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110TH CONGRESS }
1st Session

SENATE

{ REPORT
110-188

NATIONAL CAPITAL TRANSPORTATION
AMENDMENTS ACT OF 2007

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 1446

TO AMEND THE NATIONAL CAPITAL TRANSPORTATION ACT OF
1969 TO AUTHORIZE ADDITIONAL FEDERAL CONTRIBUTIONS
FOR MAINTAINING AND IMPROVING THE TRANSIT SYSTEM OF
THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,
AND FOR OTHER PURPOSES



OCTOBER 3, 2007.—Ordered to be printed

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NATIONAL CAPITAL TRANSPORTATION AMENDMENTS ACT OF 2007

OCTOBER 3, 2007.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 1446]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 1446) to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

CONTENTS

	Page
I. Purpose and Summary	1
II. Background and Need for the Legislation	2
III. Legislative History	3
IV. Section by Section Analysis	3
V. Evaluation of Regulatory Impact	4
VI. Congressional Budget Office Cost Estimate	4
VII. Changes in Existing Law Made by the Bill, as Reported	5

I. PURPOSE AND SUMMARY

S. 1446 amends the National Capital Transportation Act of 1969¹ to authorize \$1.5 billion over ten fiscal years to the Washington Metropolitan Area Transit Authority (WMATA) to finance capital and preventive maintenance projects to the Washington area metrorail system (the Metro).

¹ P.L. 91-143.

II. BACKGROUND AND NEED FOR THE LEGISLATION

BACKGROUND

WMATA, a multi-jurisdictional transit authority established by an interstate compact between the District of Columbia, Maryland, and Virginia in 1967, began building the Metro system in 1969 with federal funding authorized under the National Capital Transportation Act of 1969. Subsequently, Congress authorized additional funding for Metro construction and capital improvements on two separate occasions (1980 and 1990).²

WMATA serves the national capital area and the federal government. According to a 2006 Government Accountability Office report: “WMATA provides transportation to and from work for a substantial portion of the federal workforce, and federal employees’ use of WMATA’s services is encouraged by General Services Administration guidelines that instruct federal agencies to locate their facilities near mass transit stops whenever possible. WMATA also accommodated increased passenger loads and extends its operating hours during events related to the federal government’s presence in Washington, DC, such as presidential inaugurations and funerals, and celebrations and demonstrations on the National Mall.”³ Federal employees account for over 40 percent of Metro ridership. In short, the functioning of the federal government would be severely hampered without the Metro system.

In 2004, a panel established by the Metropolitan Washington Council of Governments, the Federal City Council, and the Greater Washington Board of Trade to evaluate WMATA’s budgetary challenges concluded that between FY 2008 and FY 2015 WMATA will experience a combined operational and capital funding shortfall of \$2.36 billion.⁴ The Metro’s operating budget is derived primarily from state and local government funds and passenger revenue. Metro also receives revenue from parking fees, advertising and real estate interests. However, WMATA cannot sustain current service and invest in the necessary capital improvements to keep the system from breaking down on that funding alone. Without additional federal funds for capital investments, WMATA will be forced to cut back on service in the future.

The panel also expressed concern with WMATA’s lack of any significant dedicated sources of revenue. Currently, over 95 percent of WMATA’s state and local funding is subject to annual appropriations, which are unpredictable.⁵ Without dedicated funding, WMATA’s ability to fund new station enhancements and maintenance is greatly diminished.

The funding authorized in S. 1446 is contingent on the District of Columbia, Maryland, and Virginia jointly matching the federal contribution (\$150 million per year) towards WMATA’s capital projects. The matching funds must come from a dedicated funding source. The District of Columbia and Virginia have passed dedicated funding legislation, providing a match for federal funds.

² P.L. 96–184 and P.L. 101–551.

³ GAO, *Mass Transit: Issues Related to Providing Dedicated Funding for the Washington Metropolitan Area Transit Authority*, May 2006, GAO–06–516 at 9.

⁴ Panel on the Analysis of and Potential for Alternate Dedicated Revenue Sources for WMATA, *Report of the Metro Funding Panel* (January 2005) at 13.

⁵ Robert Puentes, *Washington’s Metro: Deficits by Design*, Brookings Institution (June 2004) at 10.

Maryland has committed to pass similar legislation and is expected to act during the next legislative session.

The funding is also contingent on WMATA establishing an Office of the Inspector General and adding four federal representatives, to be appointed by the General Services Administration, to the WMATA Board of Directors. WMATA has suffered from management problems in the past, and an Inspector General will increase transparency and accountability.

III. LEGISLATIVE HISTORY

S. 1446 was introduced by Senator Cardin, Senator Mikulski, Senator Warner, and Senator Webb on May 22, 2007, and was referred to the Committee on Homeland Security and Governmental Affairs.

On August 1, 2007, the Committee considered S. 1446.

By a vote of 10–2, the Committee ordered the bill favorably reported without amendment to the full Senate.

Yeas: Lieberman, Levin, Akaka, Carper, Pryor, Landrieu, McCaskill, Voinovich, Coleman, Warner. Yeas by proxy: Obama, Tester, Collins, Stevens, Domenici. Nays: Coburn, Sununu.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title; findings

Section 2. Federal contribution for capital projects for Washington metropolitan area transit system

This section authorizes the Secretary of Transportation to make grants to the Washington Metropolitan Area Transit Authority for the purpose of financing in part the capital and preventive maintenance projects included in WMATA's Capital Improvement Program. Each Federal grant shall be for 50 percent of the net project cost of the project involved and cannot include any other federal funds allocated for the operation of the mass transit or general operating revenue. It also requires that all payments by the local governments matching the federal funds are made up from amounts derived from dedicated funding sources. There is \$1.5 billion authorized over 10 years beginning in FY 2009 for this program.

Section 3. Washington Metropolitan Area Transit Authority Inspector General

This section states that the Washington Metropolitan Area Transit Authority must establish the Office of the Inspector General, headed by the Inspector General of the Transit Authority. The Inspector General shall be appointed by the vote of a majority of the Board of Directors of the Transit Authority and shall serve a term of 5 years and may be reappointed for not more than 2 additional terms. The Inspector General shall have the same duties and responsibilities as laid out in the Inspector General Act of 1978. The Inspector General shall submit semiannual reports to the Transit Authority and annual reports to the Governors of Virginia and Maryland, the Mayor of the District of Columbia and the Committee on Oversight and Government Reform of the U.S. House of Representatives and the Committee on Homeland Security and Governmental Affairs of the U.S. Senate.

Section 4. Study and report by Comptroller General

This section requires the Comptroller General to study and report to Congress on the use of funds provided under this Act. The report shall be submitted no later than three years after the enactment of the Act to the Committee on Oversight and Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirement of paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate the Committee has considered the regulatory impact of this bill. CBO states that there are no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and no costs on State, local, or tribal governments. The legislation contains no other regulatory impact.

VI. ESTIMATED COST OF LEGISLATION

AUGUST 10, 2007.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1446, the National Capital Transportation Amendments Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sarah Puro.

Sincerely,

PETER R. ORSZAG.

Enclosure.

S. 1446—National Capital Transportation Amendments Act of 2007

Summary: S. 1446 would authorize the appropriation of \$1.5 billion for grants to the Washington Metropolitan Area Transit Authority (WMATA) for capital and preventive maintenance projects. Assuming appropriation of the amount specified in the bill, CBO estimates that implementing S. 1446 would cost \$236 million over the 2010–2012 period and an additional \$1.3 billion after 2012.

S. 1446 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would provide funding for WMATA activities, and any costs it, the District of Columbia, the state of Maryland, and the Commonwealth of Virginia incur would result from complying with conditions of federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1446 is shown in the following table. The costs of this legislation fall within budget function 400 (transportation).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	0	0	150	150	150
Estimated Outlays	0	0	38	83	115

Basis of estimate: S. 1446 would authorize the Secretary of Transportation to make grants to WMATA to cover 50 percent of the cost of capital and preventive maintenance projects listed in the Capital Improvement Program approved by the transit authority's board of directors. For those grants, the bill would authorize the appropriation of \$1.5 billion to the Secretary. Based on information from WMATA about the agency's Capital Improvement Program, CBO expects that the authorized amount would be appropriated in equal installments over a 10-year period, beginning in 2010.

Before receiving the grants, Maryland, Virginia, and the District of Columbia would need to amend the WMATA compact to add four members to the board of directors and to make changes to the operation of the Office of the Inspector General. Further, those entities would be required to establish funding sources dedicated solely to the transit authority. CBO expects that those requirements would delay the award of grants until at least 2010.

Assuming appropriation of the \$1.5 billion authorized under S. 1446, CBO estimates that implementing the bill would cost \$236 million over the 2010–2012 period and another \$1,264 million after 2012. That estimate of outlays is based on historical spending patterns of grants for similar capital and maintenance projects for mass transit systems.

Intergovernmental and private-sector impact: S. 1446 contains no intergovernmental or private-sector mandates as defined in UMRA. As a condition of receiving \$1.5 billion over 10 years for certain capital and preventive maintenance projects, the bill would require WMATA to establish an Office of the Inspector General and expand the board of directors. Also, as a condition of receiving those grants, the District of Columbia, the state of Maryland, and the Commonwealth of Virginia would be required to earmark funds to match the federal assistance. The bill would restrict the use of federal funds to maintenance and upkeep only.

Previous CBO estimate: On April 27, 2007, CBO transmitted a cost estimate for H.R. 401, the National Capital Transportation Amendments Act of 2007, as ordered reported by the House Committee on Oversight and Government Reform on April 18, 2007. The bills are similar in scope and content, and CBO's estimates of costs are identical.

Estimate prepared by: Federal Costs: Sarah Puro; Impact on State, Local, and Tribal Governments: Elizabeth Cove; Impact on the Private Sector: Jacob Kuipers.

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

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the following 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):

NATIONAL CAPITAL TRANSPORTATION ACT OF 1969

AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTION FOR CAPITAL AND PREVENTATIVE MAINTENANCE PROJECTS

SEC. 18. (a) *AUTHORIZATION.*—Subject to the succeeding provisions of this section, the Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized under sections 3, 14, and 17, for the purpose of financing in part the capital and preventative maintenance projects included in the Capital Improvement Program approved by the Board of Directors of the Transit Authority.

(b) *USE OF FUNDS.*—The Federal grants made pursuant to the authorization under this section shall be subject to the following limitations and conditions:

(1) The work for which such Federal grants are authorized shall be subject to the provisions of the Compact (consistent with the amendments to the Compact described in subsection (d)).

(2) Each such Federal grant shall be for 50 percent of the net project cost of the project involved, and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Consistent with the terms of the amendment to the Compact described in subsection (d)(1), any funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(c) *APPLICABILITY OF REQUIREMENTS FOR MASS TRANSPORTATION CAPITAL PROJECTS RECEIVING FUNDS UNDER FEDERAL TRANSPORTATION LAW.*—Except as specifically provided in this section, the use of any amounts appropriated pursuant to the authorization under this section shall be subject to the requirements applicable to capital projects for which funds are provided under chapter 53 of title 49, United States Code, except to the extent that the Secretary of Transportation determines that the requirements are inconsistent with the purposes of this section.

(d) *AMENDMENTS TO COMPACT.*—No amounts may be provided to the Transit Authority pursuant to the authorization under this section until the Transit Authority notifies the Secretary of Transportation that each of the following amendments to the Compact (and any further amendments which may be required to implement such amendments) have taken effect:

(1) (A) An amendment requiring that all payments by the local signatory governments for the Transit Authority for the purpose of matching any Federal funds appropriated in any given year authorized under subsection (a) for the cost of operating and maintaining the adopted regional system are made from amounts derived from dedicated funding sources.

(B) For purposes of this paragraph, the term 'dedicated funding source' means any source of funding which is earmarked or required under State or local law to be used to match Federal appropriations authorized under this Act for payments to the Transit Authority.

(2) *An amendment establishing the Office of Inspector General of the Transit Authority in accordance with section 3 of the National Capital Transportation Amendments Act of 2007.*

(3) *An amendment expanding the Board of Directors of the Transit Authority to include 4 additional Directors appointed by the Administrator of General Services, of whom 2 shall be nonvoting and 2 shall be voting, and requiring one of the voting members so appointed to be a regular passenger and customer of the bus or rail service of the Transit Authority.*

(e) *AMOUNT.—There are authorized to be appropriated to the Secretary of Transportation for grants under this section an aggregate amount not to exceed \$1,500,000,000 to be available in increments over 10 fiscal years beginning in fiscal year 2009, or until expended.*

(f) *AVAILABILITY.—Amounts appropriated pursuant to the authorization under this section—*

(1) shall remain available until expended; and

(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under chapter 53 of title 49, United States Code, or any other provisions of law.