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107TH CONGRESS }
2d Session }

SENATE

{ REPORT
107-163

HIGHWAY FUNDING RESTORATION ACT

JUNE 17, 2002.—Ordered to be printed

Mr. JEFFORDS, from the Committee on Environment and Public Works, submitted the following

R E P O R T

[To accompany S. 1917]

[Including cost estimate of the Congressional Budget Office]

The Committee on Environment and Public Works, to which was referred a bill (S. 1917) to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

BACKGROUND

The Transportation Equity Act for the 21st Century (TEA-21) created a budgetary mechanism to tie funding for the Federal-aid highway program to highway user fee revenues deposited into the Highway Trust Fund. Known as Revenue Aligned Budget Authority (RABA), this mechanism adjusts the guaranteed amount available for highway funding to reflect the most recent estimates of trust fund revenues. The intent of the RABA adjustment is to more closely align the trust fund's receipts to its outlays. The RABA mechanism accomplishes this by "looking back" at the prior fiscal years receipts into the trust fund and "looking ahead" to the trust fund's projected receipts for the coming fiscal year. The highway obligation limit and the highway category discretionary cap then are adjusted by the amount of the resulting RABA calculation.

After three years of positive annual RABA adjustments in fiscal years 2000, 2001, and 2002, the fiscal year 2003 RABA adjustment was a negative \$4.4 billion due in part to a downturn in Highway Trust Fund revenues. Included in the President's budget proposal,

this negative adjustment equated to an \$8.6 billion swing from the 2002 enacted highway funding level, a 27 percent cut.

The committee strongly supports the principle behind the RABA calculation. But the committee also has received testimony that there is a need for some adjustment of the RABA mechanism to mitigate year-to-year fluctuations.

The committee introduced S. 1917 to provide predictability and sustainability to the Federal-aid highway program. As amended, S. 1917 deems the fiscal year 2003 RABA adjustment to be zero, restores the TEA-21 guaranteed funding level for fiscal year 2003, and increases that amount by an additional \$1.2 billion, setting the obligation limit for the coming fiscal year at \$28.9 billion.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The Highway Funding Restoration Act

Section 2. Federal-aid Highway Program Obligation Ceiling

SUMMARY

Section 2 amends section 1102 of the Transportation Equity Act for the 21st Century (TEA-21) to set the fiscal year 2003 obligation limit for the Federal-aid highway and highway safety construction program at \$28.9 billion and directs distribution of the funds in accordance with section 1102 of TEA-21.

DISCUSSION

This section sets the obligation limitation for fiscal year 2003 at \$28.9 billion. This figure represents a level of highway funding sustainable by current cash balances in the Highway Trust Fund.

This section also directs the distribution of the restored funding levels according to section 1102 of TEA-21.

Section 3. Increase In Discretionary Spending Limit and Obligation Limitations for Highway Category

SUMMARY

Section 3 amends section 251(c)(7)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 and section 8103(a)(5) of TEA-21.

DISCUSSION

This section amends current budget law by setting the fiscal year 2003 discretionary spending limit for the highway category at \$29.282 billion. This change increases the highway category discretionary spending limit to accommodate the obligation limit authorized by this Act.

Section 4. Restoration of Highway Category Spending Guarantee

SUMMARY

Section 4 deems all fiscal year 2003 RABA adjustments made to the highway budget category and the obligation limit to be zero. Section 4 then applies this result retroactively to all reports issued

pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985, including the discretionary sequestration preview report.

DISCUSSION

Section 4 deems the adjustments to the obligation limit and the outlay levels for the highway category to be zero and applies this change to the RABA adjustment to the President's February 2002 budget submission.

Section 5. Sense of the Congress Regarding Revenue Aligned Budget Authority

It is the sense of the Congress that future legislation should amend the TEA-21 RABA mechanism to more accurately align highway spending with highway revenues.

Section 6. Sense of the Senate Concerning Distribution of Funds

It is the sense of the Senate that all funds authorized and appropriated for fiscal year 2003 for Federal-aid highway and highway construction programs be distributed in accordance with TEA-21.

LEGISLATIVE HISTORY

Senator Jeffords introduced S. 1917, the "Highway Funding Restoration Act", on February 7, 2002 with all 19 members of the Committee on Environment and Public Works as original cosponsors. When the committee reported S. 1917, it had 75 cosponsors. The committee reported the bill, as amended, on June 4, 2002.

HEARINGS

On February 11, 2002, the committee discussed S. 1917 during a hearing on the Highway Trust, the RABA mechanism, and the President's fiscal year 2003 budget proposal.

ROLLCALL VOTES

The Committee on Environment and Public Works met to consider S. 1917 on June 4, 2002. By voice vote, the committee adopted an amendment in the nature of a substitute offered by Senators Jeffords and Smith. The committee also accepted an amendment to the Jeffords-Smith substitute offered by Senators Baucus and Warner. The committee agreed to S. 1917, as amended, by voice vote.

REGULATORY IMPACT STATEMENT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes evaluation of the regulatory impact of the reported bill.

The bill does not create any additional regulatory burdens, nor will it cause any adverse impact on the personal privacy of individuals.

MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that S. 1917 would impose no unfunded mandates on local, State, or tribal governments.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

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U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 11, 2002.

Hon. JAMES M. JEFFORDS, *Chairman,*
Committee on Environment and Public Works,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1917, the Highway Funding Restoration Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Rachel Milberg, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN.

 CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 1917, Highway Funding Restoration Act As ordered reported by the Serrate Committee on Environment and Public Works on June 4, 2002.

Summary

S. 1917 would amend the Transportation Equity Act for the 21st Century (TEA-21) by authorizing an increase in the obligation limitation for the Federal-Aid Highway program of about \$5.5 billion in 2003. TEA-21 provides budget authority for the Federal-Aid Highway program in the form of contract authority, the authority to incur obligations in advance of appropriations. Spending from the program, however, is largely controlled by limits on annual obligations set in appropriations acts. Although TEA-21 includes specific obligation limitations for the Federal-Aid Highway program, each year appropriation acts include a limitation that may or may not be the same as the amounts in TEA-21.

Assuming the 2003 appropriations act includes an obligation limitation equal to the limitation in the bill, CBO estimates that implementing S. 1917 would cost about \$5.3 billion over the 2003-2007 period, and an additional \$0.2 billion after 2007. S.1917 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

S. 1917 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (CUIARA) and would benefit States.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1917 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

By Fiscal Year in Millions of Dollars

| | 2003 | 2004 | 2005 | 2006 | 2007 |
|--|-------|-------|------|------|------|
| Authorization Level ¹ | 0 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 1,491 | 2,320 | 939 | 331 | 221 |

¹Budget authority for the Federal-Aid Highway program is provided as mandatory contract authority in authorization legislation such as TEA-21. Changing the obligation limitation, as S. 1917 would do, does not affect such budget authority.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 1917 will be enacted in fiscal year 2002, that the appropriation action for 2003 will adopt the new obligation limitation, and that spending from the Federal-Aid Highway program will follow historical patterns. Assuming the 2003 appropriations act sets a limitation equal to the level that would be authorized by S. 1917, implementing the bill would cost \$5.5 billion over the next seven years.

S. 1917 would increase both the obligation limitation and the outlay cap associated with the highway category for 2003. Amending the outlay cap for the highway category would affect the enforcement of limitations for discretionary spending, but any effect on the budget would be subject to future appropriation action. That is, the increase in the cap would not by itself cause an increase in spending. The highway category includes the Federal-Aid Highway program, programs for motor carrier safety, and programs for highway traffic safety.

Pay-As-You-Go Considerations: None.

Intergovernmental and Private-Sector Impact

S. 1917 contains no intergovernmental or private-sector mandates as defined in UMRA. Enacting this bill would benefit States by substantially increasing the level of Federal-Aid Highway grants available in 2003. Because States voluntarily participate in this program, any costs they would incur as a result of the bill's enactment would be voluntary as well.

Previous CBO Estimate

On May 6, 2002, CBO transmitted a cost estimate for H.R. 3694, the Highway Funding Restoration Act, as ordered reported by the House Committee on Transportation and Infrastructure on May 1, 2002. The House bill would amend TEA-21 by authorizing an increase in the obligation limitation for the Federal-Aid Highway program of almost \$4.4 billion. S. 1917 would authorize an increase of about \$5.5 billion, and the estimated costs of the two pieces of legislation reflect this difference.

Estimate Prepared By: Federal Costs: Rachel Milberg (226–2860); Impact on State, Local, and Tribal Governments: Marjorie Miller (225–3220); Impact on the Private Sector: Jean Talarico (226–2940).

Estimate Approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in [black brackets], new matter is printed in *italic*, existing law in which no change is proposed is shown in roman:

TRANSPORTATION EQUITY ACT FOR THE TWENTY-FIRST CENTURY

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

* * * * *

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

* * * * *

(k) *RESTORATION OF OBLIGATION LIMITATION FOR FISCAL YEAR 2003.*—*Notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs for fiscal year 2003—*

(1) shall be \$28,900,000,000; and

(2) shall be distributed in accordance with this section.

* * * * *

TITLE VII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

Subtitle A—Transportation Discretionary Spending Guarantee

SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.

* * * * *

SEC. 8103. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—* * *

| | | | | | | |
|-------------------|-----|--------|------|-------|---|-------------------|
| * | * | * | * | * | * | * |
| (5) | for | fiscal | year | 2003, | [| \$28,233,000,000] |
| \$29,387,000,000. | | | | | | |
| * | * | * | * | * | * | * |

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Public Law 99–177, December 12, 1985, 99 Stat. 1037

* * * * *

SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS.

(a) ENFORCEMENT.—

* * * * *

(c) DISCRETIONARY SPENDING LIMIT.—As used in this part, the term “discretionary spending limit” means—

(1) with respect to fiscal year 1997, for the discretionary category, the current adjusted limits of new budget authority and outlays;

(2) with respect to fiscal year 1998—

(A) for the defense category: \$269,000,000,000 in new budget authority and \$266,823,000,000 in outlays;

(B) for the nondefense category: \$252,357,000,000 in new budget authority and \$282,853,000,000 in outlays; and

(C) for the violent crime reduction category: \$5,500,000,000 in new budget authority and \$3,592,000,000 in outlays;

(3) with respect to fiscal year 1999—

(A) for the defense category: \$271,500,000,000 in new budget authority and \$266,518,000,000 in outlays;

(B) for the nondefense category: \$255,699,000,000 in new budget authority and \$287,850,000,000 in outlays;

(C) for the violent crime reduction category: \$5,800,000,000 in new budget authority and \$4,953,000,000 in outlays;

(D) for the highway category: \$21,885,000,000 in outlays; and
 (E) for the mass transit category: \$4,401,000,000 in outlays;
 (4) with respect to fiscal year 2000—
 (A) for the discretionary category: \$532,693,000,000 in new budget authority and \$558,711,000,000 in outlays;
 (B) for the violent crime reduction category: \$4,500,000,000 in new budget authority and \$5,554,000,000 in outlays;
 (C) for the highway category: \$24,436,000,000 in outlays; and
 (D) for the mass transit category: \$4,761,000,000 in outlays;
 (5) with respect to fiscal year 2001—
 (A)¹ for the discretionary category: \$637,000,000,000 in new budget authority and \$612,695,000,000 in outlays;
 (B) for the highway category: \$26,204,000,000 in outlays; and
 (C) for the mass transit category: \$5,190,000,000 in outlays;
 (6) with respect to fiscal year 2002—
 (A) for the discretionary category: \$681,441,000,000 in new budget authority and \$670,206,000,000 in outlays;
 (B) for the highway category: \$26,977,000,000 in outlays;
 (C) for the mass transit category: \$5,709,000,000 in outlays; and
 (D) for the conservation spending category: \$1,760,000,000, in new budget authority and \$1,473,000,000 in outlays;
 (7) with respect to fiscal year 2003—
 (A) for the highway category: **[\$27,728,000,000]** \$29,234,000,000 in outlays;
 (B) for the mass transit category: \$6,256,000,000 in outlays; and
 (C) for the conservation spending category: \$1,920,000,000, in new budget authority and \$1,872,000,000 in outlays;

* * * * *

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¹ Margin so in law.