

DISTRICT OF COLUMBIA EMERGENCY HIGHWAY RELIEF  
ACT

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JULY 31, 1995.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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Mr. SHUSTER, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2017]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2017) to authorize an increased Federal share of the costs of certain transportation projects in the District of Columbia for fiscal years 1995 and 1996, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “District of Columbia Emergency Highway Relief Act”.

**SEC. 2. DISTRICT OF COLUMBIA EMERGENCY HIGHWAY RELIEF.**

(a) TEMPORARY WAIVER OF NON-FEDERAL SHARE.—Notwithstanding any other law, during fiscal years 1995 and 1996, the Federal share of the costs of an eligible project shall be a percentage requested by the District of Columbia, but not to exceed 100 percent of the costs of the project.

(b) ELIGIBLE PROJECTS.—In this section, the term “eligible project” means a highway project in the District of Columbia—

(1) for which the United States—

(A) is obligated to pay the Federal share of the costs of the project under title 23, United States Code, on the date of enactment of this Act; or

(B) becomes obligated to pay the Federal share of the costs of the project under title 23, United States Code, during the period beginning on the date of the enactment of this Act and ending September 30, 1996;

(2) which is—

(A) for a route proposed for inclusion on or designated as part of the National Highway System; or

(B) of regional significance (as determined by the Secretary of Transportation); and

(3) with respect to which the District of Columbia certifies that sufficient funds are not available to pay the non-Federal share of the costs of the project.

**SEC. 3. DEDICATED HIGHWAY FUND AND REPAYMENT OF TEMPORARY WAIVER AMOUNTS.**

(a) **ESTABLISHMENT OF FUND.**—Not later than December 31, 1995, the District of Columbia shall establish a dedicated highway fund to be comprised, at a minimum, of amounts equivalent to receipts from motor fuel taxes and, if necessary, motor vehicle taxes and fees collected by the District of Columbia to pay in accordance with this section the cost-sharing requirements established under title 23, United States Code, and to repay the United States for increased Federal shares of eligible projects paid pursuant to section 2(a). The fund shall be separate from the general fund of the District of Columbia.

(b) **PAYMENT OF NON-FEDERAL SHARE.**—For fiscal year 1997 and each fiscal year thereafter, amounts in the fund shall be sufficient to pay, at a minimum, the cost-sharing requirements established under title 23, United States Code, for such fiscal year.

(c) **REPAYMENT REQUIREMENTS.**—

(1) **FISCAL YEAR 1996.**—By September 30, 1996, the District of Columbia shall pay to the United States from amounts in the fund established under subsection (a), with respect to each project for which an increased Federal share is paid in fiscal year 1995 pursuant to section 2(a), an amount equal to 50 percent of the difference between—

(A) the amount of the costs of the project paid by the United States in such fiscal year pursuant to section 2(a); and

(B) the amount of the costs of the project that would have been paid by the United States but for section 2(a).

(2) **FISCAL YEAR 1997.**—By September 30, 1997, the District of Columbia shall pay to the United States from amounts in the fund established under subsection (a), with respect to each project for which an increased Federal share is paid in fiscal year 1995 pursuant to section 2(a) and with respect to each project for which an increased Federal share is paid in fiscal year 1996 pursuant to section 2(a), an amount equal to 50 percent of the difference between—

(A) the amount of the costs of the project paid in such fiscal year by the United States pursuant to section 2(a); and

(B) the amount of the costs of the project that would have been paid by the United States but for section 2(a).

(3) **FISCAL YEAR 1998.**—By September 30, 1998, the District of Columbia shall pay to the United States from amounts in the fund established under subsection (a), with respect to each project for which an increased Federal share is paid in fiscal year 1996 pursuant to section 2(a), an amount equal to 50 percent of the difference between—

(A) the amount of the costs of the project paid in such fiscal year by the United States pursuant to section 2(a); and

(B) the amount of the costs of the project that would have been paid by the United States but for section 2(a).

(4) **DEPOSIT OF REPAID FUNDS.**—Repayments made under paragraphs (1), (2), and (3) with respect to a project shall be—

(A) deposited in the Highway Trust Fund established by section 9503 of the Internal Revenue Code of 1986; and

(B) credited to the appropriate account of the District of Columbia for the category of the project.

(d) **ENFORCEMENT.**—If the District of Columbia does not meet any requirement established by subsection (a), (b), or (c) and applicable in a fiscal year, the Secretary of Transportation shall not approve any highway project in the District of Columbia under title 23, United States Code, until the requirement is met.

(e) **GAO AUDIT.**—Not later than December 31, 1996, and each December 31 thereafter, the Comptroller General of the United States shall audit the financial condition and the operations of the fund established under this section and shall submit to Congress a report on the results of such audit and on the financial condition and

the results of the operation of the fund during the preceding fiscal year and on the expected condition and operations of the fund during the next 5 fiscal years.

**SEC. 4. ADDITIONAL REQUIREMENTS.**

(a) **EXPEDITIOUS PROCESSING AND EXECUTION OF CONTRACTS.**—The District of Columbia shall expeditiously process and execute contracts to implement the Federal-aid highway program in the District of Columbia.

(b) **REVOLVING FUND ACCOUNT.**—The District of Columbia shall establish an independent revolving fund account for Federal-aid highway projects. The account shall be separate from the capital account of the Department of Public Works of the District of Columbia and shall be reserved for the prompt payment of contractors completing highway projects in the District of Columbia under title 23, United States Code.

(c) **HIGHWAY PROJECT EXPERTISE AND RESOURCES.**—The District of Columbia shall ensure that necessary expertise and resources are available for planning, design, and construction of Federal-aid highway projects in the District of Columbia.

(d) **PROGRAMMATIC REFORMS.**—The Secretary of Transportation, in consultation with the District of Columbia Financial Responsibility and Management Assistance Authority, may require administrative and programmatic reforms by the District of Columbia to ensure efficient management of the Federal-aid highway program in the District of Columbia.

(e) **GAO AUDIT.**—The Comptroller General of the United States shall review implementation of the requirements of this section (including requirements imposed under subsection (d)) and report to Congress on the results of such review not later than July 1, 1996.

**PURPOSE**

The purpose of this legislation is to allow for an increased Federal share for certain Federal-aid highway projects in the District of Columbia during fiscal years 1995 and 1996, to require the establishment of a dedicated highway fund by the District of Columbia, to require the repayment of the amount of the increased non-Federal share, and to require improvements in the Federal-aid highway program in the District of Columbia.

**BACKGROUND AND NEED**

Under cost-sharing requirements established in title 23, United States Code, States are required to provide local funds to match federal highway funds. Although the required match varies for certain programs, in general the Federal share is 80 percent of the cost of a project with the State providing the remaining 20 percent.

Due to the current severe financial crisis of the District of Columbia, the District has been unable to provide the required local match. No new contracts have been bid in over 20 months. At a time when 70 construction projects normally would be underway, the only highway construction currently ongoing is the completion of a few projects begun in previous years. If the District cannot certify by August 1, 1995, that it can obligate Federal highway funds in this fiscal year, then the obligation authority will be lost to the District and redistributed to other States. The amount of federal funds in jeopardy in fiscal year 1995 is approximately \$83 million.

The District does not maintain a dedicated highway fund as is the case in most States. All funds for its capital improvement program are raised through the sale of general obligation bonds. Because the rating of the District's bonds has declined, the District has not entered the bond market in 1995 and most likely will not do so in 1996. Therefore, the usual source of local match funds is not available. The fuel tax in the District is 20 cents per gallon—higher than the national average of 18 cents—and annual fuel tax

revenues total approximately \$35 million. Other vehicle use taxes provide an additional \$48 million each year. D.C. law provides that fuel tax revenues and certain other vehicle use taxes be deposited into the General Fund and allocated to the Metrorail/Metrobus Account.

Because of the lack of the local match, concerns about safety and the integrity of the District's highway infrastructure, and the effect on transportation in the region, on June 15, 1995, the Secretary of Transportation submitted to Congress legislation to waive the District's cost share for fiscal years 1995 and 1996. No repayment requirements were included. Projects eligible for the waiver were National Highway System projects and projects of "regional significance" as determined by the Secretary of Transportation. The District would have to certify that it would not have funds available for the non-Federal match.

On July 12, 1995, Congresswoman Eleanor Holmes Norton introduced H.R. 2017, the "District of Columbia Emergency Highway Relief Act." The bill is cosponsored by four Members of the Virginia and Maryland delegations. Like the Department of Transportation proposal, H.R. 2017 as introduced provided for an increased Federal share for certain Federal-aid highway projects approved in 1995 and 1996. The bill also required that the District repay amounts waived by July 31, 1997. If the amount were not repaid by that date, then the District's 1997 apportionments would be reduced by an amount necessary for the repayment.

The Senate passed the bill S. 1023 on July 20, 1997. This bill is similar to H.R. 2017 as introduced but requires repayment by September 30, 1996, with the District's fiscal year 1997 highway apportionments reduced if the repayment is not made. S. 1023 also requires a report by the Secretary to be submitted to Congress on the implementation of the bill by November 1 of 1995 and 1996.

The Subcommittee on Surface Transportation received testimony from several witnesses about the unique status of the District of Columbia at a hearing on July 25, 1995. Although a city, it also is required to perform many functions of a country and a State, such as administering Medicaid and Aid for Families with Dependent Children programs. As a city, the District does not have a State to turn to in order to seek financial assistance as Orange County can approach Sacramento, or New York City can look to Albany.

It is also clear that the District is in a severe financial crisis. In fact, it is insolvent and does not have enough cash to pay its bills. Last summer, the General Accounting Office issued a report concluding that the District faces both unresolved long-term financial issues and continued short-term fiscal crisis. At the end of fiscal year 1994, the cumulative operating debt was \$335 million. The District increasingly has relied on the annual federal payment (approximately \$650 million) to pay bills from the previous fiscal year. Recently, the District borrowed \$146.7 million from the Treasury and some suggest that even this loan may not be sufficient to pay for the District's operations through the end of the fiscal year. GAO has also reported on the need for more accurate and timely financial information and recordkeeping to improve the management of the District's funds.

One of the motivations for federal involvement in highway construction is the recognition of the fact that local road conditions have far-reaching—even national—effects, particularly on economic productivity. The condition of the District's transportation infrastructure is important not only to District residents, but also to the thousands of residents of other states who visit or commute into the city every day. Moreover, delaying critical highway rehabilitation projects means that the same needs must be addressed in the future when they will be more expensive, more complex, and more disruptive.

While the Committee has approved H.R. 2017, with an amendment in the nature of a substitute, there are serious concerns and reluctance on the part of the Committee in moving forward with this waiver. Although temporary waivers have been provided in the past, all were general in nature, available to all States, and we provided in response to Federal action. For example, the temporary waiver provided in 1975 was done so as part of a Federal jobs stimulus bill and was utilized by 16 states (including Puerto Rico and the Virgin Islands). In the June 5, 1975, statement by President Gerald Ford on signing the bill into law, the President noted, "Although I strongly oppose in principle deferring matching requirements by States and local governments, this one-time exception is made to enable the States to take advantage of the special jobs-producing highway funds which I released in February and of the additional funds made available by the Congress in April." The second temporary waiver of State matching fund requirements was included in the Surface Transportation Assistance Act of 1982 when the Federal gas tax was increased by 5 cents, and 13 states participate. Finally, a temporary waiver was included in the Intermodal Surface Transportation Efficiency Act of 1991 when federal program funding increased substantially, and 10 States (including Puerto Rico) participated.

A specific waiver in response to a State's inability to provide its local cost share due to its financial condition has never been provided in the 39-year history of the Federal-aid program. In fact, other such requests have been denied in the past. For this reason, the Committee considers the temporary waiver provided to the District of Columbia to be unique and does *not* intend to provide additional waivers to the District in the future. If a general temporary waiver is included in a future transportation law, however, the District may avail itself of those provisions.

The Committee does not intend that the cost-sharing waiver provided in the legislation set a precedent for other States to seek waiver in the future. The cost-sharing requirements of the Federal highway program are a basic principle of the program and are essential to ensure that wise investments are made by the States with the funds provided from the Highway Trust Fund. Any erosion of this principle will have a detrimental effect on the Federal program and must be avoided.

Since the Committee intends that the waiver provided in H.R. 2017, as amended, to be the only waiver granted to the District, the Committee has included provisions in the bill to ensure that the District will have annual matching funds required in the future. Section 3 of H.R. 2017, as amended, requires that the District

establish a dedicated highway fund by December 31, 1995. This fund is to be separate from the general fund and amounts in the fund must be sufficient to meet, at a minimum, repayment of the amounts waived and, beginning in fiscal year 1997, the local match required under the Federal-aid highway program. If any of these requirements are not met, the Secretary shall withhold approval of any highway project in the District until the particular requirement is met. A dedicated highway fund to ensure that the District will be able to meet cost-sharing requirements in the future will lead to a more stable highway program that is not dependent on bond market conditions or other outside influences. At the July 25, 1995, Surface Transportation Subcommittee hearing, the Administrator of Federal Highways, Rodney Slater, indicated it was his belief that maintenance of a dedicated highway fund would have a positive effect on the highway program in the District of Columbia. In 1993, the District collected \$84 million in fuel taxes and other motor vehicle use taxes. These revenues would be more than adequate to meet the requirements of H.R. 2017, as amended.

It is the understanding of the Committee that concerns have been raised as to whether the District's Department of Public Works has the adequate personnel or resources to administer the highway program. The U.S. Department of Transportation, through the Federal Highways Administration, will play an important role in providing oversight and technical assistance necessary to ensure that the Department of Public Works operates an efficient highway program during the two years covered by the waiver and in the long-term future of the program. Federal Highway Administrator Slater made this commitment at the July 25, 1995, Subcommittee hearing.

The Committee also notes that Congress has enacted legislation to address the District's financial crisis, the "District of Columbia Financial Responsibility and Management Assistance Act of 1995" (P.L. 104-8). As required under this law, the District of Columbia Financial Responsibility and Management Assistance Authority has been established and given broad powers in order to eliminate budget deficits and management inefficiencies in the government of the District of Columbia. The Committee has worked with the Authority to ensure that the provisions of this bill are consistent with the Authority's mission and the provisions of P.L. 104-8. In addition, the Committee expects that the Authority, the District of Columbia, and the U.S. Department of Transportation will cooperate closely in carrying out the requirements of this legislation.

#### SECTION-BY-SECTION ANALYSIS

##### *Sec. 1. Short title*

The Act may be cited as the "District of Columbia Emergency Highway Relief Act."

##### *Sec. 2. District of Columbia emergency highway relief*

Subsection (a) provides that, during fiscal years 1995 and 1996, the Federal share of the costs of an eligible project shall be a percentage requested by the District, but shall not exceed 100 percent.

Subsection (b) defines the term "eligible project" as a highway project that is located on the National Highway System or is of "regional significance" as determined by the Secretary, and with respect to which the District certifies that sufficient funds are not available for the non-Federal share.

*Sec. 3. Dedicated highway fund and repayment of temporary waiver amounts*

Subsection (a) provides that not later than December 31, 1995, the District must establish a dedicated highway fund, separate from the general fund. Amounts equivalent to receipts from motor fuel taxes and, if necessary motor vehicle taxes and fees must be deposited into the fund in amounts sufficient to meet local cost-sharing requirements and repayment of the increased Federal share as set forth in subsections (b) and (c).

Subsection (b) requires that for fiscal year 1997 and each fiscal year thereafter, amounts in the fund must be sufficient to pay, at a minimum, the cost-sharing requirements under the Federal-aid highway program.

Subsection (c) sets out a 3-year repayment schedule for the increased Federal share. In fiscal year 1996, the District must repay 50 percent of the amount waived in fiscal year 1995. In fiscal year 1997, the District must repay the remaining 50 percent of the amount waived in fiscal year 1995 and 50 percent of the amount waived in fiscal year 1996. In fiscal year 1998, the District must repay the remaining 50 percent of the amount waived in fiscal year 1996. Repaid funds shall be deposited into the Highway Trust Fund and credited to the appropriate account of the District for the category of the project.

Subsection (d) provides that if any requirement regarding the local share and repayment is not met, then the Secretary shall withhold approval of highway projects in the District of Columbia until the requirement is met.

Subsection (e) directs the General Accounting Office to submit a report to Congress by December 31, 1996 and each year thereafter, on the current and expected financial condition and operations of the highway fund.

*Sec. 4. Additional requirements*

Subsection (a) directs the District to expeditiously process and execute contracts for the Federal-aid highway program.

Subsection (b) directs the District to establish an independent revolving fund account, separate from the capital account of the Department of Public Works of the District of Columbia, to be reserved for the prompt payment of District contractors. This fund is distinct from the dedicated highway fund required under section 3.

Subsection (c) directs the District to ensure that the necessary expertise and resources are available for planning, design, and construction of Federal-aid highway projects in the District.

Subsection (d) provides that the Secretary, in consultation with the District of Columbia Financial Responsibility and Management Assistance Authority, may require administrative and programmatic reforms by the District to ensure the efficient management of the Federal-aid highway program in the District.

Subsection (e) directs the General Accounting Office to review implementation of the requirements of this section and report to Congress on the results of the review not later than July 1, 1996.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Subcommittee on Surface Transportation of the Committee on Transportation and Infrastructure held a hearing on the request to waive the District of Columbia's match for the Federal-aid highway program for fiscal years 1995 and 1996, on July 25, 1995, and the Committee's oversight findings and recommendations are reflected in this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the committee estimates that the enactment of H.R. 2017 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2017 does not contain any new budget authority or new credit authority.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2017.

3. A cost estimate for H.R. 2017 from the Director of the Congressional Budget Office was not available at the time of the filing of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,  
*Washington, DC, July 27, 1995.*

The SPEAKER,  
*H232 Capitol,*  
*Washington, DC.*

DEAR MR. SPEAKER: As you know, the fiscal crisis in the District of Columbia has resulted in an inability of the District meeting its local match requirements under the Federal highway program this year. This matter is of concern to the residents of the District of Columbia, to the 300,000 area residents who commute into the District each day, to the Congress which has a Constitutional responsibility for the District, and for the millions of Americans from all over this country who visit our national capital every year.

The Transportation and Infrastructure Committee has been addressing this issue as it involves the Federal aid highway program and the Highway Trust Fund. The District of Columbia government and the Subcommittee on the District of Columbia of the Gov-

ernment Reform and Oversight Committee has been working very closely with Chairman Shuster and the Transportation Committee.

The Transportation Committee has crafted legislation to address this issue which will result in the District of Columbia being able to receive its Federal share for highway projects. The Chairman and Ranking Minority Member of the Subcommittee on the District of Columbia have been in close consultation and strongly support both the effort of the Transportation Committee and the legislation it has under consideration.

This legislation includes provisions requiring specific actions by the District Government and this Committee could receive a sequential referral after initial action by the Transportation Committee. This letter will serve as notification to you that the Government Reform and Oversight Committee supports the legislation proposed by the Transportation Committee and waives any jurisdiction it may have over the legislation.

Thank you for your consideration on this important matter.

Sincerely,

WILLIAM F. CLINGER, Jr.,  
*Chairman.*

CARDISS COLLINS,  
*Ranking Minority Member.*

THOMAS M. DAVIS,  
*D.C. Subcommittee Chairman.*

ELEANOR HOLMES NORTON,  
*D.C. Subcommittee Ranking  
Minority Member.*

## ADDITIONAL VIEWS

First, I want to express my deep and sincere gratitude to Chairman Shuster for convening this full committee markup in time to avoid a drop dead date that would cause the District to lose almost \$200 million in highway funds over a two year period. Chairman Shuster, Chairman Petri and a number of other Committee members expressed several reservations about this emergency legislation. However, Chairman Shuster has always indicated to me that he had an open mind on appropriate ways to meet the emergency. We have worked diligently and in good faith to meet the concerns of Chairman Shuster and others and believe that we have now done so.

I support the Chairman's Substitute which allows the District the local waiver match it desperately needs during this period of acute fiscal crisis while at the same time placing controls and requirements on the District's expenditure of future federal highway monies. Through a temporary waiver of local matching funds, this bill will prevent the District from losing \$82 million in federal highway funds this year and a similar amount next year. The waiver has been made necessary because the District's financial crisis prevents the city from raising the local match by the August 1 deadline. This waiver is substantially like waivers previously granted to 39 states except that the District must make a *cash* payment of its waived funds, while waivers for other jurisdictions have allowed repayment from future highway fund apportionments; the District would receive an individual rather than general waiver; and the District's waiver would be granted at the end of a fiscal year rather than earlier.

The Chairman's Substitute imposes very substantial obligations on the District. With a city close to insolvency, I must accept restrictions that in some cases are greater than those imposed on other jurisdictions or lose almost \$82 million by Monday. Those obligations are guaranteed by virtue of the jurisdiction of the control board established by the Congress. After hearing the concerns of the Mayor and explaining to him all the circumstances, however, I am prepared to support the Chairman's Substitute.

May I offer special thanks to Speaker Gingrich, who supports the waiver. Surface Transportation Chairman Tom Petri also has my gratitude for his assistance in quickly organizing a Subcommittee hearing on this emergency legislation and moving a bill to full committee. Similar thanks is due to full Committee Ranking Member Norm Mineta and Surface Transportation Ranking Member Nick Rahall for their steady and unfaltering support of this initiative. Finally, I would like to express my sincere gratitude to all the regional members of the metropolitan area, D.C. Subcommittee Chairman Tom Davis, Rep. Steny Hoyer, Rep. Jim Moran, Rep. Connie Morella, Rep. Frank Wolf and Rep. Albert Wynn, all of

whom, in bipartisanship were original cosponsors of my bill, and most of whom personally testified in support, before the Surface Transportation Subcommittee.

Finally, there are no risks in the substitute for the Committee. These are substantial obligations for the District and its control board. Those obligations shall be met. May I ask personally for the support of my colleagues.

ELEANOR HOLMES NORTON.

