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Creating A Landmark: The Intermodal Surface Transportation Act of 1991

by Richard F. Weingroff

PART I

Introduction

The date is Wednesday, Dec. 18, 1991. The scene is Tarrant County, Texas, on a State Highway 360 construction site not far from Dallas-Fort Worth International Airport. The weather is cold and rainy - and no one can do anything about the mud throughout the site.

President George H.W. Bush signs ISTEA on Dec. 18, 1991, at a construction site in Texas. From left, construction worker Arnold Martinez, Rep. Bud Shuster,

President Bush, Sen. Daniel Patrick

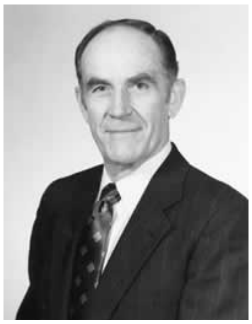
Powerful congressional leaders stand by as construction worker Arnold Martinez, still wearing his hard hat, introduces the president of the United States, George Herbert Walker Bush. Martinez reminds the president, the members of Congress, and the crowd of 300 or so state and local officials, national transportation leaders, and construction workers that the recession that began in 1990 is "sometimes scary and financially difficult."

Then, using a large cable spool as a table, President Bush hunches over as he signs the Intermodal Surface Transportation Efficiency Act of 1991

(ISTEA) - the landmark bill that had been

Moynihan (in hat), Rep. John Paul Hammerschmidt, Rep. Robert Roe, and Rep. Norman Mineta.

nicknamed "ICE TEA." The congressional leaders who had crafted ISTEA - Sens. Daniel Patrick Moynihan, D-N.Y.; Harry Reid, D-Nev.; and Lloyd Bentsen, D-Texas, and Reps. Robert Roe, D-N.J.; Norman Mineta, D-Calif.; Bud Shuster, R-Pa.; and John Paul Hammerschmidt, R-Ark. - leaned forward to watch and receive, along with Martinez, the pens that the president used in making ISTEA law. Also on the platform are former Secretary of Transportation Samuel K. Skinner, who had just become the president's chief of staff, Acting Secretary James Busey, and master of ceremonies Arnold Oliver, the executive director of the Texas Department of Transportation.



Thomas D. Larson, federal highway administrator.

Richard D. Carlson, executive director of the Federal Highway Administration.

Eugene McCormick, deputy administrator of the Federal Highway Administration.

The leadership of the Federal Highway Administration (FHWA), including Administrator Thomas D. Larson, Deputy Administrator Eugene McCormick, and Executive Director E. Dean Carlson, looks onfrom the crowd, as does Administrator Brian Clymer of the Urban Mass Transportation Administration, which ISTEA renames the Federal Transit Administration.

ISTEA is, the president says, "the most important transportation bill since President Eisenhower started the Interstate System 35 years ago." He tells the cold, wet crowd, "this bill also means investment in America's economic future, for an efficient transportation system is absolutely essential for a productive and efficient economy." He adds, "The future of American transportation begins today."

But the line the media picks up on is a more direct explanation of ISTEA for a nation worried about its economic future: "It's summed up by three words - jobs, jobs, jobs."

Donning a hard hat emblazoned with the words "The President" and an American flag, President Bush tours the construction site, meets with workers, and poses for pictures with them in front of their construction equipment. Then, in his muddy limousine, President Bush heads to nearby Coppell, where he joins Martinez and six other constructionworkers for lunch at Café 121. Finishing his chicken-fried steak, Bush agrees to pick up the $48.10 tab after double-checking his wallet and extracting several twenties. "I'm loaded!," he laughs.

He concludes his morning with a speech at the Dallas-Fort Worth Hyatt East before an ISTEA Implementation Conference of the American Association of State Highway and Transportation Officials (AASHTO) - the reason the White House had scheduled the signing ceremony in Texas instead of Washington as originally planned. Larson, McCormick, Carlson, and Clymer had agreed to brief state transportation officials on the new law.

In 1987, Richard D. Morgan, who was

Introducing President Bush, AASHTO President A. Ray Chamberlain of Colorado assures him that AASHTO members will do everything in their power "to ensure that the benefits of the new law flow to the American people as quickly as possible." The president responds that he had "instructed the Department of Transportation to get the money moving now" and challenges AASHTO members to join in "making sure this money gets to its destination swiftly, gets used wisely, and helps Americans build the foundations for the next American century."

Describing ISTEA as laying the foundation for the most significant revolution in American transportation history, the president concludes his 20-minute remarks by saying, "Today, we act. We start improving our roads and bridges and railways, our equal opportunities to the future. And so, when we look back years from now to this landmark day for America's transportation, we'll be able to say mission defined, mission then the executive director of the Federal Highway Administation, formed a task force to take a strategic look at issues, trends, technologies, and programs that would affect highways in 2005 and in 2020.

accomplished."

Entering a New Era

The Interstate Highway Program launched in 1956 has often been called the greatest public works projects in history. It also has been one of the country's most successful federal programs, more than fulfilling President Dwight D. Eisenhower's prediction that it "would change the face of America."

The Interstate era began with consensus across the spectrum of transportation interests and political shadings about the desirability of building the Interstate System. However, by the end of the 1980s, the Interstate System was 97.5 percent completed, and over the 30 years of accomplishment and controversy, that consensus had disappeared.

Transit had gone from a private industry to a public utility with its own demands for federal funding. The environmental movement, which had not entered the public consciousness in 1956, had created new national commitments that challenged the builders of the Interstate System. State and city officials had conflicting transportation goals. And the federal government's role in transportation had been challenged by President Ronald Reagan, who favored a New Federalism under which activities believed to be state responsibilities under the Constitution would be devolved to the states.

So, when the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) became law on April 2, 1987, it was widely seen in Congress and the transportation community as the last authorization bill of the Interstate era. It authorized $87.6 billion over five years, including $17 billion for Interstate construction, which the conference report said "will provide the states sufficient funds to complete the system."

Anthony R. Kane, director of the FHWA Office of Policy Development in 1987, was selected by Executive Director Morgan to lead the Futures Group task force.

As Sen. Moynihan told the Senate during the STURAA debate, "We are about to enter a new era." Everyone agreed that the post-Interstate era would be established in 1991 when STURAA authorizations ended. The mystery was what would replace it.

In early 1987, FHWA formed a task force known as the Futures Group. The charge from Executive Director Richard D. Morgan was to take a strategic look at the issues, trends, technologies, and program options that would ultimately impact highways in the mid-range future (2005) and the long-range future (2020). This would be, he said, a zero-based review. If the conclusion was that the federal-aid highway program was no longer needed after the completion of the Interstate System, so be it.

Morgan asked Anthony R. Kane, director of the Office of Policy Development, to head the Futures Group initiative. Kane divided senior managers into 19 working groups to prepare papers as input for policy-makers. The Futures Group created 19 unpublished papers on all aspects of surface transportation and the role of government. In November 1988, FHWA published a synthesis of these papers - *America's Challenge for Highway Transportation in the 21st Century: Interim Report of the Future National Highway Program Task Force*. The interim report would turn out to be the final report.

America's Challenge

In many respects, *America's Challenge* is a tentative document. It did not recommend a future surface transportation program. Instead, it considered options and discussed their merits, but it did not choose among them.

To the senior FHWA managers, one thing was certain - the federal government has an important role to play in transportation. The Futures Group concluded that the federal role is justified by four main responsibilities: national defense, interstate commerce, equity, and uniformity and efficiency.

The federal government's responsibility for national defense is not subject to debate, and the role of highways in national defense is also clear. The Department of Defense places a high priority on the Interstate System and the non-Interstate components of the Strategic Highway Network (STRAHNET).

Section 8 of the United States Constitution assigned to Congress the power to "regulate Commerce," and this power had been the primary constitutional basis for the federal-aid highway program. The federal government has a role to play in ensuring the highway network continues to enhance our economy, productivity, and international competitiveness.

WHERE ARE THEY NOW?

Anthony Kane retired from his position as executive director of FHWA in February 2001 and joined AASHTO as director of engineering and technical services.

Developing a national program in a diverse nation poses many problems, not the least of which is that some states are better able to contribute to their own welfare than others. The goal should be fairness to each state while achieving national purposes.

To achieve greater efficiency in transportation investments and meet national objectives such as interstate commerce, national defense, and safety, the federal government must provide a central focus on design and operational uniformity.

The Futures Group also found that some activities, such as research and implementation programs and dissemination of information, can be more economically carried out by the federal government than by each state or local government.

However, while it identified the core federal role and trends affecting transportation, America's Challenge used vague phrases such as "may be appropriate" in presenting the pros and cons of a wide range of options for future directions, financial assistance, operational alternatives, and external program controls. Still, the document made clear that in thinking about the next 20 or so years, fundamental change was needed. America's Challenge identified two themes that would recur throughout the debates leading to ISTEA: the need for a "national highway system" and increasing state and local flexibility and authority.

The federal government is responsible for a "national highway system" that serves federal interests. It consists of the Interstate System and at least a portion of the larger network of which it is a part - the federal-aid primary (FAP) system. Preserving the Interstate System, enhancing the FAP routes of greatest federal interest - about 114,000 miles (183,000 kilometers) out of 260,000 miles (418,000 kilometers) - and maintaining STRAHNET were essential. Some expansion of the capacity of the existing Interstate highways "may be warranted," but America's Challenge barely mentioned increasing Interstate mileage.

Charles L. Miller, then head of the Arizona Department of Transportation, was selected to lead the AASHTO 2020 Consensus Transportation Program.

Restricting the FAP, America's Challenge explained, "would focus federal funds on those highways ... most likely to serve functions that conform to federal involvement criteria. Such a program could provide many of the benefits of a program to expand the Interstate System while avoiding some of the potential problems, such as controversy involving the extent of the mileage to be added." And a restricted program could also allow the states greater flexibility than is available on the Interstate System to establish design standards more suited to their individual needs.

This first point would prove to be especially important in the evolution of ISTEA. America's Challenge mentioned several options for the FAP, such as retaining it, expanding it, or restricting it to principal arterials not included in the Interstate System.

Other elements of the existing programs were of "a much lower federal interest." The Futures Group explored ways of increasing state and local flexibility and authority - an issue that reflected the philosophy of the departing Reagan Administration and would become the touchstone of future debates.

America's Challenge was intended to generate discussion about the future of highway transportation in the United States. It did not endorse the limited FAP, but simply offered it as an alternative for consideration. In looking to legislation in 1991, the report stated a simple goal. "A consensus about what that legislation should contain must be achieved within the next two years. It is hoped that this report will contribute to reaching that consensus."

AASHTO's 2020 Initiative

But where political constraints made FHWA tentative, AASHTO would be bold.

AASHTO had been considering future transportation needs for some years. The pending completion of the Interstate System created "an opportunity ... to make a systematic transition and redefine the federal role in national highway programs." So in June 1984, AASHTO established a Task Force on Future Directions for the Federal-Aid Highway Program, headed by Fred D. Miller, director of the Oregon Department of Transportation.

In addition to visionary work on the federal, state, and local roles, the task force adopted 45 recommendations on April 30, 1985. The task force called for a "System of Highways of National Significance" that would include the Interstate System, FAP, and bridges on all current federal-aid systems - the highways "of truly national importance" - and a block grant program for highways of state and local interest.

The work by Miller's task force led AASHTO to launch the 2020 Consensus Transportation Program. On Feb. 10, 1987, the Policy Committee approved Administrative Resolution 1-87. It authorized AASHTO "to develop and implement a strategy for achieving public and private sector consensus on, and commitment to, a redirected implement a strategy for achieving public and private sector consensus on, and commitment to, a redirected national highway and transportation program that will address transportation needs and federal, state, and local roles well into the 21st century." This multiyear, multiorganizational, multimodal effort, headed by Charles L. Miller of the Arizona Department of Transportation, would include:

- Analysis by transportation professionals from AASHTO member departments, FHWA, the Urban Mass Transportation Administration, and organizations representing local governments and transit agencies.
- An advisory committee to help AASHTO sponsor public outreach through 65 forums nationwide.
- A futures conference in June 1988 under the auspices of the Transportation Research Board (TRB).

Connecting the Reagan Washington National Airport to northern Virginia, southern Maryland, and the District of Columbia via the Washington Metro subway/light rail is an example of intermodal transportation. Airline passengers arriving at or departing from the airport have a convenient transition from one mode of travel to another.

In September 1988, AASHTO released *The Bottom Line: A Summary of Surface Transportation Investment Requirements, 1988-2020*. It documented the need for increased and continuing investment in transportation. A companion volume by the Advisory Committee on Highway Policy, *Beyond Gridlock: The Future of Mobility as the Public Sees It*, documented the views of Americans who participated in 65 public forums.

The task force's main product, *Keeping America Moving: New Transportation Concepts for a New Century*, was released in December 1988 with a modified final edition in October 1989. *Keeping America Moving* covered the full range of transportation modes, as well as research, development, and technology transfer, and it promoted an intermodal approach to transportation - a transportation system in which all modes interact efficiently with one another.

In the context of the pending 1991 reauthorization of STURAA, the sections on highway and public transportation, called "the most important links in the intermodal chain," were most significant. *Keeping America Moving* urged the commitment of funds needed to sustain and enhance these modes - an increase to $26 billion for highways and $5 billion for transit in 1995.

Instead of separating highways and transit, *Keeping America Moving* recommended a two-pronged approach:

- A categorical program for systems of national importance, including a new National Highway System (NHS) consisting of the Interstate System, selected principal arterial roads, and major transit systems.
- A flexible state and local program to address urban mobility, suburban congestion, rural access, and modal links by granting funds for rural and urban highway needs beyond NHS and to states and transit agencies for public transportation.

In these and other recommendations, *Keeping America Moving* fleshed out the concepts of the growing consensus. The key was to focus federal efforts on the programs with the highest level of federal interest, namely NHS, while leaving state and local officials to address other highway and public transportation needs with maximum flexibility.

The Shape of Consensus

On Nov. 11, 1987, AASHTO's efforts led to creation of the Transportation Alternatives Group (TAG) to receive and analyze information gathered during the Transportation 2020 program and to identify alternative national transportation strategies for the future.

In January 1990, after analyzing the data gathered by Miller's task force, AASHTO's public forums, TRB's futures conference, and a two-day workshop in October 1989, TAG released its consensus policy recommendations for a national surface transportation program with the mission "to maintain and improve mobility through the provision of safe, efficient, convenient, cost-effective, and environmentally sensitive transportation. This program should support fundamental national economic, social, and security goals."

Flexibility was a primary feature of TAG's proposals for programs, transportation planning, and project selection. TAG supported the concept of a national highway system with routes to be selected collaboratively by federal, state, and local governments to "serve multiple goals and interests."

Beyond NHS, the program should include substantial simplification and increased flexibility and discretion to allow state, regional, and local governments to more effectively meet specific urban, suburban, and rural transportation needs.

Members of the Transportation Alternatives Group Established by AASHTO

American Association of State

Highway and Transportation Officials

American Automobile Association

American Public Transit

transportation needs.

American Public Transit Association

American Public Works Association

American Trucking Associations Inc.

Highway Users Federation for Safety and Mobility

National Association of Counties

National Association of Regional Councils

National Conference of State Legislators

National Governors' Association

National League of Cities

U.S. Conference of Mayors

Chair, Thomas W. Bradshaw Jr.

Exec. Dir., Stephen Lockwood

TAG endorsed increasing system productivity, providing incentives to increase use of public transportation and other forms of shared ride services, and developing strategies to improve air quality. TAG also promoted a scenic byway system, state-of-the-art high-speed intercity rail service in high-density corridors, and research into a new generation of vehicle and "guideway" technology.

On funding, TAG called on the federal government to "renew its commitment to a strong transportation program in support of the nation's economic health and prosperity." It supported the continuation of the Highway Trust Fund. In one of the more difficult decisions for the diverse membership of TAG, it recommended that federal-aid highway funds should continue to be allocated to the states, thereby rejecting calls from cities for direct allocation for the first time since the federal-aid highway program was authorized in 1916.

Now it was up to the administration and Congress to create legislation for the post-Interstate era.

PART II

Toward a National Transportation Policy

When President Bush took office in January 1989, he de-emphasized the New Federalism concepts that had marked the Reagan administration's approach to transportation. His new secretary of transportation, Samuel K. Skinner, would confront the post-Interstate era head-on.

On March 8, 1990, President Bush and Secretary of Transportation Samuel K. Skinner Introduce *Moving America: New Directions, New Opportunities,* which explained the new national transportation policy.

Shortly after taking office in 1989, Skinner launched a long-term initiative to develop a National Transportation Policy (NTP) based on a complete assessment of the U.S. transportation system and transportation needs through the year 2050.

To head the initiative, Skinner selected Deputy Secretary Elaine Chao and Federal Highway Administrator Thomas D. Larson. Larson tapped Anthony R. Kane, now FHWA's associate administrator for engineering and program development, to be director of the NTP team.

The NTP team reviewed attempts by previous transportation secretaries to develop a national transportation policy. Unlike those efforts, which typically came as the secretary was leaving office, Skinner's plan would come early in his term while he had time to implement it. Also in contrast with the earlier plans, the NTP team would conduct an extensive public outreach, including more than 30 public hearings around the country. By the time the NTP team released its report in March 1990, the members had the benefit of the Futures Group reports and proposals by AASHTO, TAG, and other groups interested in transportation.

Even as NTP was getting underway, FHWA concluded its Futures Group initiative by announcing its ideas to AASHTO's Policy Committee in July 1989. They included a major consolidation of categories. The System of Highways of National Significance would include the Interstate System, selected principal arterial highways, and STRAHNET. The federal share of costs would vary - 90 percent for Interstate 3R work (resurfacing, restoration, and rehabilitation), 60 percent for construction of new facilities and improvement of NHS routes, and 50 percent for new toll road construction.

All roads not in NHS - except local roads - would be eligible under a Rural and Urban Block Grant with a federal matching share of 50 percent. Transit programs might be eligible as well. FHWA proposed to eliminate many federal requirements on such projects, including project approval, agreements and inspections, sanctions, and maintenance requirements. Other elements of the programs included a high-cost discretionary bridge program, federal lands funds, and an expanded research initiative.

Other groups, including the Highway Users Federation for Safety and Mobility and the American Road and Transportation Builders Association, also made proposals.

Unveiling the National Transportation Policy

In a ceremony at the Old Executive Office Building on March 8, 1990, President Bush and Secretary Skinner released Moving America: New Directions, New Opportunities, which explained the new national transportation policy. Moving America called for a shift in focus "from building the nation's basic transportation system to adapting and modernizing transportation facilities and services to support economic growth, meet the competitive demands of the international marketplace, contribute to our national security, and improve the quality of life for all Americans."

NTP presented 169 guidelines and 65 legislative, regulatory, budget, and program initiatives. The directions for future transportation policy were summarized under six major themes:

- Maintain and expand the nation's transportation system.
- Foster a sound financial base for transportation.
- Keep the transportation industry strong and competitive.
- Ensure that the transportation system supports public safety and national security.
- Protect the environment and quality of life.
- Advance U.S. transportation technology and expertise.

The emphasis was on preserving our infrastructure and managing it better, providing a "level playing field" for officials trying to decide between highway and transit options, enhancing operations through management systems and operational and technological advances, and implementing transportation demand management and pricing strategies to address congestion by diverting motorists to other modes. NTP also emphasized using incentives to increase private sector involvement in the funding of infrastructure improvements, providing intermodal and rural connections, and ensuring that new capacity is provided in transportation systems of national significance.

Although NTP did not propose or directly comment on NHS, one of NTP's strategies for action was to focus on systems and projects of national significance. For other purposes, transportation programs should move from categorical grants to broader, more flexible federal assistance while eliminating rigid standards and requirements. Recipients of federal aid should pay more of the cost, while state and local governments should also increase flexibility in their use of resources across modal choices. The role of metropolitan planning organizations should be strengthened.

For highways, Moving America's strategies for action included providing incentives to preserve highways and requiring the use of sound infrastructure management programs as a condition of aid. The state and local shares would be increased. Other strategies involved improving highway and motor carrier safety and adding resources for research and development.

For transit, Moving America called for restructuring mass transportation programs to reduce reliance on general fund revenues, eliminating barriers to private sector participation in mass transportation systems, and reducing federal operating assistance for urban transit.

While Moving America made a strong commitment to financing the federal role in transportation by spending transportation trust fund balances over time in a fiscally responsible way, it also sought to foster state and local funding initiatives. Aside from proposing to increase state and local matching shares, Moving America favored relaxation of federal restrictions on the ability of state and local governments to raise funds - for example, through tolls. State and local governments would be encouraged to make use of innovative financing options, such as joint public-private initiatives and benefit assessments on property owners. The private sector was seen as a vast untapped resource that must be stimulated to invest in transportation as well.

Beyond program issues, Moving America made a strong commitment to protect the environment and quality of life. The issue was stated bluntly: "Many aspects of transportation have adverse effects on the environment." Across the spectrum of modal activities, the U.S. Department of Transportation must minimize the negative effects. Suggested measures included

WHERE ARE THEY NOW?

Elaine Chao, former deputy secretary of transportation, was president and CEO of the United Way of America and a distinguished fellow

The National Transportation Policy Team U.S. Department of Transportation

Anthony R. Kane, director, National Transportation Policy Team, and Federal Highway Administration associate administrator for right-of-way and environment

Patrick Murphy, deputy assistant secretary for policy and international affairs

Galen Reser, assistant secretary for governmental affairs

David Prosperi, assistant secretary for public affairs

Dale McDaniel, Federal Aviation Administration acting associate administrator for policy

Bill Watt, Federal Railroad Administration associate administrator for policy

Arnold Levine, director, Office of the Secretary, Office of International Transportation

John Cline, Urban Mass Transportation Administration associate administrator for budget and policy

Joe Rhodes, FHWA director of policy development

Mark Dowis, Research and Special Programs Administration executive assistant to the administrator effects. Suggested measures included supporting the updating of the Clean Air Act of 1970 (CAA); encouraging the development of transportation facilities that fit harmoniously into communities and the natural environment; preserving scenic and historic sites; developing cleaner, more efficient motor vehicle systems as well as a new generation of transportation for high-density intercity travel; and extending access and mobility improvements to all Americans.

and a distinguished fellow at The Heritage Foundation before being nominated by President George W. Bush to become the secretary of labor. The Senate confirmed her for the post on Jan. 29, 2001.

During the ceremony introducing Moving America, President Bush referred to it as "our blueprint ... for this new world." Most of all, he said, it was "a strategy to unleash the creative genius of American technology." He called on the private sector to join federal, state, and local officials in the effort to improve transportation.

"Such a partnership has already built a transportation system that is the envy of the world. And if we work together in this joint venture, America can continue to be the world leader in transportation," the president said.

Reaction to Moving America

Moving America was a challenging document that addressed many complex issues, and the NTP team under Chao, Larson, and Kane wanted their efforts to be judged on the basis of the policy principles. These elements of the plan were received positively. AASHTO President Kermit Justice of Delaware applauded President Bush and Secretary Skinner "for this important initiative." He agreed with the document's emphasis on such policies as a balanced and safe transportation system and greater flexibility in the use of federal funds. *The Wall Street Journal* praised the plan for making U.S. transportation policy "more local, more private, and less regulated." And there was general agreement that *Moving America* addressed vital issues in a comprehensive way.

However, the focus of the reaction was on the funding elements of the proposal, particularly the idea that the states should contribute more in the form of higher matching shares. In the same statement in which he praised the initiative, Justice noted that "the road to a sound transportation future cannot be paved with good intentions. It will also take dollars." He rejected any notion that the states weren't doing their share, and he said that AASHTO would work with the Bush administration and Congress "to ensure that the needed investment is made at all levels."

This is the cover of *Moving America*

As Justice's statement on behalf of AASHTO suggested, reaction within the transportation community depended on how each interest was treated. While the International Bridge, Tunnel, and Turnpike Association, a national advocate for toll financing, described *Moving America* as "an excellent and forthright document," the American Trucking Associations and the Highway Users Federation for Safety and Mobility objected to the increased reliance on toll roads. The American Public Transportation Association (APTA) thought that the new policy was "long on advice and short on help." According to APTA, *Moving America* would decrease federal support for mass transit, put people out of work, and make it impossible for others to get to their jobs.

As for the media, some issues are more easily explained to readers than others. On the day after the ceremony and in the weeks ahead, the focus was on money. The headline in the *Chicago Tribune* on March 9 — "Plan Shifts More Costs to Users, States" — focused on the one point that everyone took from *Moving America*.

Reaction in Congress, where both houses were controlled by the Democrats, was equally unenthusiastic. Rep. Mineta, chairman of the House Public Works Subcommittee on Surface Transportation, said that NTP gives states "the shift and the shaft." Sen. Bentsen, chairman of the Senate Finance Committee, said the policy "sounds like they're trying to pour five pounds of sugar in a two-pound sack." Sen. John W. Warner, R-Va., a member of the Committee on Environment and Public Works, acknowledged that in the "push-pull" between the federal and state governments, "Congress is going to have to sit and referee that battle."

Editorial cartoonists across the country had a field day.

Auth, the editorial cartoonist for *The Philadelphia Inquirer*, epitomized NTP in a two-panel cartoon. In the first panel, a smiling President Bush says, "I have a vision! I see a clean environment! I see well-educated citizens! I see a transportation system the envy of the world!!" In the second panel, he looks over a group of street beggars labeled "states," "cities," and "burbs," and exclaims, "I also see you fellas paying for it."

On March 16, *The Washington Post's* Herblock summarized NTP in one panel. A dump truck carrying loads with

On March 16, *The Washington Post's* Herblock summarized NTP in one panel. A dump truck carrying loads with such labels as "$ for New Missiles Aimed at Poland" and "$ for Star Wars" is on a crumbling Interstate highway bridge. The caption reads, "I hope the states hurry up and fix these roads for us."

In *The Kansas City Star*, Schorr depicted the "Bush Infrastructure Plan" in a sketch of the Brooklyn Bridge with a sign that says, "For Sale."

The reaction was summed up by Associated Press, which quoted an unnamed critic who described NTP as "all flash and no cash."

The Clean Air Act Amendments

One of the most important events in the history of ISTEA occurred on Nov. 15, 1990. On that day, President Bush signed the Clean Air Act Amendments of 1990 (CAAA). Although CAAA, like all bills, was a collaboration, it was chiefly the product of the Senate Committee on Environment and Public Works and especially Sen. Moynihan, chairman of the Water Resources, Transportation, and Infrastructure Subcommittee.

CAAA established criteria for attaining and maintaining National Ambient Air Quality Standards (NAAQS) developed by the U.S. Environmental Protection Agency (EPA). Transportation plans, programs, and projects must conform with a "State Implementation Plan" for attaining the NAAQS. Areas that had not attained the NAAQS must act within a set time frame to reduce emissions. EPA was given the authority to impose sanctions, including the loss of federal-aid highway funds, to force compliance with requirements to attain the NAAQS.

CAAA established strong requirements, but it provided no funds to state and local governments to help them comply. Moreover, CAAA reflected the growing sentiment that the automobile was at the center of the air quality problem as well as many other problems.

This new law, which placed surface transportation at the center of the fight for cleaner air, was a landmark product of the same committee that would develop ISTEA. The committee, and especially Moynihan, would see ISTEA as an opportunity to provide the funds and flexibility that were lacking in CAAA. Moynihan had long believed that the Interstate System had "destroyed our urban society," and now he was in a position to do something about it.

NTP Becomes STAA

On Feb. 13, 1991, President Bush unveiled the Surface Transportation Assistance Act of 1991 (STAA) in a White House press conference. It was the main legislative product of NTP.

The president said, "It's time to take the first step on the long road that lies ahead, and the status quo will simply not get us there." He emphasized the increased funding in the bill - highway investment up 39 percent to $20 billion by 1996, capital investment in transit up 25 percent, plus a 14 percent increase in funding for highway safety programs.

The proposed Surface Transportation Assistance Act of 1991 permitted the use of the funds for transit capital costs and capital projects to improve intercity bus service.

Before completing STAA, Secretary Skinner had to clear it through the Office of Management and Budget (OMB), which shaped its content, particularly with regard to revenue issues. This was a sensitive issue for the White House. On Aug. 18, 1988, while accepting the presidential nomination of the Republican Party, Bush had emphasized his determination to resist all pressure to raise federal taxes with a vivid phrase concocted by speechwriter Peggy Noonan in the spirit of tough-guy actor Clint Eastwood: "Read my lips - no new taxes." Since October 1990, when he reached a budget accord with Congress that included a tax increase as a way of reducing the deficit, he had been battered politically for breaking his "no new taxes" pledge. His decision on the budget may have been statesman-like, but it eroded his support and credibility within the Republican Party and had not yet had any discernible impact on the deficit or the economy.

The accord was embodied in the Omnibus Budget Reconciliation Act of 1990, approved by President Bush on Nov. 6, 1990. It included a 5 cents per gallon gas tax increase that would expire on Oct. 30, 1995.

Of the 5-cent increase, 2.5 cents went to budget reduction, and the other 2.5 cents went to the Highway Trust Fund.

With the president still feeling the sting from his own political party for violating the pledge that he made at the convention, OMB was not about to see any more tax increases, whether disguised as user fees or investments.

STAA, which proposed authorization of $105.4 billion over five years, would support this funding level by extending the Highway Trust Fund and the taxes supporting it through FY1998. However, the 5 cents per gallon gas tax increase enacted as part of the October 1990 budget accord would not be extended beyond its current expiration date of Oct. 30, 1995. The tax would be reduced from 14.1 cents per gallon to 9.1 cents. Obligation limits would continue on the federal-aid highway program through the life of STAA.

The centerpiece of the proposal was NHS, the concept that had emerged from the FHWA Futures Group and AASHTO's Transportation 2020 initiatives. Federal investment would be focused on maintaining and improving a national highway system that would serve interstate and interregional transportation. State and local officials would be consulted on which arterial roads would be included in addition to the Interstate System and STRAHNET; however, their selection was subject to approval by the secretary of transportation. Projects on the Interstate System would retain a federal share of 90 percent, but for other NHS projects, the federal share would be 75 percent.

A second key component of STAA, the Urban/Rural Program, reflected the call from all parties for increased flexibility on programs of lesser federal interest. The program would replace the federal-aid primary, secondary, and urban systems that had evolved since creation of the Federal-Aid Highway Program in 1916. Any public road - except those on NHS and those functionally classified as rural minor collectors or local roads - would be eligible. Traditional road improvements would be eligible, but officials would have the option of using the funds for transit capital costs and capital projects to improve intercity and rural bus service. Similarly, transit formula funds could be used for highways. The federal share would be 60 percent across the board to provide a new "level playing field" for modal choices.

To attract private investment, the proposal also would eliminate longstanding restrictions on the use of federal-aid funds for toll roads. Federal-aid highway funds would be available to improve existing toll facilities, construct new toll facilities, and convert existing non-Interstate toll-free facilities to toll facilities. In an important departure from existing statute, the new toll facilities would not have to end toll collection when initial construction costs were recovered as long as excess revenue was used for other highway or transit projects. The maximum federal share for such projects would be 35 percent. Toll-free segments of the Interstate System were exempt from conversion.

Another state/local revenue option was "congestion pricing." STAA called for demonstration projects under which rush-hour fees would be imposed on drivers in cities with serious air quality problems. The goal was to motivate peak period drivers to car pool, use transit, or shift to less congested times. The fees could be collected through higher parking prices or, as suggested by the International Bridge, Tunnel, and Turnpike Association, by electronic toll metering. Tolls could be imposed on Interstate highways as part of a congestion pricing demonstration project.

Transportation planning would be strengthened. All urbanized areas must have a metropolitan planning organization (MPO) and produce a transportation improvement program of all projects to be funded under NHS, the Urban/Rural Program, and the expanded Bridge Program. In areas with a population greater than 200,000, the transportation improvement program must be developed through a new technical process emphasizing multimodal consideration, coordination with land-use planning, and mitigation of transportation-related air quality problems. STAA called for congestion management systems as well as cooperation with the states in developing pavement management, bridge management, and safety management systems. Projects to increase the vehicle-carrying capacity of a transportation corridor could not be approved unless they were consistent with the congestion management system.

Flexibility under the Urban/Rural Program was a key component of STAA's transit proposals. Since the early 1970s, transit advocates had achieved increased access to highway user revenues, with the greatest previous success occurring when the STAA of 1982 had increased the gas tax by 5 cents per gallon, of which 1 cent was credited to a new Transit Account in the Highway Trust Fund to finance capital expenditures. In addition to the $16.3 billion included in the new STAA proposal for mass transit, a major portion of the highway funds in STAA could be transferred to transit projects (and vice versa, although officials expected transfers to favor transit).

This was a major change. Coupled with the new multimodal planning requirements and the equal matching shares, the new flexibility would allow state and local officials to decide the most effective transportation projects for each area, rather than have their choices driven by the larger amounts and lower state/local matching shares for highway projects.

STAA increased the Urban Mass Transportation Administration's (UMTA's) formula distribution to cover 80 percent of funding (up from 52 percent) and to extend funds to a larger number of cities. However, the funds would be restricted to capital needs instead of operating expenses in areas with a population of more than 1 million. Funding for "New Start" fixed guideway systems would continue at increasing levels, but only for new systems that are cost-effective and supported by a significant source of local funding.

Right-of-way on NHS could be made available without charge to a publicly or privately owned mass transportation authority for rail systems, including high-speed and maglev (magnetic levitation) facilities.

Under STAA, UMTA would also gain a new name - the Mass Transportation Administration. This proposal recognized the agency's growing role in providing service in rural as well as urban areas.

Environmental initiatives, including provisions addressing the new CAAA requirements, were an important element of STAA. Aside from the planning requirements, STAA proposed eligibility for traffic management and control, a higher federal share for demand management strategies for the Interstate System (90 percent instead of 75 percent), and 100 percent funding for bicycle and pedestrian projects. Areas having difficulty meeting the NAAQS would be permitted to experiment with congestion-pricing strategies that could make alternative work schedules, public transportation, ride-sharing, and other demand management strategies more appealing.

STAA also called for delegation of project reviews under the National Environmental Policy Act (NEPA) so that FHWA would yield its primary role in approvals upon submission by a state of an annual certification describing the procedures that would ensure full compliance. Future payments to the state would be withheld if a recipient failed to comply substantially. Furthermore, states could develop NHS and bridge projects costing less than $1 million without federal oversight upon certification that the projects would be developed as were other projects involving federal oversight.

STAA also recommended reauthorization of FHWA's safety grant program and the National Highway Traffic Safety Administration's (NHTSA's) highway safety, motor vehicle, and consumer protection programs. However, in keeping with the NTP principle that transportation programs should be supported by those who benefit from them, STAA proposed funding all NHTSA programs from the Highway Trust Fund. STAA also proposed increased funding for truck safety inspections to improve efficiency and effectiveness, but it prohibited the states from interfering with the non-safety-related business operations of interstate motor carriers.

At the White House on Feb. 13, Secretary Skinner called STAA "a good bill - one that is balanced, comprehensive, and tailored to the unique needs of a growing America." He considered it "a new vision for the 21st century," and it was, indeed, revolutionary. Still, the program details were in many respects consistent with the concepts that emerged from the Futures Group, TAG, and other efforts to shape the post-Interstate future. Although the bill was consistent with the NTP principles, it was received more favorably within the transportation community than the more comprehensive NTP had been a year earlier. Still, the reception was mixed, with the bottom-line funding aspects causing the most problems.

Highway Robbery

An editorial in *The Washington Post* complimented the Bush administration for "some sensible thinking about ... the necessity of setting highway and transit priorities as America's great age of the Interstate Highway System winds down."

AASHTO President Hal Rives, commissioner of the Georgia Department of Transportation, praised the proposal for recognizing "the urgency of our national transportation needs." On a scale of 1 to 10, he gave the STAA a 6. "The concept is good. It streamlines the entire program," he said.

The increased funding for highways was praised, as was the NHS concept. Kirk Fordice, president of the Associated General Contractors of America, congratulated President Bush "for making surface transportation a top national priority and for highlighting the important role that it plays in our nation's economy."

Nevertheless, the reaction overwhelmingly focused on the bottom line. Commentators were quick to link the funding aspect of the plan to the president's political difficulties since reaching the budget accord with Congress in October 1990.

Despite the editorial praise in *The Washington Post*, the headline on its feature article read: "Highway Plans Shift Costs to States." Nationally, many headlines shared a theme with *The Oregonian*, which headlined its STAA article: "Bush Plan Bad News for Oregon." An editorial in *The Tampa Tribune* echoed the theme: "Florida Must Act to Stop Washington's Highway Robbery."

The Washington Times urged opposition to STAA "before we're all herded into HOV [high-occupancy-vehicle express] lanes like the sheep who run this city." According to the Times, the big winners in the proposal ranged from "bureaucrats from city and county transit authorities to federal highway administrators."

AASHTO's Rives described the funding as "clearly inadequate to meet our national transportation needs, and what money is there is not fairly distributed."

The American Road and Transportation Builders Association agreed that STAA was "a good start for dialogue," but said "it falls way short of providing the level of funding that is necessary to meet America's highway and bridge needs."

The National Governors Association praised many aspects of the plan. "Unfortunately," said Gov. Wallace

The National Governors Association praised many aspects of the plan. "Unfortunately," said Gov. Wallace Wilkinson of Kentucky, "it also shifts added costs to states" that were already paying "the lion's share of surface transportation costs."

As chairman of the Senate Committee on Environment and Public Works, Sen. Quentin Burdick, D-N.D., had a great deal of influence on highway-related legislation.

Sen. Frank Lautenberg, D-N.J., was chairman of the Senate Appropriations Committee's Subcommittee on Transportation and Related Agencies.

Sen. Daniel Patrick Moynihan, D-N.Y., was a primary player in the development of ISTEA.

Transit interests were particularly concerned about funding. The American Public Transportation Association said STAA "truly lacks balance in terms of the total transportation system." It added the ultimate insult from a transit perspective: "It's really a highway bill." Congressman William Lipinski, D-Ill., who represented a Chicago district, said the STAA was "totally unacceptable to the mass transit community." Executive Director Mortimer L. Downey of New York City's Metropolitan Transportation Authority said the loss of operating subsidies sent a "bad message for urban America." In a New York Post article with the headline "Subway Fare Could Soar to $1.75," Downey was quoted as saying, "This is the federal government — vintage 1950s —build more roads, guzzle more gas."

In response to concerns about transit funding, UMTA Administrator Clymer joined FHWA Administrator Larson in a letter to The Washington Post that explained the proposal:

"Critics charge that in dedicating funds for the NHS, the administration has ignored the important role transit plays in surface transportation. Transit does play a key role; under the administration's proposal, more than $28 billion —about one —third of the funds that would be authorized for highways and bridges —could be used for transit, if state and local transportation officials so choose.

"The administration's plan proposes a series of funding formulas that are fair to the subway rider in New York and the farmer in Idaho."

Although congressional reaction was not all negative, many members of Congress did not accept the view that the funding formulas were fair to all.

Sen. Quentin Burdick, D-N.D., chairman of the Committee on Environment and Public Works, was concerned the proposal was "unfairly weighted against North Dakota and other rural states." He was particularly concerned about the 75-percent federal matching share for NHS, a concept that implied rural roads (matching share: 60 percent) were less important.

WHERE ARE THEY NOW?

Quentin N. Burdick, who was chairman of the Senate Committee on Environment and Public Works, passed away on Sept. 8, 1992, of a heart condition. He served 32 years in the Senate.

Sen. Frank Lautenberg, D-N.J., chairman of the Appropriations Committee's Subcommittee on Transportation and Related Agencies, said, "This bill is not a plan for the future," and indicated he would ensure "the federal government pulls its own weight."

Sen. Moynihan, whose subcommittee would consider STAA, objected to "the proposal's manifest discrimination against New York." He called it "an energy policy rather than a transportation policy" because 70 percent of the NHS apportionments would be based on fuel consumption, thus encouraging states to support driving instead of transit and other alternatives that would cost them federal dollars. The NHS proposal "appears to anticipate more lanes and yet more lanes and little else."

Rep. Roe, chairman of the Committee on Public Works and Transportation, praised many elements of STAA, such as its intermodal basis, but he was concerned that "in some cases, they are masking reduced funding with philosophy and rhetoric." He also wanted to reduce the balance growing in the Highway Trust Fund. "Let's invest the money in highways and transit and stop fooling the American people."

Rep. Mineta, chairman of the Surface Transportation Subcommittee, objected to STAA for "critical shortsightedness" in funding. He said that he would strongly support state and local flexibility "without stripping away federal funding today or making it needlessly tougher to get federal funding tomorrow."

The administration could appreciate the fact that the broad outlines of STAA were widely accepted, especially the focus on the NHS and the flexibility for other programs. Still, at best, the reception had been, as AASHTO put it, "cautious" on Capitol Hill. The fate of the proposal was uncertain.

Environmentalists Coalesce in Opposition

Pro-environment, pro-transit advocates had long opposed highway development and the way it had transformed the country, especially the urban areas. They had been influential, especially in affecting federal legislation and individual project decisions. However, passage of CAAA and the pending post-Interstate reauthorization gave them renewed incentive to seek ways to increase their influence at this critical time in surface transportation history.

The opportunity was seized the same week that Congress completed work on CAAA. The Environmental and Energy Study Institute convened a meeting on Oct. 26, 1990, to "put all these quality of life issues on an equal footing with those of the traditional transportation lobby." An umbrella coalition called the Surface Transportation Policy Project (STPP) emerged from this meeting.

STPP consisted of organizations, coalitions, and grassroots groups that supported a comprehensive transportation policy that "serves environmental, social, and economic interests." STPP members felt that as a united group, hosted by the National Trust for Historic Preservation, they would have more influence with Congress than they would have individually.

Rep. Robert Roe, D-N.J., as chairman of the House Committee on Public Works and Transportation, was very influential in the development of highway bills.

STPP explained its mission: "STPP's primary objective is to ensure that federal support for transportation promotes clear national mandates for environmental quality, a strong economy, energy and resource conservation, and enhances the quality of life in neighborhoods and communities."

Unlike TAG, which included diverse groups with sometimes conflicting agendas, STPP was unified in its goals, thus increasing its ability to advocate strong, even radical positions. Because STPP was formed late in the development of post-Interstate transportation policy, it would not release its proposals until President Bush and Secretary Skinner had unveiled STAA. Despite this late arrival on the scene, STPP would be influential in the public debates of 1991 and behind the scenes. They found Sen. Moynihan and his top aide, Roy W. Kienitz, supportive of STPP's goals. Kienitz, who was Moynihan's link to STPP, would join the umbrella group in 1996 and become its executive director in 1998.

On the same day that the president released STAA, representatives of STPP denounced it. Project director Sarah Campbell called it "so highway-oriented" and "short on provisions that would advance the national goals of energy conservation, air quality, efficient movement of people and goods, and a sound economy."

Rep. Norman Mineta, D-Calif., chairman of the House Surface Transportation Subcommittee, strongly supported increasing the flexibility of state and local authorities to determine the most appropriate way to spend federal surface transportation money.

Louis J. Gambaccini, general manager of the Southeast Pennsylvania Transportation Authority, said, "It's time to focus our transportation on the safe and efficient movement of people, not just of vehicles."

Wayne Muri, chief highway engineer in Missouri, expressed his concern that increased federal gas taxes would require the states to increase their funding for matching shares while simultaneously restricting the states' means to raise funds.

This initial reaction was followed on April 9 by STPP's surface transportation proposal, *Acting in the National Interest: The Transportation Agenda*. In explaining STPP's proposal, Louis J. Gambaccini, general manager of the Southeast Pennsylvania Transportation Authority, said, "Many of our problems — rising congestion and air pollution, increasing dependence on foreign oil, decaying communities, and a stagnating economy —are the direct result of government policies favoring the car. It is time to focus our transportation on the safe and efficient movement of people, not just of vehicles."

WHERE ARE THEY NOW?

Robert A. Roe announced in March 1992 that he would not seek reelection, indicating he wanted to pursue other interests. He remains involved in New Jersey transportation issues.

In announcing its proposals, STPP highlighted increased funding to preserve Interstate highways ($14.2 billion over five years), highway bridges ($12.2 billion), and transit systems ($26.2 billion). Unlike the STAA proposal, STPP called for uniform federal shares across the spectrum of options. New development for all modes would be funded at a federal share of 75 percent, while the share would be 90 percent for preservation and management of existing systems for non-capital projects that promote national interests such as clean air and energy efficiency. The funding increase for transit would help implement national mandates, in particular CAAA and the Americans with Disabilities Act (signed by President Bush on July 26, 1990). Funding for transit operating assistance would be retained.

STPP separated its urban and rural proposals. A Metropolitan Mobility Program ($34.5 billion) would give local officials full flexibility to invest in all modes and for all types of projects, including the development of additional capacity. The Rural Access Program ($15.5 billion) would have the same flexibility and eligibility requirements.

Acting in the National Interest also proposed a multimodal long-range state transportation plan and a shorter range transportation improvement program that includes strategies to achieve specific objectives, such as relieving urban congestion, attaining CAAA requirements, avoiding effects on water quality and aquatic resources, promoting energy conservation, and providing needed transit and road facilities in rural areas. The state transportation departments would be required to establish reasonable mechanisms for public involvement in the planning process. They also must coordinate with state agencies concerned with environmental, energy, planning, and CAAA issues and with rural organizations. The planning would cover all transportation systems, including federal and non-federal systems and highway and non-highway transportation.

Metropolitan transportation planning would be altered. *Acting in the National Interest* proposed increased funding for MPOs, each of which must prepare a long-range transportation plan covering all transportation systems, reflecting state and local land-use plans, and demonstrating consistency with objectives in the state plan. For MPOs serving areas of more than 200,000 in population, officials must also prepare an annual transportation

Original Steering Committee of the Surface Transportation Policy Project, October 1990

America's Coalition for Transit Now!

American Institute of Architects

American Planning Association

Bicycle Federation of America

Campaign for New Transportation Priorities

Center for Neighborhood Technology

Energy Conservation Coalition

Environmental and Energy Study Institute

Environmental Consortium for Minority Outreach

Environmental Defense Fund

Friends of the Earth

National Association of Regional Councils population, officials must also prepare an annual transportation improvement program, which could include only projects that have realistic funding sources.

STPP opposed delegation of NEPA responsibility. Although supportive of reducing unnecessary paperwork and delays, STPP considered the proposed delegation in STAA "too broad and poorly defined." *Acting in the National Interest* called for involvement of key transportation and environmental interest groups in defining the problem. The deliberations should consider design standards, "which have their own environmental and economic consequences," as well as environmental laws and regulations.

National Growth Management Leadership Project

National Trust for Historic Preservation

National Wildlife Federation

Rails-to-Trails Conservancy

Scenic America

Surdina Foundation Inc.

In some ways, *Acting in the National Interest* took concepts that FHWA's Futures Group, TAG, NTP, and STAA had advocated, and it pushed them to the next level. It was the difference between seeing transportation as a goal and seeing transportation as a means to other goals. As *Acting in the National Interest* put it, "It is now time to help ourselves by setting goals that both strengthen our economy and lessen the burden that surface transportation is placing on our communities, environment, and national security.

A Challenge From the President

Since Aug. 2, 1990, when Iraq invaded Kuwait, President Bush had led a worldwide coalition under the United Nations (U.N.) aimed at forcing Iraq back within its borders. On Feb. 24, 1991, after months of regional hostilities, American and U.N. forces under Gen. H. Norman Schwarzkopf launched a ground assault on Iraqi forces. The assault ended with a swift, decisive victory on Feb. 28 when Iraq surrendered. Operation Desert Storm was over.

Less than a week later, on March 6, President Bush addressed a joint session of Congress on the cessation of the Persian Gulf Conflict. "Tonight, we meet in a world blessed by the promise of peace," he said.

Near the conclusion of the speech, the president said that with the war ended, "Our first priority is to get this economy rolling again ... [and] enact the legislation that is key to building a better America." He challenged Congress on two bills that "we should be able to agree on quickly: transportation and crime."

"If our forces could win the ground war in 100 hours, then surely the Congress can pass this legislation in 100 days. Let that be a promise we make tonight to the American people," said the president.

His target date was June 14, 1991, and Congress appeared determined to meet that goal although not necessarily to pass all provisions of STAA. By the time Sen. Burdick began his committee's hearings on March 5, Secretary Skinner admitted that, "We do not believe this bill is anywhere close to its final form."

His recognition of political reality was confirmed by a statement released by Sen. Moynihan that day. "We have a once-in-a-generation opportunity to redefine federal transportation policy," Moynihan said. Although he questioned STAA's funding levels and use of fuel consumption as a factor in apportionment formulas, he had a broader concern: "An absolutely central point we must face is that no amount of new highways will relieve congestion. As long as there is open road to drive on, people will use their cars. Once you own one, driving a modern high-mileage car is essentially a free activity."

Noting that 57 percent of Interstate construction funds had been spent in urban areas, he said: "Almost without exception, these behemoths have simply choked the inner city they surround. The problems of urban areas — congestion, air pollution, sprawl, and general disrepair — are national problems. These are the failure in highway policy that most people see every day."

WHERE ARE THEY NOW?

Daniel Patrick Moynihan retired at the end of the 106th Congress in 2000. He remains active in public issues. He is co-chair of President George W. Bush's 16-member Commission to Strengthen Social Security, a subject of longstanding interest to the former senator.

Integrated planning must be another principle in the new legislation, he said. Because integrated planning was not part of the Interstate program at the start, "we have damaged neighborhoods and closed-off urban waterfronts to show for it."

His statement concluded: "More than any other thing, I fear that we will have learned nothing from the past. We must not end up with more of what Professor Kain [Prof. John Kain, chairman of the Department of Economics at Harvard University] has called a 'mindless, massive' program of highway construction."

Moynihan was not jumping on any bandwagon; he was expressing a long-held perspective. Thirty-one years earlier, in 1960, he had written an article for The Reporter magazine called "New Roads and Urban Chaos" in which he criticized the Interstate Highway Program, especially for its damaging effect on the American city. It "seemed lunatic," he wrote, to undertake such a vast program with no thought for other forms of transportation or for metropolitan planning. "Almost any effort to think a bit about what we are doing would help."

And the damage wasn't limited to the cities, Moynihan said in his 1960 article. Government "can no longer ignore what is happening as the suburbs eat endlessly into the countryside."

Moving Away From STAA

As the hearings in the House and Senate continued, STAA hit a "pothole of criticism," as the *Marin Independent Journal* put it in a March 7 headline.

"While Eisenhower looked forward, Bush looks backward" to policies that would increase reliance on foreign oil, complained Rep. Lipinski. Mass transit increases were essential, he said, "based on where most Americans now live and work."

Commissioner Thomas Downs of the New Jersey Department of Transportation supported increased transit funding. Even after years of highway investment, "our highways are more congested, our air more polluted and our dependence on foreign oil greater than ever," Downs said.

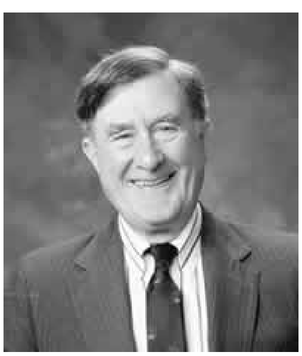
The establishment of a National Scenic and Historic Highway Program, which was first included in the earlier bill proposals, survived to be included in ISTEA. This photo shows part of the San Juan Skyway in Colorado.

Chairman Roe offered one of the sharpest criticisms, calling the administration's transit proposals "fraudulent." Shifting costs from the federal government to state and local governments was "a piece of sleight of hand [like] the old pea under the net scheme."

Many states were concerned that increased federal funding would require increased state funding for matching shares. Missouri's governor, John Ashcroft, and chief engineer, Wayne Muri, expressed similar concerns, especially if federal gasoline taxes jumped, thus limiting state taxing options.

"If the federal government requires more state funds and then takes away the method of raising those funds, we would be left holding the bag," Muri said.

The $11 billion balance in the Highway Trust Fund was a particular target during the hearings. The balance was partly a product of the reimbursement nature of the federal-aid highway program, under which funds are committed ("obligated") to projects but remain in the account until state expenditures are reimbursed during multiyear construction periods. The balance was needed to meet these commitments as they came due. However, the balance was widely perceived as a product of budget trickery in the form of annual obligation limitations that reduced expenditures below authorized levels to make the federal deficit look smaller.



Sen. John Chafee, R-R.I., proposed the Visual Pollution Control Act of 1990

In calling for higher funding levels, the House Public Works and Transportation Committee stated that 100 percent of the higher levels for highways and 67 percent of higher transit funding levels could be supported by current highway user tax revenues. Rep. Hammerschmidt, the committee's ranking Republican member, explained that using the balance "keeps faith with the American taxpayer by returning trust to the trust fund and by supporting a surface transportation program that will meet our needs for the 21st century."

The role of MPOs was also debated. Local officials sought more funding for MPOs and control over the programming of all highway and transit funds - a long-sought goal that would reduce the power of state transportation departments. The states opposed the concept. The "level playing field" concept, reflected in STAA by equal matching shares for most highway and transit projects, was widely endorsed. The National Association of Regional Councils endorsed proposals to "strengthen and build cooperative planning efforts by balancing rural, urban and suburban interests, environmental interests, and highways and transit interests."

NHS, as endorsed by AASHTO and proposed in STAA, attracted criticism from local officials and pro-transit, pro-environmental groups. The funds, they felt, could be better used for transit and other metropolitan needs.

Soon, bills began to emerge. In March, a new bill was introduced, the Transportation for Livable Communities Act of 1991. Developed by members of the STPP coalition, the bill proposed to strengthen the planning process, establish a National Scenic and Historic Highway System, and impose new controls on outdoor advertising (adopting provisions of the Visual Pollution Control Act of 1990 proposed by Sen. John Chafee, R-R.I.). In addition, the bill would create a new funding category called "Transportation Enhancement Activities" to fund activities such as scenic enhancement, design excellence in transportation facilities, rehabilitation of historic transportation structures, "rails to trails" conversions, bicycle and pedestrian ways, and the control and removal of billboards. The states would be required to spend 8 percent of apportioned funds on these activities.

On April 16, Democratic Sens. Max Baucus of Montana and Harry Reid of Nevada introduced the Transportation Improvement Act of 1991. It retained the basic structure of the existing Federal-Aid Highway Program, but with apportionment bonuses that would increase funding for rural areas (based on factors such as level of effort based on per capita spending on highways, adverse weather, nontaxable federal lands, and low population density). Thirty percent of non-Interstate funding could be transferred among categories. Explaining the reliance on the existing program structure, Reid cited the axiom, "If it ain't broke, don't fix it." There was nothing wrong, he said, "that spending the money in the Highway Trust Fund can't cure."

Sen. Christopher Bond, R-Mo., transformed his state's concerns about its share of Highway Trust Fund revenues into a reauthorization bill that he introduced on April 23. His bill would revamp the Federal-Aid Highway Program "to reflect modern day priorities." Although the program elements of the proposal closely followed AASHTO's *Keeping America Moving: New Transportation Concepts for a New Century*, he proposed the following formula for the distribution of funds: 70 percent based on gallons of gasoline purchased in each state, 15 percent based on state land area, and 15 percent based on public road miles in each state. Bond indicated that his bill would give Missouri an additional $1.4 billion in road money over five years.

What Bond and other bill sponsors did not know is that Moynihan was about to fire a shot across the bow that would transform the debate.

Sen. Christopher Bond, R-Mo., introduced a bill that he said would revamp the Federal-Aid Highway Program "to reflect modern day priorities."

Sen. Max Baucus, D-Mont., and Sen. Harry Reid, D-Nev., proposed the Transportation Improvement Act of 1991.

PART III

1991: The Forces Come Together

Chairman Burdick, in failing health, decided not to take the lead role in the reauthorization effort. Instead, he agreed to let Sen. Moynihan, the subcommittee chairman, take the lead on one condition: that Moynihan would take care of North Dakota. Moynihan was ready for this opportunity to put all his longstanding concerns about the highway program into a legislative framework.

On April 25, Moynihan took to the floor of the Senate to introduce S. 965, the Surface Transportation Efficiency Act of 1991 (STEA). According to a news analysis in the trucking industry's newspaper, *Transport Topics*, Moynihan's proposal "hit the highway community like a ton of bricks."
In a "Declaration of Policy," STEA stated that the principal purpose of federal highway assistance "shall henceforth be to improve the efficiency of the existing surface transportation system." The declaration added: "It is the policy of the United States to facilitate innovation and competition in transportation modes ... and increase productivity ... through systematic attention to costs and benefits, pursuing the most efficient allocation of costs and the widest distribution of benefits."

To accomplish this policy, STEA transformed the federal-aid highway and transit programs in a variety of ways.

Interstate construction would be continued through 1996 at a total cost of $7.2 billion, primarily to complete the Central Artery/Tunnel Project in Boston.

The Surface Transportation Program (STP) would be the largest funding category at nearly $50 billion through fiscal year (FY) 1996. Highway and bridge projects would be eligible for STP funds, as would costs associated with mass transit, rail, and magnetic levitation systems; carpool projects and fringe and corridor parking; and safety improvements. The federal share would be 80 percent. Funding left over from the defunct federal-aid primary, secondary, and urban systems could be spent in the STP category. Eight percent of STP funds must be used for transportation enhancement activities. In a change known as "program efficiencies," projects were to be designed in accordance with state laws, regulations, directives, safety standards, design standards, and construction standards. Any state could notify the secretary of transportation that it no longer wishes to have federal project review of any STP project (other than projects on Interstate highways or other multilane, limited-access highways).

The Interstate Maintenance Program for restoring and rehabilitating the Interstate System would be funded at $14.2 billion. The federal share would be 80 percent. Projects primarily designed to add capacity for single-occupant vehicles would not be eligible for funding.

The Bridge Program would be continued at a total of $13.3 billion, minus the discretionary portion. The federal share would be 80 percent, but it would be reduced to 75 percent for projects that added capacity for single-occupant vehicles.

Federal-aid funds could be used for construction of new toll facilities (up to 35 percent of cost), rehabilitation of existing toll facilities, or conversion of toll-free facilities to toll facilities (80 percent). Only interstate highways were exempt from conversion. STEA also modified law on toll agreements, which allowed federal participation in costs with the understanding that tolls would eventually be discontinued. At the request of the non-federal partner, the agreements would be renegotiated to allow continuance of tolls. The transportation secretary would also establish a Congestion Pricing Pilot Program to initiate projects in up to five states.

Metropolitan planning requirements were strengthened to require a long-range transportation plan and a transportation improvement program. MPOs were to consider such factors as preservation of existing transportation facilities and using them more efficiently; energy conservation; relieving congestion; effects on land use; use of innovative financing, such as value capture, tolls, and congestion pricing; the overall social, economic, and environmental effects of all transportation projects; and transportation enhancement projects. The MPO, in cooperation with the state and transit operators, would develop the transportation improvement program, which may include projects only if funding can reasonably be anticipated to be available.

At the request of a governor, the secretary of transportation may work directly with the highway or transportation department of a municipality of greater than 1 million population in lieu of the state transportation department for purposes of project review.

Statewide planning would be required as well. The starting point would be a series of management systems for bridges, pavements, safety, and congestion. Funds could be withheld unless a state has approved systems. In addition to considering the results of the management systems, the state planning process should consider energy use goals; development or land-use plans; border crossings; access to intermodal facilities, recreational areas, monuments, historic sites, and military installations; and coordination with clean air goals.

The Congestion Mitigation and Air Quality Improvement Program would provide $1 billion a year to help achieve the mandates of CAAA. Any project would be eligible if it would contribute to achieving NAAQS, is listed in an approved SIP, and is likely to have air quality benefits. The funds may not be used to add capacity for single-occupant vehicles.

The Bureau of Transportation Statistics would be created within the Department of Transportation to conduct a comprehensive, long-term program for the collection and analysis of data related to the performance of the national transportation system.

The secretary of transportation and assistant secretary of the Army for civil works would manage a National Magnetic Levitation Design Program. After an aggressive program to produce a prototype, the program would award a construction grant to build a maglev system on Interstate highway right of way.

Where sufficient right of way exists on roads constructed with federal-aid funds, the secretary shall authorize the state to make it available for high-speed ground transportation systems, including maglev systems, buses, and nonhighway public mass transit facilities.

The secretary shall update a report required by the Federal-Aid Highway Act of 1956 on the amount the United States would have to pay the states to reimburse them for segments incorporated into the Interstate System but built at non-federal expense, such as toll turnpikes.

Projects affecting a historic facility or an area of historic or scenic value may be approved only if the project is designed to preserve these values.

To encourage safety belt use in automobiles as well as helmets for motorcyclists, STEA called for a program of incentives - grants totaling $100 million to states with appropriate laws - and disincentives - states that did not mandate usage by FY 1995 would be required to use 1.5 percent of their apportioned funds for safety projects.

A functional reclassification of all public roads shall be undertaken for purpose of classifying them as an arterial, collector, etc..

A National Recreational Trails Trust Fund would be established for revenue from nonhighway recreational fuel taxes. The funds would finance the National Recreational Trails Program to provide for and maintain recreational trails.

A number of existing programs would be continued, including the Interstate Substitution Program (for states that had canceled Interstate projects and were entitled to equal funding for other purposes), the Federal Lands Highway Program, and the Territorial Highway Program.

Although the bill had bipartisan leadership support from Sens. Burdick, Chafee, Lautenberg, and Steve Symms , R-Idaho, STEA was clearly Moynihan's initiative. It incorporated many ideas from STPP, which helped draft the bill, eliminated much of FHWA's work (confining it largely to concern about the Interstate System and roads on federal land), and made no mention of a national highway system.

STEA also incorporated some of Moynihan's pet goals, including a study of reimbursing states, such as New York, that had built turnpikes before the 1956 highway act authorized significant federal funding for the Interstate System; congestion pricing to alter modal use patterns; and promotion of maglev. Regarding maglev, Moynihan had long considered the U.S. Department of Transportation "brain dead" for its failure to promote this innovative technology that, as he often noted, had been invented in New York by scientists at Brookhaven National Laboratory.

Reaction to STEA

In introducing STEA, Moynihan said that the post-Interstate era should be based on three principles that were embodied in STEA:

- Our primary object must be to improve the efficiency of the system we now have.
- Second, the time has come to turn the initiative in transportation matters back to states and cities.
- Third, transit should be an option for cities. Which is to say that "highway" money should be fungible.

In addition to sending bureaucrats scrambling to the dictionary —"fungible" means "freely interchangeable or replaceable for another of like nature or kind" — Moynihan's statement and STEA sent shockwaves through the highway community.

Secretary Skinner's official response was restrained. He applauded the senators for moving the process forward and for "serious effort." He added, however, "We are seriously concerned that the Senate bill omits what we believe is a key element of the president's bill, namely the National Highway System. We also believe it imperative that all levels of government and the private sector increase their investment in surface transportation."

The interests with a stake in highway transportation were less cautious. AASHTO executive director Frank Francois described the bill as "beyond any kind that anyone had ever envisioned until this point." AASHTO supported increased flexibility, but he described the Senate proposal as "flexibility run amok." Les Lamm, president of the Highway Users Federation for Safety and Mobility, said that the proposal reminded him of "the very early years of the Federal-Aid Program [1916-1920] when limited federal funding was too widely dispersed" before the system concept was introduced in 1921.

The Journal of Commerce reported that motor carrier interests "are livid over the measure." Thomas Donohue, president of the American Trucking Associations (ATA), said, "It is a no-growth bill and fails to promote productivity." The bill, he said, was designed to benefit big cities with transit systems, and New York was the big winner. It provides just enough maintenance for the Interstate System to "embalm" it. ATA also released a news advisory on behalf of highway-user organizations calling for hearings on "a bill that, in its present form, threatens the future of America's highways." An attached memo explained, "S. 965 squanders a legacy that the nation was given in 1956." It concluded: "Highways, not rhetoric, provide personal mobility, move America's goods, create jobs and help us compete in international markets. This country needs to improve its highway infrastructure — not mothball it."

Les Lamm, president of the Highway Users Federation for Safety and Mobility at the time of the development of ISTEA, was a legend in highway transportation community. He began a career in FHWA as a highway engineer trainee in 1955 and rose through the ranks to serve as executive director from 1973 to 1982 and deputy administrator from 1982 to 1986. Later, he also served as the president of the Intelligent Transportation Society of America.

A *Journal of Commerce* editorial was equally caustic. Under the STEA, national transportation policy is placed "in the hands of city and county bureaucrats." The bill was "a recipe for a disjointed transportation system that would make travel more difficult and erode business productivity."

In a *USA Today* op-ed piece, the American Automobile Association (AAA) expressed its views on Moynihan's proposal: "His bill would impose driving restrictions in many areas, price poor people off many roads by imposing new toll charges, and even penalize states with the temerity to use highway funds derived from highway users to expand highway capacity."

Many state and local officials, as well as transit and environmental interests, supported the Moynihan bill. At the California Department of Transportation, spokesman Jim Drago reported that the initial reaction was "very positive." He added that STEA "is an encouraging sign." Gov. James Florio of New Jersey said, "This will mean that New Jersey will decide what New Jersey needs to keep our state on the move." Rebecca Brady of the National Conference of State Legislatures said, "The prospect of having more flexibility at the state level ... will meet with a great deal of attraction." The American Public Transportation Association endorsed the proposal and lobbied for its passage.

In 1991, Christine Johnson was the assistant commissioner of the New Jersey Department of Transportation. She is now the program manager for operations in FHWA and the director of DOT's Intelligent Transportation Systems Joint Program Office.

The clean air measures were also viewed positively by those concerned about the CAAA mandates. As Assistant Commissioner Christine Johnson of the New Jersey Department of Transportation explained, "The Clean Air Act really puts transportation on the line." STEA, she indicated, would help New Jersey and the other states address CAAA's mandates.

In Moynihan's home state, an editorial in *The New York Times* suggested that he and his colleagues were "plotting a revolution." Although doubtful they would succeed, the editorial stated that in "welcome contrast" contrast to the administration proposal, "the senators offer new thinking."

Summarizing the views of those who supported STEA, Neil Grey of the Highway Users Federation for Safety and Mobility said, "The attitude is that we've been wrong for 30 years."

Moynihan's reaction to all the fuss was simple: "The Interstate era is over. I don't blame them if they think we should go on in that way, but we're not and we just can't."

"There's a Civil War Brewing"

If the Interstate era was coming to an end, many states thought the donor-donee relationship that came with it should end, too. A key premise of the 1956 act was that some states (donors) would contribute more user tax revenue to the Highway Trust Fund than they received in highway funds. In turn, less populated states and those with large amounts of nontaxable public land (donees) would receive more highway funds than they contributed and, thereby, would have the resources to build their segments of the national system.

As long as the national goal of the Interstate System remained in place, the donor states simmered with resentment, but could do little about it. Now, with that goal essentially achieved, they were convinced that in arguing for an end to the donor-donee relationship, justice was finally on their side.

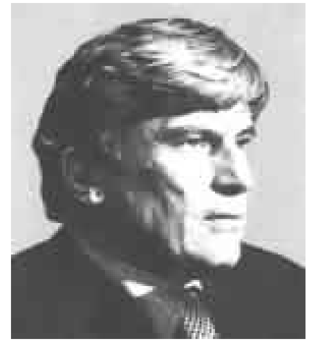
WHERE ARE THEY NOW?

After serving as governor of Missouri (1985-1993), John Ashcroft was elected to the U.S. Senate in 1994. After his 2000 reelection bid was not successful, Ashcroft was appointed U.S. attorney general by President George W. Bush.

Missouri was one of the donor states that had long felt it was not getting its fair share of the highway user tax revenue. "Our state currently receives only 85 cents in federal highway funds for every Missouri highway tax dollar sent to Washington," said Gov. Ashcroft. Referring to the additional $220 million that Missouri would receive over the life of STAA, he added, "Fortunately, there are auspicious prospects for greater fairness in the future."

prospects for greater fairness in the future.

On the eve of Senate hearings on reauthorization, 35 senators from donor states addressed a letter to the Committee on Environmental and Public Works. Noting that from 1956 to 1989, their states had contributed $5 billion more than they received, the senators wrote, "During this period, we watched our roads and bridges deteriorate while our constituents paid for the construction of new facilities in other areas." While conceding that some imbalance was likely in a national program, "we seek to insure that such contributions are not unreasonable." They opposed Moynihan's bill, which would "lock our states into an untenable situation for another five-year period."



Sen. John Warner, R-Va., warned a Senate subcommittee, "There's a civil war brewing," if the concerns of some states that felt shortchanged in the allocations of the Highway Trust Fund were not addressed.

When Sens. Bond and Warner testified before Moynihan's subcommittee, they emphasized the point by indicating they would soon introduce their FAST bill (Federal-Aid Surface Transportation Act). FAST, which had been developed by the Crescent Coalition of States led by John G. Milliken, Virginia's secretary of transportation, would base formulas on such factors as lane miles, vehicle-miles traveled, and fuel consumption, thus providing a fairer balance for donor states. In addition, FAST would adjust each state's apportionment to ensure it received a minimum allocation of at least 90 percent of the tax revenue contributed to the Highway Trust Fund - an increase from the 85 percent assured when the concept of minimum allocation was introduced in the STAA of 1982.

"There's a civil war brewing" among the donor states that felt shortchanged, Warner warned the panel. And Sen. Howard Metzenbaum, D-Ohio, predicted "one hell of a floor battle" unless their concerns were addressed.

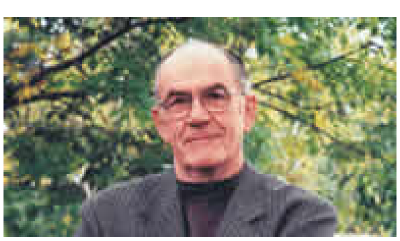
Of the many issues covered during the subcommittee's initial two days of hearings, none was more important to the administration than the fate of the national highway system. In 1989 and 1990, FHWA and AASHTO had tried to identify components of the national highway system. The process involved state submissions to AASHTO and cooperative reviews with the FHWA. However, AASHTO, a voluntary association of the state transportation departments, lacked the authority to resolve the many differences that existed at this stage among the states about the concept. Some states were lukewarm or opposed to the NHS concept because they saw it as an attempt to continue federal control over highway development, and they wanted little mileage within their states included in the system, thereby restricting federal oversight. Other states, particularly those with sparse populations, wanted as much mileage as they could get on the theory that apportionments might be based on lane miles. The conflicts left the process floundering.

After becoming aware of these early efforts, the leadership of the Committee on Public Works and Transportation of the House of Representatives and its Subcommittee on Surface Transportation had written to Administrator Larson on May 23, 1990, asking him to work with AASHTO, the states, local governments, MPOs, and rural agencies to prepare a map identifying a preliminary NHS. The committee noted that a map would be helpful to the committee as future program options are deliberated.

Accepting the challenge, an FHWA team headed by planning director Kevin E. Heanue joined with an AASHTO team headed by Clyde E. Pyers of Maryland (chairman of AASHTO's Task Force on a Highway System of National Significance), the National Association of Regional Councils, and individual states and MPOs to develop a map showing what the NHS might look like.

Dr. Larson transmitted the illustrative NHS map to the committee on Feb. 19, 1991. He described NHS as "a way of focusing federal-aid highway funding on highways of national significance, including the Interstate System, for the remainder of this decade and into the 21st century." The exercise identified "many of the problems involved in designating an NHS in a country as diverse as ours." While not all concerns were resolved, they would, he believed, diminish "as decisions are made on apportionment formulas, transferability and the funding split between the proposed NHS and the rural/urban program, and other program details."

NHS was the centerpiece of Larson's testimony on May 17, 1991, to the Moynihan subcommittee. Larson expressed his view that while some elements of STAA were open to compromise, NHS was not one of them.



"To improve national productivity and make most efficient use of the limited resources available, and given that 98 percent of all surface passenger movement and 75 percent of all freight value today moves on highways, federal surface transportation strategy and investment must focus on a select, but integrated, network of principal highways. ... While we are moving to the post-Interstate construction era, we are not yet ready for a post-highway transportation economy," Larson testified.

He praised some of the innovative elements of STEA but informed the

FHWA Administrator Larson, in this photo from 2000, had academic roots and was able to forge a close professor-to-professor relationship with Sen. Moynihan.

He praised some of the innovative elements of STEA but informed the subcommittee that the White House "cannot support legislation that does not include a designation of such a national highway network."

Larson, with his academic and intellectual roots, was not a "highway man." He had been able to build a close, professor-to-professor relationship with Moynihan based on shared interests and a visionary sense of what the administrator called "a paradigm shift" for transportation. They met dozens of times, often on a personal level outside the context of their official duties. Larson, who sent all FHWA employees a weekly "Administrator's Note" containing a wide range of theoretical, practical, historical, and personal thoughts, routinely provided copies to Moynihan. The notes, particularly those that reflected on the great 19th century debates on the role of the federal government in internal improvements, helped establish a rapport between the two men.

Nevertheless, Moynihan remained opposed to NHS. During Larson's testimony, the two tried to find common ground. The senator assured the administrator that the committee was not anti-highway, as some had said, and that by holding off endorsing NHS, the committee was not rejecting the idea. Perhaps, he suggested, the committee would be willing to consider the concept if an actual proposal, not just an illustrative map, were developed over two years. As Moynihan told *The New York Times*, he wanted to see "exactly what it is, precisely, mile by mile."

As the hearings ended, President Bush took the opportunity of a White House signing ceremony to renew his challenge to Congress. Signing three transportation proclamations (National Transportation Week, Maritime Day, and Defense Transportation Day) on May 17, the president noted that there is "still a long way to go to get a satisfactory bill." He urged Congress to rise to his 100-day challenge. "Now is the time to move a transportation bill out of the Congress and on to my desk."

To emphasize the administration's concerns, Secretary Skinner reemphasized the threat of a veto in a letter to the committee on May 22, the day the committee planned to act on STEA. Exclusion of NHS was the deal breaker, but the secretary emphasized the administration's concerns about such issues as matching ratios, funding levels, flexibility, clean air conformity, and the proposed new Recreational Trails Program.

Later that day, the committee approved a modified version of STEA. The resulting bill retained most features of Moynihan's proposal, but with some important modifications. The NHS compromise that Moynihan had discussed during Larson's testimony was included. The committee's bill called on the secretary to submit a proposal to Congress in two years for a national highway system that would include the Interstate System and selected urban and rural principal arterials, including toll facilities. However, the bill did not include the administration's proposal to immediately establish an NHS funding category.

Other changes since the original bill included:

- Under the STP, 75 percent of funding would be divided among metropolitan areas with more than 250,000 people, non-attainment areas, and other areas according to population with the amount varying in some states.
- The provision giving MPOs programming responsibility was deleted.
- Although states could still opt out of FHWA project reviews on many projects, FHWA review would be required for projects on principal arterials.
- An amendment by Sen. Chafee was adopted requiring that within four years, each state must certify that at least 10 percent of the asphalt used on federal-aid projects includes an additive made from used tires, now known as crumb rubber modifier (CRM). The requirement could be waived if the secretary finds that the additive constitutes a health risk, is unsuitable for recycling, or does not perform satisfactorily.

- A "visual pollution control" provision, also submitted by Chafee, required an annual inventory of billboards, prohibited clear cutting of vegetation to make billboards more visible, and allowed the use of federal funds for billboard acquisition and removal.
- A National Scenic and Historic Byways Program funded at $5 million a year for the planning, design, and development of state scenic highway programs was included.
- An amendment by Sen. Lautenberg provided $150 million a year to incorporate IVHS (Intelligent Vehicle/Highway Systems) technology in up to 10 congested corridors. It also called on the secretary to coordinate a national IVHS program.
- Lautenberg's amendment banning longer combination vehicles also was included. Combinations of two or more trailers, with a gross weight of more than 40 tons, would be allowed only in the 20 states in which they were currently permitted.
- The revised bill called for a study by the departments of Transportation and the Interior regarding alternative forms of transportation in national parks.

As expected, the donor-donee relationship was hotly debated. Sen. Bob Graham, As expected, the donor-donee relationship was hotly debated. Sen. Bob Graham, D-Fla., representing a fast-growing state that had long nursed resentment of its donor status, introduced an amendment to substitute the FAST proposal. Sen. Symms, in opposing the amendment, spoke for donee states, arguing that some states still need help from the other states to maintain the nation's highways. Sen. Baucus pointed out that states are often asked to pitch in to help other states, as in the 1989 legislation bailing out failed savings and loan institutions. Sen. Moynihan, opposing the amendment, pointed out that, "Any federal activity, by definition, is unequal in its impact." He asked, "Is life fair?" Graham's amendment failed by a vote of 4 to 11, but supporters of the amendment assured the committee that the debate would not end there.

Sen. Bob Graham, D-Fla., resented Florida's status as donor state and ultimately voted against ISTEA.

The committee vote approving the bill was 13 to 1. Sen. Warner cast the dissenting vote.

In the Senate, the Committee on Banking, Housing, and Urban Affairs initiates transit legislation. At the end of May, Sen. Alan Cranston, D-Calif., chairman of the Subcommittee on Housing and Urban Affairs, introduced S. 1194, which included funding for the transit formula and discretionary programs, as well as a doubling of funds for rural transit, from the Transit Account and general revenue sources. Total funding would increase from present authorization levels ($3.2 billion) to $4.7 billion in FY 1996. The bill also allowed for the use of Highway Trust Fund revenues for transit-related and multimodal projects. As in Moynihan's bill, S. 1194 contained matching ratios of 75-25 for new capacity projects, and 80-20 for maintenance activities and projects to improve system efficiency.

On June 6, Secretary Skinner advised Committee Chairman Donald W. Riegle Jr., D-Mich., that while the transit bill was similar to the administration bill in many respects and contained other positive features, a veto would be possible unless other concerns were addressed. The secretary emphasized the importance of lowering the federal matching share to encourage greater local and private sector investment in transportation. He sought greater flexibility for transfer of transit funds for highway projects because flexibility was essential to developing "the most efficient and cost effective systems to meet their local transportation needs."

Sen. Steve Symms of Idaho argued in favor of less populated states that needed help from other states to maintain their part of the nation's highways

Sen. John Breaux, D-La., and Sen. David Durenberger, R-Minn., introduced an amendment that would establish an interim national highway system and would require the Department of Transportation to complete the designation of the National Highway System in two years.

The secretary also warned that the higher funding levels jeopardized other funding categories that would have to be reduced for the government to stay within budgetary limits agreed to by the administration and Congress. Skinner also recommended against continuing transit operating assistance and the bill's "contingent commitment," which would allow financing commitments for new rail and bus fixed guideway systems in excess of authorization levels in the bill.

The committee completed work on its bill the same day. Although the approved bill contained some modifications, the committee did not address Skinner's concerns and sent the bill to the Senate floor where it would be combined with the highway portion, becoming Title 4 of the Committee on Environment and Public Works' bill, now known as S. 1204.

As the full Senate turned to S. 1204 on June 6, problems were already evident. The administration restated its intention to recommend a veto of any bill that did not contain "dedicated funding for the National Highway System and an adequate increase in state and local matching shares." Although NHS had considerable support, the administration's fight for higher state and local matching shares had

support, the administration's fight for higher state and local matching shares had become a lonely crusade. The concept was opposed by AASHTO, the National Governors Association, and others and was not included in any bill except the administration's proposal. No group had come forward to support it.

Sen. Robert C. Byrd, D-W.Va., was chairman of the powerful Senate Committee on Appropriations.

What the *Journal of Commerce* called a "Highway Showdown" began on June 6 when Moynihan attempted to begin the debate on S. 1204. Warner informed him that the senators in the FAST coalition would fight in every way they could until their concerns were resolved.

The initial delaying tactic was a call for a cloture vote. (Under cloture, instead of blocking debate by launching a filibuster, a senator could halt debate on a bill unless two thirds of the senators voted to continue.) Warner called off the vote when he realized he did not have enough votes to block debate.

However, as debate finally began on June 11, negotiations continued behind the scenes among the Senate leadership and the FAST coalition over allocation formulas.

Sen. George Mitchell, D-Maine, was the Senate majority leader.

As the first week of debate continued, the administration finally made progress on NHS in the Senate. Sens. John Breaux, D-La., and David Durenberger, R-Minn., introduced a compromise amendment that would establish an interim NHS based on the illustrative map. A portion of STP funds would be earmarked for projects on routes in the interim NHS. The original amendment sought a 30-percent earmark, but the amount was eventually reduced to 17.5 percent ($1.4 billion a year). In addition, the Breaux-Durenberger amendment called on the Department of Transportation to complete the designation of NHS in two years to include the 42,800-mile (68,500-kilometer) Interstate System and 140,000 miles (224,000 kilometers) of other principal arterial highways. The amendment was adopted.

The "fairness" issue remained the only stumbling block to passage until June 18 when Sen. Robert C. Byrd, D-W.Va., chairman of the Committee on Appropriations, announced a breakthrough. He had found an additional $8.2 billion in budget authority in the Highway Trust Fund account. It was available for surface transportation because, he said, "What we are talking about right now is investing in ourselves."

Warner and Byrd joined in negotiations with Senate Majority Leader George Mitchell, D-Maine, and Senate Finance Committee Chairman Bentsen to allocate the new funding. Their compromise split the funds. Beginning in FY 1993, half would go to donor states and half to states with relatively high gas taxes (a "level of effort" bonus) and low per capita income. Some donor states would receive a portion of the $4.1 billion set aside as a "level of effort" bonus to supplement the minimum allocation, which remained 85 percent.

Most states received additional funds from one or the other half of the "Byrd Formula." For example, Byrd's West Virginia, a donee state, received zero in donor funds but $225.5 million extra in the second category. California received the largest amount, $959.4 million, of any donor state but zero for level of effort. Some states received funding from both halves, including Virginia - $220.2 million in donor funds and $14.5 million in level of effort funds. But a few states, including Kansas and New York, received nothing under the Byrd Formula.

President Bush (center) encourages Congress to pass a transportation bill. Standing with the president (from left) are

The compromise, which involved new money without altering other elements of the bill, moved the bill to passage. It authorized $123 billion for FY's 1992 through 1996. This amount included $37.2 billion for the flexible STP, $21 billion for mass transit, $14 billion for Interstate maintenance, $13.3 billion for bridges, and $7.8 billion for a 185,000-mile (292,500-kilometer) NHS. The federal-state matching ratio remained 90-10 for Interstate projects, 80-20 for other projects, except for projects that added capacity for single-occupant vehicles (75-25).

On the evening of June 19, by a vote of 91 to 7, the Senate approved S. 1204, the Surface Transportation Efficiency Act of 1991.

On the morning of June 21, even as the transportation community, environmental activists, and state and local officials reacted to the bill based on how it helped or hurt them, President Bush let his views be known. In an unprecedented presentation to AASHTO's Policy Committee, the president spoke in the White House Rose Garden. Surrounded by the flags of the 50 states, he

Transportation Secretary Sam Skinner, AASHTO President Hal Rives, AASHTO Vice President Ray Chamberlain, and AASHTO Executive Director Frank Francois

told the Policy Committee that he had the flags placed in the Rose Garden "to symbolize our commitment to a new partnership in creating a truly national highway system." No transportation partnership, he said, had endured as long as the 75-year-old federal-state partnership under the Federal-Aid Highway Program.

"We've helped turn a sprawling land knitted together by dusty back roads into a nation linked together by high-performance roads and highways," said the president. The Interstate System, launched by President Eisenhower, "laid the groundwork for unprecedented movement, unprecedented access all across America." Still, now was the time for significant transportation investment in the future. Although he praised STEA for some features, such as its flexibility provisions, he criticized it for not focusing on national needs.

He called for action in the House. His message to Congress was simple: Pass our transportation bill. He added, "With the right tools and the right investment and the right incentives, we're going to move this nation into the next American century."

"We didn't come to the ball game to sit on the sidelines. We came to get a hit, and we want a home run. Right now we're on first base. With your leadership, we can load the bases and hit a home run. We can win one for America," Bush said.

The metaphor may have been strained, but the sentiment was widely shared.

Attention Turns to the House

As the Senate completed debate on STEA, Sen. Moynihan used a phrase that put the bill in perspective: "We have poured enough concrete." It was time, he said, "to get more transportation out of the roads we have already built." Highway supporters hoped for a better deal from the House.

Early indications were positive. Addressing the Transportation Committee of the U.S. Conference of Mayors in late January 1991, Rep. Roe, chairman of the Committee on Public Works and Transportation, indicated that with the nation in a recession, he and Speaker of the House Thomas S. Foley, D-Wash., saw the transportation bill as an opportunity for a "countercyclical" stimulus to the lagging economy. While the committee might not support all elements of the anticipated administration bill, he expected it would endorse NHS and increase flexibility for urban, rural, and other programs. He added that "demonstration project" earmarking for specific projects was likely to increase.

Rep. Thomas S. Foley, D-Wash., was the speaker of the House.

Rep. Bud Shuster, R-Pa., was the top ranking Republican on the House Budget Committee.

Rep. Dan Rostenkowski, D-Ill., called increased gas taxes to provide extra revenue for social and other initiatives.

On Feb. 20, Roe convened his committee for the first hearing on the bill. He began by stating he supported an intermodal approach to stimulate economic growth but worried that a decrease in public works investment had spawned a decline in productivity that must be reversed.

During the initial hearing, Secretary Skinner called STAA a "breakthrough bill," but he faced skeptical questioning from committee members. As *The Washington Post* put it the next day, he "got an earful of criticism from members of both parties." With the economy struggling and more than 30 states operating under deficit budgets, federal-state funding contributions were a primary focus. The secretary tried to deflect the criticism by pointing out that while these are difficult times, STAA proposed a program that will be extended into the next century.

On behalf of the National Governors Association, Kentucky Gov. Wilkinson responded that if the states were expected to contribute larger amounts, many states would have to divert money from maintenance or ask taxpayers to pay more. "If it comes down to that," he said, "a lot of highway needs are going to be neglected."

taxpayers to pay more. "If it comes down to that," he said, "a lot of highway needs are going to be neglected." Roe worried that states would be "chasing money rather than solutions."

By mid-March, the committee's Democratic leadership and its top ranking Republican, Rep. Shuster, would ask the House Budget Committee, which was preparing the FY 1992 budget resolution, to allow room for a five-year $153 billion program — almost 50 percent greater than the president's proposal. Highways would receive $119 billion, while transit would be budgeted at $34.5 billion. The revenue would come from extension of the 14-cent motor fuels tax through 1998, including revenue from the 2.5-cent gas tax increase that had been dedicated in 1990 for deficit reduction. Rep. Mineta explained, "The federal government cannot be allowed to dodge its responsibility."

Increased highway-user taxes were not out of the question in the House Committee. Ever since the cost of gasoline had come down after rising to record levels during the 1970s oil shortages, some members of Congress had wanted to take advantage of motorists' willingness to pay the higher price. Rep. Dan Rostenkowski, D-Ill., for example, had often called for increasing gasoline taxes so the overall price equaled the inflated 1970s price and using the extra revenue for social and other initiatives, such as federal programs for children.

Speaker Foley had been calling for an increase of 5 cents a gallon since February, the first in a concerted campaign that would continue over the next few months. "I think it is ridiculous we don't have a higher gasoline tax." In April, he faulted other lawmakers for "political cowardice" in rejecting a 10-cent increase during the 1990 budget talks.

By the end of March, Roe was referring to the increase as a "Nickel for America."

On April 18, the committee held its final Washington hearing on reauthorization. *Transport Topics* referred to the hearing as "one of the hottest draws in Washington." With testimony scheduled from dozens of interest groups, "The spacious committee room was crowded to overflowing."

Although the committee heard from a wide range of highway interests during the hearings, Chairman Roe told reporters that "we are not writing a highway bill." He added that the committee "is not married" to NHS, but rather is married to "intermodality," which he said is his favorite word.

But the committee did not release a bill as the initiative shifted to the Senate with introduction of the Reid-Baucus bill and then, on April 25, the bombshell STEA proposal by Moynihan and his colleagues. The House bill was being drafted, but the committee had not yet found support within the House for the desired funding levels, which had been rejected by the Budget Committee, or drawing down the balance in the Highway Trust Fund. They also had been unable to gain support for crediting the Highway Trust Fund for the 2.5-cent gas tax devoted to deficit reduction under the 1990 budget accord or increasing the gas tax by another 5 cents.

In support of increased funding, Roe convened a hearing on May 16 to review the role of infrastructure in enhancing productivity and global competitiveness. The outcome of the hearing and the reauthorization process "will determine the prosperity and quality of life in this nation for years to come," said Roe. Witnesses agreed about the need for increased investment in infrastructure.

As May ended, Rep. Leon Panetta, D-Calif., chairman of the House Budget Committee began hearings to gather information that would help prepare the budget resolution for the following year. One of the witnesses was Roe, who told the committee that "the more we invest in the infrastructure, the greater economic return we get, the higher our productivity growth, and the more competitive our industry will be in the global marketplace."

Although nothing was settled, Speaker Foley still supported a 5-cent gas tax increase. In early June, he told the House Ways and Means Committee, which has jurisdiction over tax changes, that the nation's productivity was directly linked to a decline in infrastructure investment. "Simply put, infrastructure investment has been all talk and no action."

"America Needs Nothing Less"

By the time Mineta addressed the American Road and Transportation Builders Association's Government Affairs Conference on June 27, the details of the House bill had been worked out. He explained that his vision, as reflected in the pending bill, was not more of the same. "America needs more of a transportation vision for the future than endless ribbons of asphalt, overpasses, and off ramps."

As for the administration's plan, "I will not stand by and allow Washington to chip away at the foundation of fairness and hurt every city and state in the union," Mineta said.

While increasing funds for highways, transit, and safety, the pending House bill would "increase intermodality and bring together our highways and mass transit systems." Metropolitan planning would be strengthened, with MPOs charged with managing traffic congestion, modernizing roads and bridges, seeking transit options, and meeting CAAA requirements. And management of transportation facilities would be increased. States would be required to implement management systems to protect the federal investment in pavement, bridges, congestion management, and safety programs.

Variable message signs are a tool to help manage traffic.

Mineta supported the "Nickel for America," but only if every penny collected is guaranteed to be spent on transportation. "Anything less will be an outright fraud perpetrated against the American people."

He concluded his description of the bill by saying, "America needs nothing less."

As for Sen. Byrd's discovery of $8.2 billion to break the Senate logjam, Mineta and Roe told reporters the same day they were skeptical that the funds exist. They were linking their bill to the gas tax increase. "To the extent that we don't get the nickel, we'll have to scale back the entire program," Mineta said.

WHERE ARE THEY NOW?

Robert C. Byrd continues to serve West Virginia in the Senate. When the Democrats regained control of the Senate in June 2001, Byrd resumed his former position as chairman of the Committee on Appropriations.

The Nickel for America would be at the heart of the debate for the next two months.

For President Bush, another tax increase was a political impossibility the year before he ran for reelection. Still, supporters of the Nickel for America whispered that he just might support the increase. To end any doubt on the point, the White House issued a series of statements, each blunter than the last, to end the whispers.

Michael Boskin, chairman of the White House Council of Economic Advisers, told the American Enterprise Institute that the economy was not strong enough to support another tax increase.

On July 16, White House Chief of Staff John Sununu wrote to Rep. Bob Michel, R-Ill., minority leader of the House, to clear up any speculation in the press resulting from the whisper campaign. The president opposed the new tax because it "would jeopardize the economic recovery that is now underway and would undermine our continued efforts to adhere to the principles of last year's budget agreement." Just in case that wasn't clear enough, he concluded, "Let there be no misunderstanding, he will veto any legislation that includes a gas tax increase."

This warning did not deter the "Big Four" — Roe, Mineta, Shuster, and Hammerschmidt — from releasing the Intermodal Surface Transportation Infrastructure Act of 1991 (H.R. 2950) on July 18. The bill, Roe explained, was not about "highway transportation." It would provide "an intermodal system for the next 10 years and the 21st century."

With revenue from the Nickel for America (about $6.6 billion a year) and the Highway Trust Fund balances, H.R. 2950 promised a $153 million program over five years for highways and transit. As for Sununu's letter, Hammerschmidt hoped the president "keeps his powder dry until he sees the final product." Speaker Foley was even stronger, saying Sununu's veto threat was "ridiculous" and criticizing the president for "mindlessly" opposing the nickel.

In addition to $8.1 billion to complete the Interstate System, the bill replaced six existing programs (Interstate 4R, primary, secondary, urban, rail-highway crossings, and hazard elimination) with a $79.2-billion Flexible Highway Program that covered several new programs (NHS, Urban Mobility, Rural Mobility, State Flexible, and Safety). Up to two-thirds of the funds for the new program could be transferred to mass transit; states with serious clean air problems could transfer 100 percent.

H.R. 2950 called on the secretary to coordinate with the states to identify routes to be included in NHS up to 155,000 miles (250,000 kilometers), plus/minus 15 percent. The proposal was to be submitted by Sept. 30, 1993, for congressional approval. Prior to approval, any route classified on the basis of function as a principal arterial would be eligible for NHS funds (a total of $38.8 billion).

A related provision called on the secretary to prepare long-range plans and feasibility studies for NHS "High Priority Corridors," to require the states to give priority to their construction, and to provide increased funding for them. According to The Washington Post, "The 16-project list includes a number of highways that have failed to gain funding in the past, some of which have been around long enough to acquire names." The corridors included the Hoosier Heartland (Lafayette, Ind., to Toledo, Ohio), the Heartland Expressway (Denver, Colo., to Rapid City, S.D.), the Avenue of the Saints (St. Louis, Mo., to St. Paul, Minn.), the Economic Lifeline Corridor (Las Vegas, Nev., to I-10 in California), the Kansas City-to-Shreveport Corridor, and the Transamerica Corridor (Virginia to

California).

Highways not included in NHS were eligible under the Urban Mobility Program ($13.4 billion). However, local officials would decide whether to use the funds for highway or transit capital projects, and they would designate routes on an "urban mobility system." Similarly, funding under the Rural Mobility Program ($10.3 billion) could be used for highway or transit capital projects.

The State Flexible Program ($79.2 billion) made funds available to the states for use on any highway or transit capital project. A percentage of the funds must be used in clean air nonattainment areas, with the amount being equal to the percentage of the state's population living in those areas.

The Combined Safety Program ($3.1 billion) replaced the hazard elimination and rail-highway grade-crossing programs with one flexible safety program.

The bill retained 90-10 as the matching ratio for the Interstate System (completion and resurfacing, restoring, and rehabilitation), but set 80-20 as the matching ratio for other projects (including Interstate reconstruction to add capacity). The existing bridge program was continued along with its discretionary component. The bill strengthened the metropolitan transportation planning process by calling for a cooperative process by the States and MPOs to develop long-range transportation plans and short-range transportation improvement programs for all urban areas. A National Advisory Committee would be established to review the planning process. A comparable statewide transportation planning process was required for all other areas of the state.

Transit funding would increase significantly to a total of $32 billion, with considerable latitude to transfer highway funds to transit and vice versa. Despite pressure from transit advocates for a 50-50 split of the Nickel for America between highways and transit, the bill stuck to the 4-to-1 ratio established when the STAA of 1982 increased the gas tax by a nickel (4 cents for the Highway Account, 1 cent for the Transit Account). The transit title of H.R. 2950 included a Major Capital Investment Program ($2.43 billion a year) and Formula Grants ($3.67 billion a year). Up to $309 million could be used for operating expenses.

The minimum allocation would be increased from 85 percent to 90 percent and would not count allocated funds, such as earmarked or discretionary funds, in calculating return. The concept that states receiving allocated funds should not be penalized was important; H.R. 2950 included $6.2 billion in demonstration projects. Because that term had been so widely derided, the committee referred to them now as "Congressional Projects of National Significance." Roe defended them by saying members of Congress know the needs of their congressional districts and have a right to submit needed projects.

Derailing the Fast Track

The new bill was placed on a "fast track" to be approved by the House before a month-long recess began on Aug. 2. After the recess, Congress would have time to complete the reauthorization bill by Sept. 30, when the existing program came to an end.

The bill sailed through the Surface Transportation Subcommittee on July 23 and the Committee on Public Works and Transportation on July 25 with relatively few amendments. Roe urged the committee to be "courageous and daring" in meeting the nation's transportation needs. "This $153.5 billion bill is our opportunity" to have "a major impact on the quality of life of all Americans."

Despite this call to boldness, many of the measures added during committee action involved the priorities of committee members. They included a set-aside of $10 billion for rail-highway crossing hazard elimination in five high-speed rail corridors; grants for specific transit projects; exemption of toll projects in Orange County, Calif., from certain environmental requirements; a study to determine the feasibility of a border highway infrastructure discretionary program; and details on where the Congressional Projects of National Significance would be located. They covered 18 high-cost bridges, 37 congestion-relief projects, 25 high-priority corridors, 126 rural access projects, 74 urban mobility and access projects, 121 "state-of-the-art technology" projects, and 47 intermodal projects.

In addition, the amended bill restricted bicycle projects to those determined to be principally for transportation, rather than recreation; a study of the disadvantaged business enterprise program; and a technical amendment that added allocations, such as earmarked funding, to the amount used in calculating the minimum allocation. The subcommittee and the committee, in turn, rejected a proposal to increase the disadvantaged business enterprise (DBE) goal from 10 percent to 15 percent.

Although H.R. 2950 had cleared the authorizing committee, Rostenkowski made clear that the bill would also have to clear his Ways and Means Committee because of its tax provisions. And he also made clear that he intended to look at the details in the context of the 1990 budget agreement and that he was concerned about the President's veto threat.

The Senate bill had earned respectful consideration in the media, but that would not be the case for the House version. The media has always found the details of transportation bills hard to put in context, and the fights among interests groups surrounding the bills were of little interest outside the transportation community. But the media always loves talking about political battles over tax increases and pork, and that's what the House gave them.

The theme was aptly described in *Transport Topics:* "Prepare for a Washington slugfest over America's nickel." Many pointed out that, as *The Los Angeles Times* put it, the administration was "still smarting from harsh criticism over its handling of last fall's budget agreement." *The Chicago Tribune* quoted Rep. Newt Gingrich, R-Ga., who had been "critical of Bush last year when the president broke his pledge not to raise taxes," as saying the plan has "no gas."

The fight over the gas tax increase was the lead angle. Headline writers had a field day: "Road Bill Critics See $153 Billion in Pork" (*Austin American-Statesman* in the president's home state), "House's Roads Bill Paved with Goodies" (*San Jose Mercury* News from Mineta's hometown), and "A Dream Bill: Billions for Pet Projects" (*The New York Times*). USA Today objected to extra funding for "Road Hogs" who just wanted the nickel to get "themselves re-elected."

On the plus side, much of the newspaper coverage around the country spoke positively of the earmarks that would benefit local readers.

While the media reaction was predictable, the bill had the unique consequence of splitting its most logical supporters over the gas tax increase. Even before the committee released its bill, AAA announced its opposition. For AAA, it was hard to tell which bill was worst. The Senate bill would penalize states that needed to expand highway capacity and impose tolls on toll-free roads, while the House proposal would increase highway-user costs.

"If legislation similar to the Senate bill is the best Congress can do," a simple two-year extension of the existing program was preferable, postponing the reauthorizing legislation until after the 1992 presidential election, said AAA's John Archer.

An opposition group called FUEL (Fuel Users for Equitable Levies) was formed by representatives of motorists (AAA) and agricultural, trucking, state government, travel and tourism, and other industry groups. The fuel tax increase was "unnecessary and misguided" and was "merely a vehicle for additional fuel tax proposals" under consideration in the House Ways and Means Committee.

WHERE ARE THEY NOW?

When the Republicans took control of the House of Representatives in 1995, Bud Shuster became chairman of the Committee on Transportation and Infrastructure (formerly Public Works and Transportation). In that position, he played a key role in the passage of the National Highway System Designation Act of 1995 and the 1998 reauthorization of ISTEA programs (the Transportation Equity Act for the 21st Century). Because of term limits on chairmanships imposed by the Republicans, Shuster lost his position as chairman, and he decided to retire from the Congress in February 2001. His son, William, was elected to represent his district.

The American Road and Transportation Builders Association (ARTBA), which favored a $40 billion a year program, formed its own coalition called CENTS (Coalition for an Efficient National Transportation System) and adopted the motto "It Makes Sense. It Takes Five Cents." In a letter to President Bush, ARTBA President Peter Ruane said the increase "is truly a user fee to meet an important national need."

The Surface Transportation Policy Project coalition, although not a member of CENTS, supported the 5-cent increase if it would be used for more transit and more flexible urban programs. As for the House bill, STPP's David Burwell of the Rails-to-Trails Conservancy said, "That's not the nickel we're looking for."

With its supporters (and even opponents) divided by the gas tax, the committee ran into another obstacle that undermined its calculations. Although the Ways and Means Committee approved the 5-cent tax increase for gas and diesel fuel, it pointed out that the tax would not go into effect until Jan. 1, 1992, and would produce only nine months of revenue in the first fiscal year, not the 12-month total counted by the Public Works and Transportation Committee. Even worse, Rostenkowski argued that under the 1990 budget agreement, pay-as-you-go programs must be based on net revenue (money actually available) instead of gross revenue. As a result, he wanted to deduct 25 percent (1.25 cents) from Nickel for America revenue and credit it to the general fund.

Although Roe disagreed with the interpretation, this accounting glitch, combined with the backlash against the gas tax increase, caused the momentum for the bill to collapse. It was pulled from the House floor on Aug. 1 and would have to await consideration when Congress returned on Sept. 11. That would allow the committee to try to resolve the accounting dispute and rally support around the country for the tax increase.

tax increase.

Photo and caption shown above came from AAA brochure.

On Aug. 1, even as the bill was pulled from consideration, the odds against it were building. The president wrote to Speaker Foley to say that "at a time when it appears a healthy recovery has just begun," if the bill he receives from Congress includes the tax increase, "I will veto it."

That same day, Secretary Skinner made the connection that, from a public relations standpoint, would turn the battle against the Nickel for America. In a statement, he linked the increased revenue from the nickel to the "demonstration projects" in the bill by saying, "We do not need to pluck another nickel from our pockets to pave America with pork."

Many House members agreed. Rep. Timothy J. Penney, D-Minn., told *The Washington Post*, "Raising taxes to spend on pork is the worst thing Democrats can do." The House Republican Policy Committee joined the attack. Congress should be seeking "incentives for economic growth, not legislation that chokes growth off, costs men and women their jobs, and jeopardizes the economic recovery."

Perhaps the committee had not given up, but the *National Journal* pointed out that the bill had reached the critical moment: "It's finger pointing time. ... The chorus of Bronx cheers [a contemptuous sound] that greeted [the bill] is growing louder by the day."

WHERE ARE THEY NOW?

Lester P. Lamm was a former FHWA executive director, and he served as president of the Highway Users Federation from 1986 until retiring on Jan. 16, 1995. He also was a founder of ITS America and its first president. He passed away on Nov. 1, 1995, following a heart attack.

On Aug. 2, Senator Moynihan issued another warning to the highway lobbyists in the wake of the House decision to postpone consideration of the bill: "Try to grasp this heretofore unthinkable fact. The entire highway program is in jeopardy. There is little possibility that a surface transportation bill will have been enacted by Sept. 30 [when FY 1991 ended]. That means the federal highway program stops. Period. ... The choice is up to the industry. Get your lobbyists to listen."

By the time the National Governors Association met in Seattle on Aug. 18, Speaker Foley and Rep. Roe were in attendance, scrambling for support that was not emerging. While they were making their pitch, the president was reiterating to the governors via satellite hookup from his vacation home in Kennebunkport, Maine, that he would veto any bill that includes an increase in the gasoline tax.

Even as CENTS and FUEL issued dueling press releases, the states, AASHTO, and FHWA debated the effect on state programs when the new fiscal year began on Oct. 1 without new funding. Because most federal-aid highway funding was available for four years (the year of authorization plus three years), the program would not come to a complete halt. The effect would vary from state to state depending on what funding had not yet been committed. Nevertheless, assuming that about $6.9 billion in "leftover" funds would still be available, AASHTO issued a report indicating that 87,400 jobs and $5.9 billion in output would be lost.

When Congress returned to Washington on Sept. 11, the House leaders still wanted the Nickel for America, but efforts to drum up grass-roots support for it had been unsuccessful. Opposition was growing even among traditional highway supporters.

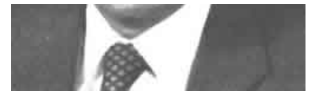
Richard D. Morgan, the former FHWA executive director who was now with the National Asphalt Pavement Association, announced that his group supported a tax increase, but not the one in H.R. 2950. Noting that only half of the 1990 gas tax increase was going into the Highway Trust Fund and only a portion of the proposed new increase would be used for transportation, Morgan said, "That simply is not acceptable."

Knowing the increase could not survive politically, Speaker Foley still wanted the nickel in the House bill and thought the House Democrats should pass it anyway just to make a point to the president. He soon found that the Democrats were reluctant to vote for a doomed tax increase to make a point that their Republican opponents would use against them in the 1992 elections.

Speaker Foley and the Big Four reluctantly gave up the Nickel for America on Sept. 18. In return, Rostenkowski agreed to extend the 2.5 cents of gas tax that had been part of the 1990 budget agreement but had been credited to the Highway Trust Fund. Putting as positive a spin as possible on the defeat of the Nickel for America, Roe said the additional revenue, plus spending down the Trust Fund balances, was "an important step forward for the transportation system of the nation and our economic goals." The agreement, he said, would allow extension of the surface transportation program through 1997, instead of 1996 as in the original bill.

A day after this breakthrough, the president was visiting the I-195 construction site

A day after this breakthrough, the president was visiting the I-105 construction site in Los Angeles. He reminded the crowd of construction workers, business executives, and government officials that he had challenged Congress to pass a bill in 100 days. "It's now 197 days and counting." But he cautioned, "What we want is a bill that works. What we don't want is a bill that paves America with pork."



Sen. Robert Dole, R-Kan., said that the lack of a highway bill passed by the House of Representatives meant that "the Democrat-controlled Congress is forcing thousands of Americans off the wage rolls and onto the unemployment rolls."

The committee's challenge was to revise its bill based on the new income flow. In the meantime, the administration had no intention of letting up the pressure. In a Sept. 24 news conference, Secretary Skinner said, "The bill even without the gas tax was unacceptable." He cited the billions of dollars for "demonstration projects" as just one of the problems.

The Train Wreck

Revising the House bill proved more difficult than expected. As a result, the train wreck, widely predicted and feared, occurred on Oct. 1 when Congress failed to reauthorize the highway and transit programs by the start of FY 1992. Neither FHWA nor UMTA could apportion additional funds.

Having experienced similar delays with past reauthorizations, the highway interests knew the problem would worsen with time, "This time around, I can assure you the impact is going to be more severe and more immediate," said Les Lamm, president of the Highway Users Federation for Safety and Mobility.

In early October, Roe addressed a letter to his House colleagues informing them that the bill would be revised as quickly "as humanly possible." He assured the members, "Few, if any, states will face an immediate crisis" in the absence of new funding. The letter was partly in response to a "FAST" bill proposed by Reps. Charles Bennett, D-Fla., and David Dreier, R-Calif. Their bill, which would guarantee a 90-percent return on contributions to the Highway Trust Fund, had gained 133 cosponsors.

The significance of the absence of a House bill was not lost on the Senate or the Republicans. Sen. Moynihan again warned the highway lobby that "everything is up for grabs, including the Highway Trust Fund." Sen. Robert Dole, R-Kan., pointed out that the Democrats had been accusing the president of not being sympathetic to the plight of the unemployed and yet "the Democrat-controlled Congress is forcing thousands of Americans off the wage rolls and onto the unemployment rolls." In the House, Republican Minority Leader Michel urged the Democrats to get moving. "Mr. Speaker," he said, "put the pedal to the metal and speedily bring forth the job-creating highway bill."

On Oct. 2, transportation officials from the 13-state Southeastern Association of State Highway and Transportation Officials came to Washington to highlight the problem. In a joint statement, AASHTO President Hal Rives of Georgia and former AASHTO President Kermit Justice told the group that it was "a matter of urgency to the entire country" that "something get done and get done now." Perry Hand of Alabama was blunter. "Congress," he said, "has left the states holding the bag."

Pressure quickly mounted for a stopgap bill to keep federal-aid funds flowing until Congress could complete action on reauthorization. Counter-pressure came from Sens. Burdick, Chafee, Lautenberg, Moynihan, and Symms, who wanted to keep the pressure on for their reauthorization bill. In a letter to colleagues, they concluded, "The way to complete action on a long-term reauthorization bill is to oppose any short-term reauthorization."

The House Committee on Public Works and Transportation unveiled the new six-year bill on Oct. 10. Funding for highways ($119 billion) and transit ($32 billion) totaled $151 billion. The "guts" of the bill, Roe said, were basically unchanged. For states that had exhausted their federal-aid funds, the bill permitted reimbursement for advance construction work done with state funds between Oct. 1, 1991, and the date of enactment of H.R. 2950. In addition, the new bill, in a move to block the FAST initiative, increased the minimum allocation to 90 percent and expanded the base by counting apportioned funds, discretionary funds, and newly allocated programs (except for special projects).

As for the Congressional Projects of National Significance, which everyone still called "demonstration projects," the committee carefully examined the entire list. As a result, the number increased from 452 to 455, but the cost dropped from $6.8 billion to $5 billion.

Addressing AASHTO's Annual Meeting in Milwaukee on Oct. 14, Secretary Skinner made clear the administration did not support the bill. It did not have enough funding for NHS, was inadequate on matching shares, and continued operating subsidies for transit. The administration opposed extension of the 2.5-cent gas tax to pay for the program, and he noted that even with a reduction of $1 billion in demonstration projects, the bill "still leaves about $5 billion in pork." The road to a final bill, he told AASHTO, would be "long and bumpy." He followed up with a letter to Roe on Oct. 15, outlining the administration's concerns and stating that if the bill passed Congress in its current form, he would recommend a veto.

Nevertheless, action in the House was swift. The committee approved the bill on Oct. 15. The Ways and Means Committee cleared the bill the following day. Rep. Bennett announced he would not offer the FAST bill as a substitute for H.R. 2950. "I believe I have done as much as I can do and feel we can claim victory," Bennett said.

On Oct. 23, following a debate that *The New York Times* described as "perfunctory," the House finally completed work on the Intermodal Surface Transportation Infrastructure Act of 1991 by a veto-proof vote of 343 to 83.

Around the country, newspapers described the bill in positive tones. *The Los Angeles Times* called it "landmark" while *USA Today* referred to it "as the most sweeping redirection of transportation policy in 35 years."

The coverage generally emphasized two points. Many articles reported on what *The Philadelphia Inquirer* described as the states' "unprecedented authority to spend federal highway aid on mass transit projects." The other theme was predictable: pork! Many quoted Rep. Dan Burton, R-Ind., who said that the country has a $400 billion budget deficit "staring us in the face and yet we still allow many, many pork barrel projects." In defense, Rep. Ben Jones, D-Ga., repeated what many House members thought about the subject: "This bill puts America first. It is not pork. It is roads, it is bridges, and it is jobs."

While the House completed work on its bill, the Senate was getting increasingly restless. Sen. Bond entered into the *Congressional Record* a list of Missouri projects that had been delayed since the start of the fiscal year. "At this rate,' he said, "we may see the cherry blossoms before we see a highway bill." (The cherry blossoms around the Tidal Basin in Washington bloom once a year, usually in April.) He added, "This highway bill holdup is a sleeper candidate for worst congressional failure of the year."

The Final Challenge

Having failed to meet the president's 100-day challenge, Speaker Foley issued his own challenge by saying he and Roe had agreed "the highway bill will be done by Thanksgiving." Thanksgiving fell on Nov. 26, and Congress was scheduled to recess for the year on Nov. 22.

The next step for Congress was to convene a Senate-House Conference Committee to resolve differences in the two surface transportation reauthorization bills. Even this process was delayed in the Senate when the appointment of conferees was blocked by senators who saw the bill as a vehicle for unrelated tax measures sought by the Senate Finance Committee. Finally, on Oct. 31, the Senate conferees were selected, and a request was sent to the House for a conference.

The conference convened on Nov. 7, with Rep. Roe as chairman and Sen. Moynihan as vice-chairman. The House had identified 66 conferees, many of them with responsibility for selected provisions under the jurisdiction of committees other than Public Works and Transportation. The Senate contingent totaled 26 members from five committees.

The halt in funding was on the mind of many conferees. Rep. Roe stated that "we can afford no delays in the completion of this legislation." Rep. Hammerschmidt added, "America is counting on us to conclude this conference as quickly as possible." Both sides, House and Senate, criticized the administration. Rep. Shuster urged the administration to "cool it" in their attacks on the bill, while Sen. Moynihan called Secretary Skinner's "scathing" criticisms "hard to understand" and "unwelcome."

Rep. John Paul Hammerschmidt, R-Ark., described the National Highway System as the "centerpiece of the restructured highway program that is being proposed for the post-

Opening statements aside, it was going to be a difficult conference. One potential problem was summarized by *Transport Topics*: "Many observers believe the tone and duration of the conference, if not the actual shape of the final legislation, will be determined by the interaction of these two strong, contrasting personalities." Moynihan and Roe could not have been more different. Moynihan was a widely respected intellectual. Roe was a little-known engineer. By temperament and long habit, Moynihan was a visionary who always saw the big picture. Roe was a detail man who preferred hands-on fine tuning. Somehow, they had to lead the conference to agreement on the bill.

The administration kept the pressure on the conferees to produce a bill. On Nov. 8, during a press conference in Rome, President Bush, in response to a question about how he was going to boost the economy, called for passage of the transportation bill. Two days later on the CBS television program "Face the Nation," Chief of Staff Sununu reminded viewers that 240 days had passed since the president issued his 100-day challenge. Meanwhile, Secretary Skinner was quoted in *USA Today*, saying that the House plan focused on jobs and congestion, but not in *USA Today*, saying that the House plan focused on jobs and congestion, but not on traffic congestion or construction jobs. "Rather, job security for congressional incumbents, thanks to a plan congested with pork."

Rhetoric aside, Skinner and Federal Highway Administrator Larson met individually with the conferees. Sen. Symms arranged temporary office space near his own office for Larson, who practically moved into the office throughout the conference so he could be available as the details were debated. Rep. Shuster said, "While the administration continues to bash us publicly, privately we're getting very strong signals that they are beginning to see the light."

On Nov. 8, just a day after the first meeting, the House passed a motion, 394 to 3, directing the House conferees to insist upon the House provisions for NHS, which Rep. Hammerschmidt described as "the centerpiece of the restructured highway program that is being proposed for the post-Interstate era." Senators from donee states circulated a letter for signature urging the Senate conferees to strongly oppose the FAST formula in the House bill. And groups representing the entire spectrum of views were letting their positions be known, publicly and in private Capitol Hill meetings.

The pressure and the challenges were symbolized during the first day of the conference when the initial action - agreement on "items in agreement" between the two bills - was not approved. *The Washington Letter on Transportation* reported, "The conference had begun with the legislators taking one step backward."

Despite weekend and late night sessions, progress was slow. Roe, described by the *Journal of Commerce* as being in a "testy" mood, complained, "We don't have time to go over every period."

With both sides unwilling to agree on the major issues, Speaker Foley and Senate Majority Leader Mitchell summoned all the Democratic conferees to a meeting on Nov. 13 and directed them to produce a final bill promptly. Until then, the conferees could expect late night and weekend work with no adjournment until a day or two before Thanksgiving. *The Washington Letter on Transportatio*n described the meeting as an attempt "to flog the highway and transit conferees across the finish line."

The "flogging" appeared to work. Conferees began making progress on items where both bills were in agreement, such as matching ratios and transit operating subsidies, and in areas where they differed, such as the length of the bill (six years) and total funding ($151 billion, split $119 billion for highways and $32 billion for transit). But as the second week came to an end, many issues were undecided, including structural issues such as how to treat NHS and whether project approval authority would be given to MPOs. Apportionment issues, where the donor-donee split was so controversial, also were deferred.

The administration was also finally lowering the rhetoric. Having won some battles and lost others, it was now focused on finding compromises that would allow it to back off its veto threats. Because neither the Senate nor the House bill had backed some key administration proposals, they were essentially off the table.

Meanwhile, Sen. Moynihan had unveiled a $4 billion plan to reimburse states, such as New York, that had used their own funds to build highways that were incorporated into the Interstate System. Although the reimbursement program, which Moynihan had been thinking about for at least 30 years, had not been considered by either house, he had made it appealing by providing that every state would receive at least $20 million, regardless of their effort prior to the enactment of the Federal-Aid Highway Act of 1956. States that had been aggressive in freeway/turnpike construction prior to 1956 would receive much more. New York would receive $675 million under the provision as conceived.

By Nov. 19, the end was in sight. As Sen. Lautenberg told a reporter, "I am determined not to have turkey at Big Boys [restaurant] in Washington on Thanksgiving."

ISTEA Is Unveiled

The breakthroughs came in intense, closed door sessions that ended on Nov. 24

Interstate era."

WHERE ARE THEY NOW?

At the start of the 103rd Congress in 1993, Norman Y. Mineta became chairman of the House Committee on Public Works and Transportation. He resigned from Congress on Oct. 10, 1995, to become a senior vice president of Lockheed Martin Corporation where he headed the Transportation Systems and Services Division, which was involved in intelligent transportation systems, electronic toll collection, weigh-in-motion technology, and automated commercial vehicle registration. He also chaired the National Civil Aviation Review Commission, which in 1997 issued recommendations on reducing traffic congestion and reducing the aviation accident rate. Mineta became secretary of commerce on July 21, 2000, in the Clinton administration, and on Jan. 25, 2001, he became secretary of transportation for President George W. Bush.

WHERE ARE THEY NOW?

In March 1992, John Paul Hammerschmidt announced he would not seek reelection. Section 1084 of ISTEA designated U.S. 71 through Arkansas as the John Paul Hammerschmidt Highway. Since retiring from the House of Representatives, he has remained active in Arkansas civic organizations and on boards of directors of several Arkansas companies and the University of the Ozarks at

University of the Ozarks at Clarksville.

The breakthroughs came in intense, closed-door sessions that ended on Nov. 27, when the conference leaders held a press conference to announce agreement on the Intermodal Surface Transportation Efficiency Act of 1991. Sen. Moynihan and Rep. Roe had compromised to ensure their favorite words survived in the new title. Moynihan insisted on "Surface Transportation Efficiency," especially his favorite word, "efficiency." Roe insisted on his favorite word, "intermodal."

ISTEA authorized bridge painting as an activity that could be funded through money allocated to the Bridge Program. The drapes over the Chesapeake Bay Bridge contain the dust of the lead-based paint being sandblasted from the bridge in preparation for repainting.

It was, Roe told reporters, "a great victory for the American economy, for our nation's productivity, and for the American people." Rep. Mineta predicted it would generate 2 million jobs over six years "at a time the nation needs that kind of economic boost and leadership."

"We are about to enter a new, post-Interstate era that will emphasize system performance rather thansystem building," said Moynihan. With the Interstate System finished, the time had come to "turn the initiative in transportation matters back to the states and cities."

Immediately after the congressional press conference, Secretary Skinner met with reporters to praise the bill. It was, he said, "all in all, a good bill, a visionary bill" that "completes one of the president's major domestic agendas." He claimed victory in achieving 12 of the administration's 16 goals, including creation of the national highway system, increased spending, and greater flexibility for state and local governments. The administration lost on provisions for selecting cost-effective new transit projects, full finding of transit and safety programs from the Highway Trust Fund, elimination of transit operating assistance, and state matching shares.

On matching shares, which had been one of the administration's signature issues, Skinner conceded that if the administration had known the difficult fiscal condition the states would be in at this point in the recession, so great a change in matching shares would not have been promoted.

The Conference Committee's bill was, as *AASHTO Journal* put it, a "New Order of Business." Its provisions included:

- *National Highway System* - A final NHS proposal, prepared in consultation with the states, would be submitted within two years for congressional designation. Funding totaled $38 billion over six years, including the funds available for use on the routes included in the preliminary NHS submitted to the Committee on Public Works and Transportation in February 1991.
- *Interstate System* - The $7.2 billion authorized for Interstate construction through FY 1996 would be, as the legislation stated, "the final authorizations of appropriations and apportionments for completion of construction of such system." The funds were essentially for the Central Artery/Tunnel project in Boston.

  The bill also authorized $17 billion for the Interstate Maintenance Program, the new name for the "Interstate 4R" category. Under the fourth "R" (reconstruction) projects could be funded only if they did not add capacity (except for auxiliary or HOV lanes).
- *Surface Transportation Program* - STP was the broad, flexible program sought by all sides. Its $23.9 billion - the most funds for any category - could be used for a broad range of highway or transit projects, but 10 percent of the funding was restricted to transportation enhancement activities.
- *Bridge Program* - Retained basically unchanged with total funding of $16.1 billion. Newly eligible activities are bridge painting, seismic retrofit, and application of calcium magnesium.
- *Transit* - Total funding amounted to $31.5 billion, with 58 percent from the Mass Transit Account and the remainder from the general fund. The total included $17.4 billion for formula grants, $12.4 billion split among new starts, rail modernization, and bus and other projects, and $944 million for transit planning and research. Much of the funding in highway categories could be transferred to transit categories and vice versa. The new name for UMTA would be the Federal Transit Administration.
- *Federal Lands Highway Program* - Authorizations totaling $2.6 billion, previously available in four categories, are now available in three: Indian Reservation Roads, Parkways and Park Roads, and Public Lands Highways (which incorporated the Forest Highway category).
- *Congestion Mitigation and Air Quality Improvement Program* - Emerging from STPP and the initial Senate bill, the category authorized $6 billion for transportation projects and programs to help state and local governments improve air quality.
- *Equity Adjustments* - The bill addressed the complaints of the donor states with a series of adjustments.
  - Minimum allocation was set at 90 percent based on the total apportionments from the base programs (Interstate Construction, NHS, STP, etc.) and the discretionary fund allocations from the base programs for the previous year, excluding earmarked projects. Any project eligible under the

base programs for the previous year, excluding earmarked projects. Any project eligible under the base programs could be developed with minimum allocation funds.
  - Donor states received a bonus from a fund totaling $3 billion based on estimates of all payments into the Highway Trust Fund and the amount received in federal-aid apportionments. The bonus amounts were treated as STP funds and could be used as such.
  - A 90-percent of payments guarantee was based on all highway funds in the bill except special projects.
  - A "hold harmless" provision was designed to ensure fairness. Each state must receive an amount of funding over six years that is consistent with its historical experience under STURAA.
  - The Equity Adjustments were applied sequentially with the result of each adjustment affecting the outcome of the next one.
- *Matching Shares* - The federal matching share would be 80 percent in most cases, establishing a "level playing field" for modal choice. The federal matching share for Interstate projects would remain 90 percent.
- *Planning* - The metropolitan transportation planning process was strengthened to give additional authority to local officials in developing the best mix of projects to meet their transportation needs. Programming authority remained with the states. A comparable statewide transportation planning process involving long-term transportation plans and short-term transportation improvement programs was required.
- *Management Systems* - The states must develop six management systems: highway pavement, bridge, highway safety, traffic congestion, public transportation facilities and equipment, and intermodal transportation facilities and systems.
- *Toll Roads* - Federal-aid highway funds could be used for projects on toll facilities to a much greater degree than in the past and without the requirement that the facility cease toll collection when bonds are repaid.
- *Program Efficiencies* - Non-NHS projects and low-cost NHS projects were to be developed in accordance with standards established under state law. FHWA's review was limited to non-Title 23 responsibilities, such as NEPA. Federally adopted standards, such as AASHTO's *A Policy on Geometric Design of Highways and Streets*, would apply only to higher cost NHS projects, including Interstate projects.
- *National Scenic Byways Program* - A total of $80 million was available for discretionary scenic byway grants. The program would include designation of All-American Roads and National Scenic Byways.
- *Intelligent Vehicle/Highway Systems* -

  An IVHS Program was established with about $660 million over six years. The funding is for promotion of compatible standards and protocols, establishment of evaluation guidelines, and creation of an information clearinghouse. The Department of Transportation was to submit a strategic plan to Congress that would establish goals, milestones, and objectives for the program. In addition, a completely automated highway and vehicle system would be developed as a prototype for future fully automated IVHS systems.
- *Recreational Trails Program* - The provision authorizing the program was renamed the Symms National Recreational Trails Act of 1991 in honor of Sen. Symms, who announced in August that he would retire at the end of the 102nd Congress.

WHERE ARE THEY NOW?

Steven Symms announced in August 1991 that he would not seek reelection, indicating he wanted to pursue a new career in private life. He is a partner in the firm of Parry, Romani, DeConcini, and Symms in Washington, D.C.

- *Magnetic Levitation* - A maglev program was authorized at $725 million to develop one prototype project from applicants across the country.
- *Asphalt Pavements* - States were required to meet minimum requirements for the use of crumb rubber modifiers in asphalt pavements (gradually increasing to 20 percent after FY 1996). Failure to achieve the goal would result in loss of federal-aid funds in an amount equal to that year's minimum usage requirement.
- *Congestion Pricing* - A pilot program consisting of up to five projects would test methods, such as imposition of tolls, to increase the cost of driving as a way of convincing motorists to try other modes. Up to three of the projects could be on the Interstate System.

As for the "demonstration projects," the Conference Committee included more than 450 "special projects" at a cost of about $6.5 billion in several groupings: High-Cost Bridge Projects, Congestion-Relief Projects, High-Priority Corridor of NHS, Rural and Urban Access Projects, Innovative Projects, and Priority Intermodal Projects. In the spirit of compromise, the House reduced its project list to $4.4 billion, and the Senate added $1.1 billion in 16 states. An additional $1 billion in "equity" funding was made available to the states to spend as they wish.

Saying that about 60 percent of the projects would probably have been built under the formula categories anyway, Skinner described the result as "controlled pork" that the administration could accept.

Nothing Comes Easy

With the conference agreement, representatives and senators looked forward to wrapping up business quickly and heading home. The House hoped to complete action on ISTEA, and several other bills on Tuesday night, Nov. 24, but wrangling on the other bills delayed action on ISTEA. The House was in for an all-nighter.

Transportation Secretary Skinner described the more than 450 "special projects" included in ISTEA as "controlled pork" that the Bush administration could accept.

When the House finally began considering ISTEA, only two copies of the final bill were available. One was on a table in front of the House chamber. Few members had read it; there was no time to read the mammoth bill that would fill nearly 300 pages in the Conference Report. They would trust their leadership to tell them what was in the bill - with one exception.

The other copy was in the hands of the FHWA's Susan Binder, who was on loan to the Committee on Public Works and Transportation for the reauthorization period. Committee staff told Binder to stand in the back of the chamber with the other copy. She also had the only copy of the index, which she used throughout the night and into Wednesday morning as representatives came up toher for one reason - to ensure his or her project was in the bill. When Binder pointed to the project in her copy, the member went back to the floor, prepared to vote for ISTEA.

Around 5:30 a.m. on Nov. 25, the bill passed - 372 to 47. Binder was exhausted, but she had played her part in securing passage of the bill, creating the post-Interstate era.

The Senate had waited for the House bill until 1 a.m. before adjourning in the absence of items to act on. With exhausted House staffers heading home immediately after the pre-dawn vote, only one certified accurate copy of the final bill was available as the Senate convened on Wednesday morning. Many senators had already headed home for Thanksgiving, and others, particularly from the West, expressed concern about getting home before their family began serving the holiday turkey. *The Washington Post* noted that many of the senators arrived for work on the Senate floor "looking baggy-eyed, disheveled, and cranky."

Still, some senators, particularly from donor states, wanted to be heard. Sen. Graham, for example, took an hour of debate time. He felt that the inequities in past bills had not been corrected, noting that Florida had passed Pennsylvania as the fourth largest state in population but would receive $1 billion less than Pennsylvania under ISTEA. He also thought the focus on long-term projects limited the bill's ability to provide an immediate economic boost. His fellow Florida senator, Connie Mack, a Republican, claimed that lawmakers from states such as New York and New Jersey, that were experiencing limited population growth had based funding levels on out-of-date census data.

"The bill's supporters - through bogus accounting and 11th hour tomfoolery - pushed through a funding package that doesn't take Florida's growth into account," Mack said.

Finally, on Wednesday afternoon, Nov. 25, the Senate voted 79 to 8 in favor of ISTEA. Sens. Graham and Mack were among those who cast "nay" votes.

Summing up, Rep. Roe told reporters, "This will touch the lives of everyone. With this vote, we are rebuilding America."

In an Administrator's Note to all employees (and Sen. Moynihan), Dr. Larson used a football metaphor to describe the experience of creating ISTEA. "Rushes, passes, gains and losses, penalties, touchdowns, field goals, blocked punts, a few on-side kicks, an occasional Hail Mary pass, and a two-minute drill at the end, narrowly averting a sudden death overtime." The game featured blitzes by Moynihan with S. 1204 and Roe with his proposals for a Nickel for America and hundreds of earmarked projects.

On FHWA's part, it was a team effort. It went far beyond testimony during hearings in the Senate and the House. Each associate administrator and many staff members from the headquarters in Washington were called on to provide information and technical assistance; to clarify information; and, most often, to crunch the numbers and to provide computer-based tables that would allow each member of Congress to see how a change here and a change there would affect his or her state.

Of the Conference Committee that he had observed first hand from his temporary office on Capital Hill, Larson said: "Sometimes, optimism prevailed - we would have a bill. Sometimes, pessimism was in order - we wouldn't have a bill. Other times, frustration left one wondering who invented this crazy legislative system of ours. The injunction not to watch sausage and laws being made seemed fully validated."

He added, "Many long nights were spent here in headquarters with the Domino's pizza delivery about the only bright spot." Larson quoted "Coach Skinner" in his "post-game press conference" saying, "I never thought that sausage and pork put together would equal jobs."

Success Has Many Fathers

Success Has Many Fathers

When the senators and representatives reached home for Thanksgiving, they could be happy about media coverage of ISTEA. Unlike *Moving America*, STAA, and other interim bills, the final version was widely praised as, in the words of a *Chicago Tribune* editorial headline, "A Happy Highway Compromise." The post-Interstate restructuring in ISTEA was favorably received across the country. *The New York Times* stated that, "The bill dramatically, and for the most part sensibly, refocuses national transportation policy."

The primary focus of newspaper coverage was ISTEA's impact on home-state issues. Many articles focused on the economic impact. *The Philadelphia Inquirer* was among the newspapers that quoted Hubert Beatty, executive vice president of the Associated General Contractors of America, who said, "This bill is going to put people back to work, and that's going to have a ripple effect throughout the rest of the economy." *The New York Times* quoted Sen. Joseph Lieberman of Connecticut: "It's big money in tough times. It will produce lots of jobs. It's good medicine."

ISTEA was described as a spectacular boost to rail transit.

Not all the press coverage was positive. Just beforepassage, the *Florida Times Union* said, "Federal Highway Bill Justifies Tea Party Somewhere in Florida." The *Milwaukee Sentinel* cautioned that ISTEA "looks good on paper" but would be "a test of whether the local and state decision-makers will take steps to cool the country's so-called love affair with the automobile and start encouraging use of public transportation facilities."

As for the earmarking, ISTEA was criticized on television news programs and in magazines and newspapers. The ISTEA article in Knight-Ridder newspapers quoted David Mason of the Heritage Foundation, who complained, "The pork-mongering has reached the point of self-caricature. It's hard to imagine going much further." As balance, the article also quoted University of Minnesota political scientist Steve Smith, who said, "It always irritates me when people pick on Congress for living up to their constituents' expectations."

Smith's view was reflected in most of the coverage, which emphasized local benefits over political theory. The *Des Moines Register* printed two articles on Nov. 27 about how last-minute maneuvering by Iowa's congressional delegation saved the Avenue of the Saints (St. Paul to St. Louis through Iowa) as an NHS High-Priority Corridor. *The Baltimore Sun* and many other newspapers listed the earmarks as a way of giving readers a sample of the good news in the bill for them.

All in all, with ISTEA under their belts, the senators and representatives could enjoy their Thanksgiving dinners.

A proverb has it that success has many fathers (while failure is an orphan). In this respect, ISTEA was clearly a success. The Senate and House committee leadership that had drafted the bill felt understandable pride in their accomplishment. But the real measure of success could be found on the modal fault line (between traditional highway interests and transit and other interests) that often characterized the policy debate since 1987. On both sides, the bill was widely praised.

Even as Secretary Skinner counted 12 of the administration's 16 goals as achieved in ISTEA, other groups were taking a similar approach. The American Road and Transportation Builders Association, which had focused on a significant increase in federal surface transportation investment, reported that "most of our legislative objectives were met." AASHTO president A. Ray Chamberlain issued a statement indicating "the bill follows the goals and recommendations adopted by AASHTO after hearings in every state, involving thousands of Americans from both the public and private sector." *Transport Topics* acknowledged that "the final bill turned out to be a good deal for trucking."

On the other side of the fault line, the Surface Transportation Policy Project coalition referred to ISTEA as a major reform and highlighted 13 important provisions of the bill, beginning with "substantial flexibility" and ending with "support for widespread development" of bicycle and walking facilities. Neil Peterson of the Los Angeles County Transportation Commission was quoted in the *Los Angeles Times* as saying ISTEA gave a "spectacular" boost to the area's ambitious rail transit plans. Bruce Fried, executive director of America's Coalition for Transit NOW congratulated congressional leaders "for their foresight and dogged determination to deliver this landmark bill to the president." He added that ISTEA "sets the nation on a course toward renewal, expansion, and integration of our transportation systems."

With the change in presidential administrations in 1993, the responsibility to implement many of the provisions of ISTEA fell to Transportation Secretary Frederico Peña (left) and Federal Highway Administrator Rodney Slater (center).

While the lists may not have been identical on both sides of the fault line, the concurrence across modal interests reflected more than just the broad scope of ISTEA. It also demonstrated the common ground that existed before 1991, such as agreement on the end of the Interstate era, increased flexibility for state and local officials, the need to preserve and increase the efficiency of the existing network, the importance of intermodal links, and increased funding. Even more, ISTEA was a mirror in which each group could see its own image - the highway groups saw more money for highways, the transit groups saw more money for transit, the planning organizations saw a strengthened planning process, historic preservationists saw a new source of funding for preservation, and so on.

Success Is Never Final

One thing is certain. By the time President Bush hunched over that large cable spool in a drizzle to signthe bill he had spent so much of his political capital to create, ISTEA was widely recognized as a landmark bill. It would help America take the first steps toward the National Intermodal Transportation System mentioned in the "Declaration of Policy" that Sen. Moynihan included as Section 2 of ISTEA. The system, the policy said, would be "economically efficient and environmentally sound, [provide] the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner."

Most people had figured out how to pronounce "ICE TEA," although some still insisted on a short i and three syllables (is TEA uh).

Secretary Skinner had become so well known during creation of the landmark bill that he had even been the subject of a mocking "Top Ten List" by comedian David Letterman on his "Late Show". "The number one sign that you're in love with Secretary of Transportation Skinner: You come to after being hit by a two-by-four and say, 'Forget about me, how's Samuel K. Skinner?'"

President Bush rewarded Skinner by naming him White House chief of staff, effective Dec. 16, 1991.

In his Administrator's Note on passage of ISTEA, Larson quoted Winston Churchill as saying, "Success is never final." That has been true of ISTEA. Some provisions didn't work and were dropped in later legislation. The mandates for management systems and the use of crumb rubber modifiers are two examples. Overall, however, ISTEA has lived up to its promise. So much so that its 1998 successor, the Transportation Equity Act for the 21st Century (TEA-21), retained the program structure put in place by ISTEA, and TEA-21 provided historic funding levels now exceeding $30 billion. In fact, the Clinton administration and Congress made a conscious effort to retain "TEA" in the bill's nickname to link it to ISTEA.

Ten years later, the most important feature of ISTEA may well be the very thing that every initiative - the FHWA Futures Group, AASHTO's 2020 Consensus Transportation Initiative, the National Transportation Policy, and Surface Transportation Policy Project - had identified before Congress began working on the bill: flexibility. At heart, ISTEA is about giving state and local officials the authority to make the best choices to meet each area's unique transportation needs.

President Bush, who put more effort into a surface transportation bill than any president since President Eisenhower in 1956, issued a new challenge during his Dec. 18 speech to AASHTO: "I'd like to challenge you all to look past the old ways of doing business and dare to innovate, to create new ways of moving America forward."

ISTEA gave state and local officials the tools to do just that.

WHERE ARE THEY NOW?

Samuel K. Skinner left his post as secretary of transportation in December 1991 to became chief of staff for President George H.W. Bush. After President Bush left office in January 1993, Skinner became president of Commonwealth Edison Company. In July 2000, he became president and CEO of USFreightways Corp.

"[ISTEA] represents the most revolutionary approach to thinking about transportation systems since the creation of the Interstate Highway System. It offers a holistic approach to transportation problems that breaks with all precedent."

Robert E. Martinez

Associate Deputy Secretary of Transportation and Director, Office of Intermodalism (created by ISTEA)

(Quoted in Journal of Commerce, Jan. 8, 1993)

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This article was based mainly on contemporary office files. However, the author wishes to acknowledge two additional sources. The weekly AASHTO Journal (editor: Sunny Mays Schust) is an invaluable record of the ebb and flow of ISTEA-related issues through the period. In addition, he gained insights from Ron Fraser's Policy Subsystems and the Idea Whose Time Has Come, a dissertation based on interviews with dozens of participants *in the ISTEA story and submitted in partial fulfillment of the requirements for a doctorate at George Mason University in fall 1996. The author also wishes to thank current and former FHWA employees who reviewed this article and provided needed corrections and insights.*

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