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Legislative Bulletin…………………………………………...………June 26, 2008

Contents:

H.R. 6052—Saving Energy Through Public Transportation Act (*Oberstar, D-MN*)

Order of Business: The bill is scheduled to be considered on Thursday, June 26th, likely subject to a structured rule. The RSC will summarize in a separate document any amendments made in order under the rule.

Summary: H.R. 6052 would authorize $1.7 billion in FY2008-FY2009 for federal grants to public transportation authorities to reduce fares or expand services on local transit systems. H.R. 6052 would also require federal agencies to offer certain employees subsidies to take public transportation.

NOTE: The legislation opens with a finding that "In 2007, people in the United States took more than 10.3 billion trips using public transportation, **the highest level in 50 years**." [emphasis added] The legislation also notes that, "Public transportation use in the United States is **up 32 percent since 1995**, a figure that is more than double the growth rate of the Nation's population and is substantially greater than the growth rate for vehicle miles traveled on the Nation's highways for that same period." [emphasis added]

In other words, although ridership on public transportation is reportedly up sharply to record levels, the House today is considering a bill to use taxpayer dollars to expand ridership.

Details of the legislation are as follows:

- Authorizes $750 million for each of fiscal years 2008 and 2009 (formula grants) for public transportation authorities in urban areas (with populations over 50,000) to reduce fares or expand services on local transit systems.

- Authorizes $100 million for each of fiscal years 2008 and 2009 (formula grants) for public transportation authorities in non-urban areas (with populations under 50,000) to reduce fares or expand services on local transit systems.

- Grant recipients would have to certify that, during the term of the grant, they will either reduce one or more public transportation fares, expand the equipment and facilities used to expand public transportation services, or both.

- State and local governments would NOT have to match any of these grant funds.

- Increases from 90% to 100% the federal share of any grant to localities in FY2008 and FY2009 for the acquisition of clean fuel or alternative fuel vehicle-related equipment or facilities for purposes of complying with the Clean Air Act.

- Requires all federal agencies with employees in urbanized areas served by fixed-route public transportation systems to offer their employees passes to be used on such transportation to commute to and from work. The eligibility of an employee for the public transportation benefit would have to be verified by an appropriate official in each respective agency and could NOT be provided in conjunction with parking benefits.

- The U.S. Transportation Department would have to issue nationwide guidance on various procedures for implementing the public transportation benefit, including guidance on adjusting the benefit based on employee travel, leave, or address changes, as well as penalties for abuse and misuse.

- Each agency providing the benefit would have to periodically review and assess its own implementation of the benefit program. As part of these reviews, agencies would have to note how many cars have been taken off the roads, how much emissions and greenhouse gases have been reduced, and other such information on reduced congestion and improved air quality as a result of the benefits program.

- Requires the Secretary of Transportation to create a two-year pilot program to carry out not more than five vanpool demonstration projects (three in urban areas; two in non-urban areas), using the funds authorized for the grants above.

- Increases from 90% to 100% the federal share of any grant to localities in FY2008 and FY2009 for the acquisition of real property for, or the design, engineering, or construction of, additional parking facilities at an end-of-line fixed rail station.

Additional Background: According to the Department of Transportation, quoted in a report by the Congressional Research Service, "despite rising patronage over the past decade, financial deficits in the transit industry have continued to rise. A financial deficit exists when system costs exceed system-generated revenue. In 2004, system-generated revenue, passenger fares, and other income accounted for 28% of all revenue sources for both operating and capital costs, down from 30% in 1995."

In other words, although public transportation usage is up, many public transportation systems are in dire fiscal straits. The Transportation Department, quoted in the same CRS report as above, notes that public transit systems are getting less of their operating revenues from passenger fares, other operating income, and state or local governments and more from the federal government. CRS also notes that many public transportation systems have expanded faster than the demand for ridership, causing their decrease in productivity and increase in financial hardships.

According to CBO, about 40 metropolitan statistical areas have public transportation systems that would trigger the federal employee benefit program above. Under current law, all employees in the National Capital Area are offered such a benefit, and about 35% of such employees currently take the benefit.

Although not required by current law, according to the Department of Transportation, the Department of Health and Human Services, and the Environmental Protection Agency, almost all agencies with employees in urban areas outside of the National Capital Area already offer their employees a subsidy to take public transportation. CBO therefore estimates that no more than 5,000 additional federal employees would receive the new subsidy under H.R. 6052.

RSC Bonus Fact: According to CBO, the average amount that federal employees receive for transit benefits nationwide is nearly $90 per month.

Committee Action: On May 14, 2008, the bill was introduced and referred to the Transportation and Infrastructure Committee, which, on May 15th, marked up the bill and ordered it reported to the full House by voice vote. The bill was also referred to the Oversight and Government Reform Committee, though that committee discharged the bill without action on June 20, 2008.

Possible Conservative Concerns: Some conservatives may be concerned about authorizing $1.7 billion of taxpayer dollars to subsidize public transportation ridership already at record levels, according to the bill's findings.

Some conservatives may also be concerned by an increase in federal involvement in local, often intrastate transportation without any corresponding increase in state or local matching funds. Despite ridership being up, so are the financial troubles of many public transportation systems, often because the systems expanded faster than the demand in ridership (according to CRS). Some conservatives, therefore, may be wary of further subsidizing the expansion of public transportation systems that may already be overextended.

Some conservatives may be further concerned about codifying the existing public transportation subsidy benefit practices of federal agencies. At a time when Americans nationwide, many of whom do not have the option of using public transportation, are struggling to pay high gas prices, some conservatives may question the wisdom of enacting a transportation benefit for federal employees, who already earn their living from taxpayer dollars.

One could argue that this bill forces taxpayers who drive to work (often without any other choice) to further subsidize people who have the luxury (because of their location, job description, etc.) of taking public transportation.

Lastly, some conservatives may also note that this supposed energy legislation does nothing to increase the supply of American energy.

Administration Position: Though a Statement of Administration Policy (SAP) was not available at press time, reports indicate that the Administration will express some level of opposition to the bill, citing the creation of perverse incentives for transit systems to incur operating deficits in order to get the grants.

Cost to Taxpayers: H.R. 6052 would authorize $855 million in FY2008 and a total of $1.720 billion over five years. (CBO does not include the $850 million authorized for FY2008 in its cost estimate because it assumes that no further appropriations for these grants will actually be made in FY2008.)

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill would grow the federal grant program to localities for public transportation expansions and fare reductions, reduce to zero the required state and local share for certain existing grants, and codify the existing public transportation benefit practices of federal agencies.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: The Transportation and Infrastructure Committee, in House Report 110-727, asserts that, "Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 6052, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives."

Constitutional Authority: The Transportation and Infrastructure Committee, in House Report 110-727, cites constitutional authority in Article I, Section 8, **but fails to cite a specific clause**. House Rule XIII, Section 3(d)(1), requires that all committee reports contain "a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution." *[emphasis added]*

Note: Article VI, Clause 3 of the U.S. Constitution states that, "The Senators and Representatives…and all executive and judicial Officers…shall be bound by Oath or Affirmation, to support this Constitution."

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