Amount Authorized</b>	<b>\$216.3</b>
Total Amount Authorized, Highways	\$173.1
Total Amount Authorized, Transit	\$41.0
<b>2. Total Contract Authority</b>	<b>\$209.3</b>
Total Contract Authority, Highways	\$171.7
Total Contract Authority, Transit	\$36.0
<b>3. Total Amount Guaranteed</b>	<b>\$198.7</b>
Total Amount Guaranteed, Highways	\$162.7
Total Amount Guaranteed, Transit	\$36.0

## The Donors Rebel

- The conflict between donor and donee states dominated much of the TEA-21 debate.
- Most donor states will see significant funding increases, up to 70 percent above ISTEA levels. Other states will see only small increases.
- Some funding programs

## New Rules for the Federal Budget

- The budget rules that apply to transportation have changed. Cuts in transportation spending can no longer be used to boost spending on other programs.
- Highway spending can exceed the "guaranteed" floor if revenue flowing to the highway trust fund exceeds expectations, or if Congress appropriates "non-guaranteed" funds . This means that state-by-state funding projections are only estimates, and actual amounts may differ from initial projections.
- The funding guarantee for transit is set at a fixed amount of \$36.0 billion, and will not vary over time as revenues rise and fall.

- Most transportation programs are covered by the funding "guarantee," but some are not. Non-guaranteed programs, like AMTRAK, will still compete for funding in the budget free-for-all.

State	Change in Total Funding, TEA-21 vs. ISTEA (percent increase)	State	Change in Total Funding, TEA-21 vs. ISTEA (percent increase)
South Carolina	79.3	Oregon	49.9
Georgia	69.7	Wisconsin	48.1
Tennessee	62.1	North Dakota	47.8
Idaho	61.9	Alaska	47.3
Nevada	61.8	Rhode Island	47.2
Virginia	61.8	Kansas	47.1
Michigan	61.2	Pennsylvania	46.8
Montana	61.1	California	45.6
Alabama	60.6	New Mexico	45.3
Delaware	60.5	Nebraska	42.9
Texas	60	Iowa	42.8
Arizona	59.5	West Virginia	41.3
Wyoming	58.3	Minnesota	40.1
Utah	57.8	Washington	37.2
Louisiana	57.6	Ohio	36.9
Mississippi	57.6	New York	35.4
Florida	57.3	Arkansas	31.6
South Dakota	57	New Jersey	30.3
Oklahoma	55.6	Illinois	29
North Carolina	54.7	Maryland	28.7
New Hampshire	53.1	Maine	17.2
Missouri	52.9	Connecticut	12.8
Colorado	52.3	District of Columbia	12.4
Indiana	52.2	Hawaii	7.3
Vermont	50.8	Massachusetts	-41.2

## The Transit Guarantee

Transit Funding Category	Guaranteed	Non-Guaranteed
Urbanized Area Formula Grants	\$17.28 billion	\$750 million
Other Formula Grants	\$1.94 billion	--
Bus Programs	\$2.80 billion	\$500 million
New Starts	\$6.09 billion	\$2.09 billion
Rail Modernization	\$6.09 billion	\$500 million
Planning	\$364 million	\$170 million
Research	\$281 million	\$162 million
Job Access	\$500 million	\$250 million
Clean Fuel Grants	\$500 million	\$500 million
University Transportation Centers	\$36 million	—
Administration	\$364 million	\$78 million
<b>TOTAL</b>	<b>\$36.00 billion</b>	<b>\$5.00 billion</b>

## TEA-21 Users Guide - Chapter 2

### *Spending the Money*

### ***What Happened to the ISTEA Programs?***

After two years of argument, Congress ultimately made only a few changes to the major funding categories. These Changes are outlined in this chapter.

#### ***Some notable changes in funding emphasis include:***

A 54 percent decrease in the share of total funding dedicated to the construction of new highways, from 8.2 percent of total funds to 3.7 percent.

The progress made by ISTEA to give communities a real choice of whether to use their money to build new roads continues in TEA-21.

A modest increase in the portion of funding devoted to repair and preservation of the existing road system, from 23.8 percent of total funding to 24.9 percent.

A slight increase in the share of total funds likely to go to transit: as shown in Figure 2, 18.1 percent of the funding that falls under TEA-21's spending guarantee is for transit. In ISTEA, 20 percent of all authorized funding was for transit, but it received only 17.3 percent of actual appropriated funds.

## **TEA-21 Looks Like ISTEA**

- The program structure of TEA-21 replicates that of ISTEA, with a few minor exceptions.
- The Minimum Guarantee program is a source of both highly flexible funds and funds targeted to specific uses.

## **CMAQ Lives On**

- CMAQ is here to stay. After ISTEA, CMAQ took some time to get going, but now everyone will get a second chance to spend CMAQ funds on projects that reduce air pollution.
- Some CMAQ dollars can be transferred to other uses as long as they are spent in non-attainment areas, although the amount involved is small.
- New non-attainment areas that result from the EPA's new air quality standards will be eligible for existing CMAQ dollars, but will not allow states to receive new CMAQ funds.

## **More Money for Transportation Enhancements**

- The Transportation Enhancements program, with its commitment to communities, the environment and aesthetic values, is here to stay.
- Funding has increased by 58 percent over ISTEA. Approximately 3 percent of the total will be transferable to other uses.
- There have been some minor changes in eligibility.
- A new and promising program, the Transit Enhancements program, will fund enhancement activities focusing exclusively on transit.

## **Applying the TEA-21 Planning Factors**

Factor	Long Range Considerations	Project Selection Criteria	Sample Projects
Support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency	<ul style="list-style-type: none"> <li>● Intermodal facilities</li> <li>● Rail and port access</li> <li>● Public/private partnerships</li> <li>● Land use policies</li> <li>● Economic development</li> <li>● Energy consumption</li> </ul>	<ul style="list-style-type: none"> <li>● Community integration</li> <li>● Long-term, meaningful employment opportunities</li> <li>● Accessibility</li> <li>● Modal connectivity</li> <li>● Infrastructure impacts</li> </ul>	<ul style="list-style-type: none"> <li>● Demand management</li> <li>● System preservation</li> <li>● Planned community development</li> <li>● Transit-oriented design</li> </ul>
Increase the safety and security of the transportation system for motorized and non-motorized users	<ul style="list-style-type: none"> <li>● Community access</li> <li>● Transit usage</li> <li>● Social equity</li> <li>● System upgrades</li> </ul>	<ul style="list-style-type: none"> <li>● Benefits across modes</li> <li>● Community integration/impact</li> <li>● Human safety</li> </ul>	<ul style="list-style-type: none"> <li>● Transit facility improvements</li> <li>● Traffic calming</li> <li>● Dedicated right-of-way for different modes</li> </ul>
Increase the accessibility and mobility options available to people and for freight	<ul style="list-style-type: none"> <li>● Multimodal considerations</li> <li>● Transit accessibility and level of service</li> </ul>	<ul style="list-style-type: none"> <li>● Prevention of bottlenecks</li> <li>● Segmentation prevented</li> <li>● Intermodal connectivity</li> <li>● Community-based economic development</li> </ul>	<ul style="list-style-type: none"> <li>● System maintenance</li> <li>● Intermodal facilities</li> <li>● Planned community development</li> <li>● Mixed use zoning</li> <li>● Transit-oriented development</li> <li>● Land use controls</li> </ul>
Protect and enhance the environment, promote energy conservation, and improve quality of life	<ul style="list-style-type: none"> <li>● Air and water quality</li> <li>● Energy consumption</li> <li>● Livability of communities –social cohesion, physical connection, urban design, and potential for growth</li> </ul>	<ul style="list-style-type: none"> <li>● Environmental impact</li> <li>● Emissions reductions</li> <li>● Waterway preservation</li> <li>● Preservation and conservation of resources</li> </ul>	<ul style="list-style-type: none"> <li>● Demand management</li> <li>● Scenic and historic preservation</li> <li>● Planned community development</li> <li>● Transit services</li> <li>● Transit-oriented development</li> </ul>
Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight	<ul style="list-style-type: none"> <li>● Intermodal transfer facilities</li> <li>● Rail and port access roads</li> <li>● Container policies</li> <li>● Freight policies/needs</li> </ul>	<ul style="list-style-type: none"> <li>● Intermodal connectivity</li> <li>● Accessibility for people and freight</li> <li>● Congestion relief and improved safety</li> </ul>	<ul style="list-style-type: none"> <li>● Intermodal facilities</li> <li>● Rail extension to ports</li> <li>● Transit or highway access to ports</li> <li>● Modal coordination with social services</li> </ul>
Promote efficient system management and operation	<ul style="list-style-type: none"> <li>● Life cycle costs</li> <li>● Development of intermodal congestion strategies</li> <li>● Deferral of capacity increases</li> </ul>	<ul style="list-style-type: none"> <li>● Improves use of existing system</li> <li>● Congestion impacts</li> <li>● Community and natural impacts</li> <li>● Maintenance of existing facilities</li> </ul>	<ul style="list-style-type: none"> <li>● Traffic, incident and congestion management programs</li> </ul>
Emphasize the preservation of the existing transportation system	<ul style="list-style-type: none"> <li>● Maintenance priorities</li> <li>● Demand reduction strategies</li> <li>● Reasonable growth assumptions</li> <li>● Alternative modes</li> </ul>	<ul style="list-style-type: none"> <li>● Maintenance vs. new capacity</li> <li>● Reallocates use among modes</li> <li>● Reflects planning strategies</li> </ul>	<ul style="list-style-type: none"> <li>● Management System development</li> <li>● Maintenance of roads, bridges, highways, rail</li> <li>● Traffic calming</li> <li>● Take-a-lane HOV</li> <li>● Enhancement of alternative modes</li> </ul>



## Planning Is Still A Powerful Tool, But Dangers Lurk

- TEA- 21 introduces comprehensive, integrated planning goals, rather than the more specific planning factors of ISTEA.
- Accountability, local control, and fiscal constraint remain, and are still excellent tools.
- Current MIS requirements apply until new regulations are issued by USDOT. The integration of MIS requirements with planning and NEPA, if done properly, will preserve the strengths of MIS process: substantive analysis of alternatives to major transportation investments early in the process.

## Fix It First: Taking Care Of What We Have

- ISTEA's system preservation programs remain the same, and the portion of overall funding going to them increases.
- Interstate maintenance dollars still may not be spent to expand capacity on Interstate highways or bridges.

### TEA-21 Users Guide - Chapter 3

#### *New Opportunities*

***TEA-21 creates some new tools for using transportation to revitalize communities and create alternatives to driving. This chapter reviews the most important of these new opportunities.***

## Job Access--Helping People Get to Jobs using Transit

- As jobs have moved to the suburbs, many low-income city residents have no reasonable way to get to these jobs.
- TEA-21's Access To Jobs program will provide discretionary grants to transit service providers to help bridge this gap.
- Some funds are set aside for "reverse commute" projects. There is no requirement that these funds be targeted to low-income individuals.
- Not all of the program's funding is guaranteed; \$250 million of the \$750 million authorization must be fought for.

## Taxes and Commuter Choice

- Through changes in federal tax law, employers are now free to offer a range of commute fringe benefits without fear of tax consequences.
- These benefits can either be offered in addition to an employee's base salary, or the employer can offer the benefit "in lieu of compensation."
- Providing a portion of an employee's income in the form of a transit voucher cuts taxes for both the employer (less FICA tax) and the employee (less income tax).
- Commuters will not benefit from the new rules until employers know about them and begin offering a choice of fringe benefits. Making employers aware of the new rules is the most important action people can take to make "commuter choice" a reality.

## Wrestling With Land Use and Transportation

- Building a transportation system that provides for economic growth, preserves quality of life, and minimizes environmental impacts will require strong coordination between land use and transportation decisions.
- The TCSP program, authorized at \$120 million over six years, will fund projects that link transportation and land use decisions with community quality of life.
- The program contains a strong bias toward project teams that include non-traditional partners like community groups, non-profit organizations and business groups.
- FHWA has placed implementation guidance and a request for letters of intent from potential grantees for TEA-21's Transportation and Community and System Preservation Pilot Program (TCSP). [Click here for a copy!](#)

## Building New Rail Systems

- Many fast growing cities are realizing that rail transit has much to offer. As a result, demand for New Starts funding has exploded since ISTEA.
- Although a majority of New Starts money falls within TEA-21's funding guarantee, some does not. Full funding will only be achieved if supporters of new start projects push for it.

- The best new start projects integrate the transit system with transit-supportive land use. This attracts economic development, boosts ridership and builds better communities.

## **Rail Cities?**

Transit is being considered in some unlikely places. Cities where new rail investments have been authorized in TEA-21 include:

Albuquerque, New Mexico  
Atlanta, Georgia  
Austin, Texas  
Charlotte, North Carolina  
Dallas, Texas  
Denver, Colorado  
Ft. Lauderdale/West Palm Beach, Florida  
Galveston, Texas  
Kansas City, Kansas/Missouri  
Las Vegas, Nevada  
Little Rock, Arkansas  
Louisville, Kentucky  
Miami, Florida  
Memphis, Tennessee  
Nashville, Tennessee  
Norfolk/Virginia Beach, Virginia  
Orlando, Florida  
Phoenix, Arizona  
Raleigh/Durham, North Carolina  
Sacramento, California  
San Jose, California  
Stockton, California  
Tampa Bay, Florida  
Minneapolis/St. Paul, Minnesota  
Spokane, Washington

## **Bikes Belong!**

- ISTEA required the consideration of bicycling and walking as transportation plans are assembled, and slowly this has begun to happen. TEA-21 continues and expands these requirements.

- TEA-21 continues ISTEA's policy innovations and increases funding for the CMAQ and Transportation Enhancements programs, which fund most bicycle and pedestrian projects.
- New provisions, such as eligibility for safety funds and development of design guidance, will help ensure that the needs of bicyclists and pedestrians are addressed.

## **Innovative Finance: More Toll Roads Or Better Leverage for Transit**

- The innovative finance programs represent a lot of money—too much to ignore.
- Applicability to mass transit could open doors. For example, a transit agency that wants to extend rail service could pledge revenues from selling pre-paid transit passes to repay debt undertaken to build a line extension.
- TEA-21's innovative finance programs are very flexible—the lines of credit or secured loans can be used for a wide variety of purposes.
- Like all loans, the money must be repaid.

## **Clean Fuels for Transit**

- In many areas, emissions from diesel engines are becoming a larger piece of the overall pollution problem. The clean fuels grant program provides an opportunity to start reducing pollution from the transit bus fleet.
- Only one-half of the \$200 million per year authorized for this program is guaranteed. The remainder must compete for funding in the annual appropriations process.
- Only those who apply can receive funds.

## **Rethinking "Equity"**

- TEA-21 is a big improvement for the donor states, but it may not help the other donors—many of the country's metropolitan areas.
- USDOT is now required to report on how funds are spent within states.

## TEA-21 Users Guide - Chapter 4

### Potential Pitfalls

***In Addition to the new opportunities created by TEA-21, there are some new problems, or at least potential problems. The most important are discussed in this chapter.***

### **The New Money: A Recipe for Sprawl or a Chance for Wise Investment?**

- TEA-21 represents a large increase in federal funds for transportation.
- In general, areas with high population and economic growth will receive the most new money, and this money may end up fueling more sprawl.
- Under ISTEA, the share of federal funds going to new roads began to decline, and this trend can continue. Most of the new money provided by TEA-21 will go into categories that cannot fund new roads.

	ISTEA	TEA-21	Difference
<b>Money That Must Be Used To Build New Highways</b> (Interstate Construction, ARC, earmarked funds)	\$13 billion	\$8 billion	\$ -5 billion
<b>Money That May Not Be Used to Build New Highways</b> (Bridge, Interstate Maintenance, CMAQ, Transit, Transportation Enhancements, Safety, etc.)	\$74 billion	\$111 billion	\$37 billion
<b>Flexible Money</b> (Surface Transportation Program, equity categories, etc.)	\$68 billion	\$97 billion	\$29 billion
<b>Totals</b>	<b>\$156 billion</b>	<b>\$216 billion</b>	<b>\$61 billion</b>

## **Streamlined Environmental Review: Better Coordination or Cutting Corners?**

- TEA-21 requires federal agencies to establish new time periods for reviewing the environmental impacts of proposed highway and transit projects.
- Proposals were made to substantively weaken the environmental review process, but these proposals were rejected.
- State transportation agencies are now allowed to pass TEA-21 funds through to federal or state environmental agencies to cover the higher costs of expedited environmental review.
- New regulations will be written to implement the new system, and advocates for sound environmental protections will need to make their concerns known to USDOT.

## **Congressionally Earmarked Funding: The Good, The Bad And The Ugly**

- Earmarked funding is not new to TEA-21. Five percent of highway authorizations are earmarked to specific projects, the same as in ISTEA.
- The TEA-21 earmarks result in spending patterns similar to what comes out of the underlying formulas—some good, some bad, and a lot in the middle.
- Road projects that receive earmarked funds still have to follow all the requirements that apply to federal funds, including planning and NEPA review.
- A significant percentage of earmarked dollars goes to transportation enhancement activities, transit and rail projects, and highway system repairs. The percentage of earmarked dollars going to new road construction is less than in ISTEA.