

THE WHITE HOUSE  
WASHINGTON

9/26/78

Mr. President:

Comments from Jim McIntyre and Stu Eizenstat are attached.

Congressional Liaison agrees with Stu and Jim that you should defer a decision on meeting with the conferees at this time. CL comments that sustaining a veto on this issue may depend on our ability to drive a wedge between the highway lobby and the mass transit lobby.

Rick



THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

September 13, 1978

*Sta -  
Tell Brock I'll  
help when he needs  
me -*

MEMORANDUM FOR THE PRESIDENT

ATTENTION: Rick Hutcheson, Staff Secretary

FROM: Brock Adams

SUBJECT: Highway/Transit Conference

*Brock Adams*

Summary

I am writing to ask for your personal involvement in the upcoming Highway/Transit Conference in an effort to bring our fight to a successful conclusion.

As you know, the Senate has passed our highway bill with few additions, but it now faces a complicated conference with an expensive House bill which we have fought. At our urging, the highway bill was for the first time merged with the mass transit authorization. Although the transit authorization levels exceed our recommendations, we can continue the fight over transit funding in the appropriations process where the Transportation Appropriations Subcommittees have to some extent been supportive of the Administration's budget. Most highway funds, however, are not subject to the appropriations process.

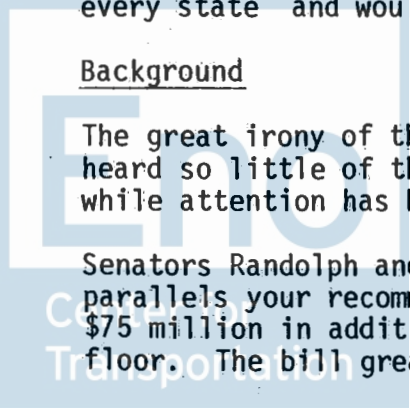
The veto may be your only alternative to striking a bargain with the Congress, and the Congress may not have sufficient time to restructure an acceptable bill. If the House continues to insist on inflationary spending levels and a veto becomes necessary, our side of the argument must be clearly understood by the public.

Calling the conferees to the Oval Office would demonstrate your personal interest in a program which is important to the economy of every state and would represent one last attempt to head off chaos.

Background

The great irony of the Surface Transportation fight is that we have heard so little of the historic package which has passed the Senate, while attention has been focused on a typically expensive House bill.

Senators Randolph and Bentsen have guided through a bill which closely parallels your recommendations. We worked successfully to avoid all but \$75 million in additional funding which was proposed on the Senate floor. The bill greatly improves the structure of the highway



program, and takes steps to achieve a substantial degree of coordination with urban and rural public transportation. The transit section of the package was sponsored by Senator Williams and largely agrees with your recommendations, but exceeds the Administration's authorization levels. The four year aggregate Senate authorization levels will probably exceed our initial recommendation by \$1.6 billion.

The House bill is a different story. While the Public Works Committee accepted some of your structural recommendations, it turned its back on your budget. We were, therefore, forced to fight as follows:

Public Works Committee. We first attempted to promote substantial budget cuts in Committee, but could raise no more than 7 votes for our amendments. Our argument for fiscal restraint was overcome by the Committee's traditional pride of authorship and careful use of "pork barrel" projects. That was buttressed this year by the friendship and sympathy felt for the House bill's chief sponsor, Congressman Jim Howard, who returned from a sick bed and a heart attack to lead full committee mark-up.


Ways and Means Committee. The next field of battle was the Ways and Means Committee which must approve the extension of the Highway Trust Fund before the authorization is sent to the House floor. Ordinarily, the extension is perfunctory, but this year with the assistance of Barber Conable and Sam Gibbons we worked to reduce authorization levels.

The highway portion of the Howard bill called for \$45.8 billion over 4 years in Highway Trust Fund-supported authorizations. During those same years, the income to the Trust Fund from taxes and interest would produce only \$33.8 billion. The Conable-Gibbons Amendment sought to limit annual highway expenditures to the amount brought in by receipts.

The amendment never passed because the House Public Works Committee agreed to offer an amendment reducing highway spending levels by \$5.6 billion over the 4 year period of the bill.

The House Floor. Congressman Howard's amendment on the floor reducing his 4 year highway and transit authorization will be as follows:

	H.R. 11733	H.R. 11733 (in billions) With Howard Amendment	Difference
Highway (and Highway Safety)	\$47.2	\$43.2	\$4.0
Transit	18.5	17.0	1.5
4 Year Total	\$65.7	\$60.2	\$5.5



With Congressman Giaimo, we are trying to determine the potential support for further cuts on the floor. We want to pursue every opportunity to cut the bill, but hope to avoid losing a budget amendment overwhelmingly -- thus giving support to the position of the House Conferees. If the Giaimo effort does not succeed, the following are the possible results in conference:

	<u>Administration</u>	<u>(in billions)</u>		<u>Possible Conference Range</u>
		<u>House</u>	<u>Senate</u>	
Highway (and Highway Safety)	\$32.7	\$43.2	\$33.6	\$33.1 - \$43.7
Transit	<u>14.4</u>	<u>17.0</u>	<u>15.7</u>	<u>15.3 - 17.4</u>
TOTAL	\$47.1	\$60.2	\$49.3	\$48.4 - \$61.1

Regarding the structure of the bill, the key questions relate to acceleration of Interstate completion, program flexibility, coordination between highways and transit, and the relative percentage of the federal-state match.

Benefits of Legislation. Although we have been forced into a position of outspoken opposition to the House bill, it must be noted that passage of Highway/Transit legislation could represent a substantial Administration victory:

1. It represents the first successful effort to enact a comprehensive highway and public transit bill at the same time. The constituencies of both would be merged in their support of what will ultimately become one coordinated program for surface transportation.
2. The legislation enacts broad structural changes in the Highway Program including:
  - accelerating completion of the Interstate System,
  - a new emphasis on rehabilitation,
  - a new sensitivity to urban problems, and
  - a greater flexibility and program consolidation to provide more discretion to local officials.

Passage of these and other changes embodied in the bill initiated by the Carter Administration could represent one of the most important legislative accomplishments in surface transportation since approval of the Interstate Program in 1956.

Practical Effects of a Presidential Veto. The Highway Program affects every state. If no new highway authorization is enacted by October 1, twenty-one states will have no funds available to support the Interstate Program, thirty-three states will have no primary program funds available, twenty-nine states will have used all of their funds in the Secondary Program, and eleven states will be out

of funds from the Urban Program. Worst case estimates indicate that up to 100,000 direct construction jobs would be lost, and 145,000 jobs would be lost indirectly, until a new bill is enacted in the next Congress. There are methods to mitigate the negative impact of not having a bill, and you should not be put in the position of either signing an inflationary bill or creating a period of massive unemployment.

A partial solution would be a continuing resolution maintaining the highway program at its current \$7.3 billion level. While a continuing resolution is possible as a stop gap measure, none was enacted in 1972 when no conference report was agreed to, and the timing this year makes the possibility of passing such a resolution unlikely.

Scenario for Compromise. In the Senate, we have taken great pains to work cooperatively with the leadership of the Committees handling this legislation. We successfully worked to keep the highway levels within the acceptable range. We lobbied the Banking Committee for reduced levels which resulted in a \$1.4 billion reduction in transit authorizations. As noted previously, the Administration engineered the first significant reduction in funding levels of a House Highway Bill in recent memory, when Rep. Howard voluntarily agreed to cut 7% from both highway and transit levels.

Realizing these reductions are not sufficient, we are still working to reduce levels to those recommended by the Administration. We have prepared the material on and are supporting the Morgan Amendment, which would reduce Senate transit levels by another billion dollars. We may have also convinced Budget Committee Chairman Giaimo to reduce the House highway levels by offering an amendment on the floor. While these amendments may not reduce the legislation to the Administration levels, they should be supported.

These efforts, combined with our work with the Committees in conference and the threat of a veto, could hold the funding levels down. However, the conference could very well get stalled over these levels, and the majority of the conferees may still favor authorizations which are unacceptable to the Administration. There is also a strong possibility that reductions in funding will be traded for concessions in structural reforms.

Presidential Involvement. The Administration must make its case that current proposals are not acceptable and will have to take an active role to achieve acceptable funding levels. Some dramatic move, at the appropriate point during the conference, will be necessary if an acceptable outcome is to be reached.

The conferees are already asking us to give them the maximum figure which you would approve. An Oval Office meeting with the key conferees at the appropriate time could facilitate agreement on levels which are

acceptable. We would lay out the situation from our point-of-view and indicate what you will be willing to sign, and more importantly, the fact that it would be a non-negotiable upper limit.

In preparation for such a meeting, DOT is surveying the states to determine the amount of highway funds that will be obligated in 1978 and the maximum amount that could reasonably be obligated in 1979. We anticipate that these numbers will be considerably lower than the figures in the House bill. We could use these surveys to press our case that highway authorizations should be limited, and that increased levels would only inflate construction costs. On the transit side, we are developing an analysis to demonstrate that funding levels close to those recommended by the Administration could effectively maintain and expand existing services. This analysis could be used in a manner similar to the highway survey.

Based upon this data, you would present the maximum acceptable figures. This critical White House meeting should be held since:

- it would be the most effective method for having the conference produce a bill you could sign,
- it would demonstrate that you have a strong interest in working with the conferees to produce a bill,
- it would place the Administration in the most favorable posture if the conference fails; the public must understand that you made your best effort, given the actual spending capacities of the states, the inflationary impact of the bill, and your concern about any adverse impact on jobs.



WASHINGTON

DATE: 14 SEP 78

FOR ACTION: STU EIZENSTAT

JIM MCINTYRE

FRANK MOORE (LES FRANCIS)

*Jim*  
*Lee*

INFO ONLY: THE VICE PRESIDENT

HAMILTON JORDAN

JERRY RAFSHOON

JACK WATSON

ANNE WEXLER

CHARLIE SCHULTZE

FRAN VOORDE

SUBJECT: ADAMS MEMO RE HIGHWAY TRANSIT CONFERENCE

*PLEASE LOOK AT BEFORE leaving town*  
*(ms)*

*me*  
XC: FM ✓  
SL ✓  
HL ✓  
Ronna ✓

+++++  
+ RESPONSE DUE TO RICK HUTCHESON STAFF SECRETARY (456-7052) +  
+ BY: 1200 PM SATURDAY 16 SEP 78 +  
+++++

ACTION REQUESTED:

STAFF RESPONSE: ( ) I CONCUR. ( ) NO COMMENT. ( ) HOLD.

PLEASE NOTE OTHER COMMENTS BELOW:

The highway/mass transit legislation has been on our "veto candidate" list for quite some time and remains there for obvious reasons.

While Secretary Andrus' memo adequately outlines the positive and negative aspects of the pending legislation, we believe a strategy for improving the bill ought to go beyond scheduling a meeting between the President and the yet-to-be-named conferees. We should begin a low-key organizing effort aimed at a potential veto, in the hope that the threat will be taken seriously and will result in further modifications in the legislation. As we do this, we must carefully consider the consequences of taking on both the highway lobby and the mass transit lobby simultaneously. Sustaining a veto could well depend on our ability to drive a wedge between those two groups.

THE WHITE HOUSE

WASHINGTON

September 16, 1978

MEMORANDUM FOR: THE PRESIDENT  
FROM: STU EIZENSTAT *Stu*  
SUBJECT: Adams Memo Concerning Highway-Transit  
Conference

I recommend that you defer a decision on whether to become personally involved with the Highway-Transit conferees.

We can and should adopt a very tough position with the conferees. I question whether you personally should deliver this message, since it is likely initially to antagonize the House members. I also doubt that you should be in the position of issuing a non-negotiable bottom line to this group. If the conferees fail to accept it you will be forced to veto the bill even if it is very close to your target. The rigidity of your position could then become the target of political criticism. The veto threat is strongest and our negotiating room is greatest if there is some uncertainty surrounding your ultimate intentions.

Rather I recommend that you discuss the bill in detail with Adams, McIntyre and others and then provide them with specific instructions to represent you in the conference. At the same time you should issue statements or releases that raise the public's awareness of the spending issues at stake. A very favorable climate exists for such statements because of a series of editorials earlier in the summer criticizing the extravagant House bill. Only if the conferees are stuck on some difficult issue in an otherwise acceptable bill should you personally intervene.

We are, I believe, in an increasingly strong position on this bill. If you veto this bill it is the Congress which must go home for election to face laid off highway construction workers. Because we are willing to accept some spending



above our budget our position is likely to be seen as both flexible and fiscally responsible compared to the big-spending Congress. With either no bill or a continuing resolution spending levels will fall sharply. Thus the highway building community has a strong interest in coming to terms with the Administration. Finally if we cannot pass a bill this year the chances for linking higher highway spending with higher gasoline taxes should improve next year.

Because a veto is a strong possibility I believe we should begin gearing up immediately to build support for sustaining it.

I will work with Frank and Anne to set-up an internal working group on this issue.

I would suggest that the meeting with Adams, Jim McIntyre and Frank occur as soon as possible after your return from Camp Davis.





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

SEP 19 1978

MEMORANDUM FOR: THE PRESIDENT  
FROM: James T. McIntyre, Jr. *JTM*  
SUBJECT: Secretary Adams Memorandum on the Highway/  
Transit Conference

In response to Secretary Adams September 13 memorandum, we recommend that you defer a decision on whether to meet with House and Senate conferees on the highway and transit bill, and we recommend that the Administration support a 70% Federal highway matching share. Details are below.

Your Involvement with the Conference Committee

We anticipate that both House and Senate will complete floor action on their respective versions of the highway and transit bill late this week. The Administration is supporting amendments in both bodies which would lower authorizations. The table below shows the consequences of these amendments on average yearly authorizations over the four year period (1979-1982). Of course, not all the authorization increases will subsequently receive appropriations.

(Dollars in billions)

	<u>Admin. Request</u>	<u>Increases Over Request</u>	
		<u>House</u>	<u>Senate</u>
Bill without amendments	11.8	+3.5*	+1.4
Bill with amendments	11.8	+1.5	+0.9

\* Adjusted to reflect funding reductions which House Subcommittee Chairman Jim Howard will offer on House Floor.

The single most significant amendment to be proposed is the Giaimo Amendment, which would reduce highway trust fund authorizations by about \$1.3 billion annually.

For the following reasons, OMB believes that it would be premature for you to decide at this time to meet with House and Senate conferees:

- The Administration's first line of defense is the House and Senate floor amendments. Nothing should distract from these efforts to reduce the bill's authorizations.
- If the Giaimo Amendment and other amendments are enacted, there is a good chance that the conference committee will

report out a bill which you will be willing to sign. Your personal intervention with the conferees may be needed to rectify policy problems, but we will not know that until later.\* Conversely, if the Giaimo Amendment fails, the budget exposure would simply be too high to be resolved satisfactorily in conference. In that case, we believe it would be unwise to meet with the conferees because it would give the impression that you were likely to sign the bill.

DOT's conference committee strategy is keyed to determining the level of highway funds which states believe they could obligate in 1979. Based on a survey of the states, DOT would then have you use the numbers to leverage the conferees for authorizations which are lower than those in the House version of the bill. Similar past surveys of states have yielded greatly overoptimistic estimates of states abilities to obligate funds (actual obligations have underrun projections by about \$0.5 billion annually). We anticipate that states will report that they can obligate about \$9.0 billion in 1979--or \$1.2 billion over the Administration's request.

#### Effects of a Presidential Veto

We believe Secretary Adams paints an overly bleak picture of the consequences of a veto. Because of a recent upsurge in highway construction activity, there is little reason to believe that there will be sudden, massive layoffs of construction workers. Furthermore, there are a variety of legislative solutions which can carry the program forward until such time as a comprehensive bill is enacted.

#### Federal Matching Share for Highway Programs

As you will recall, the Administration proposed an increase in the non-Interstate highway match from 70% to 80% in order to establish a uniform funding ratio for both highway and transit programs. The House version of the bill goes even further than the Administration request by raising the Federal match ratio to 90-100% for selected highway programs (e.g. bridge construction, Appalachian highways). The Senate version retains the current 70% highway match.

We believe that the Administration should support the Senate version of the highway portion of the bill in conference committee -- including retention of the 70% highway match. DOT prefers supporting the House version on the highway match issue. A decision memorandum is attached which further explains this issue.

\* The House version contains serious policy problems--e.g., 68 narrow funding categories, entirely new forms of transportation grant assistance, protectionist trade provisions, one House veto of DOT regulations, and weakening of highway beauty laws.

Attachments

## OMB DECISION MEMORANDUM

Federal Matching Share for Highway Programs

As you know, the Administration proposed an increase in the non-Interstate highway matching share from 70 percent to 80 percent. The House version of the bill goes even further than the Administration request by raising the Federal match to 80 percent for most highway programs and to 90 percent or 100 percent for selected highway programs (e.g., bridge construction). The intent of the House increases is to make it easier for states to obligate Federal highway funds. Conversely, the Senate version retains the existing 70 percent Federal match on the conviction that the states should continue to bear major financial responsibility for construction of Federal-aid highways.

For the following reasons, DOT believes that the Administration should continue to push for an 80 percent highway matching share:

- It would make the highway matching share (with the exception of a 90 percent match for Interstates) uniform with the existing 80 percent transit capital grant matching share, thereby providing the basis for more comprehensive consolidation of transportation grant programs.
- It would help to compensate for State highway revenue losses resulting from reduced gas consumption caused by existing and proposed energy legislation.
- It promotes rational and flexible decisionmaking at the local and State level by removing any bias based on the level of the Federal match from decisions as to what transportation projects should be pursued.
- It would not increase Federal highway costs because highway authorizations and obligation ceilings will continue to determine the level of the Government's budgetary exposure.

DOT's position is further discussed in the attached letter to OMB.

OMB believes that retention of a 70 percent Federal matching share is preferable, based on the following:

- Irrespective of highway authorizations and obligation ceilings, increasing the matching share would facilitate state utilization of Federal highway funds and thereby would tend to exert upward pressure on the highway budget. A recent survey of states conducted by DOT

indicates that the higher Federal match in the House bill could result in pressures for \$0.6 billion in additional highway obligations, compared with the Senate version of the bill.

- Increasing the highway matching share would establish a poor precedent for other Federal grant-in-aid programs.
- The Administration had originally supported the 80% match because it was part of a comprehensive restructuring. Now that the other portions of the restructuring have been dropped, there is no reason to support an increase in the matching share.
- Contrary to previous estimates, states have not suffered motor gasoline revenue losses (gas consumption is increasing by over 3 percent annually), and therefore the need for additional Federal assistance is not clear.
- Concurrence with the Senate's position on the highway match issue would be consistent with support which the Administration has given the overall Senate version of the highway bill.

In short, OMB believes that the price which would have to be paid for a higher highway matching share is not worth the questionable benefits to be received.

#### Decision

- 1) Retain a 70 percent Federal highway matching share, as provided in the Senate version of the bill (OMB recommendation).
- 2) Increase the Federal matching share to 80 percent, as originally proposed in the Administration's bill (DOT recommendation).





GENERAL COUNSEL

Letter Presenting DOT's Views  
on the Matching Share Issue

OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

SEP 12 1978

~~SEP 19 1978~~

Honorable James T. McIntyre, Jr.  
Director  
Office of Management and Budget  
Washington, D.C. 20503

Dear Mr. McIntyre:

The question of the appropriate Federal share of the cost of highway projects is among the many matters on which the Senate and House have diverged in their development of highway-transit legislation. The House, in this instance, is closer to the Administration bill, since H.R. 11733 as reported by the Public Works Committee would raise the Federal share for non-Interstate projects to 80 percent, while S. 3073 retains the current share of 70 percent. Members of your staff have requested the views of the Department of Transportation as to whether the Administration should continue to advocate an 80 percent Federal share for non-Interstate highway projects.

As you know, establishment of a uniform Federal match for transit and non-Interstate highway programs was a key feature of the Administration's highway-transit bill. This uniformity promotes rational and flexible decision-making at the local and State level by removing any bias based on the level of the Federal match from decisions as to what transportation improvement projects should be pursued.

You will recall that there was considerable discussion at the time the Administration's bill was put together as to whether the uniform Federal share should be set at 80 percent or 70 percent. Two of the key factors which led to the decision to set the level at 80 percent were the political impracticability and programmatic undesirability of reducing the Federal contribution to mass transit projects, and the recognition that State gas tax revenues will decline as energy and vehicle fuel economy policies take hold. In addition, we

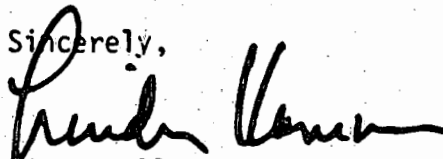
ENO

Center for  
Transportation

recognized that increasing the Federal share for highway projects to 80 percent would not increase overall Federal costs or budget exposure and that State funds that were "saved" as a result of the 80 percent Federal share could appropriately be used to meet increasing costs of highway maintenance.

We can anticipate a lengthy and complex House-Senate conference on the highway-transit legislation. The Administration will need to focus its efforts during that conference on elements of the legislation which are essential to promoting effectiveness and compatibility of the highway and transit Federal assistance programs. The Department of Transportation believes that a uniform Federal share for those programs is such an element and that the reasons which initially led the Administration to advocate a share of 80 percent remain sound. Accordingly, we should make every effort to see that the House provision on the Federal share is accepted during the conference on the highway-transit legislation.

Sincerely,



Linda Heller Kamm



THE WHITE HOUSE

WASHINGTON

September 26, 1978

MEMORANDUM FOR: THE PRESIDENT  
FROM: STU EIZENSTAT *Sh*  
SUBJECT: OMB Memo on Highway Matching Share

I disagree with OMB that we should change our position on matching shares:

1) We have widely announced our position and been widely praised for it. A flip-flop will be perceived as another case of the Administration's lack of certainty about what it believes.

2) Many states such as Pennsylvania are having difficulty meeting their matching share. This has resulted in rapidly deteriorating roads and escalating political pressures. We would be sharply criticized from these states.

3) We are already lined up virtually entirely behind the Senate version of the bill. To switch our position on the only element of our original bill that the House accepted would further antagonize the House conferees.

4) A higher matching share might mean more highway building but this would only come in the states where building has been deferred. Thus there would be little inflationary pressure.

5) The original purpose behind the 80% match remains--- to make the highway matching share uniform with the existing 80% transit capital grant matching share. This unfortunately was a key element in our original reform proposals. It removes any bias at the local level based on the Federal match as to the type of transportation project to pursue. It should not be subverted by our own action.

Center for  
Transportation



THE WHITE HOUSE  
WASHINGTON

5<sup>22</sup>

Linda Smith called to  
say that Adams & SE  
resolved most issues of  
them, but will still need  
guidance from the President  
on how to deal w/ conferees.



1 Sep