SJR

15

FISCAL NOTE

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Revision Date:	13-Mar-97	Dept. Affected:	
Title:	Reauthorization of ISTEA	BRU:	
Sponsor:	Senate Transportation Committee	Components:	
Requestor:	Senate Finance Committee	Serial #	

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						

REVENUE						

FUNDING: (THOUSANDS OF DOLLARS)

General Fund						
Federal Fund						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)
see attached analysis

Prepared by: SENATE FINANCE COMMITTEE

Drue Pearce
SENATOR DRUE PEARCE, COCHAIR

Date: 3-13-97
Phone: 465-4993

Bert Sharp
SENATOR BERT SHARP, COCHAIR

Date: 3-13-97
Phone: 465-3004

Alaska State Legislature

Session:
State Capitol, Room 423
Juneau, AK 99801-1182
(907) 465-4921

Interim:
716 W. 4th Avenue, Ste. 450
Anchorage, AK 99501-2133
(907) 258-8183

SENATE TRANSPORTATION COMMITTEE

Sponsor Statement
SJR 15

"Relating to reauthorization of the Federal Intermodel Surface Transportation Act of 1991"

SJR 15 calls upon the Federal Government to reauthorize the Intermodel Surface Transportation Act of 1991, known as ISTEA. This is a federal transportation program which shares federal gasoline tax revenues with the states. It is due to expire on September 30, 1997.

Since 1991 Alaska has received over one billion dollars in federal funds to build transportation facilities including highways, ferries and airports. Federal ISTEA funds represent approximately one third of the state total transportation budget. The purpose of the act was to link the nation with a viable transportation system.

SJR 15 calls for the Federal Government to renew the program and give states more flexibility to use the funds to fill their individual needs.

Reauthorization of ISTEA may be the most important legislation, relating to states, to come before Congress in years. Unanimous support of the reauthorization of ISTEA will send a strong message to Washington and our congressional delegation.

BNA's ISTEA Daily Briefing
No. 31 Monday April 7, 1997

Transportation

ISTEA Reauthorization In Full Gear As Lawmakers Return From Recess

Negotiations on the reauthorization of the nation's highway and mass transit programs will shift into full gear as Congress returns from recess, with lawmakers readying for the debate over the funding and structure of the massive bill.

With much of the groundwork already having been laid for the rewrite of the Intermodal Surface Transportation Efficiency Act during the winter, House and Senate lawmakers now will have to begin making key decisions on the look of the programs and how to wrestle more funds for them in upcoming budget discussions.

While lawmakers still are introducing their competing ISTEA reauthorization bills, most of the major plans already are known, as are the proposals to finance them. And, during the past weeks, key players have indicated how they plan to approach the reauthorization, with many positioning themselves to go after more funds for transportation.

Although the House Transportation and Infrastructure Committee is in the process of developing its ISTEA reauthorization bill, its counterpart in the Senate remains divided over the basics of the successor to the landmark 1991 act. But members on the House panel and the Senate Environment and Public Works Committee appear to agree on one thing: they want more money for ISTEA programs.

In the next few weeks, members of both authorizing panels will be pressing the House and Senate budget committees to recommend significantly higher transportation spending levels in the FY 1998 budget resolution. At the same time, lawmakers will be maneuvering to shift to the Highway Trust Fund the 4.3 cents that now goes to deficit reduction--with a half-cent of that tax likely to be given to intercity rail.

Flurry Of Senate Bills Expected

While the House panel chaired by Rep. Bud Shuster (R-Pa) is in the process of writing a consensus bill to report from committee this spring, senators are essentially split into three camps over the structure of the programs. In large part, they are divided along regional lines, and their positions reflect their states' current return on the gas tax payments sent to Washington.

Introduced early on by Sen. John Warner (R-Va), chairman of the Transportation and Infrastructure Subcommittee, and many other lawmakers from the South and Midwest is the so-called STEP 21 bill (S 335) that would restructure the federal aid highway program and give states much more control over funds. The legislation, which only addresses the highway portion of ISTEA, promises to give states a 95 percent return on their gas tax payments.

That bill stands in sharp contrast to the proposals being offered by the Clinton administration and many lawmakers from the Northeast who want to keep ISTEA intact with few changes. The administration, which finally released its six-year proposal in mid-March, would keep ISTEA but increase its flexibility and eligible uses for highway funds. Among other things, it would make Amtrak eligible for highway monies.

When the Senate returns the week of April 7, Sen. Daniel Patrick Moynihan (D-NY) and several other lawmakers from the Northeast are planning to introduce their own ISTEA Reauthorization Act. It would retain the basic structure of ISTEA but update outmoded formulas. It creates a new ''high- and low-density state adjustment'' to address states' concerns about the highway formula. Still, it is not expected to fully address the donor states' concerns about their share of highway funds.

About the same time, Sen. Max Baucus (D-Mont), the Senate Environment and Public Works Committee's ranking Democrat, is expected to introduce another bill that is being positioned as a middle ground between STEP 21 and the so-called ISTEA Works bills. Baucus and other lawmakers from Western states are readying their ''STARS 2000'' bill, which would direct 60 percent of available funds to the National Highway System and 40 percent to the Surface Transportation Program. It also calls for raising annual highway funding from $20 billion to about $26 billion.

Aides said the decision by Baucus to introduce a separate reauthorization bill was a motivation for Senate Environment and Public Works Committee Chairman John Chafee (R-RI) to agree to join Moynihan and other lawmakers in sponsoring the ISTEA Works bill. With Chafee sponsoring that legislation, the three camps now are pretty well entrenched within the committee, aides said, adding that it mirrors the division in the overall Senate.

Amidst all of this, Sen. Connie Mack (R-Fla) is expected to push his own separate plan to completely dismantle ISTEA and ''turn back'' most of program to the states. While Mack has not actually introduced the legislation, the proposal continues to be discussed, particularly in the context of STEP 21, which has been positioned as a moderate alternative to ''devolution.''

For Mack and other proponents of ''turnback,'' a large problem is scoring the actual legislation. Repealing most of the federal gas tax--which the proposal would do--would require Mack to find billions in offsets. In addition, it is not clear that states are ready to increase their own gas taxes to make up for any lapse in funding from Washington.

House Developing Legislation This Spring

All of the same proposals are under discussion in the House, but, so far, the 73-member Transportation and Infrastructure Committee appears determined to back a consensus reauthorization bill that will be circulated in the Spring and then reported from committee by the Memorial Day recess.

Given the divisiveness of the formula issue--as well as many others raised by the ISTEA rewrite--aides said they would not be surprised if the committee misses those deadlines. But the panel already seems far ahead of the Senate

Environment and Public Works Committee, with its hearings mostly complete and its list of project requests catalogued.

According to aides, Shuster and other lawmakers will be briefed the week of April 7 on the staff's work during the recess.

''We're at the point now where we will be able to make recommendations,'' an aide said.

Under Construction

Aides indicated that the bill under development will keep ISTEA as the framework for the reauthorization. After city and county officials spent the winter attacking STEP 21 and calling for retention of ISTEA, they said, it appears that there is not enough political support for a major restructuring of the programs.

However, with House GOP Whip Tom DeLay (R-Texas) and other donor state lawmakers pushing STEP 21, aides said the committee will try to fine-tune the act to give states more flexibility and a better return on their gas tax payments.

While the committee is only in the beginning stages of developing the bill, aides suggested that the multi-year legislation could reflect the following:

o Fine-tuning of ISTEA's different highway categories to give states a greater say over how money is spent. Among other things, the STP and Congestion Mitigation and Air Quality programs may be changed to allow funds to be transferred to other uses.

o Revamping the formula and creation of one large equity account that will eliminate ISTEA's multiple categories and help improve donor states' returns. A large portion of that account may be aimed at Texas.

o Funding for highway and transit ''demo'' projects, with the bill's annual funding for road projects only expected to exceed $1 billion.

o Funding for special corridors, including those to address increased activity generated by the North American Free Trade Agreement.

o Programs for innovative finance, Appalachian highways, and border infrastructure.

Most significantly, the bill is expected to reflect Shuster's desire to get much more money into the core highway and transit programs. The legislation, aides said, may very likely call for shifting the 4.3 cents gas tax to the Highway Trust Fund and also taking that trust fund off budget to free up the monies. All of those moves, they said, could support annual highway spending in excess of $32 billion and annual transit spending in excess of $6 billion.

Push For More Money In Budget Plan

While the structure of the bill continues to divide lawmakers, both key House and Senate lawmakers are intent on getting more money for the programs.

In the House, a large majority of members have asked Shuster for project money this year, and about 190 of them have signed on as cosponsors on Shuster's bill (HR 4) to take the Highway Trust Fund off budget.

The strength of last year's vote on an identical bill, plus the backing of almost 200 members in the 105th Congress, is putting pressure on House Budget Committee Chairman John Kasich (R-Ohio) to write a budget resolution that recommends higher transportation funding. Kasich, who earlier planned to offer his own ''devolution'' bill, continues to oppose the off-budget bill but may end up allowing greater transportation spending.

On the Senate side, Warner and Baucus also moved out early on the funding issue, collecting the support of some 55 other lawmakers in a letter to Senate Budget Committee Chairman Pete Domenici (R-NM) urging $26 billion in annual highway funding in the budget resolution. And, while most lawmakers continue to officially oppose the off-budget bill, Senate Minority Leader Tom Daschle (D-SD) recently indicated that he plans to support the proposal.

In a move that Shuster considered significant, Chafee and Sen. Kit Bond (R-Mo) recently offer a bill (S 404) that would not take the trust fund off budget but would ''wall off'' highways in the budget process so that annual gas tax receipts could be spent.

4.3 Cents Tax Key Issue

For most of ISTEA's funding issues, the key appears to be the fate of the 4.3 cents, which since its creation in 1993's budget act has flowed to the general fund to reduce the federal deficit. During the recent season of posturing, many key lawmakers also began to signal their support for shifting the tax to the trust fund to help finance ISTEA, including Daschle, Senate GOP Leader Trent Lott (R-Miss), Baucus, and Warner.

Significantly, the leaders of the House and Senate tax-writing panels also have indicated their own support for shifting the tax to the trust fund. But in staking out their positions, House Ways and Means Committee Chairman Bill Archer (R-Texas) and Senate Finance Committee Chairman Bill Roth (R-Del) have set up a situation where financing for Amtrak will be a factor in negotiating a deal on the gas tax.

In recent remarks, Archer said he will support shifting the 4.3 cents tax to the trust fund as part of ISTEA. However, he said he does not believe Amtrak should receive any trust fund money.

In contrast, Roth recently introduced legislation (S 436) to direct only a half-cent of that 4.3 cents away from deficit reduction, and that half-cent would go to Amtrak.

Aides said a deal appears likely, particularly as Amtrak's financial situation becomes more acute. In recently announcing the creation of a panel to develop an emergency plan to save Amtrak, Shuster said he would support giving the railroad a half-cent if the bulk of the 4.3 cents was shifted to the trust fund to better finance highway and transit programs.

The panel is headed by Tom Larson, who served as federal highway administrator during the 1991 surface transportation reauthorization. The 13-member group is expected to make recommendations on Amtrak's finances during the next 30 to 60 days, a period that will coincide with the development of the budget resolution.

-- By Nancy Ognanovich

Major ISTEA Reauthorization and Financing Proposals

BILL	STATUS	OUTLOOK
National Economic Crossroads Efficiency Transportation Act, or NEXTEA, proposed by the Clinton administration. Introduced by request as S 468 by Sens. Chafee and Moynihan. Not get introduced in House	Would retain ISTEA as framework for reauthorization, with relatively flat funding over next six years. Includes expanded eligibility for highway funds, revamped formula, new border infrastructure program. Amtrak included as eligible for highway funds.	Total $175 billion in highway and transit funding has been criticized, as well as formula that cuts share of funding for many Western, Northeastern, and other states. But retention of ISTEA framework and partnerships with states and localities has strong political backing.
ISTEA Reauthorization Act, or ISTEA Works, to be introduced by Sens. Moynihan, Lieberman, and Lautenberg. Including Chafee, the bill will have about 20 cosponsors. In the House,	Retains the basic structure of ISTEA but updates outmoded formulas, provides flexibility, and streamlines the equity adjustment programs. Creates a new ''high- and	Retention of ISTEA framework popular, but funding for donor states under plan likely to be criticized.

Regulations and Requirements Not Asked For by the Act

Major Investments Studies

ISSUE:

Major Investment Study requirements are redundant and overly prescriptive, introducing unnecessary costs and unrealistic expectations into the project development process.

Analysis

MIS requirements are very prescriptive in terms of identifying the types of facilities that must be evaluated and the extent of studies that are required. The amount of analysis required is very extensive. This is combined with a broad definition of projects covered by these requirements that includes more facilities than is reasonable to be subjected to this type of analysis.

The result is that multimodal analysis intended to provide input into the long-range plan cannot be achieved. Analyzing short segments of road projects (1 mile) means that segmented analysis is being done. The extent of analysis is similar to NEPA analysis, which is more extensive than what is necessary for a system evaluation appropriate to support a long-range plan. Therefore, system studies become burdened with EPA and environmental permit requirements, often resulting in analysis being re-done several times throughout the life of the project.

MIS requirements are applied unilaterally to all areas of the country, a process which is not appropriate. It is a waste of time to conduct alternative mode analysis in small metropolitan areas where it is not feasible.

MIS was not required by ISTEA but has been included by FHWA as an interpretation of regulation in 23 CFR 450.318. This interpretation has created an artificial study process that overlaps with and duplicates planning and project development processes already in place. The intent of identifying alternative modes early in the process is done through the long-range plan and Congestion Management System requirements.

The environmental and cost benefit analysis is done through NEPA. Requiring that this analysis be done on a macro-level of detail can not realistically be achieved. For example, analysis of land use alternatives can not be done on a large scale because models are not available or reliable. Macro-level environmental analysis is unacceptable to environmental and permitting agencies, the result being that work done under MIS would need to be re-done during NEPA.

The concern has been expressed that without this requirement, MIS-type analyses would not be undertaken. In fact, states and MPOs have traditionally done corridor and system analyses at a level appropriate to the area and the issues. These are ongoing activities that should not be prescriptively mandated.

Recommendation

Use existing long-range systems planning, Congestion Management System and NEPA processes to meet the intent of MIS through one of the following courses of action.

- Repeal 23 CFR 450.318 prescribing the Major Investment Studies.

REFERENCES: 23 CFR 450.318, Re-authorization Surveys given to the transportation problems in the area and their complexity, the growth rate of the area (e.g., fast, moderate or slow), the appropriateness of the factors specified for consideration in this subpart including air quality, and the desirability of continuing any planning process that has already been established. Areas experiencing fast growth should give consideration to a planning process that addresses all of the general requirements specified in this subpart. As a minimum, all areas employing a simplified planning process will need to develop a transportation plan to be approved by the MPO and a TIP to be approved by the MPO and the Governor.

(d) The metropolitan transportation planning process shall include preparation of technical and other reports to assure documentation of the development, refinement, and update of the transportation plan. The reports shall be reasonably available to interested parties, consistent with §450.316(b)(1).

§450.318 Metropolitan transportation planning process: Major metropolitan transportation investments.

(a) Where the need for a major metropolitan transportation investment is identified, and Federal funds are potentially involved, major investment (corridor or subarea) studies shall be undertaken to develop or refine the plan and lead to decisions by the MPO, in cooperation with participating agencies, on the design concept and scope of the investment. Where the studies have not been completed prior to plan approval, the provisions of §450.322(b)(8) apply.

(b) When any of the implementing agencies or the MPO wish to initiate a major investment study, a meeting will be convened to determine the extent of the analyses and agency roles in a cooperative process which involves the MPO, the State department of transportation, public transit operators, environmental, resource and permit agencies, local officials, the FHWA and the FTA and where appropriate community development agencies, major governmental housing bodies, and such other related agencies as may be impacted by the proposed scope of analysis. A reasonable opportunity, consistent with §450.316(b)(1), shall be provided for citizens and interested parties including affected public agencies, representatives of transportation agency employees, and private providers of transportation to participate in the cooperative process. This cooperative process shall establish the range of alternatives to be studied, such as alternative modes and technologies (including intelligent vehicle and highway systems), general alignment, number of lanes, the degree of demand management, and operating characteristics.

(c) To the extent appropriate as determined under paragraph (b) of this section, major investment studies shall evaluate the effectiveness and cost-effectiveness of alternative investments or strategies in attaining local, State and national goals and objectives. The analysis shall consider the direct and indirect costs of reasonable alternatives and such factors as mobility improvements; social, economic, and environmental effects; safety; operating efficiencies; land use and economic development; financing; and energy consumption.

(d) These major investment studies will serve as the "alternatives analyses" required by section 3(i)(1)(A) of the Federal Transit Act (49 U.S.C. app. 1602(i)) for certain projects for which discretionary section 3 "New Start" funding is being sought. The studies will also be used as the primary source of information for the other section 3(i)(1)(A) Secretarial findings on cost-effectiveness, local financial commitment and capacity, mobility improvements, environmental benefits, economic development, operating efficiency, etc.

(e) These major investment studies also will, when appropriate, serve as the analysis of demand reduction and operational management strategies pursuant to 23 CFR 500.509.

(f) A major investment study will include environmental studies which will be used for environmental documents as described in paragraphs (f)(1) and (2) of this section:

(1) As a minimum the participating agencies will use the major investment study as input to an environmental impact statement or environmental assessment prepared subsequent to the

completion of the study. In such a case, the major investment study reports shall document the consideration given to alternatives and their impacts; or

(2) The participating agencies may elect to develop a draft environmental impact statement or environmental assessment as part of the major investment study. At any time after the completion of the study and the inclusion of the major transportation investment in the plan and the TIP the participating agencies may request the development of final environmental decision documents required under NEPA for such major transportation investments, culminating in the execution of a Record of Decision or Finding of No Significant Impact by the FHWA and/or the FTA.

(g) Major investment studies may lead to decisions that modify the project design concept and scope assumed in the plan development process. In this case, the study shall lead to the specification of a project's design concept and scope in sufficient detail to meet the requirements of the U.S. EPA conformity regulations (40 CFR part 51).

(h) Major investment studies are eligible for funds authorized under sections 8, 9 and 26 of the Federal Transit Act (49 U.S.C. app. 1607, 16072, and 1622) and planning and capital funds apportioned under title 23, U.S.C., and shall be included in the UPWP. If CMAQ, STP, NHS, or other capital funds administered by the FHWA are utilized for this purpose, the study must also be included in the TIP.

(i) Where the environmental process has been completed and a Record of Decision or Finding of No Significant Impact has been signed, §450.318 does not apply. Where the environmental process has been initiated but not completed, the FHWA and the FTA shall be consulted on appropriate modifications to meet the requirements of this section.

§450.320 Metropolitan transportation planning process: Relation to management systems.

(a) As required by the provisions of the management system regulations 23 CFR part 500, within all metropolitan planning areas, the congestion management, public transportation, and intermodal management systems, to the extent appropriate, shall be part of the metropolitan transportation planning process required under the provisions of 23 U.S.C. 134 and 49 U.S.C. app. 1607.

(b) In TMAs designated as nonattainment for ozone or carbon monoxide, Federal funds may not be programmed for any project that will result in a significant increase in carrying capacity for single occupant vehicles (a new general purpose highway on a new location or adding general purpose lanes, with the exception of safety improvements or the elimination of bottlenecks) unless the project results from a congestion management system (CMS) meeting the requirements of 23 CFR part 500, subpart E. Such projects shall incorporate all reasonably available strategies to manage the SOV facility effectively (or to facilitate its management in the future). Other travel demand reduction and operational management strategies identified under 23 CFR 500.505(e), as appropriate for the corridor, but not appropriate for incorporation into the SOV facility itself, shall be committed to by the State and the MPO for implementation in a timely manner, but no later than the completion date for the SOV project. Projects that had advanced beyond the NEPA stage prior to April 6, 1992, and which are actively advancing to implementation, e.g., right-of-way acquisition has been approved, shall be deemed programmed and not subject to this provision.

(c) In TMAs, the planning process must include the development of a CMS that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies and meets the requirements of 23 CFR part 500, subpart E.

(d) The effectiveness of the management systems in enhancing transportation investment decisions and improving the overall efficiency of the metropolitan area's transportation systems and facilities shall be evaluated periodically, preferably as part of the metropolitan planning process.

§450.102 Applicability.

The definitions in this subpart are applicable to this part, except as otherwise provided.

§450.104 Definitions.

Except as defined in this subpart, terms defined in 23 U.S.C 101(a) are used in this part as so defined.

Consultation means that one party confers with another identified party and, prior to taking action(s), considers that party's views.

Cooperation means that the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective.

Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs and schedules of other agencies or entities with legal standing, and adjustment of plans, programs and schedules to achieve general consistency .

Governor means the Governor of any one of the fifty States, or Puerto Rico, and includes the Mayor of the District of Columbia.

Maintenance area means any geographic region of the United States designated nonattainment pursuant to the CAA Amendments of 1990 (Section 102(e)), 42 U.S.C. 7410 et seq., and subsequently redesignated to attainment subject to the requirement to develop a maintenance plan under section 175A of the Clean Air Act as amended (CAA), 42 U.S.C. 7410 et seq.

Major metropolitan transportation investment means a high-type highway or transit improvement of substantial cost that is expected to have a significant effect on capacity, traffic flow, level of service, or mode share at the transportation corridor or subarea scale. Consultation among the MPO, State department of transportation, transit operator, the FHWA and the FTA may lead to the designation of other proposed improvements as major investments beyond the examples listed below. Examples of such investments could generally include but are not limited to: Construction of a new partially controlled access (access allowed only for public roads) principal arterial, extension of an existing partially controlled access (access allowed only for public roads) principal arterial by one or more miles, capacity expansion of a partially controlled access (access provided only for public roads) principal arterial by at least one lane through widening or an equivalent increase in capacity produced by access control or technological improvement, construction or extension of a high-occupancy vehicle (HOV) facility or a fixed guideway transit facility by one or more miles, the addition of lanes or tracks to an existing fixed guideway transit facility for a distance of one or more miles, or a substantial increase in transit service on a fixed guideway facility. For this purpose, a fixed guideway refers to any public transportation facility which utilizes and occupies a designated right-of-way or rails including (but not limited to) rapid rail, light rail, commuter rail, busways, automated guideway transit, and people movers. Projects that generally are not considered to be major transportation investments include but are not limited to: Highway projects on principal arterials where access is not limited to public roads only, small scale improvements or extensions (normally less than one mile) on principal arterials with the primary goal of relieving localized safety or operational difficulties, resurfacing, replacement, or rehabilitation of existing principal arterials and equipment, highway projects not located on a principal arterial, and changes in transit routing and scheduling.

Management system means a systematic process, designed to assist decisionmakers in selecting cost effective strategies/actions to improve the efficiency and safety of, and protect the investment in the nation's infrastructure. A management system includes: identification of performance measures; data collection and analysis; determination of needs; evaluation, and selection of appropriate strategies/ actions to address the needs; and evaluation of the effectiveness of the implemented strategies/actions.

Metropolitan planning area means the geographic area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and sec-