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

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Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Bob:

I am writing to convey the Administration's concerns as the House and Senate prepare for Conference on legislation (H.R. 3129 and S. 2405) to reauthorize highway, transit and highway safety programs beyond 1986.

The Administration strongly supports the highway provisions of the Senate bill and urges their adoption by the Conference Committee. We are pleased that the highway title in S. 2405 recognizes the constraints on Federal spending that are necessary if the deficit is to be reduced, and proposes changes to increase the cost-effectiveness of the Federal-aid highway program. We applaud the Senate's opposition to raising the highway obligation limitation. We do not object to its approach to special projects that gives States the flexibility to fund such projects from regularly-apportioned funds, rather than providing additional 100 percent Federal funding for special-interest projects as the House bill provides.

The Senate bill also makes important substantive changes in the Federal highway program which the Conference would be wise to adopt. Provisions to consolidate the Interstate and primary highway programs and to allow the use of Federal-aid in the construction of new toll roads would enhance States' abilities to meet their highway needs by lifting categorical restrictions and leveraging additional State funds. Reform of the Highway Beautification Act and revision of the 55 m.p.h. speed limit, as contained in S. 2405, appropriately would give States the responsibility for sign removal and raising the speed limit to 65 m.p.h. on rural Interstate highways.

However, the Administration has serious objections to a number of the provisions before the conferees. I strongly urge the Conference to address our concerns outlined below. Otherwise, if our concerns are not adequately addressed, the President's senior advisors would recommend that the President not sign the bill.

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1. Unaffordable Highway Spending in H.R. 3129

H.R. 3129 authorizes $69.7 billion over five years which exceeds the President's budget for highway programs by $5.8 billion. In addition, two provisions of the bill significantly increase spending by authorizing about $1.3 billion outside the annual highway obligation limitation. First, the bill expands the list of obligations exempt from the obligation limitation to an estimated $1 billion annually. Secondly, the bill provides a windfall of extra obligation authority for States that exhaust their share of the annual limitation by August 1st of each year.

2. Special Interest Highway Add-ons

H.R. 3129 is replete with narrow, special interest projects, studies and authorities; about 100 highway demonstration projects and studies, additional Interstate projects for Massachusetts, and waivers of non-Federal matching share requirements, to highlight a few. Authorizing these demonstration projects, generally at 100 percent Federal funding and exempt from the annual obligation limitation, is poor management of highway trust fund resources and reduces the funds available for maintaining the Federal-aid system. Moreover, without a matching share requirement and without any hearing record whatsoever, there is no basis to justify these projects as important priorities. The total cost of these projects is estimated to be about $4 billion.

3. Trade Barriers/Foreign Relations

H.R. 3129 amends the "Buy America" provision to increase the domestic content requirement for buses, rolling stock and associated equipment from 50 percent to 85 percent; and to prohibit the use of foreign cement. These provisions would add significantly to the cost of highway and transit projects, cause procurement and construction delays and invite foreign retaliation. H.R. 3129 also allows the Federal highway and transit programs to be governed by State and local anti-apartheid contracting laws. This provision raises serious constitutional questions concerning the exclusive power of the Federal Government to conduct foreign relations and regulate foreign commerce.

4. Unaffordable Transit Authorizations

H.R. 3129 would authorize $20.7 billion in transit spending over five years, a level $14.6 billion above the President's Budget. Title II of S. 2405 would authorize $12.9 billion over four years, exceeding the President's Budget request by $8 billion. These high spending levels are inconsistent with the deficit neutral principle, inherent in the Administration's proposal, that authorizations tie to annual Highway Trust Fund receipts. I strongly urge Congress to limit transit spending in this time of necessary deficit reduction.

5. Inequitable Allocation of Transit Trust Fund Receipts

Neither bill incorporates the barest principles of the Administration's proposal to allocate the Mass Transit Account of the Highway Trust Fund by formula. Both bills maintain the status quo structure of the transit program which the Administration believes is inappropriate and inequitable. Over 80 percent of funds derived from one cent of the nine-cent gasoline tax, collected from residents of all States, are allocated through earmarked discretionary grants to fewer than 20 cities around the country. The President's proposal allows all States to receive a share of gas tax revenues through a formula-based allocation.

Since the very beginning of the highway program, Congress addressed this equity consideration by requiring that highway funds, in general, be allocated on a formula basis to ensure equitable distribution. It is only reasonable that transit programs supported by the Highway Trust Fund are governed by fair formulas. Therefore, we strongly urge the Conference to adopt a more equitable allocation of the trust fund by formula.

6. Inappropriate Transit Provisions

The transit proposals in H.R. 3129 deviate significantly from the President's approach in several other important respects. Discretionary funding for local "new start" projects is continued and expanded to include the use of multi-year contracts not subject to any future availability of funds or to any obligation limitation set by the appropriations committees. Categorically authorizing funds to be used for the various components of discretionary grants (Section 320) and requiring annual congressional approval of Section 3 funding levels and allocations (Section 303) would unnecessarily constrain the use of Section 3 funds by categories and delay their obligation. Continuing Federal operating assistance for large urbanized areas (Section 310) perpetuates the inappropriate role of the Federal Government paying for operating deficits which result from State and local transit decisions.

Moreover, we object to Section 307 and urge that substitute transit projects be funded from the Highway Trust Fund and not the general fund. We also strongly oppose Section 316 which limits the Administration's ability to encourage private enterprise participation. There are other unnecessary and counterproductive transit provisions in the bill -- the establishment of University Transportation Centers and the creation of a bus test facility -- to name two. I urge the Conference to delete these provisions and give a fresh look at the Administration's mass transit proposal which would increase State and local flexibility, encourage greater and needed private sector involvement, and provide sufficient Federal resources in this time of necessary deficit reduction.

7. <u>Inefficient Use of Federal Highway Funds</u>

Several provisions of H.R. 3129 restrict the leverage of Federal funds and effectively reduce the scope of the highway programs. Provisions which increase the Federal matching share or waive non-Federal matching requirements reduce the scope of the annual highway program. Similarly, the bill discourages cost-effective use of funds by expanding the coverage of the "Buy America" program to increase domestic content requirements, limiting the use of convict-produced materials and reauthorizing, rather than terminating, the Federal compensation requirements of the highway beauty program.

In closing, I urge the Conference, in its deliberations, to fulfill its responsibilities to contribute to the reduction of the Federal deficit, to create a more appropriate Federal role in highway and transit programs and to ensure the cost-effective use of Federal funds. If our concerns are not adequately addressed, the President's senior advisors would recommend that the President not sign the Conference bill.

Sincerely yours,

Jim

James C. Miller III
Director

IDENTICAL LETTER SENT TO HONORABLE JAMES J. HOWARD, HONORABLE DAN ROSTENKOWSKI, HONORABLE BOB PACKWOOD, HONORABLE JOHN C. DANFORTH AND HONORABLE JAKE GARN