

# CONNECTIONS

The NATIONAL TRANSPORTATION ENHANCEMENTS CLEARINGHOUSE Newsletter

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## TEA-21 Finalized by Congress *Category Modifications*

On May 22, 1998 both houses of Congress adopted the Transportation Equity Act for the 21st Century (TEA-21). A Conference Committee of select Senators and Representatives was kept busy in May preparing the compromise legislation that reauthorizes Federal transportation programs which had expired with ISTEA in September of 1997. Major funding level and formula issues were resolved at the last minute, as were hundreds of fine points and nuances about transportation programs, policy and procedures. For staff and Conference Committee Members, and hill lobbyists, pressure to get the bill done before the Memorial Day recess turned the third week of May into a frenzy of meetings, phone consults and late night negotiating sessions.

While the President has not yet signed the bill into law before this issue of *Connections* goes to press, we present here the highlights and outcomes for the Transportation Enhancements Program, as best we can determine them.

### Funding Levels

Initial estimates made by FHWA indicate that TE apportionments will average \$630 million annually. ISTEA generated approximately \$430 million annually.

### Transferability

The transferability language offered by the House in BESTEA was modified by the Conference Committee. TEA-21 makes only 25 percent of new money above 1997 state TE funding levels transferable to other ISTEA programs, at the state's discretion. Initial estimates suggest that only one to two percent of TE funds will be transferable. Because of the way the transferability language was written, the exact amounts of TE funds subject to transfer must be calculated on a state-by-state, and year-by-year basis. In general, States that were heavy donor states under ISTEA will receive larger increases in TE dollars than donee states, and thus have larger amounts of funds subject to transferability.

### Financing Flexibility

The Conference adopted the Senate's provisions eliminating the conditions for utilization of the *Advance Payment Option*, and making permanent the 1995 *Alternative Share* guidance which allows states to undertake TE projects using 100 percent Federal funds.

House language was adopted *making provision of safety and educational activities for pedestrians and bicyclists* an eligible TE activity.

Senate language including eligibility for tourist and welcome centers, in the context of TE activity category 3: *Scenic or Historic Highway Programs*, was adopted over the House approach, which would have established tourist and welcome centers as a whole new TEA category.

House language was adopted enlarging the scope of TE activity 10: *Mitigation of Highway Runoff*, to include projects that *reduce vehicle-caused wildlife mortality while maintaining habitat connectivity* (wildlife undercrossings) for threatened or endangered species.

A new activity was inserted into the bill at the last minute *making establishment of transportation museums* an eligible activity.

Not adopted were House modifications to TE activity 4: *Landscaping and Scenic Beautification*, making *graffiti and litter removal* an eligible activity as a new category of funding or as stand alone landscaping or scenic beautification projects.

### Youth Corps

House language was adopted that encourages states to utilize Youth Conservation or Service Corps in contracts or cooperative agreements to perform work involved in TE projects.

A number of states have already done this and had successful experiences, including Arizona, California, Pennsylvania, South Carolina, Washington and Wisconsin. For more information contact Marty O'Brien at the National Association of Service and Conservation Corps, (202) 737-6272.

### Transit Enhancements Program

The Conference adopted the House proposal to create a parallel **Transit Enhancements Program**, in the Transit Title of the transportation law. The House provision calls for transit agencies in urbanized areas over 200,000 in population to use 1 percent of their Urban Formula Funds for *Transit Enhancement Activities*. In FY 1998, a 1 percent set-aside for transit enhancements would generate approximately \$30 million annually for these activities, which is then divided among the 125 largest urban areas in the U.S. *Transit Enhancement*

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...providing information services to Transportation Enhancement program professionals & project sponsors

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# State TE Managers Exchange Information and Ideas in San Diego

State Transportation Enhancement (TE) managers gathered in San Diego last January to exchange ideas and strategize ways to improve TE project completion rates. The FHWA sponsored this event to bring together state TE managers and their federal counterparts, because they are in a position to tailor the federal-aid process to fit transportation projects that build community and celebrate the environment.

In organizing this meeting Harold Peaks, FHWA's Community Impacts and Transportation Enhancements Team Leader, set a clearer view of the future direction of state enhancements programs. "We saw a need to stimulate better state and federal communication and cross-fertilization of ideas among the various agency staff. It was time to get agency representatives in the same room for a discussion of their roles and program responsibilities, and to aid in the exchange of information and ideas," said Peaks.

"Much effort was put into gearing the program to the professionals who are most knowledgeable about how to guide a non-highway project through the federal-aid process," said Bob Patten of Rails-to-Trails Conservancy. "We especially wanted to ensure the TE managers had plenty of time to share the stories and experiences which they agree are most important."

Delays in ISTEA reauthorization prevented most of the federal division and regional employees from attending. Their absence may have heightened the sense of questioning about post-ISTEA enhancement programs. During the opening session on federal and state roles in TE program management, FHWA showed strong support for the program. "We want to keep this program with dedicated funding. Because there are strong forces who want to get rid of the TE program, we hope you will take seriously the transportation nexus for projects with questionable eligibility," said Gloria Jeff, FHWA Deputy Administrator.

In his keynote address, Harold Peaks confirmed the importance of the transportation nexus in the balance of powers between state and federal agencies. "FHWA allows states to define TE activities and use their own rules and regulations...the states should take a proactive approach that invites the promotion of transportation enhancements."

The opening session then turned to innovations FHWA has made to the federal-aid process for enhancement projects. Yet FHWA guidance is only as successful as the states that adopt it. According to a survey of 31 TE managers conducted at the meeting, a third of the respondents said their state ignores at least one provision. (*See survey highlights, page 4*)

Mary Gray, of FHWA, Idaho Division, illustrated how much faster implementation is when states streamline their own process. According to the survey results the most popular measures are:

- **Categorical exclusion.** Enhancements can enjoy simplified environmental requirements.

- **Innovative finance.** States can accept project sponsors' donation of land, materials and in-kind services to meet 20% local match requirements.
- **Alternative share.** States also can opt to allow 100% federal funding.

Four more measures used less often by the states but just as effective are:

- **Advanced payment.** To help cash-strapped local agencies, states may secure payment in advance from the USDOT rather than waiting to reimburse local sponsors.
- **Uniform Act.** If donating land for enhancements, qualifying conservation organizations can use simplified requirements if they have not received prior federal approval and do not act as an agent of the state.
- **Procurement.** States may use their own procurement process and bypass competitive bidding procedures if an enhancement project is not in the National Highway System (NHS) right-of-way (ROW).
- **Davis-Bacon.** If projects are less than \$2,000, or outside the federal-aid ROW, then provisions requiring predetermined wage do not apply.

During the second session, presenters of state "best practices" discussed the importance of simplified procedures. State agency representatives also emphasized the benefits of a user-friendly TE program approach that empowers and educates local project sponsors.

Kathleen Davis described Certification Acceptance (CA) procedures in use by the Washington DOT. Local agencies may administer TE project development and construction "...if the program is run by a licensed professional engineer familiar with the WDOT's Local Agency Guidelines," explained Davis. Benefits of CA to a local agency include savings in time and money since the agency has the authority to develop its own projects. For more information about Certification Acceptance and Local Area Guidelines, visit [www.wsdot.wa.gov](http://www.wsdot.wa.gov), click on **TransAid**, then select **LAG** from the index.

Larry McAuliffe presented a process review of New York's TE program conducted in partnership with FHWA. "The team found that the federal-aid process for TE may improve if local sponsors became more knowledgeable about that process and if specific modifications are adopted for smaller, more environmentally friendly projects," said McAuliffe.

Richard Hartman explained how the West Virginia DOT runs a user-friendly TE program that respects and balances the sensitivities of local sponsors, agency engineers and elected officials. Says Hartman, "We also plan to conduct workshops for local sponsors because good projects depend on good applications and good applications depend on well-informed applicants."

For many, the high point of the meeting was the small group breakout sessions lead by TE managers who volunteered their own agenda items for the discussion topic of *problems or successes completing TE projects*. Too numerous to mention all 16, we recap the three sessions with the highest attendance. Other topics include clarification of TEA category 5 eligibility,

state vs. local TE program management and the use of oversight consultants for TE projects.

Jim Snyder of New Jersey DOT outlined several policies and procedures that facilitate effective and sponsor-friendly results. Snyder's agency delegates all implementation to local sponsors which may be governments or non-profits. He suggests using certification acceptance of local sponsors for design, etc., and certifying local sponsors to oversee construction and maintenance. The use of toll credits relieves local sponsors from formal match requirements. If available "...use local match funds for design and preliminary engineering to avoid federal-aid procurement procedures," said Snyder.

Snyder mentioned that well-publicized support of local groups and elected officials reduces potential controversy, legal delays and may create a fast track to project completion. However, Odin Brudie of Alaska DOT mentioned that, in his state, older projects with well-developed plans and strong agency support may be finished faster than newer community-based projects.

Dennis Simpson of the Maryland DOT focused on efficacious approaches and tools to educate and assist local project sponsors. He suggested offering mandatory workshops on enhancements to potential project sponsors. "Hire oversight consultants who are expert in landscaping, trails or historic preservation to assist project sponsors, and set-aside funds to provide this technical assistance," said Simpson.

Doug Volette of Texas DOT lead a session on obtaining realistic cost estimates. Local agencies were found to underestimate costs, sometimes on purpose to gain advantage in project selection. This causes problems, including project downsizing, delays and deletion. The TE managers in attendance made numerous suggestions: require the use of professional consultants to 'sign off' on estimates; build a database to develop accurate unit costs; closely review estimates during project selection process; phase projects and factor overruns from one phase to the next; and require sponsors to submit preliminary designs with proposals.

Although the FHWA counterparts were missed, greater understanding was created among those who were able to attend the meeting. "There's a wide range in the look of state enhancement programs and in how the programs are implemented...this is exciting and enlarged our own perspective here in Vermont," says Lani Ravin, co-manager of that state's TE program. Dennis Pescatelli, Director of the Illinois TE Program concurs, "I returned home with good information and insights into approaches other states were taking and obtained a good benchmark of where our program is in relation to other states."

With its coverage of roles, best practices and breakout sessions, TE managers had ample opportunity to compare and contrast nuts and bolts implementation issues and practices. This and future initiatives, to facilitate better agency communication about methods of adapting the federal-aid process to non-highway projects, will positively affect all citizens and professionals who want to enhance the nation's transportation system.

Contact NTEC for a copy of the complete FHWA report.

## Staff Changes at the Clearinghouse

The last six months have brought many changes at the NTEC. First, Tim Lidiak announced his resignation as NTEC Manager in late December. Tim moved to Philadelphia in January in order to pursue his masters degree in planning at The University of Pennsylvania. As many readers know, Tim's research and analysis aptitudes contributed to building a strong reputation for NTEC. A big thanks, and good luck to Tim!

Katherine Shriver is the new NTEC Manager and will continue NTEC research and analysis activities, lead its communication and outreach efforts and act as a liaison to the FHWA Community Impact and Transportation Enhancements Team. An experienced transportation researcher and urban planning consultant, Katherine earned her masters degree in planning from the School of Architecture at The University of Texas at Austin.

Tom Maggio remains as the NTEC Program Associate and frontline staff who fields customer calls, provides technical assistance and fulfills orders. Robert Patten also remains in a part-time role as NTEC Director to provide staff training, newsletter editing and back up on technical assistance requests.

### NTEC Moves Its Office

On May 1, NTEC relocated its office from a basement townhouse in the Dupont Circle neighborhood of Washington, DC to a suite at the Rails-to-Trails Conservancy headquarters in the downtown office district. To our customers, this move was transparent, as we retain our toll free number, local service and fax numbers. The move enables NTEC staff to improve efficiency in accommodating the increase in demand likely to result from an expanded TE program in the TEA-21.

## An Enhanced NTEC is on the Net

NTEC publication and resource information is now available on the internet at [www.transact.org/ntec.htm](http://www.transact.org/ntec.htm).

Visit the site to order documents electronically. While there, please take a moment and send us suggestions to make the site more useful and dynamic.

NTEC also will begin to post newsletters and selected documents as downloadable pdf files and provide links to other webpages of related interest.

If you would like to have your organization linked to the NTEC website, contact Tom Maggio at the Clearinghouse by phone at (888) 388-6832, or via email: [ntec@transact.org](mailto:ntec@transact.org).

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## TEA-21 Finalized...

Activities are defined in ten categories:

- historic preservation, rehabilitation and operation of historic mass transportation buildings and facilities;
- bus shelters;
- landscaping and scenic beautification, including tables, benches, trash receptacles and street lights;
- public art;
- pedestrian access and walkways;
- bicycle access, including bike storage facilities and bike-on-bus racks;
- transit connections to parks within the transit service area;
- signage; and
- enhanced transit access for persons with disabilities.

*Connections* is a publication of the National Transportation Enhancements Clearinghouse (NTEC).

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*Connections* is published bimonthly. We welcome submissions of articles regarding Transportation Enhancements, as well as letters and other comments.

### Highlights of TE Managers' Survey

In San Diego 31 TE managers completed a survey to assess and characterize critical issues in TE programs.

**MOST TE MANAGERS** are aware of the streamlining guidance memoranda issued by FHWA, yet almost a third would welcome more explanation of their intent and applicability.

**THE TOP THREE STREAMLINING MEASURES** are the alternative share, innovative finance and categorical exclusion.

**A THIRD OF RESPONDENTS** indicate that their state has chosen to not use at least one streamlining measure.

**RELAXED RULES FOR SMALL-DOLLAR PROJECTS**, improved state and federal communication and streamlined contracting and procurement procedures would improve program efficiency.

**ELIGIBILITY PROBLEMS** related to historic preservation and the transportation nexus persist.

**NINE STATES**, including AK, NJ, VT and VA, indicate that non-profits may independently sponsor a project.

**NINE STATES**, including AK, CA, KY, NJ and VT, indicate they can directly receive funds to implement a project.

**ONE THIRD OF THE TE MANAGERS** indicate that when Congress does not authorize their state to spend all its apportioned money, a significant number of TE projects remain unobligated so that highway projects may be advanced.

**TE MANAGERS REPORT** that enhancement projects are slow to reach the point of obligation most often because project sponsors are slow to advance projects.