



BUDGET COMMITTEE



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BUDGET PERSPECTIVE:

Highway Extension Plan Paves Over America's Future with Billions of New Debt

*Summary of Title IV – Surface Transportation Extension
In Draft Senate Tax/Stimulus/Highways Extender Bill (MAT10087)
February 10, 2010*

Summary

The surface transportation extension in Title IV of the draft Senate Tax/Stimulus/Highways Extender bill circulated last week is egregious. It gives rise to multiple budget points of order (see bold underlined text in the bullets that follow) and transfers \$47 billion from the General Fund (GF) to the Highway Trust Fund (HTF) over the next 10 years. The transfers from the GF to the HTF result in immediate increases in the federal debt. CBO has prepared a preliminary cost estimate, and we've based the following analysis on that estimate.

Scored Budgetary Effects

- The bill extends surface transportation programs from their current expiration of February 28 through December 31, 2010, and increases contract authority over the baseline level by \$20.8 billion in 2010 and by \$143 billion over 2010-2020.
- The authorizers claim they are simply “restoring” the \$11.9 billion in total highway rescissions (\$8.7 billion required by SAFETEA-LU and \$3.2 billion from the 2009 THUD appropriations bill) that took effect in 2009. But that is not true, since they are adding back \$20.6 billion in total contract authority for highways in 2010 (and another \$0.2 billion for other transportation activities), which means **they are adding back twice the \$8.7 billion that was rescinded** ($3.2 + 8.7 + 8.7 = 20.6$).
- **302(f) point of order.** This increase in contract authority (which is budget authority) exceeds the authorizing committee's allocation for budget authority in the 2010 budget resolution, giving rise to a 60-vote point of order under section 302(f) of the Budget Act. (Note: Chairman Conrad decides which points of order are triggered, but typically he does not announce how he will advise the parliamentarian until the bill is on the floor.)
- **311 point of order.** This increase in contract authority (which is budget authority) exceeds the budget authority totals for the whole federal government set in the 2010 budget resolution, giving rise to a 60-vote point of order. (Note: Chairman Conrad decides which points of order are triggered, but typically he does not announce how he will advise the parliamentarian until the bill is on the floor.)

Budgetary Effects Not Scored

- Under the obligation limitations for highways enacted for 2010 in the Omnibus appropriations bill, the **HTF is insolvent this year** and will not have enough revenues to cover the outlays in a timely fashion. The President's budget estimates that \$20 billion in transfers from the GF will be needed to sustain the program through September 2011.
- **This bill transfers \$19.5 billion** (\$14.7 billion is for highways and \$4.8 billion is for mass transit) **from the GF to the HTF immediately upon enactment**, and, even though CBO does not score this amount as outlays under current scorekeeping conventions, the **Treasury will immediately record this transfer as a \$19.5 billion increase in the federal debt.**
- But only about \$12 billion is needed over the rest of this calendar year to continue to reimburse states through December 2010 (when the authorization in this bill expires). Therefore, the bill would be transferring \$7.5 billion more from the GF than is needed to run the programs through the authorization period.
- Congress has already transferred \$32 billion from the GF to the HTF in 2004, \$8 billion in 2008, and \$7 billion in 2009, for a total of \$47 billion. The excuse the authorizers are using this time for this \$19.5 billion transfer is that it represents the amount of interest "forgone" by the HTF since 1998, **even though as a matter of law** (TEA-21), it was the **explicit and clear intent of Congress that the HTF earn no interest since 1998** (since money was being spent as fast as it could come in and not held long enough to have to compensate with interest). The Bureau of the Public Debt (the only entity authorized to do so) has not done (and is not expected to) a calculation of what interest *might* have been *had* the law required that interest be paid.
- Adding to the absurdity of this transfer, Chairman Boxer claims that the \$19.5 billion transfer from the GF to the HTF is an "offset" that "pays for" the \$20.8 billion increase in contract authority in 2010. That claim suggests that any time Congress needs an offset, just borrow more money, increase the debt, and there you have your offset.
- The bill transfers an **additional \$27 billion over 2010-2020 from the GF to the HTF** as a result of two provisions:
 - 1) a **budget gimmick** that shifts the burden for gas tax rebates for exempt purposes (such as farm or government use) from the HTF to the GF; the transfer from the GF would be approximately \$1.7 billion a year. Debt will increase by a corresponding amount.
 - 2) requires automatic annual transfers from the GF to the HTF by allowing the HTF to earn interest for the first time since 1998. The annual interest income to the HTF is an estimated \$500 million to \$1 billion. Debt will increase by a corresponding amount.
- Therefore, in total, the **bill would transfer another \$47 billion** ($19.5 + 27 = 47$; coincidentally the same amount as has already been transferred since 2004) **from the GF to the HTF over the 2010-2020 period, increasing debt by the same amount.**

- And because of the increases in contract authority, the bill means that even more (beyond the \$47 billion in this bill) transfers from the GF to the HTF (amounting to tens of billions of dollars; a more specific estimate is forthcoming) will have to be enacted later to pay for the increased funding level.
- **405 point of order**. Section 405 of the 2010 budget resolution prohibits consideration of legislation that authorizes the highway program if it appropriates money from sources other than the HTF (such as the GF). The draft bill includes a highway authorization and a transfer from the GF, giving rise to this point of order.

Budget Committee Jurisdiction

- The bill attempts to re-create the highway and mass transit spending firewalls (which expired in 2002) for 2010, giving rise to a **point of order under Section 306** of the Budget Act. Section 306 requires that legislation within the jurisdiction of the Budget Committee be reported by the Budget Committee.