

Federal Highway Legislation and Unfunded Mandates

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It is a pleasure to participate in the 1996 Purdue Road School. I have attended several of the sessions and have found them to be very informative. Even more enjoyable and perhaps as important is the opportunity to meet and talk with people we may not have seen since last years Road School. I am very pleased to see the recognition being given to the fact that all of us - (Federal, State, Local government, Academia, Private Industry) are integral parts of the Highway Program and must partner to obtain the best product for the taxpayer. I assure you that FHWA is placing similar emphasis on issues related to quality, partnerships and focusing on customer needs.

The program listed the title of this presentation as "New ISTEA Legislation and Unfunded Mandates". It is my intention to cover the recent NHS Legislation, offer a few comments on Mandates and raise a few issues related to reauthorization legislation.

Most of you are familiar with the Intermodal Surface Transportation Efficiency Act of 1991. That legislation provided funding authorization for six years but also changed the federal focus of the federal-aid highway program forever. It did this by providing more flexibility to the States and by concentrating federal oversight on a core network of highways called the National Highway System (NHS). The legislation required Congress to officially designate the final NHS by October 1995.

On November 28 the President signed the National Highway System Designation Act of 1995. The legislation formally designated the NHS but it also made changes to the existing program. My comments will address the following items included in the legislation:

- NHS System
- Mandate Reduction
- Safety Impacts
- Misc. Indiana Items


NHS System Characteristics

The NHS System as originally approved includes 160,955 miles. It is 75% rural 25% urban. With less than 4% of mileage it handles 40% of nation's traffic and 70% truck freight traffic. More than 90% of population is within 5 miles of an NHS route. It includes all of the Interstate System, the STRANET defense system, and other principal arterials.


The NHS will include connections to major ports, airports, international border crossings, public

National Highway System

- NHS Designation
- Mandate reduction
- Safety Impacts
- Misc. Indiana Items



NHS Designation

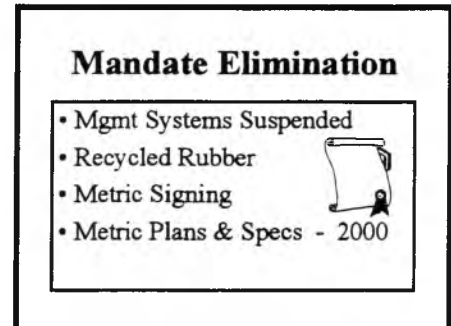
- 160,955 Miles 
- 2,897 Miles in Indiana
- 40% of Total Traffic
- 70% of Truck Freight
- 90% of Population within 5 Mi.

transportation and transit facilities and other Intermodal transportation facilities.

Amendments to the system can be made by the Secretary of Transportation based on recommendations of the States and MPOs.

Mandate Reduction

The presentation title uses the phrase "Unfunded Mandates" and I would like to expand on this a little. By definition there are no unfunded mandates in highway legislation. The Congress has defined a federal highway program, provided funding for it, and established several objectives that need to be accomplished. The total program by definition is voluntary and the funding provided is intended to accomplish the will of Congress. I am the first to admit there are many mandates within the program, many of which involve financial sanctions, but the program is truly funded. Now there are also mandates that are unfunded but these come from other legislation such as the American Disabilities Act and long standing labor requirements such as the Davis Bacon Act.



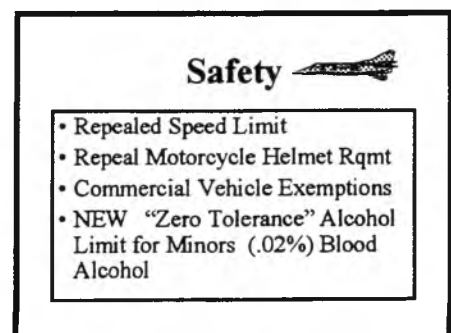
Having said that I recognize that many of the program mandates (funded or not) are not popular in these times and need to be changed. The NHS legislation eliminated several of them. First, the sanctions for failure to implement management systems were eliminated. FHWA continues to believe that the management systems, provide a professional look at the condition and operations of the existing infrastructure and should be continued but ultimately it is the decision of each State if this will be done.

The ISTEA requirement for the use of recycled rubber in asphalt pavements has been eliminated and no sanctions now exist. Research on rubber additives and their use in pavement mixtures are still encouraged but are totally voluntary.

The NHS legislation contains two items regarding the use of the metric system. First, it prohibits the federal government from requiring States to provide metric signing. Second, the use of metric measurements in plans and specifications and other contract procedures cannot be required until September 30, 2000. In both instances the States may elect to use the metric system for signing or for contract documents immediately if they so desire. It is my personal opinion that delaying the use of metric measurements in contracting will not save money and will simply prolong a difficult climate.

Safety Impacts

The NHS legislation eliminated the national maximum speed limits which were established in the mid 1970s in response to the oil embargo. Some States have not changed their limits but some have. For example, Montana eliminated its daytime speed limit and has a nighttime limit of 65 MPH on interstate highways and 55 MPH on other highways. The legislation requires a report to the Congress about the human and economic benefits and costs



which result in States that change their speed limits.

The NHS legislation also repealed the law that penalized States that did not enact motorcycle helmet requirements.

While eliminating several federal mandates the Congress did establish a new one referred to as the "Zero Tolerance" law. States are required to enact and enforce a law that considers an individual under 21 with a blood alcohol concentration of 0.02 percent or greater while operating a motor vehicle to be driving while intoxicated or driving under the influence. A penalty of withholding 5% or 10% of construction funds beginning October 1, 1998 for failure to comply has been established.

Misc. Indiana Items

A technical Amendment was made to ISTEA which provided some demonstration funds for the Indianapolis to Evansville route for the segment between Bloomington and Newberry. It was changed to read between Bloomington and Evansville. This would allow work to begin on the southern segment first.

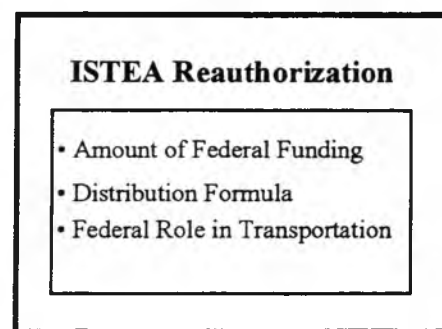
The legislation also designated several priority corridors as "part of the future interstate system." In Indiana this applied to the Indianapolis to Evansville Route.

Future Reauthorization

The NHS Designation is important because it provides a federal direction for surface transportation and brought closure to the ISTEA establishment of the NHS. The legislation also included several items which indicate that States and local governments will have a greater role in defining and financing their futures.

It is important to realize however, that this legislation did not resolve the many issues that currently face the transportation industry. Since the ISTEA authorizations only go through FY 97 it is time to place attention on the reauthorization process.

In my opinion three major issues face the transportation industry at this time. The first is a determination of how much federal funding can be expected. Crudely put this is a definition of the size of the pie. As you know Congress must balance the budget in seven years and is placing limits on Domestic Spending. This means that Transportation must compete with other programs such as Social Security, Medicare, education, the environment, etc., for funding from a limited amount. You have not heard many political leaders (Federal or State) citing that transportation is more important than these items. Statements have been made that funding over the next seven years will actually ramp down to a point where they could be about 18 percent less than the current programs. To make matters worse this is in inflated dollars.



A second issue that is coming up is potential disagreement of how funds should be distributed and a concerted effort to redefine the program and revise distribution

formulas. Again crudely put this involves the size of the pie. The fight will get more intense as the pie actually gets smaller. Differences will exist between individual States, between State and local governments, between urban and rural, between preservation and new facilities, and other factions. Add to this the political issue of Donor vs. Donee States and you have potential for stalemate.

A third issue involves a definition of the federal role in this program. A year ago I explained the Administration proposal to restructure the US DOT. Congress did not accept the proposal. Now however, there is debate that ranges from consolidation of federal programs to getting the federal government out of transportation funding and letting the States raise the funds. In my opinion there will be a consolidation and restructuring of USDOT to administer a program that continues and maybe even increases the flexibility stated in ISTEA. My Crystal ball is fuzzy beyond that point.

One thing is known however. ISTEA authorizations expire this year with the distribution of funds on October 1, 1996 the last year of existing legislation. New legislation is needed by the fall of 1997 if the program is to continue. All of us in this room have an interest (maybe even conflicting interests) in the outcome of the reauthorization.

To complicate matters further these issues will need to be addressed by a Congress and President that are not yet elected and who will be held bound by budget restrictions brought about by this Congress' actions.

Summary

To Summarize

- The NHS is now officially designated
- FHWA focus is on the NHS
- Several Mandates have been eliminated
- Transportation Budgets may be smaller
- Reauthorization Legislation is Critical

We live in challenging times where transportation infrastructure directly impacts our total economy but at the same time budget restraints may tend to limit our ability to provide needed highway and Intermodal transportation.

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