

**Statement of Michael P. Huerta
Associate Deputy Secretary of Transportation
Director, Office of Intermodalism
U.S. Department of Transportation**

**Before the Senate Committee on Environment and Public Works
Transportation and Infrastructure Subcommittee**

ISTEA: Flexibility/Eligibility

March 13, 1997

During the course of these hearings, many people will no doubt describe the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) as "groundbreaking" and "revolutionary" in its approach to addressing national transportation issues in an era when such singular goals as the creation of the Interstate Highway System have been accomplished. It is my distinct pleasure to appear before you to discuss those innovative aspects of ISTEA that drive this shift in Federal transportation policy. Thank you, Mr. Chairman, Senator Baucus, and Members of the Committee, for inviting me to assess the Department of Transportation's experience with the enhanced flexibility and eligibility provisions of ISTEA: in essence, the freedom given to State and local officials to spend Federal dollars on an expanded set of transportation solutions.

In my testimony today, I will describe several ISTEA-funded projects that demonstrate this multi-modal approach to addressing transportation challenges. Many States and regions have gratefully embraced ISTEA's improved flexibility and eligibility opportunities. Just as significantly, however, many others have not, and this one fact demonstrates the essential wisdom of the policy embodied in ISTEA. Faced with different challenges--and given different options--States have selected different paths to reach their goals. Within the context of our national goals of safety, mobility,

economic development, environmental stewardship and community enhancement, ISTEA gives State and local decision makers a bigger and better "tool box" with which to work. Based on this experience, the Administration's proposal for ISTEA's successor--the National Economic Crossroads Transportation Efficiency Act, or NEXTEA--continues those critical programs that have enhanced local decision making. Because these past six years have also taught us the importance of being flexible in our delivery of these Federal programs, we also propose certain refinements that I will describe shortly.

Let me first describe some of the specific impacts of ISTEA's enhanced flexibility and eligibility provisions.

Transportation and Planning

One of the hallmarks of ISTEA is that it establishes a clear linkage between planning and transportation decision making. Notably, it accomplishes this linkage through both explicit and implicit means.

It is well known that ISTEA's statutory language gives metropolitan planning organizations (MPOs) greater say over how Federal funds are spent in their region, and requires both State and metropolitan planners to seek the participation of less traditional constituencies such as freight providers and environmental advocates. ISTEA also recognizes that good planning requires hard choices based on available resources, and therefore requires that transportation plans reflect fiscal reality.

ISTEA's statutory planning language, however, as admirable as it is, would have been

significantly less influential were it not for the complementary flexibility of several of its major funding programs. In truth, flexibility has done more to empower transportation planning than any specific instructions regarding the planning process. To a much greater extent than previous surface transportation legislation, ISTEA allows State and metropolitan areas to spend their apportioned Federal funds based on thorough planning rather than restrictive program categories. Specifically, almost 60 percent of the funds authorized by ISTEA have been available, at the initiative of State and local officials, for almost any type of surface transportation project.

Flexible Fund Transfers

Probably the most noted result of this flexibility is the approximately \$3 billion administratively transferred ("flexed") during the first five years of ISTEA from the Federal Highway Administration to its DOT partner, the Federal Transit Administration (FTA), for delivery to FTA's State and local grantees.

Such transfers occurred in 45 different States. Across the country, State and local officials chose to spend "highway program" funds to purchase buses and rail cars, build park-and-ride lots and bus transfer facilities, renovate rail stations and railroad track, and pay for rail signal systems and paratransit vehicles to implement the Americans with Disabilities Act (ADA). Eighty five percent of these funds originated from two flexible programs introduced by ISTEA: the Surface Transportation Program (STP) and the Congestion Mitigation and Air Quality (CMAQ) program.

But the fact that most States have flexed funds among programs fails to tell the entire story. As I noted above, the use of this option varies widely among States. In fact, just

two--New York and California--account for nearly half of all such spending. At the other end, the combined transfers in 27 States and territories amount to less than three percent of the national total!

This disparity demonstrates what we all understand to be true: that the most suitable solutions for a dense urban area may be irrelevant to an expansive and largely rural State. So it's hardly a surprise to see many such States represented by this Committee--Montana, Idaho, Nevada, Oklahoma, Wyoming and New Hampshire--among those that have transferred the least amount of flexible program funds.

All of which forcefully demonstrates the point previously made: ISTEA's flexible programs are adaptable to local needs. Flexibility means *more* than highway funds paying for transit improvements, or vice versa. Whether you choose, e.g., to buy extra buses or to improve a highway, you are taking advantage of the flexibility inherent to these programs. Flexibility provides different means to an end, and *that* makes it a valuable tool.

Expanded Eligibility

Another dimension of ISTEA's flexibility, beyond the shifting of funds between administrations of the DOT, is its expansion of eligible uses for Federal dollars based on good intermodal planning. Without any administrative financial transfers, the STP and CMAQ programs in fact support many projects that directly benefit multiple transportation modes.

For instance, last month saw the opening of a unique alternative to traffic congestion in the US-1 corridor in Miami, Florida. The eight-mile South Dade Busway, built exclusively for Miami's Metrobuses as a rubber-tire extension of the existing rail system, connects outlying suburbs to the city's rapid transit network. The Florida Department of Transportation, in coordination with both FHWA and FTA, conceived and built the \$25 million construction project using Federal funds administered solely by FHWA: \$19 million from CMAQ and \$1.2 million from STP.

In Albany, New York, the State spent funds from FHWA's National Highway System (NHS) program to build park-and-ride lots in the heavily congested I-87 "Northway" corridor to link to the FTA-funded buses of the region's transit operator, the Capital Transit District Authority.

Through the Intelligent Transportation Systems (ITS) program, ISTEA also recognizes that improving operations can be more cost-effective than building new infrastructure, and thus is an eligible use of STP and CMAQ funds otherwise designated for capital projects. ITS technology provides an alternative to physical expansion, increases the efficiency of existing facilities and enhances their safety. The use of ITS as a standard tool to coordinate highway and transit infrastructure and operations will help blur the distinction between modally-based programs in favor of an orientation towards the perspective of the individual traveller.

As noted above, ISTEA's expansion of eligible uses for Federal funds goes hand in glove with its insistence that a wider array of parties become involved in planning State and regional transportation systems. One group that had rarely been part of the public decision making process was the freight transportation industry. Today, advisory

councils of private sector freight operators are providing essential input into comprehensive public plans. Although in some instances this involvement has yet to produce tangible projects, CMAQ and STP funds have supported many freight improvements that previously would not have been eligible for Federal money.

For example, the CMAQ program will fund half of a \$15.3 million project to improve intermodal access to the Barbour's Cut Container Terminal at the Port of Houston. By creating a dedicated corridor for rail and truck movements between existing roads and a new on-terminal rail facility, the project will eliminate current congestion at a rail bridge and reduce truck trips between Barbour's Cut and existing off-site rail facilities. CMAQ's emphasis on improving mobility in order to mitigate air quality problems made Federal participation much easier than under more traditional program categories.

In California, more than \$1 million of STP funds will help improve local streets to ease truck access to the Port of Stockton. In addition to demonstrating local recognition of the important economic contribution of freight transportation, this project exemplifies how ISTEA has extended eligibility to vital street networks that, because of their classification as local roads, were not part of the hierarchical Federal Aid system that existed before 1991.

Transportation planning decisions also have the flexibility to consider efforts to redevelop "brownfields," particularly urban areas that have been abandoned or underutilized due to environmental concerns. ISTEA has played an important role in brownfields successes in Portland, Oregon and Lawrence, Massachusetts, where Federal funds have supported transportation-related brownfields projects.

Financial Flexibility and Innovation

As you have often heard, the challenge of meeting increased infrastructure needs in an era of budget discipline means that public agencies *must* do business in a new way. A single strategy of grant reimbursement will no longer meet our Nation's transportation needs. Last week, Deputy Secretary Mort Downey described to the Committee our incentives for States to take full advantage of ISTEA financing opportunities. These efforts respond to President Clinton's January 1994 Executive Order on infrastructure, which encourages innovation, private sector participation, and more efficient use of Federal funds.

The centerpiece of our effort, the Partnership for Transportation Investment, has cut red tape to speed construction projects and developed new strategies to leverage private investment. The 74 projects in this pilot program started an average of two years early and attracted \$1.2 billion in investment beyond that available through conventional financing. Building on these successes, the National Highway System Designation Act of 1995 (NHS Act) made many of these strategies a regular part of how we do business.

For example, one common sense strategy is to allow private money to substitute for

public funds in providing the local match for Federally-funded projects. This will be the case in New Hampshire, where the State will increase the clearance over the Gorham Railroad Bridge for double-stack container freight trains. This clearance restriction is the last remaining U.S. impediment to double-stack trains between Maine and Chicago. The \$200,000 fix will alleviate congestion on the I-95 corridor in the Northeast and improve operational safety. Eighty percent of the funds, \$160,000, will come from ISTEA program funds. The privately owned St. Lawrence and Atlantic Railroad will pay the remaining \$40,000.

Mr. Downey also described another initiative, the State Infrastructure Bank (SIB) program, which uses federal seed money to leverage private and nonfederal public funds in 10 pilot States. I'm pleased to note that five of these 10 States are represented on this Committee: California, Florida, Missouri, Oklahoma and Virginia.

NEXTEA's Eligibility and Flexibility Refinements

The innovations provided by ISTEA have changed the way Federal dollars are spent for State and local needs. The truth is, however, that a lot of sweat equity was needed to make the projects noted above successful examples of flexible planning and implementation. Because these efforts broke new ground, they represented a higher degree of difficulty compared to the delivery of the familiar pre-ISTEA programs. DOT officials in every part of the country had to revise eligibility interpretations, invent new administrative procedures, and help coordinate the participation of transportation groups whose previous activities had rarely intersected. As a result of five years of hard work, we're in position to extend ISTEA's landmark philosophy of flexible transportation solutions through our reauthorization proposal: NEXTEA.

Of course, as often happens after working with new programs, we do believe that certain refinements would help us better achieve the goals of ISTEA. Based on our experience of the past five years, and after intensive discussions with our customers and among our own program staff, we propose that NEXTEA embrace the following eligibility and flexibility changes:

Publicly owned rail facilities. NEXTEA would expand the types of eligible uses under the National Highway System and Surface Transportation Programs to include *publicly owned* rail facilities. Delineated uses would be:

- intercity passenger rail capital projects, including Amtrak (NHS),
- passenger rail and intermodal freight terminals that connect to the NHS (NHS),
- rail safety infrastructure improvements (STP),
- intercity passenger rail infrastructure and vehicles (STP), and

- freight rail infrastructure (STP).

Intercity bus facilities. NEXTEA would extend eligibility for transit and STP funds to both publicly owned and privately owned intercity bus facilities, including terminals and vehicles.

State Infrastructure Banks (SIBs). Based on the strong positive response to the pilot phase of the SIB program, NEXTEA would establish a permanent SIB program to offer this innovative financing tool to all States.

Intelligent Transportation Systems (ITS). In recognition that the operational improvements achievable through ITS can improve the capacity and safety of existing infrastructure, NEXTEA would make explicit the authority of States and local entities to use NHS, STP and Section 5307 transit funds for ITS operations and maintenance, as well as ITS capital projects.

Infrastructure Safety Program. NEXTEA would provide an Infrastructure Safety Program that replaces and improves upon the current STP safety set-aside. These funds would be designated in separate accounts to eliminate highway hazards and improve the safety of rail/highway grade crossings. To the extent that a State reduces its grade crossing crashes, however, the rail/highway funds could be spent on highway hazard elimination. Further, if a State has an integrated safety planning process, it may flex its hazard elimination funds into behavioral programs identified under the Section 402 and motor carrier safety programs.

Transit Formula Programs. NEXTEA would consolidate transit programs to make it

easier for local officials to select options that best improve mobility in their communities. Our proposal would combine the Fixed Guideway Modernization and Bus Discretionary Programs into FTA's Section 5307 urbanized area program. This would make these funds available for any eligible transit purpose, including planning, bus and rail car purchases, facility repair and construction, preventive maintenance, and, in areas under 200,000 population, operating expenses. NEXTEA would also streamline various formula programs by adopting simpler and more flexible definitions of eligible capital costs, matching ratios and grant requirements.

Conditional Fund Transfers

NEXTEA doesn't only propose to expand existing limits. Two important exceptions are described below.

Interstate Maintenance (IM) Program. The IM Program provides funding to preserve the Interstate System, which is critical to the nationwide movement of people and goods. NEXTEA would continue to allow States to transfer any IM funds not required for Interstate pavement and bridges to the NHS and STP programs. However, all transfers would be conditioned upon DOT's acceptance of a State's certification that its Interstate System is adequately maintained. ISTEA allows a State to transfer the first 20 percent of its IM funds without conditions.

Highway Bridge Replacement and Rehabilitation Program (HBRRP). This program provides funds to replace or rehabilitate deficient highway bridges and to undertake preventive measures to prolong the life of existing highway bridges. NEXTEA would continue to allow States to transfer up to half of their HBRRP funds to the NHS and STP programs. However, unlike ISTEA, in which transfers are unconditional, transfers would be allowed only if a State's bridges on the National Highway System meet certain standards of condition. Since the HBRRP formula is based upon the condition of the bridges in the State, we believe the priority should be to fix those bridges.

The Multi-Modal Future

It is a truth universally acknowledged--to borrow a phrase from Jane Austen--that we live in an era where Federal, State and local governments face fiscal and physical limits. When it comes to transportation, each industry mode can demonstrate needs far

in excess of public resources. And when it comes to preserving mobility, our understanding of transportation's impacts on neighborhoods and the natural environment has made insufficient the traditional approach of simply adding infrastructure.

These restraints intensify the urgent need to get the best return on Federal transportation investments. This, in turn, requires integrated planning and coordinated operations to exploit the synergy that comes when each improvement is built and operated as part of a system. Despite the rhetoric that often attends presentations such as mine, the reality of a "seamless intermodal national transportation system" lies well in the future. Nevertheless, if we resolve today to continue our hard work to reach this ideal, we will no doubt achieve many worthy accomplishments. As part of this effort, we *must* enable local transportation decision makers to leverage their fiscal and physical resources through flexible and intelligent use.

I think one of the best examples of this approach can be found in Houston, Texas. During the past several years, Houston has implemented a comprehensive transportation mobility program that covers a region of 600 square miles. Elements of the program include freeway improvements, High Occupancy Vehicle (HOV) lanes dedicated to transit and carpools, clean fuel buses, transit stations, park-and-ride lots, a state-of-the-art ITS traffic signal system, and a regional travel information network. Since this program began, transit ridership has increased significantly, as have average highway speeds--a unique combination among major metropolitan areas. Money spent on the program has included a local sales tax designated for transit, State and Federal highway funds, and Federal transit funds previously set aside for a rail system.

Houston's experience--intermodal regional planning, sophisticated information and operations technology, multi-modal improvements in critical transportation corridors--demonstrates features that will become more commonplace as we seek optimal transportation solutions. In this case, local decision makers made choices, and even reversed earlier decisions, without regard to the supposed restrictions attached to their available funds. To replicate this success elsewhere will require continued commitment to a flexible Federal surface transportation program.

Conclusion

ISTEA gave us the tools to respond to the Nation's transportation needs in the post-Interstate construction era. Our proposal for NEXTEA extends this effort, and it has been my privilege to describe the flexibility and eligibility tools that remain essential for success. As Secretary Slater and Deputy Secretary Downey have said in their earlier hearings, the Department looks forward to working with Congress to make it a reality.

Mr. Chairman, this concludes my statement, and I would be happy to answer any questions.