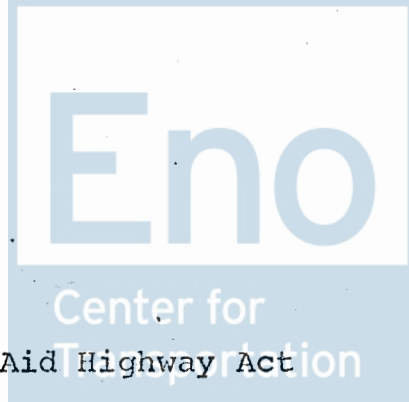


EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Book 1



MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 502 - Federal-Aid Highway Act
of 1973
Sponsor - Sen. Bentsen (D) Texas

Last Day for Action

August 16, 1973 - Thursday

Purpose

Authorizes multi-year appropriations for highway and mass transit capital investments and for the State and community highway safety grant program, opens the Highway Trust Fund for mass transit capital improvements, permits States to substitute mass transit projects for non-essential Interstate highway segments, and makes numerous other amendments to the basic Federal-aid Highway and Urban Mass Transportation Acts.

Agency Recommendations

Office of Management and Budget	Approval
Department of Transportation	Approval
Department of Agriculture	Approval
District of Columbia	Approval
Environmental Protection Agency	Approval
Department of the Interior	Approval
Department of Justice	No position

Discussion

Authorizing legislation for highway programs has traditionally been enacted biennially by the Congress, but last year the Congress failed to enact the 1972 Highway Act. On February 2,

1973, the Administration submitted to Congress a new Federal-aid highway bill along with a bill to authorize an additional \$3 billion for DOT's urban mass transit program; on March 27, 1973, it submitted a highway safety authorization bill.

S. 502 differs substantially from the Administration's proposals, but would accomplish a significant number of the objectives sought by the Administration and does not include a number of provisions strongly opposed by the Administration. It would among other things:

-- provide a three-year authorization (contract authority in effect) for the planning and construction of Federal-aid highways ✓

insert 1 -- open the Highway Trust Fund (urban system fund) to bus purchases in fiscal year 1975 and to bus and rail capital investments in 1976, thus providing program flexibility for State and local officials. Bus and rail purchases would also be authorized from the highway authorizations in both 1974 and 1975 if they were financed out of the General Fund rather than the Highway Trust Fund. The flexibility thus provided was supported by you in two energy messages, the environmental message, and the community development message ✓

insert 2 -- permit State and local officials to substitute mass transit capital investments for existing controversial, non-essential urban Interstate links but financing would be out of the General Fund

-- provide an additional \$3 billion for the on-going urban mass transit program authorized by the Urban Mass Transportation Act. This program is financed out of the General Fund ✓

-- earmark part of the urban highway funds for urbanized areas over 200,000 in population ✓

-- increase planning funds to enhance the effectiveness of the local planning process ✓

-- authorize appropriations for the existing State and Community Highway Safety grant program for three years, 1974-6 ✓

-- minimize Federal involvement and red tape in highway programs through substantial delegation of project approval to States ✓

Although earlier Senate versions so provided, S. 502 would not prohibit the impoundment of highway funds and would not authorize operating subsidies for urban mass transit. These concessions were made in response to strong veto signals from the Administration.

In addition, S. 502 would extend from 1976 to 1979 the completion date of the Interstate system, authorize expenditures from the Highway Trust Fund for bicycle paths and pedestrian walkways, and name a cross-country route along three Interstate segments the "Dwight D. Eisenhower Highway."

All of the above features are generally consistent with Administration proposals.

S. 502 also includes a number of undesirable, unrequested provisions. It would:

-- authorize program levels well in excess of the Administration's proposal. For the three years 1974-6, S. 502 exceeds by \$2.9 billion the authorization levels in the Administration's bill, with the largest increases for new highway safety programs. In terms of obligational level, S. 502 would exceed by \$4.8 billion the present budget projections for highway and highway safety obligations during the period 1974-6. Nevertheless, the enrolled bill provides total dollar authorizations some \$5 billion below the most recent House version of the bill.

-- authorize about 10 categorical grant programs for special highway construction programs, the largest of which would create a priority primary system. This system would imply a future Federal commitment for the construction of approximately 10,000 miles of a junior Interstate system. While the authorization levels in the bill for this system are \$100 million in 1974, \$200 million in 1975, and \$300 million in 1976, the total system could exceed \$10-15

billion. In addition, S. 502 would authorize \$225 million for economic growth center highways, \$59 million for an Alaska Highway, \$90 million for a Great River Road along the Mississippi, and \$150 million for an urban high density traffic program of industrial freeways; none of these is justifiable in our view. Finally, the bill would authorize \$65 million to provide METRO facilities for the handicapped

-- authorize highway safety funds in excess of the Administration's request by \$411 million in 1974, \$533 million in 1975, and \$571.5 million in 1976. Four new categorical construction grants, including grade-crossing elimination, spot improvements, and roadside obstacle elimination, would be authorized for projects which the States can presently fund from existing Federal-aid programs. A separate program for safety improvements to roads off the Federal-aid system would be established. Several studies are mandated which could result in pressure for future funding increases, e.g., highway safety needs study and national highway safety statistics center

-- prohibit the promulgation of new highway safety program standards or the revision of any standard in effect on July 1, 1973, unless specifically authorized by law (section 229)

-- add 300 miles to the Interstate system, which would permit 90 percent Federal funding of substitute rural Interstate segments in place of expensive, controversial urban segments

-- increase the Federal share in the UMFA capital grants program from a maximum of 66-2/3% to a mandatory 80% instead of a maximum Federal share of 70% as supported by the Administration.

* * * * *

Of the negative features of the bill, the most important is the increased funding authorized by the bill over the amount requested by the Administration. We believe that this increase is acceptable only if the Administration continues to apply a spending limitation on the dollar aggregate of projects to be approved in a given year. Accordingly, we solicited the views of DOT on this subject. In a letter to OMB dated July 31, 1973, Secretary Brinegar states:

"It is clear to us that enactment of this bill will result in very little impact on 1974 and 1975 outlays. Further, we can assure you that if the President decides to sign the legislation, the Department can and will accommodate any additional FY 74/75 outlay impact of the legislation within the fiscal guidance transmitted by Director Ash on July 24, 1973."

This agreement, which calls for continued withholding of highway funds, was subsequently confirmed in a telephone conversation between the Secretary and myself. Thus, control of highway outlays to reduce inflation would continue, unless the Supreme Court upholds lower court decisions to prohibit withholding of highway funds for economic reasons.

Also potentially very costly is the authorization for the priority primary system which sets an undesirable precedent for continued Federal involvement in construction of highway systems. However, through careful wording of a required report to the Congress on the system and optimal project management, we believe the amount of Federal commitment in this program can be minimized.

The large number of new construction-oriented safety grants would curtail a State's flexibility to manage a program oriented to its particular safety deficiencies; however, several of the major categorical grants can be grouped into a unified "Safer Roads System" emphasizing State identification and correction of key hazardous locations.

The prohibition in the bill against new or revised highway safety program standards is of real concern. In this connection, DOT has the following comments in its views letter on the enrolled bill:

"We are very troubled by section 229 of the enrolled bill, which prohibits the promulgation of new highway safety program standards, or the revision of any standard in effect on July 1, 1973, unless specifically authorized by law. Adoption of this provision would mark a sharp break with the policy set by the Congress when it enacted the Highway Safety Act of 1966. To spur further State activity Congress expressed its desire that in the safety area, the Federal Government

assume the leadership role in the adoption of uniform national highway safety program standards. Further, it said that the purpose of the Act is to build an aggressive highway safety program. The rulemaking prohibition contained in the enrolled bill could seriously impede our efforts to carry out these important objectives. We feel strongly that efforts should be undertaken in both Houses to secure introduction and adoption of an amendment deleting or modifying this rulemaking prohibition. The Department intends to prepare and submit to OMB remedial legislation as quickly as possible."

Finally, it should be noted that while S. 502 does not contain any authorization for operating subsidies for urban mass transit, there is considerable pressure in both Houses of Congress to press for this feature in subsequent legislation. The Administration has consistently indicated its opposition to such legislation.

* * * *

After careful consideration of all aspects of this legislation, it is our view that the bill warrants approval despite the objectionable provisions noted above. Fortunately, some of the latter can be administered in such a fashion that your commitment to fight inflation through budgetary restraint will not be substantially damaged in fiscal years 1974 and 1975.

We understand that DOT has informally transmitted a draft of a proposed signing statement to White House staff.

Director

Enclosures



THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

July 31, 1973

MEMORANDUM FOR ASSOCIATE DIRECTOR FOR HUMAN AND COMMUNITY AFFAIRS
OFFICE OF MANAGEMENT AND BUDGET

SUBJECT: Fiscal Impact of the 1973 Highway Legislation



As promised at Monday's meeting, we have completed our fiscal analysis of the impact that the conference bill could have on 1974 and 1975 budget outlays under a number of options. As a result of this analysis, it is clear to us that enactment of this bill will result in very little impact on 1974 and 1975 outlays. Further, we can assure you that if the President decides to sign the legislation, the Department can and will accommodate any additional FY 74/75 outlay impact of the legislation within the fiscal guidance transmitted by Director Ash on July 24, 1973. Also, consistent with President Nixon's recent commitment to hold down Federal employment, enactment of this legislation would not require any additional positions for DOT.

As you know, outlays in the highway program are largely a function of prior year program (obligation) level decisions. Since 1968, the Federal-aid highway program has operated below its fully authorized level. We have tentatively reached our 1975 program decisions within the Department, and we are expecting to continue this policy. The legislation that is ultimately enacted, of course, influences the way we "split up the pot" but does not significantly influence our decision as to the size of that pot.

In analyzing the impact of the bill, we have evaluated the consequences of various program levels on outlays. Among those alternatives, we have attempted to determine the impact on the budget if we ultimately lose the impoundment case in the courts. As a result of our analysis, we anticipate a moderate increase in outlays (approximately \$200 million) in 1975 as a result of a loss in the courts, but we would expect that future year outlays would increase by a substantially larger amount as the States are able to absorb higher Federal funding levels.

It should be pointed out that the impact that the impoundment case has on outlays is almost unrelated to this legislation. Frankly, even if the Congress had enacted the Administration's highway proposal, the amount impounded as of January 1, 1974 would be in excess of \$8 billion. Under the conference bill, impoundments would rise only an additional half billion dollars. In terms of outlays, there is almost no difference between the two bills if we ultimately lose the impoundment case in the courts.

We believe that the legislation reported out by the conferees is a major victory for the President and marks a breakthrough in urban transportation policy. While we agree that the authorizations are excessive, they are significantly lower than the levels reported out by the conferees during the 92nd Congress and also are lower than the levels included in either the House or Senate bill. As indicated above, the Department can accommodate the FY 1974/1975 fiscal outlay impacts of the legislation without damaging the President's commitment to fighting inflation through budgetary restraint.

In summary, we strongly recommend that the President sign the conference bill. Please call if you require any additional information.

Original Signed by

Claude S. Brinegar

Copy to:

Mr. Dana Mead

Mr. Ken Cole

Mr. Mike Duval ✓

Attachment A

FEDERAL HIGHWAY ACT AUTHORIZATIONS
(\$ in Millions)P.L. = Program Levels
B.A. = Obligational Levels

	1974			1975			1976		
	Adm.		Conf.	Adm.		Conf.	Adm.		Conf.
	P.L.	B.A.	B.A.	B.A.	B.A.	B.A.	B.A.	B.A.	B.A.
Interstate		3250	2600	3150	3000	3000	3000	3000	3000
1/2% minimum		--	50	--	50	--	50	--	50
Priority Primary		--	100	--	200	--	300	--	300
Rural Primary			(680		(700		(700		(700
minimum		1100	(17	1200	(15	1350	(15		
Rural Secondary			(390		(400		(400		(400
Urban Systems		1000	(780	1000	(800	1000	(800		
Urban Extensions			(290		(300		(300		
(Federal-aid Highways)	(4400)								
Urban High Density	--	--	50	--	50	--	50	--	50
Economic Growth Highways	--	--	50	--	75	--	100	--	100
Bridges on Dams	--	--	8.5	--	--	--	--	--	--
Great River Road	--	--	20.1	--	35	--	35	--	35
Alaskan Assistance	--	--	20	--	20	--	20	--	20
Forest Highway	(16)	--	33	33	33	33	33		
Public Lands Highways	(5)	--	16	16	16	16	16		
Alaska Highway	--	--	58.7	--	--	--	--		
Scenic Highway Study	--	--	.3	--	--	--	--		
Territorial Highways	(4)	3.5	8	5	8	5	8		
METRO Accessibility	--	--	65	--	--	--	--		
Beauty Administration	(1)	1	1.5	1	1.5	1	1.5		
Highway Beauty	(55)	--	--	65	--	65	--		
Interamerican Highway	--	--	10	--	--	--	--		
Rural Bus Demonstration Program	--	--	--	--	30	--	--		
Mass Transit Study	--	--	10	--	--	--	--		
Rail Relocation & Demonstration	(18)	21	15	--	25	--	50		
Indian Roads	(57)	60	75	75	75	75	75		
Other non-DOT Programs ⁽¹⁾	(136)	--	(240)	--	(255)	--	(255)		
SUB-TOTAL FOR HIGHWAYS	(4692)	5436	5588	5545	6089	5545	6209		
SUB-TOTAL FOR HWY. SAFETY(fr. P. 2)	(140)	50	461	230	763	230	802		
GRAND TOTAL	(4832)	5486	6049	5775	6852	5775	7011		

NOTE: The original House bill contained \$6.9B for highways and \$1.6B for highway safety totaling \$8.5B in 1975.

Many of the above numbers are shown as contract authority which is available as budget authority the preceding fiscal year.

^{1/} To be financed in the future from Interior and Agriculture authorizing legislation under current Administration policy.