

Making Sense of TEA-21

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As we all know, on June 9, 1998, President Clinton signed the Transportation Equity Act for the 21st Century into law, and we'll be living with it for the next 5 years. On this much everyone can agree. Unfortunately, finding anything else to agree on about TEA-21 is not so easy. What does the new legislation mean? Are things changing or staying the same? What's it all about? A consensus on these questions has yet to form.

Most of us have a general idea of the contents of TEA-21: more money, a new guarantee for federal funding, a continuation of the structure of the Intermodal Surface Transportation Efficiency Act of 1991, and lots of projects. Unfortunately, the lack of a clear set of relationships among these elements is leading some to conclude that unlike ISTEA, TEA-21 has no core principles. TEA-21 is not "about" anything, or so the thinking goes.

If true, this would be unfortunate. Even a bill that runs to many hundreds of pages leaves a great deal unsaid. As a result, there are times when implementers must make judgments about new programs or requirements without any useful legislative guidance. In these cases, it helps to have a set of basic principles to fall back on.

As complex as ISTEA was, most people would agree that it had a clear set of ideas at its core—flexibility, intermodalism, and a search for alternatives to building more roads. Where the law was unclear, policymakers fell back on these themes to get a sense of direction. Since 1991 there have been many disagreements about how or whether to pursue these goals, but almost none about what they were. People knew. So the question arises of whether TEA-21 is held together by a core philosophy that implementers can fall back on, and if so, just what that philosophy is.

Money Makes the World Go 'Round

Maybe TEA-21 is just about *money*, nothing more. (As one observer was fond of saying, the TEA-21 debate was really over two things: "money, and who gets it.") There is no denying that the amount

involved is large: \$217 billion in funding authorizations over 6 years, a 40 percent increase over ISTEA's authorized level. On closer examination, however, this "unprecedented" funding increase does not look so large:

- ◆ The impressive-sounding 40 percent figure does not account for inflation. The average inflation rate was 2.6 percent per year over the 6 years of ISTEA, and funding under TEA-21 would have to be more than 20 percent higher than that under ISTEA just to keep pace with rising costs.

- ◆ The \$217 billion total includes about \$7 billion in authorizations that do not have "contract authority," and these funds will not even be given out to the states for possible future spending. An additional \$9 billion consists of contract authority not subject to TEA-21's new funding guarantee. These funds will be given out, but that may be as far as they go. It may well be that little or none of this \$16 billion will ever be spent.

- ◆ Federal funding makes up only about one-fourth of total public-sector spending on surface transportation. TEA-21's \$6 billion per year in actual new money will be added to a base of nearly \$100 billion per year in total spending.

- ◆ There is a very recent precedent for this boost in authorizations—ISTEA. ISTEA was 42 percent larger than its predecessor, the Surface Transportation and Uniform Relocation Assistance Act of 1987. How quickly we forget.

While much of the reauthorization debate was about money, the final bill does not include enough new, real funding to alter fundamentally the constraints on transportation spending at the state and local levels. The fight was about money, but the bill is not.

The Search for Equity

What about *equity* as a central theme? After all, the contest for money between the donor and donee states took up as much time as any other subject. And the word "equity" is right there in the title of the bill. Beyond these superficial facts, however, the

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case for equity as a core theme is not compelling.

Although there will be a shift in resources toward the donor states because of TEA-21, this reallocation is the only part of the donor state coalition's platform to see the light of day. The main features of their platform, immortalized in the so-called STEP-21 proposal, were as follows:

- ◆ A new formula that would overturn the donor/donee relationship, making donees of many states that had been donors, and vice versa.

- ◆ A requirement that each state receive back no less than 95 percent of the share of federal funds contributed by that state in gasoline taxes. This measure would take care of the STEP-21 states that did not become outright winners under their new formula.

- ◆ Elimination of ISTEA's programs to provide funding for alternatives to highways—the Congestion Mitigation and Air Quality Program and the Transportation Enhancements Program.

- ◆ Elimination of ISTEA's programs to ensure minimum funding to maintain the existing highway system—the Interstate Maintenance and Bridge programs.

This was the donor states' definition of "equity." After the dust settled, however, only one of their proposals was enacted, and only at a reduced level. Under TEA-21, each state is guaranteed a minimum return of 90.5 percent of its share of contributions of gasoline taxes, not 95 percent. To be sure, the 90.5 percent guarantee was a significant victory for the donor states, but TEA-21 is not the sweeping change they called for.

In addition, a continuing source of inequity went unaddressed. The traditional equity debate is over the formula that divides money among the states. Should a state receive back significantly less in formula funds than it generates in revenues? Either way this question is answered, it clearly can be asked on the substate level as well.

We know that Texas has sent more gas taxes to Washington than it has received back, but what about Dallas? Preliminary analysis shows that the distinct antiurban bias of much federal highway spending, documented in the Surface Transportation Policy Project's 1996 report *Getting a Fair Share*, means that places like Dallas account for much of the donor status of states like Texas. *Getting a Fair Share* reveals that expenditures of highway account funds in fiscal year 1995 averaged just over \$72 per person for the entire country. In what the Census Bureau defines as "urbanized areas"—communities with a population of 50,000 or more—spending was significantly lower at \$54 per person. Spending in rural areas was \$98 per person, and in

what are called "nonurbanized areas"—cities and towns of 5,000 to 50,000 people, mostly at the far urban fringe—spending was \$115 per person. If the question of who pays for the program and who benefits is a valid one for states, it is equally valid for metropolitan areas.

Once again, much of the heat generated by the TEA-21 debate was about equity, but the act bears little resemblance to any equity agenda.

Having a Choice

If TEA-21 is not about money and not about equity, what is it about? I believe the bill is most easily understood as a coherent whole instead of a collection of unrelated pieces when viewed through the prism of *choice*.

In many important ways, of course, ISTEA was about choice. For the first time, it made state and local control over funding an explicit part of the federal program. TEA-21 continues this arrangement. The largest single portion of federal funding is handed over to state and local actors, with no requirement regarding how it is to be spent. For this money, primarily in the Surface Transportation and Minimum Guarantee programs, federal rules are procedural rather than substantive.

As important as this paradigm has been, however, it has little meaning for the users of the transportation system. Whether policymakers have a choice is of little relevance to the public. Most people care about whether they have a choice. TEA-21 diverges from the ISTEA model by creating a collection of new initiatives that focus on providing choices for people rather than for institutions. The following are some of the new programs that fit this mold.

Job Access: Helping Get People into the Workforce with Transit

Section 3037 of TEA-21 authorizes \$750 million in grants to provide transit-based transportation options for people attempting to move from welfare to work. More than any other sector of society, these people have suffered from the lack of choices provided by the current transportation system. Owning and operating a car is too expensive for most welfare recipients and even many entry-level workers. Unfortunately, the majority of current transit service is directed at moving people from the suburbs to the city in the morning and back out in the afternoon. Schedules and routes generally do not work for those who live in center city areas and need to travel outward in the morning and back in at night. This program will be the first step toward giving many of these people a real choice.

Taxes and Commuter Choice

TEA-21 removes several barriers that have prevented employers from offering their workers a choice of commuting fringe benefits—parking, transit vouchers, or vanpool service. The unequal tax treatment of different transportation fringe benefits offered to commuters has been a hidden bias in favor of driving for many years. Parking—mostly free parking—is among the most common of fringe benefits provided by employers. It is estimated that more than 90 percent of the nonfarm labor force is offered some form of parking at work. Before enactment of TEA-21, the Internal Revenue Service effectively prohibited employers from offering a choice between parking and transit benefits. If a company offered 100 employees a choice between a parking space and a transit voucher and only 1 person chose the transit, the other 99 would begin paying taxes on the value of their parking. Needless to say, this discouraged employers from offering such a choice. TEA-21 removes this barrier, and now all employers can offer their workers a real choice in how they will get to work.

Building New Rail Systems

TEA-21's transit New Starts program provides funding for new transit systems or significant additions to existing ones. Since the enactment of ISTEA, there has been an explosion in demand for these funds. Under TEA-21 the program is authorized at \$8.2 billion over 6 years, a 65 percent increase relative to ISTEA. Many newer, rapidly growing cities are planning or actually building new transit systems. Some of the most successful of these new systems are in cities such as St. Louis, Dallas, and San Diego, where skeptics have long said that transit could never be popular. The New Starts program funds these projects.

TEA-21 authorizes 191 New Starts projects, a tremendous growth since ISTEA, which authorized fewer than 40 such projects. The communities proposing these projects are doing so in large part because they are suffering the consequences of not offering people a choice of travel modes—congestion, frustration, and a decline in the quality of life. Many communities see major investments in transit as a first step toward giving their citizens more transportation choices.

More Respect for Biking and Walking

TEA-21 gives new support to biking and walking as serious modes of transportation. The legislation increases funding for the Transportation Enhancements program—which funded more than \$1.3 billion in new bicycle and pedestrian infrastructure

over the life of ISTEA—by nearly 60 percent. In addition, Section 1202 of TEA-21 creates a new standard for consideration of bicycle and pedestrian needs when road projects are undertaken. Bicycle and pedestrian facilities “shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use is not permitted.”

Another Look at Land Use and Transportation

Section 1221 of TEA-21 creates a new program to address the relationships between land use and transportation in order to help build places where people can have a real choice in how to get around. The \$120 million Transportation and Community and System Preservation Pilot program (commonly called the TCSP program) will fund multistakeholder teams to begin examining the complex relationships among land use, community, quality of life, and transportation.

Land use decisions, made primarily at the local level, drive transportation decisions. Development in a rural area leads to congestion on existing roads, which in turn leads to pressure to build and expand roads. More roads lead to more development and more driving, once again resulting in congestion. This vicious cycle puts more and more people out of reach of any transportation option except the single-occupant car. Many planners, public officials, and transportation professionals are realizing that this cycle must be broken, and that land use and transportation decisions need to be linked. The TCSP program will help communities forge these links.

Conclusion

A strong case can be made that choice—in particular, individual rather than institutional choice—is a metaphor that can unify TEA-21's additions to the core ISTEA principles into a coherent whole. In the pre-ISTEA years, choice was not valued in the federal program. Every dollar that left Washington had a label on it.

Under ISTEA, state and local governments were given a choice. They could control their own destiny to a much greater extent than previously, and this made the federal program both more flexible and more popular. Now TEA-21 is pointing the way to the next big step: choices for ordinary people. If those who implement the new bill take this challenge seriously, TEA-21 will be honored not just as a continuation of ISTEA, but also as the first big stride in a new direction.