THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

February 20, 1987

IDENTICAL LETTERS TO:

Senators Moynihan, Mitchell, Breaux, Stafford, Symms, Chafee, Bentsen, Matsunago, Proxmire, Cranston, Riegle Dixon, Heinz, D'Amato, Gramm, Hollings, Gore, Danforth, Sasser and Levin.

The Honorable Quentin N. Burdick
United States Senate
Washington, D.C. 20510

Dear Quentin:

Conferees will be meeting shortly to resolve the many differences between the Senate and House versions of H.R. 2, the bill which authorizes highway construction, highway safety and transit programs. It is very important to transportation mobility and safety in this country that multi-year legislation be enacted to reauthorize our nation's highway construction, highway safety, and transit programs. The President's senior advisors would recommend that he sign a bill that reauthorized highway construction programs in the manner proposed by the Senate version of H.R. 2. However, there are a number of extremely troublesome issues before the Conferees which could lead directly to the bill being vetoed if not addressed satisfactorily.

- Special Interest/Demonstration Projects. We strongly oppose the provisions in the House bill which provide additional funding for narrow, special interest highway and transit projects. We strongly believe that states are in the best position to identify the most cost-effective projects and set project priorities.

With specific regard to transit, we oppose the provisions in both versions of the bill which mandate support of the Los Angeles metrorail project. This provision would require that a large percentage of the highway user fees in the Mass Transit Account be directed to only one city. The Department already has agreed to spend some $475 million on the first phase of this project, and we do not think additional scarce gas tax based funds should be committed to this project. Moreover, we understand Los Angeles has sufficient local funds to complete the second phase on its own.

- Transit Authorizations. The transit authorization levels in H.R. 2 exceed the President's budget by $12 billion over the five year period of the bill. The Senate bill would exceed the President's budget by almost $6 billion over four years. We strongly oppose these excessive authorizations and firmly believe that Federal transit assistance should be limited to the proceeds from one cent of the fuels tax without general revenue funding. This approach would put both highway and transit funding on a user fee basis.

Limiting Federal assistance would also encourage more prudent, cost-effective transit programs.

° Transit Programs. While we oppose the high transit authorization levels in both bills, we are even more concerned that retention of the status quo structure for the transit program precludes an equitable distribution of funds among the states. Both bills reauthorize the current basic transit program structure, perpetuating the transit discretionary program (funded from the Highway Trust Fund) which the Administration proposes to eliminate in favor of a formula program. However, we support the concept of the Senate proposal to guarantee each state its fair share of the mass transit program funded from the Highway Trust Fund as a starting point to increase the equity of mass transit funding. Since the one cent of the fuels tax is collected from all states, it is only reasonable that it should be allocated to all states by an equitable formula. This approach would ensure that each state receives a portion of the mass transit part of the highway tax and make it difficult for Congress to earmark Trust Fund programs. However, we urge the deletion of the conditions in the Senate provision which deny a fair share of transit funds to a state if the state received more Federal assistance than it contributed in all fuel taxes and Federal revenue collections. There is not any credible data on Federal collections on a state-by-state basis to make this latter calculation.

° Increased Highway Spending. The highway spending that would be permitted by both the House and Senate bills, coupled with the failure to repeal costly exemptions, results in a deficit impact in both bills that exceeds the Administration's budget request. A conference agreement that exceeds the Senate's lower levels would be unacceptable. Specifically:

- Authorization levels. The total authorizations, including amounts for the highway minimum allocation provision, should not exceed Senate levels.

- Obligation limitation. We strongly oppose section 105 of the House bill which expands the list of obligations exempt from the ceiling, and makes demonstration projects exempt from the ceiling. We also oppose the House provision that would provide a windfall of extra obligational authority for states that exhaust their regular obligational authority. Compared to the Senate bill, these provisions significantly weaken spending controls.

° Increased Trade Barriers/Foreign Relations. The Senate explicitly rejected attempts to increase domestic protection provisions in highway and transit programs during consideration of the bill on the floor. Under the House Buy America amendment, domestic content requirements for buses, rolling stock, and associated equipment would be increased from 50 percent to 85 percent. We also object to the House proposal prohibiting use of foreign cement. These provisions would add millions of dollars to the cost of these programs, cause construction and procurement delays, and invite foreign retaliation. We are strongly opposed to these changes and urge the adoption of the Senate language.

We also oppose the provision in sections 110 and 313 of the House bill which would allow state and local governments to use Federal grant funds to influence relations with South Africa. The provision could have a chilling impact on competitive bidding. It would also destroy the uniformity of the contracting process and add to bid preparation costs.

° Additional Interstate Projects. Section 132 of the House bill makes the Central Artery-Third Harbor Tunnel in Boston fully eligible for Interstate construction funds and could add up to at least $1.8 billion to the cost of completing the Interstate highway system. We strongly oppose this section. It is unfair to authorize additional Interstate funding at 90 percent Federal cost for projects that benefit one city when the Interstate system has been restricted from adding new costs since 1981. The cost of the depression of the Central Artery is not justified on the basis of the transportation benefits to the nation.

There are a number of other issues, that if addressed by the Conferees as we have proposed, would greatly benefit highway and transit programs. These are discussed in the enclosure.

We hope that the Conference Committee will weigh these concerns carefully. If the conference agreement does not satisfactorily address our concerns, the President's senior advisors would strongly recommend that he veto the bill.

The Office of Management and Budget advises that there is no objection to the submission of these views to the Committee and that enactment of the provisions outlined in the first part of this letter would not be in accord with the program of the President.

Sincerely,

Elizabeth

Elizabeth Hanford Dole

ENCLOSURE

DECISIONS THAT WOULD BENEFIT HIGHWAY AND TRANSIT PROGRAMS

- 55 Speed Limit. As the President has indicated, we support efforts which would provide states with enhanced ability to regulate highway speeds within their jurisdictions.

- Toll Financing. We support the provision in the Senate bill which would allow Federal-aid funds and toll revenues to be combined at a 35 percent Federal matching share to build new toll roads, while not allowing tolls to be placed on existing Interstate highways. This change would increase funds available for highway construction without additional Federal user fees. In many states, such funding flexibility would enable states to construct projects that they would otherwise be unable to finance.

- Billboards. We support efforts in the House bill to revise the current unworkable laws dealing with highway beautification. However, we believe that states should be allowed to use their police power to remove non-conforming signs. Of course, state actions would be subject to the limitations imposed by Takings Clause and the First Amendment of the Constitution. We strongly oppose the House provision which would require us to withhold at least 5 percent of a state's funds for even minor non-compliance with the provision.

- Combined Interstate/Primary Program. We believe that the Senate provision to merge the Interstate and Primary programs is essential to give the states the flexibility they need to address critical highway needs. This new structure recognizes the need to balance the preservation of the existing major highway system with the need to build new highways. We support the Senate's distribution method which would rely upon an administrative adjustment to the Interstate Cost Estimate (ICE), thereby avoiding the disruption caused by delayed ICE approval.

- Discretionary Bridge Program. We support the provision in the House bill which would increase the discretionary portion of the bridge rehabilitation and replacement program from $200 million to $250 million per year. This will facilitate the repair of high-cost bridges.

- Emergency Relief. We support the provision in the Senate bill which would lower the Federal matching share from 100 percent to the applicable system share for emergency relief highway projects. We believe that the Senate approach is equitable since it permits a 100 percent Federal share for truly emergency work that is done within 30 days of the disaster. We oppose, however, the Senate provision which would allow a single state to receive the entire $100 million made available in a year from the program. Raising the state cap for emergency relief from the current level of $30 million to $100 million would be unfair to states where disasters occurred late in the year. We believe that the $30 million cap should be maintained and that any additional Federal assistance for major disasters should be provided separately, as needed.

° Competitive Bidding. We oppose section 109 of the House bill and the section in the Senate mass transit title that would prevent a state from using sealed bids for architect and engineering contracts. This practice may increase project costs because states would not be required to accept the lowest bid. Moreover, these state contracting procedures should not be dictated by Federal law.

° Combined Road Plan. The Administration had proposed a block grant for non-Federal interest highway systems and bridges. Although neither the Senate nor the House bill contains a full block grant, the Senate bill has a block grant pilot program that we strongly support.

° SHRP Liability. We strongly object to the Senate provision which provides Federal liability for actions of the National Academy of Sciences taken in connection with the Strategic Highway Research Program (SHRP).

° Heavy Vehicle Use Tax. We oppose the provision in the Senate bill that imposes the full Heavy Vehicle Use Tax on all Canadian truckers. This amendment undercuts a congressionally-mandated study on transborder trucking due to be submitted to Congress on October 1, 1987. The Canadian Government has expressed in the strongest terms its concern over this amendment. Transport Minister John Crosbie indicated that our mutual effort to increase the presently small Canadian provincial membership in the International Registration Plan (IRP) may be jeopardized by this action, and that the current consideration of motor carrier regulatory reform in Canada, which will benefit United States truckers, could be adversely affected. Canada has repeatedly stated that it had no objection to its truckers paying their fair share of the heavy vehicle use tax in the United States, and has suggested a number of ways that this share could be assessed. We would prefer that the final bill be silent on the issue, as the House bill presently is. However, if the conference believes the issue must be addressed, we could accept a proportional level of the tax (for example, 50 percent), perhaps tied to membership in the IRP.

- Annual Congressional Approval - Transit. We oppose section 303 of the House bill which would require congressional legislation to approve each year's funding levels and allocation of funds for transit projects funded under the transit discretionary program. This legislative process could cause delays in the same way that the Interstate Cost Estimate approval process has caused delays and could disrupt the orderly flow of funds to states and localities.

- Clarification of Labor Provision. We strongly support the clarifying provision in the House bill that would emphasize that section 13(c) labor protective agreements are not meant to preclude transit grantees from contracting out for the provision of transit services by private companies, with the addition of language clarifying that the provision will not override provisions of prior collective bargaining agreements related to contracting out.

- Transit Operating Assistance. We oppose the continuation of operating assistance for all areas which is contained in both bills. However, we strongly oppose section 309 of the House bill because it would actually increase operating assistance to urbanized areas whose population is less than 200,000 and section 326 which would increase operating assistance available to Miami and Fort Lauderdale, Florida. We also oppose the continuation of the trade-in provision for operating assistance. The original provision was intended to provide a short period of transition. That time has now expired and should not be extended. We prefer the Senate approach which would not continue the trade-in provision.

- Splash and Spray. We support the House provision which would require the Secretary to find that splash and spray suppression devices on trucks will actually improve visibility and reduce accidents before issuing a standard to require their installation.

- Highway Safety Authorizations. The Highway Safety authorization levels in H.R. 2 exceed the President's budget by $132 million over the 5 year period of the bill. Of this, $71 million is due to continued funding of the alcohol incentive grant program. This is a temporary program that has fulfilled its original mission.

- Uniform Relocation Assistance Act. The Administration supports enactment of Title III of the Senate bill without amendments. The Administration opposes Title VI of the House bill, which would increase Federal costs, restrict state and local flexibility, and is inconsistent with the principles of Federalism.