

TRANSIT OPERATING FLEXIBILITY ACT

SEPTEMBER 5, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 5157]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 5157) to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND AND NEED

The Federal Transit Administration apportions formula funds authorized in 49 United States Code, section 5307 to designated recipients (State departments of transportation, responsible local officials and publicly owned operators of mass transportation) in urbanized areas with more than 50,000 in population according to a formula developed in the Intermodal Surface Transportation Efficiency Act (Public Law 102-240). For urbanized areas between 50,000 and 200,000 in population, this formula is based on population and population density. For areas over 200,000 in population, this formula is based on population, population density, and vehicle revenue miles as reported to the National Transit Database. Section 5307(b) of 49 U.S.C. authorizes the Secretary of Transportation to make grants of formula funds for transit-related operating expenses in urbanized areas with a population of less than 200,000. However, urbanized areas with populations greater than 200,000 can use formula funds for capital equipment, facili-

ties, and associated maintenance items only—not for operating expenses.

Urbanized area population designations are determined by the decennial census. For purposes of programs administered by the Federal Transit Administration, section 5302(a)(17) of 49 U.S.C. defines urbanized areas as encompassing an area so designated by the Secretary of Commerce (through the U.S. Bureau of the Census). The notice announcing qualifying urbanized areas as determined by the 2000 Census of Population and Housing for the United States, Puerto Rico, and the Island Areas was published in the Federal Register on May 1, 2002. Because of substantial changes in the criteria used by the Bureau of the Census to identify urbanized areas between the 1990 and 2000 Census periods, there were an unusually high number of significant urbanized area changes, including new urbanized areas, areas formed by splits or mergers, name changes, and areas with significant boundary changes. Among these changes were a total of 52 communities that had been classified as under 200,000 in population in the 1990 Census that went to being classified as over 200,000 in the 2000 Census, either because the city grew, or was absorbed into a larger nearby metropolitan area, or was combined with another nearby small city. Many of the public officials and transit providers in these 52 urbanized areas were unaware of their change in status, and had not prepared for the loss of flexibility in the use of their federal transit funds. For some transit systems that were not anticipating this change, the loss of operating flexibility will be devastating, perhaps even shutting the doors of some of the agencies, thus causing an immediate loss of public transportation services in the area.

H.R. 5157 will provide a one-year grace period for the affected communities that, for the first time, exceeded 200,000 in population according to the 2000 Census. The bill allows the Secretary of Transportation to make formula grants to transit operators in these communities using the new urbanized area population designations and relevant vehicle revenue miles data while permitting transit providers in the affected communities to use up to the amount apportioned in fiscal year 2002 for operating purposes. This continued flexibility gives these transit operators time to adjust to their new urbanized area status and make any necessary changes to capital and operating budgets for fiscal year 2004.

SUMMARY OF THE LEGISLATION

Section one amends section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 Census to retain flexibility in the use of federal transit formula grants in fiscal year 2003. The bill strikes the last sentence of the paragraph in section 5307(b)(1), which refers to operating flexibility for fiscal year 1998 funds. A new section 5307(2) is inserted that creates a special rule for fiscal year 2003, providing increased flexibility for urbanized areas that are now more than 200,000 in population under the 2000 Census if (i) the urbanized area had a population of less than 200,000 under the 1990 Census; (ii) a portion of the urbanized area was a separate urbanized area of less than 200,000 under the 1990 Census; or (iii) the area was less than 50,000 under

the 1990 Census. A maximum amount to be available for operating purposes is set at a level of no more than the total amount apportioned to the affected urbanized areas in fiscal year 2002.

LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

The issue of “crossing 200,000” in population according to the 2000 Census urbanized area designations was discussed in a hearing of the Highways and Transit Subcommittee of the Committee on Transportation and Infrastructure on June 20, 2002 (Federal Transit Administration Capital Grants Programs). The Honorable Jennifer Dorn, Administrator of the Federal Transit Administration, was questioned regarding the impact of these changes and the need for action before the beginning of fiscal year 2003, when FTA is required to use the most recent census data in the formula grant apportionment formulas. On June 28, 2002, Committee Chairman Don Young wrote to Administrator Dorn to ask how the FTA would implement the language that was subsequently introduced on July 18 as H.R. 5157, with 38 original cosponsors. Subcommittee action on the bill was waived, and the Committee on Transportation and Infrastructure met in open markup session on July 24, 2002 and approved H.R. 5157 without amendment, by voice vote.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee’s oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 5157 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 30, 2002.

Hon. DON YOUNG,
*Chairman, Committee on Transportation and Infrastructure,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5157, a bill to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of federal transit formula grants in fiscal year 2003, and for other purposes.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 5157—A bill to amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of federal transit formula grants in fiscal year 2003, and for other purposes

Summary: H.R. 5157 would allow certain communities to use some of their grants from the Federal Transit Administration (FTA) on operating expenses as well as capital projects. Assuming appropriation of amounts authorized for those grants, CBO expects that implementing the bill would increase how quickly the communities spend their grants; however, CBO expects that net spending from the grant program would not change over the 2003–2007 period.

Under current law, FTA provides grants to urbanized areas for capital projects under the Formula Grants program. Communities with a population of less than 200,000 according to the most recent census, can use some of their grants for operating expenses. Information from the 2000 census changed the status of certain communities that receive grants under this program. For example, some communities that were under this threshold before the 2000 census are now over it. Other communities that were considered separate urbanized areas under the threshold before the 2000 census are now considered part of a larger urbanized area. H.R. 5157 would allow those communities to continue using their grants for fiscal year 2003 for operating expenses.

H.R. 5157 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. H.R. 5157 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5157 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
SPENDING SUBJECT TO APPROPRIATION					
Spending Under Current Law for FTA's Formula Grants Program:					
Authorization Level ¹	3,989	0	0	0	0
Estimated Outlays	3,215	2,805	1,820	1,223	762
Proposed Changes:					
Authorization Level	0	0	0	0	0
Estimated Outlays	10	2	-5	-4	-3
Spending Under H.R. 5157 for FTA's Formula Grants Program:					
Authorization Level	3,989	0	0	0	0
Estimated Outlays	3,225	2,807	1,815	1,219	759

¹ The 2003 authorization level is the amount authorized for the Formula Grants program under current law. The authorization for that program expires after 2003.

Basis of estimate: For this estimate, CBO assumes that H.R. 5157 will be enacted near the end of fiscal year 2002 and that the amount currently authorized for the FTA grant program will be appropriated for 2003. Changes in estimated outlays are based on historical spending patterns of the Formula Grants program and information from FTA.

CBO estimates that about 50 communities would be eligible to use their transit grants for operating expenses under H.R. 5157. Although several of those communities would use their grants only for capital projects, CBO estimates that about half of the communities would take advantage of the increased flexibility under H.R. 5157. On average, communities could receive about \$1 million to cover their operating costs. Because grants to cover operating expenses are expended more quickly than grants for capital costs, CBO expects that implementing H.R. 5157 would increase the overall rate of spending from the Formula Grants program; however, CBO expects that net spending from the program would not change over the 2003–2007 period.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: H.R. 5157 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Rachel Milberg; Impact on State, Local, and Tribal Governments: Greg Waring; Impact on the Private Sector: Cecil McPherson.

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

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104–4).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 5157 does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104–1).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, 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):

SECTION 5307 OF TITLE 49, UNITED STATES CODE**§ 5307. Urbanized area formula grants**

(a) * * *

(b) GENERAL AUTHORITY.—(1) The Secretary of Transportation may make grants under this section for capital projects and to finance the planning and improvement costs of equipment, facilities, and associated capital maintenance items for use in mass transportation, including the renovation and improvement of historic transportation facilities with related private investment. The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000. **[The Secretary may make grants under this section from funds made available for fiscal year 1998 to finance the operating costs of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000.]**

(2) SPECIAL RULE FOR FISCAL YEAR 2003.—

(A) INCREASED FLEXIBILITY.—*The Secretary may make grants under this section, from funds made available to carry out this section for fiscal year 2003, to finance the operating cost of equipment and facilities for use in mass transportation in an*

urbanized area with a population of at least 200,000 as determined under the 2000 decennial census of population if—

(i) the urbanized area had a population of less than 200,000 as determined under the 1990 Federal decennial census of population;

(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000 as determined under the 1990 Federal decennial census of population; or

(iii) the area was not designated as a urbanized area as determined under the 1990 Federal decennial census of population.

(B) *MAXIMUM AMOUNTS.*—Amounts made available pursuant to subparagraphs (A)(i) and (A)(ii) shall be no more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000 as determined in the 1990 Federal decennial census of population. Amounts made available pursuant to subparagraph (A)(iii) shall be no more than the amount apportioned under this section for fiscal year 2003.

[(2)] (3) In a transportation management area designated under section 5305(a) of this title, amounts that cannot be used to pay operating expenses under this section also are available for a highway project if—

(A) * * *

* * * * *

(C) the metropolitan planning organization in approving the use under subparagraph (A) determines that the local transit needs are being addressed.

[(3)] (4) A project for the reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used, is a capital project for an associated capital maintenance item under this section.

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