# **REINVENTING METROPOLITAN AND STATE INSTITUTIONS FOR SURFACE TRANSPORTATION PLANNING**

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# INTRODUCTION

The institutional questions and intergovernmental relations issues posed by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) are very formidable. They have the potential to:

• Reinvent metropolitan planning organizations (MPOs),

• Cause state departments of transportation (DOTs) to reformulate their planning processes and reach out well beyond their own resources within state government,

• Rebuild MPO planning capacities lost during the 1980s,

• Occasion another look at how non-metropolitan regional councils can fit in, and

• Dramatically reformulate relationships between MPOs and state DOTs.

These are not just technical issues. The governors and state legislatures have been written into this Act, in addition to local political officials, local governments, transportation agencies, and many other "appropriate" agencies. At a number of points, renewed and expanded "involvement of the public" is called for.

The first hint we get that these are political issues comes from looking at the complex way many requirements are stated in the Act. Boundaries are not set simply by census definitions, but are ultimately set by agreements between governors and local elected officials acting under a number of rules. Membership in the MPOs also is a matter of political negotiation within certain general guidelines. There is not just one type of MPO, but four types with different powers and means of funding. In addition, potential for mutual vetoes by the governor and MPO are built in. The bottom line from an institutional viewpoint is that ISTEA raises many more questions than it answers. The hope is that this part of our conference will help generate answers to some of these questions.

To accomplish this task, we first take a look at issues concerning metropolitan institutions, and then state institutions. Next we look at the relationships between the metropolitan and state transportation planning processes, and then relationships between the MPOs and states as institutions that reflect their diverse planning needs. Finally, we offer some brief conclusions about building planning capacities, developing productive partnerships, and avoiding the gridlock that could come about from the exercise of mutual vetoes.

#### **METROPOLITAN INSTITUTIONS**

Metropolitan planning organizations (MPOs), recognized and certified by the U.S. Department of Transportation to meet the transportation planning requirements for continued federal highway and transit grants in metropolitan areas, have been around since the early 1960s. However, after every decennial census of population, new urbanized areas are recognized, existing areas grow beyond the 200,000 population mark that gives them extra planning responsibilities, and some urbanized areas grow together enough to require that their transportation plans be linked. In addition, for the first time, there are now air quality conditions that require amelioration through transportation measures applied across areas that sometimes are larger than the urbanized areas for which transportation plans have been prepared in the past. These factors occasion a new look at existing metropolitan transportation planning areas and planning organizations.

#### **MPO Boundaries**

The most basic consideration in developing and reformulating the MPOs is establishing the boundaries of the planning area. Each urbanized area of 50,000 population or more must have an MPO and a planning process meeting federal requirements. Sometimes, a single MPO provides planning for more than one urbanized area. At the same time, some urbanized areas have more than one MPO. Overall, there are about 50 more urbanized areas than MPOs. Thus, it is more common for a single MPO to encompass multiple urbanized areas than the other way around.

Still, when it is the other way around, as in more than a dozen cases, special coordination needs are created and required to be met. Most of these cases are interstate, so we cannot simply call on the state DOT or governor to provide the link. The old solution in the Chicago Metropolitan Area was a person with a secretary in an office somewhere acting as a convener. That was not very successful, and eventually was abandoned. For river basins and multistate economic regions, joint federal-state commissions have been tried voluntarily, and mostly abandoned. Interstate compact organizations—some with federal members—have had greater staying power and effectiveness, but there are only a few of them. Solving this requirement for "coordination" will not be a trivial problem.

An urbanized area (UZA), as defined by the U.S. Census Bureau, is determined by technical criteria based upon density of contiguous urban development. In addition to that area, however, the MPO planning jurisdiction is expected to cover the area forecasted to become urbanized within the next 20 years. Obviously, different forecasters will expect these areas to be larger or smaller and of different shapes. Under ISTEA, the governor of the state, and the MPO together, determine the size and shape of this future urbanized area. The governor and MPO, together, also can extend the MPO planning area to include the whole metropolitan statistical area (MSA) or consolidated metropolitan statistical area (CMSA) as defined by the U.S. Census Bureau. Generally, those areas are larger than the urbanized area plus the 20 year expansion. Adding area beyond UZA + 20 is purely discretionary for the governor and MPO unless the planning area has poor quality air as measured by "nonattainment" of EPA standards for carbon monoxide and/or ozone (as in about 120 of the nearly 400 urbanized areas in the nation). Conversely, if the governor and MPO agree, the MPO jurisdiction can be smaller than the nonattainment area.

Where there is more than one state, more than one governor, and more than one MPO in a single region, this decisionmaking about boundaries gets pretty tough. EPA's air quality regions (requiring MPO coordination within them) tend to cross state, urbanized area, and metropolitan area boundaries more frequently than MPOs do.

# **MPO Members**

As the area needing MPO planning grows, the existing MPO must consider taking jurisdiction over the new area. The added area usually will include additional local governments and may include additional transit authorities as well as other transportation providers that could be given a seat at the planning table.

In addition, where new UZAs are created in the expanding metropolitan area, there is the potential of creating additional MPOs if the existing one does not expand to encompass them.

Despite these dynamic forces, ISTEA appears to allow existing MPO organizations to remain unchanged unless: • The governor and units of general purpose local government representing at least 75 percent of the affected population voluntarily and jointly request a change;

• Procedures established by applicable state or local law (including laws that provide for substate districting, local government consolidation, annexation, and interlocal agreements) change the organization; or

• General purpose local governments in the area representing at least 25 percent of the affected population in the Chicago or Los Angeles regions request a redesignation by joint action of the governor and local governments representing at least 75 percent of the population. (The Chicago area is the only one in the 5-10 million population range where this provision applies, and Los Angeles is the only "extreme" nonattainment area where this provision applies.)

There are no federal guidelines concerning how far out of step the existing organization could be with the reality of the area before a change must be made. In addition, there is great reluctance in some metropolitan areas to change the MPO organization for fear of losing the organization or spending inordinate amounts of time on organizational issues instead of on required and needed transportation planning. Consequently, means of "involving" additional governments, transit authorities, and other parties of major significance in the planning process, without giving them actual membership in the MPO, are being looked into in some areas to avoid the perceived difficulties of a redesignation fight.

State legislators could step in and solve this redesignation problem in single-state areas if the governor or local governments do not do it in a timely fashion, but there appears little that the federal government could do under ISTEA other than, perhaps, to jawbone and mediate. In a state with a statewide system of substate districts, for example, ISTEA might allow the state legislature to designate the substate districts as MPOs. This appears to be a new degree of flexibility not previously available under federal law.

For the 33 new urbanized areas recognized by the 1990 census, new MPOs are being designated. Some of the new urbanized areas are within existing metropolitan areas, and can be incorporated into existing MPOs if those MPOs and the governor are amenable. It appears that new MPOs are being created to serve about onethird of the new urbanized areas; the other areas will be served by existing or reformulated MPOs.

When an MPO is redesignated in a "transportation management area" (including all MPOs with an urbanized area over 200,000 population, plus some MPOs with smaller urbanized areas that the governor and the MPO request to be made into TMAs), some additional members may have to be added. These members would include elected officials from the additional local government jurisdictions being added, officials of agencies administering or operating major modes of transportation in the area, and appropriate state officials. Certainly, all transit authorities would be added at this time, but in addition there might have to be added representatives of airport, port, toll road, and other authorities. Appropriate state officials to be added might include those responsible for air and water quality, energy policies, growth management, and interstate commissions having energy, economic development, and water interests. The appropriateness of the state air quality official is obvious, and the appropriateness of the other officials mentioned is suggested by federal water quality run-off requirements, and the ISTEA listing of "factors to be considered in planning."

# **MPO Powers**

Originally, all MPOs were treated the same. They received a proportionate share of the federal planning money, and they prepared their long range plans and three-year capital investment programs. Then, in the 1980s, when federal planning money got scarce, it was targeted more toward the larger MPOs—making two classes of MPOs. Now, ISTEA creates four classes of MPOs by providing the larger MPOs with additional powers and overlaying special provisions on MPOs in air quality non-attainment areas regardless of their size. Table 1 shows the four new types of MPOs and the special provisions applicable to them.

The large MPO regions, with populations of 200,000 or more, will have funds set aside for them by formula from the surface transportation block grant. The use of these funds will be determined by MPO project selections, and these MPOs will receive priority in the distribution of planning funds. In addition, the large MPOs that also are air quality non-attainment areas will be eligible to compete for special congestion mitigation and air quality improvement funds, but they will have their project selection powers constrained by the need to improve air quality.

The smaller MPOs with good air quality will receive none of these special considerations. However, small MPOs that are non-attainment areas (or that are upgraded to TMAs by special request), will receive all of these perks except for the formula distribution of block grant funds. They will, of course, be eligible to compete for some of the block grant funds allocated to the state.

Thus, the larger MPOs seem assured of more political clout than they presently posses, and the smaller non-attainment areas may also be so endowed. With money of their own to distribute, they are likely to be in a stronger position to bargain with the state and to become real political decisionmakers.

With most of the planning money going to the 123 MPOS serving urbanized areas with populations of 200,000 or more, and to the smaller areas with air quality problems, abbreviated plans may be acceptable from the remaining small areas. Some of the urbanized areas, including most of the newly designated ones from the 1980 and 1990 censuses, are smaller than the regions covered by regional councils and other regional planning bodies in their area.

#### Staffing the MPOs

In 1974, 75 percent of all MPOs were staffed by and attached to regional councils. By 1983, this percentage was down to 55 percent, and by 1989 it had dipped to below half (44 percent). Thus, regional councils are no longer the preferred institutions for carrying out the MPO planning.

Cities, counties, state DOTs, and separate (free standing) MPOs hold the other designations. Among these "other" MPOs, cities and counties are the most numerous. This may be because of the large number of new smaller urbanized areas recognized by the Census, and weakening of the previously strong requirement for a single MPO in each area. States with strong county government and states with easy municipal annexation laws account for many of the city, county, and citycounty MPO designations.

MPO boundary expansions across growing urbanized areas and metropolitanwide air quality areas (of which there are about 120) could start making regional councils more attractive again as appropriate staffing and policy deliberation bodies for MPOs. The key factors in weighing this decision are (1) availability of staffing capacity, (2) confidence that the staff will give objective services to all MPO member governments, transportation agencies, and other interests, and (3) linking with an organization that regularly deals with the broad range of interrelated public policy issues to which transportation policies now must respond. TABLE 1 STATUS AND POWERS OF MPOS UNDER THE SURFACE TRANSPORTATION ACT OF 1991\*

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		Popul	ation				Powers			Planning	Required
Classes of MF	SO	200,000+	200,000-	Ozone or CO Nonattainment Area	Block Grant by Formula	Projects Constrained by CAA	Projects Selected by MPO	Priority for Planning Funds	Congestion and Air Quality Project Funds	Full	Abbreviated
1. Standard Larg	e MPO	34			34		34	34		34	
2. Large MPO Nonattainmen	t Area	91		91	91	91	16	91	91	91	
3. Small MPO Nonattainmen	t Area		67	67		67	67	67	67	67	
4. Standard Smal	II MPO		147								147
TOTALS	2	125	214	158	125	158	192	192	158	192	147

populations of the areas and how to establish the relationships between the severity of air quality nonattainment and EPA planning requirements. For example, it appears that the population of individual urbanized areas (UZAs) rather than the aggregate population of the MPO area or of all the UZAs in that area may determine whether the area has a population larger or smaller that 200,000. In addition, it could be that areas with only marginally polluted air would not be required to perform full-scale planning. \*The numbers in this table are not official. Official figures are not available. These preliminary figures are subject to change when official interpretations are made about how to count the

# **Interrelating Multiple MPOs**

In at least 13 metropolitan areas, there are multiple MPOs. These are shown in Table 2. Since all but two of these areas are air quality nonattainment areas, it seems almost certain that the multiple MPOs in these areas will have to coordinate in some reasonably effective fashion. ISTEA calls for them simply to "consult with the other metropolitan planning organizations designated for such area and the state in the coordination of plans and programs required..." Nine of these thirteen areas are multistate, and for them the U.S. DOT Secretary is directed to establish requirements to "encourage governors and the metropolitan planning organizations with responsibility for a portion of a multi-state metropolitan area to provide coordinated transportation planning for the entire metropolitan area." ISTEA goes on to give congressional consent to interstate compacts and agreements for this purpose. Thus, it appears that there could be different standards of coordination in interstate and non-interstate areas. The language of the act seems to envision a much tighter coordination in interstate areas than within a single state. Perhaps that is because more reliance is placed on the governor and the state DOT to ensure coordination within a singlestate area.

# TABLE 2 CMSAS AND MSAS WITH MORE THAN ONE MPO (BEFORE 1990 CENSUS RE-DESIGNATIONS)

Name	Population
New York, NY-NJ-CT	16,044,012
Chicago, IL-IN	6,792,087
Philadelphia, PA-NJ-DE-MD	4,222,211
Boston, MA-NH	2,775,370
Miami, FL	1,914,600
Cleveland-Akron-Lorain, OH	1,677,492
Portland-Vancouver, OR-WA	1,172,158
Hartford, CT	546,198
Allentown-Bethlehem-Easton, PA-NJ	410,436
Memphis, TN-AK-MS	825,000
Portsmouth, ME-NH	114,960
Youngstown, Warren, Sharon, OH-PA	414,000
Raleigh-Durham, NC	511,280

The nature of this coordination bears considerable thought. Computerized transportation models, particularly for air quality considerations, can't simply be started and stopped at state lines or along other arbitrary boundaries. Growth assumptions across a large region need to be at least somewhat compatible, rather than optimistically competitive, and transportation alternatives to meet the same needs frequently will traverse political jurisdictions in widely spaced locations. Thus, occasional consultation, or consultation of the type in which different MPOs listen to each other in an obligatory fashion but do not hear each other, is likely to be inadequate to the task.

The number of areas needing coordination among MPOs is likely to increase in the future. For example, it appears almost certain that the Baltimore and Washington metropolitan areas will be consolidated as a result of the 1990 census, making the sixth largest CMSA in the nation.

#### STATE INSTITUTIONS

ISTEA will change state institutions in a number of ways. For example, it requires state transportation planning of a very broad type that considers such elements as energy conservation, land use and development policies, environmental protection, and all modes of transportation. Not more than a handful of states do such planning now.

ISTEA also requires the governors' involvement in transportation planning in a number of ways. For example, the governor must get involved in:

• Establishing the 20 year growth area around the existing urbanized area;

• Making a determination about whether the transportation planning area should remain smaller than the air quality planning area;

• Making a finding that multiple MPOs are needed in large complex regions;

• Requesting that some MPOs in smaller areas be designated as transportation management areas (TMAs):

• Redesignating MPOs to change their area of jurisdiction and membership;

• Coordinating multiple MPOs within in-state and multi-state metropolitan areas; and

• Approving MPO transportation improvement programs (TIPs).

Although many technical issues are bound up in these decisions, many political power relationships also are involved. Those governors who have already delegated these roles to their state DOT might want to reconsider.

At two points, ISTEA seems to provide the possibility that MPOs can be designated and redesignated by procedures provided under state or local laws. This opens a significant role for state legislatures to set MPO boundaries and designate MPO organizations. State legislatures also have inherent roles in providing matching state funds, reappropriating federal aid, and designating which transportation projects are to be developed. In addition, the interstate agreements and compacts for metropolitan transportation planning, to which ISTEA gives congressional consent, often would require consent by state legislatures.

It is clear, furthermore, that transportation increasingly is becoming a means to reaching larger metropolitan and statewide objectives. Both transportation planning place the state DOT in partnership with programs for spurring economic competitiveness and growth, protecting the environment, conserving energy, managing growth, and organizing local governments. This partnership involves the the legislature, independent governor, state transportation regulatory agencies, state regulators of air and water quality, state energy agencies, state growth management agencies, and perhaps interstate commissions concerned with river basins and economic development. Although ISTEA simply sets forth these concerns as "factors to be considered," at least two of these concerns-air and water quality-carry mandatory federal regulatory requirements. Simply "considering" these factors inside the state DOT would seem to be a rather feeble response to these highly visible, growing needs of society. Entering into real partnerships with the other responsible state agencies would appear to be a more appropriate approach. The governor and legislature may have to make it clear that this is what they want. It is well within their right and responsibility to do so.

Especially when it comes to creating and reformulating metropolitan institutions, the legislature might be expected to play a significant role. Traditionally, this has been a politically touchy issue. It is unlikely to be resolved in a politically credible way without involvement of the legislatures.

# THE METROPOLITAN AND STATE PLANNING PROCESSES

#### **Planning Requirements**

The ISTEA builds on the long term tradition of the "3C" planning process for metropolitan areas. One way it does that is to legislate many requirements that had been required only by regulation, including plan content, planning process, TIPs, and project selection activity. At the metropolitan level, fifteen specific, legislatively mandated factors must be addressed in developing long range plans. State planning requirements, adopted for the first time at the federal level, spell out twenty specific factors that states must consider. Table 3 compares these metropolitan and state planning factors.

As noted earlier, MPOs designated as TMAs (including urbanized areas over 200,000) particularly those in nonattainment areas, must fully comply with these provisions. In smaller metropolitan areas in attainment status, a simplified planning process can be utilized with the concurrence of the Secretary of Transportation. The distinction in the legislation regarding simplified procedures is a function of the complexity of transportation issues that must be addressed in the planning process. By implication, while all fifteen factors must be dealt with, the level of detail and thoroughness of analysis may be reduced proportionally.

The state planning process is modelled after the metropolitan process conceptually. However, as Table 3 indicates, it includes a different but related list of factors. The differences include both additional planning elements and the scope of state responsibilities. In the latter instance, the state must assume responsibility for non-metropolitan areas and issues potentially beyond the scope of MPO capability such as economic development and innovative financing approaches.

While the content of state and MPO plans is spelled out in specific terms, the process of integrating these plans is not. The state must address the content of MPO plans within its planning effort, but the nature and extent of integration is ambiguous. The process of integration resides in the operational meaning of terms such as "coordination," "consultation" and "cooperation." Hence, critical questions concerning the methodologies, models, and data utilized are left to the uncertainties of how states and MPOs are able to build an effective partnership in plan development. The timing of planning activity is left unspecified in the legislation. Initial guidance issued jointly by FHWA and FTA calls for full compliance with the metropolitan planning requirements in nonattainment areas by October 1, 1993, and in attainment areas by December 18, 1994. Statewide plans are required by January 1, 1995.

#### **Building and Rebuilding Planning Capacity**

Planning required by the ISTEA is a principal vehicle to achieve financially realistic intermodalism and decisionmaking which is sensitive to the needs of both mobility and environmental enhancement. The Act stops short of creating a federal mandate for land use planning but clearly expects a far greater sensitivity to multiple objectives planning. Further, the Act also supports planning by seeking to tie operational issues to

#### TABLE 3 METROPOLITAN AND STATE PLANNING ELEMENTS

METROPOLITAN	STATEWIDE
Preservation of and efficient enhancement of existing system	TSM strategies to enhance efficient operation of existing system
Consistency of plans with applicable federal, state and local energy conservation programs	Any federal, state or local energy use goals
The need to relieve and prevent congestion	The need to relieve and prevent congestion including methods which reduce motor vehicle travel, particularly SOV
Effect of transportation policy decisions on land use and development	Effect of transportation policy decisions on land use and development
Programming of expenditures on transportation enhancements	
Effects of all transportation projects in metropolitan area regardless of federal funding status	Any metropolitan plan
International border crossings and access to ports, airports, major freights distribution routes, intermodal facilities, national parks, recreation areas, monuments, historic sites, and military institutions	International border crossings and access to ports, airports, major freights distribution routes, intermodal facilities, national parks, recreation areas, monuments, historic sites, and military institutions
Connectivity of metropolitan roads with nonmetropolitan roads	Connectivity between metropolitan areas within the State and metropolitan areas in other states
Transportation needs identified through management systems	The results of the management systems
Preservation of rights-of-way for future projects	Preservation of rights-of-way for future projects
Methods to enhance efficient movement of freight	Methods to enhance the efficient movement of commercial motor vehicles
Life cycle costs in design and engineering of tunnels, pavement, and bridges	Life cycle costs in design and engineering of tunnels, pavement, and bridges
Overall social, economic, and environmental effects of transportation decisions	Overall social, economic, and environmental effects of transportation decisions
Methods to expand and enhance transit services	Methods to expand and enhance transit services
Capital investments that would result in increased security in transit systems	
	Strategies for incorporating bicycle paths and pedestrian walkways into projects
	The transportation needs of nonmetropolitan areas
	Recreational travel and tourism
	Innovative methods for financing projects
	Long range needs of State transportation system
	State developed water pollution control plan

the planning process. An overriding concern is the capacity of states and MPOs to respond to these expectations. MPOs have experienced a decline in comprehensive planning capacity over the past decade, and most states must build upon limited or no capacity to meet the greater expectations of the ISTEA. ISTEA mandates the development of six management systems (bridge, safety, pavement, intermodal, congestion, and transit) to support the operational efficiency and management of current and future transport systems. The legislative intent is apparently to ensure that decisions concerning maintenance and operational performance of the existing system be integrated with the development of future capacity or that capacity should be added only when additional efficiencies cannot meet demand. While past experience with safety, pavement, and bridge management provides a reasonable base for developing this integration, the content of the other three systems is not specified clearly in the ISTEA. Moreover, the technical relationship between these systems and the planning process is unclear. It appears that the analysis done in developing the management systems should be a major component of the planning process, but when and how remains to be specified.

Of all six systems, the congestion management system may be the most significant. A specific legislative prohibition against construction of significant new single occupant vehicle capacity in non-attainment areas unless this system is in place puts teeth in the management system process. Moreover, since this system will address both the operation of current transport facilities and justification for new capacity, it is the most important link between system operations and planning.

To make project level decisionmaking more realistic, the legislation requires that both the long range plan and the Transportation Improvement Program be financially constrained. This introduces a form of financial trade-off analysis to planning and program development that has not existed before in most transportation decisionmaking. The dimensions of such planning are not specified in the legislation but could conceivably include such techniques as return on investment, opportunity cost, benefit-cost, or input-output analysis. Moving from a "wish list" programming mode to a calculated, tradeoff decisionmaking analysis will require major upgrades in institutional capacity for most states and MPOs. Such change will take time and commitment.

Adding to the complexity of the task will be the extended public involvement requirements of the Act. Public hearings have been a mainstay of the planning process, but the legislation clearly expects a much more meaningful and extensive public involvement process. There are requirements for public involvement for both the long range plan and the TIP, and these requirements imply a greatly enhanced process, especially when the Clean Air Act requirements are added. The ISTEA even implies special status to representatives of transportation agency employees and private transportation providers by specifically identifying the need to involve them. These broader involvement requirements apply to both states and MPOs.

Congress mandated, to ensure that planning processes were adequate to the goals set by the Act, that TMA planning processes be certified by the Secretary every three years. The basis of certification will be MPO compliance with the provisions of applicable federal law and the existence of a jointly approved (MPO and Governor) TIP. The thrust of this requirement is to ensure the adequacy of plan content and the planning process. FHWA and FTA have been experimenting with joint reviews of the planning process in areas over 1,000,000. The universe of planning reviews will now have to be expanded to all TMAs. The results of these initial experiments suggest that the certification process will require a massive effort.

Recognizing the expectations of MPO and state planning agencies, Congress significantly increased the amount of PL and HPR funds. However, these funds are primarily allocated to the states on their proportionate share of the national metropolitan population. The states suballocate these funds to MPOs based on formulas that have traditionally relied on population or a base amount plus an additional share based on population. Nonattainment status now must be taken into account, thereby shifting state allocations more toward polluted areas. While the overall increase in funding may off-set the increased planning requirements of the ISTEA, there is no guarantee that the amount will be sufficient to fully replace atrophied capacity or meet the needs created by expanded planning requirements. Moreover, an inequitable allocation could emerge if some MPOs receive more than they need while others starve relative to the severity of their needs. In sum, while resources have increased, the mechanism for targeting these resources to the areas of greatest transportation planning need may not be in place.

# Planning for Rural and Small Urban Areas

Unlike the metropolitan areas, rural and small urban areas were not empowered in the same fashion. The state has the responsibility for planning in rural and small urban areas but must explicitly consult with local officials from those areas in both plan and TIP development. The state must also take into account the improvement of adjoining state and local roads that support rural economic growth and tourism. In small urban and rural areas, the state still has the responsibility for selecting projects but in consultation with officials of affected jurisdictions.

The consultation process with local officials, while required, is not specified in detail. For most rural and many small urban areas, such a process will have to be constructed from the ground up or converted from processes developed for other purposes, e.g., economic development. The State of Washington provides an example of a possible approach where rural consultation may be effectively obtained through its Regional Planning Organizations which cover both rural and urban areas.

In many respects, the flexibility provided by the ISTEA will be welcomed by states and metropolitan areas. However, for rural and small urban areas, the demise of the categorical federal-aid system will make financing some improvements more difficult. The federal-aid secondary program provided a "guarantee" of some funding for rural areas and interests. While federal funding to the states under the NHS and STP programs will still see dollars flowing to rural areas, there is no guarantee that this will amount to the level of dedicated funding under the prior system. The only remedy to this dilemma will be aggressive participation by rural officials to seek a "fair" share of state revenues.

Finally, the nature of surface transportation planning for rural areas represents an interesting change from previous transportation efforts. Highways clearly have dominated such efforts. With the underlying theme of efficiency in the ISTEA, the prudence of rural highway investments may come under greater scrutiny. In some states, disinvesting in rural systems has become a significant policy issue. In others, the interface between rural and metropolitan systems may change priorities substantially. At the same time, rural public transportation and intercity bus service may receive enhanced attention as alternatives to highway improvements.

Clearly, the states face a much more complex set of trade-offs in attempting to build a planning process that effectively poses the choices raised by balancing rural, metropolitan, environmental and statewide perspectives. MPOs will not be isolated from this complexity, because the funding for and priority of their investments will be significantly affected by the states' decisions about how much funding is needed elsewhere.

#### **Implications and Possible Remedies**

On its surface, the ISTEA appears to have radically revamped the transportation planning process. The emphasis on flexibility, intermodalism, public participation, air quality, greater comprehensiveness, and integration of long range planning and programming provide an overall image of "doing it the right way". Behind this facade, however, lurks a major challenge in policy implementation.

In some respects, the changes are "fixes" to perceived failings in the way things used to be done. From this perspective major inconsistencies and logical fallacies appear in the legislative design. While the CAAA and the ISTEA represent a unique legislative couplet, their integration poses major problems in terms of timing, the meaning of conformity, priorities, and concept. If planning could start on a clean slate, the task would be less formidable. However, significant planning already exists, and it must be adapted to the expectations of the ISTEA. Overall, the ISTEA does constitute a revolution and a shift from doing business as usual. However, the scope of change it envisions and the framework it provides may not fit within the six years of its existence.

For some, the easy answer may be to hope that Congress will retreat from overly ambitious legislative goals. However, the changes wrought by the ISTEA are too substantial to imagine a major retreat. A more appropriate response will be to find pragmatic methods for dealing with inconsistencies and ambiguity, and attempt to meet the broad expectations laid out in the policy declaration of the ISTEA.

In planning, this will mean initially attempting to ensure the development of capacity where it is needed to do the planning required. Congestion management plans should consider factors occurring well beyond the transportation right-of-way. Financial planning should take a creative look at revenue source forecasts and innovative opportunities, as well as return on investment, and foregone opportunities.

Integration of state and metropolitan plans will need to begin with communication and the sharing of data/analyses, so the technical adequacy of plans will be as sound as feasible. Flexibility will demand not just financial fungibility but iterative planning with an increased willingness to re-evaluate commitments and approvals. States may have to accept metropolitan plans as the state plans for urbanized areas until such time as state plans are fully enough developed to provide well justified alternatives to be considered.

Recognizing the mutual dependence on the same taxpayers for financing projects, and the increased public scrutiny that all plans will be under, will require rural, metropolitan, and state decisionmakers to address their individual and mutual interests more comprehensively. Building the technical and decisionmaking capacity to make intermodal trade-offs between mobility and air quality priorities will take time. The interim will require starting with existing facilities and asking how efficiency of operation and enhancement will help to create a seamless transport system. Compliance with planning requirements may have to occur in measured, annual stages.

In the end, the federal government will have to decide how good the planning has to be to justify certifying it as in compliance with ISTEA. The two basic options are to look at the results of the planning (outputs), or to assess the planning process and documents (inputs). The input approach is traditional and easier to do, but it clearly is not good enough for air quality compliance. Arguably, it will not carry out the intent of the ISTEA management systems either.

#### **MPO RELATIONSHIPS WITH THE STATE**

ISTEA makes "appropriate state officials" members of the MPO policy board and requires the board to prepare and adopt plans for its region. Then, ISTEA goes on to say that the state shall develop a long-range transportation plan for **all areas** of the state and only needs to "consider" coordination with the MPO plans. Nevertheless, ISTEA also requires the state plan to be developed "in cooperation with" MPOs. In addition, state air quality officials can veto state and metropolitan transportation plans and projects. Water quality regulators also must regulate the runoff from urban transportation corridors, and wetlands regulators must regulate the location of transportation construction projects. It is unclear how this will work.

DOT has defined the differences between consultation (listening), cooperation (working together), and coordination (exercising mutual vetoes), and several of the interested parties are keying in on these distinctions as a central thrust of the Act.

Although no policy board is required to guide the preparation of the state transportation plan, some states have developed a council of MPO representatives to help with this and other tasks. Many intimate staff-to-staff working relationships, and a great deal of detailed data coordination, surely will be required to make this joint planning relationship work, but that still will not be enough. State interagency coordination procedures will be needed, and state-local political relationships in the planning process also will be vital. In the 26 states that have state ACIRs, those organizations might be good resources to help figure out how state-local policy exchanges should occur.

ISTEA is full of requirements to consult with, cooperate with, be in conformance with, comply with, and coordinate. Yet, when it comes right down to it, even the carefully drawn DOT definitions give no clear indication of how all this should work. Ideally, the MPO plans developed with participation by state officials, should be incorporated into the state plan by reference. If there is real working together, real exchange of fiscal estimates for implementation money, and real policy coordination along the way, there should be no surprises and no reason for the state to reiterate all the MPO work, or contradict it, in the state planning document. However, if these relationships are strained or inept, there are enough ambiguities in the Act to let the MPOs and states fight it out in court.

There can be a clear differentiation between the MPO and state plans if it is remembered that the essential difference between these two documents is that the metropolitan plan is for internal circulation and congestion relief, while the statewide plan is for statewide circulation and connectivity. A similar relationship between local projects within the nonmetropolitan areas and the statewide plan should be developed. Plans for rural and small urban areas, although the responsibility of the state under ISTEA, are to be developed in consultation and cooperation with affected local officials, and could well have a relationship to the statewide plan similar to the MPO-state plan relationship.

It should be recognized that the relationship between an MPO and state government in interstate areas represents not just a linear increase in difficulty, but an exponential increase. States, on occasion, can be very independent. They may not lay all their cards on the table in good faith negotiations, and they may not stick to the indications they give at one time during a negotiation. If there is a need to strike real interstate agreements, they are just as likely to meet directly as to meet through one or more MPOs that they view as unreliable and unnecessary third parties. In this context, the difference between acting "in cooperation with" or "in consultation with" may be a distinction without a difference. There will be projects in every interstate area for which MPOs will have primacy and others for which the states will have primacy. Thus, if the parties do not help each other, they will have little trouble finding ways to hurt each other. It is not clear that the federal government wants to get in the middle of this. Thus, extra time and effort may be needed by MPOs in interstate areas to build trust and confidence among the diverse partners.

#### CONCLUSIONS

Three things are needed, institutionally speaking, to make a success of ISTEA:

1. Building a lot of new planning and decisionmaking capacity at both the regional and state levels;

- 2. Developing many new partnerships; and
- 3. Avoiding gridlock.

With respect to building capacity, some very new and highly demanding styles of planning are being required for large metropolitan areas, large and small air quality nonattainment areas, and state DOTs. These new planning processes will require new types of data, new analytical techniques, new political priority setting processes, and new staff. No one will possess all of the necessary data and technical capacity, or the political capacity, by themselves. They will have to rely upon the capacities of each other, and learn to work together to achieve the types of transportation connectivity, congestion relief, environmental protection, energy conservation, and other objectives envisioned by this new act.

Relying on the capacity of others implies building firm new partnerships. These partnerships will be successful only if they develop a degree of trust among the partners sufficient to allow them to incorporate each others' plans into their own, based on familiarity with and confidence in the quality of the work, the objectivity of the analysis, and the honesty of the commitments made. This trust must bind neighboring areas together, link regional bodies with state DOTs, cement relationships among diverse state agencies, and connect adjoining states that have interstate transportation needs in common.

Finally, success hinges on avoiding gridlock. There are opportunities aplenty in ISTEA for governors and MPOs to cancel each other out by mutual veto. The key here is to practice "getting to yes," rather than to "getting to no." If one wants to play games with this act, there is plenty of opportunity to do it. Grandfathered MPOs can last well beyond their useful lives. Designations and redesignations can be carried out with "the right" 75 percent of the population, ignoring the other 25 percent—as one might do in a hard fought annexation battle. We can "consult with and cooperate with" all we want, and then do the opposite when we make our final decisions. We can "consider" and then go ahead and ignore.

But if we are serious, we will not play games with this act. We will lay our cards on the table face up, negotiate in good faith, use mediators when that would be useful, make commitments in good faith, and stick to them if at all possible. As the old saying goes, we must hang together, or we most assuredly shall each hang separately.

Obviously, a great deal of attention needs to be given to writing regulations that try to sort out the many ambiguities and new challenges in ISTEA. But equally important, perhaps even more important, could be the research and development, and the technology transfer components of the effort. For example, we badly need better techniques for planning effective congestion management, air quality attainment, and investment strategies. In addition, we need to recognize that even the currently known "best practices" for confronting such issues are not in widespread use, and we need to remedy that situation. Other conferences are dealing with those matters, but this conference needs to add its weight to the urgent need for progress along these lines.

Strengthened requirements and regulations for transportation planning, programming, and finance, without strengthened technical, institutional, and political capacity to respond may simply widen the gap between expectations and performance. That would be a disaster for the nation. Placing greater reliance on research and development, technology transfer, technical assistance, and respectful partnering, rather than on legalisms and contentious protection of the rights and prerogatives of each player, can avoid that disaster.

ISTEA clearly calls for a great deal of change in institutions and planning processes. Yet, battles already have broken out between the forces of "business as usual" and the forces of change. People are chosing sides. We are still waiting to see whether ISTEA will become the Planners Assistance Act of 1991 or the Lawyers Assistance Act of 1991. We hope it will be the former.