

THE WHITE HOUSE  
WASHINGTON

March 27, 1987

MR. PRESIDENT:

Attached for your decision are H.R.2, the Surface Transportation and Uniform Relocation Assistance Act of 1987, and a proposed veto message.

Disapproval of the bill is recommended by OMB, SBA, HUD, the Treasury and Transportation Departments, Counsel's Office, and the Offices of Legislative Affairs, Policy Development, Public Liaison, and Cabinet Affairs. The State, Defense, and Agriculture Departments, FEMA, GSA, and USTR all have no objection.

If you concur in the above recommendation, please sign the attached veto message.



David L. Chew

LAST DAY FOR ACTION: April 4th

Eno

Center for  
Transportation

Delivered to the Clerk of the House 3/27/87, 12:23 PM.

The President has seen 3/27

VETOED  
MAR 27 1987  
Statement Issued  
Government Bonds  
Oval Office  
11:00 AM



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

25 MAR 1987



MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 2 - Surface Transportation and  
Uniform Relocation Assistance Act of 1987  
Sponsors - Anderson (D) California and 65 others

Last Day for Action

April 4, 1987 - Saturday

Purpose

Authorizes appropriations totaling \$69.7 billion for highways construction and highway safety and \$17.8 billion for mass transit for fiscal years 1987-1991; authorizes special interest highway and mass transit projects; extends highway excise taxes for five years, through September 30, 1993; and amends the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto Message attached)
Department of Transportation	Disapproval
Department of the Treasury	Disapproval
Small Business Administration	Disapproval
Department of Housing and Urban Development	Disapproval
Department of State	No objection
Department of Defense	No objection
Department of Agriculture	No objection
Federal Emergency Management Agency	No objection
United States Trade Representative	No objection
General Services Administration	No objection
Department of Justice	Defers to agencies recommending disapproval
Department of the Interior	Defers to Transportation
Department of Commerce	Defers to others
Environmental Protection Agency	No comment
Department of Energy	No comment
Department of Labor	No response

## Discussion

H.R. 2 is a comprehensive multi-billion dollar authorization bill, covering fiscal years 1987-1991, consisting of five titles: Title I - Federal-Aid Highway Act of 1987; Title II - Highway Safety Act of 1987; Title III - Federal Mass Transportation Act of 1987; Title IV - Uniform Relocation Act Amendments of 1987; and Title V - Highway Revenue Act of 1987.

The enrolled bill's titles covering Title I (highways) and Title III (mass transit) are the most important because of their budget impact and their expiration on September 30, 1986. As a result of the expiration, the States are running out of money (derived from unobligated balances of prior year appropriations) for highway construction just as the 1987 construction season is about to begin.

The conference report on H.R. 2 passed the House by a vote of 407-17 and the Senate by 79-17.

The following is a summary of the budget impact of H.R. 2:

	<u>H.R. 2/1987-1991</u> <u>(\$ in billions)</u>		
	<u>President's</u> <u>Budget</u>	<u>H.R. 2</u>	<u>Difference</u>
<u>Authorizations</u>			
Highway	\$ 68.0	\$ 68.8	\$ +.8
Transit	8.7	17.8	+9.1
Safety	.7	.9	+.2
Total	<u>77.4</u>	<u>87.5</u>	<u>+10.1</u>
<u>Outlays</u>			
Highway	66.1	68.4	+2.3
Transit	15.1	19.7	+4.6
Safety	.8	.9	+1.1
Total	<u>82.0</u>	<u>89.0</u>	<u>+7.0</u>
<u>Receipts</u>			
Repeal Gas Tax Exemptions	-3.5	0	+3.5
<u>Total Deficit Impact</u> (Increased outlays plus foregone receipts)			+10.5
	*	*	*
	*	*	*
	*	*	*
	*	*	*
	*	*	*
	*	*	*

We join the Departments of Transportation (DOT) and the Treasury in recommending that you veto H.R. 2 because it is a fiscally irresponsible bill that represents Congress' failure to exercise the discipline necessary to restrain Federal spending. Specifically, the bill contains numerous special interest highway and transit projects and would provide excessive funding levels, particularly for transit programs.

A summary of the administration's position to date on this legislation and the enrolled bill's objectionable provisions follows. A brief description of each of the enrolled bill's titles is included in Attachment A.

### Administration Position

In a Statement of Administration Policy on H.R. 2, dated January 16, 1987, the administration advised the House that the President's senior advisers would "recommend that the President veto the bill." On February 2nd, a Statement of Administration Policy sent to the Senate on the Senate highway companion bill, S. 387, advised that the President's senior advisers would "recommend a veto of the bill" if objectionable mass transit provisions were added to it; in passing the bill, the Senate added the objectionable provisions. Subsequently, on February 13th and February 20th, this Office and the Department of Transportation sent letters to the conferees on H.R. 2 again stating that, if the administration's concerns were not addressed, the "President's senior advisers would strongly recommend that the President veto the bill." On March 19th you sent a letter to Senate Republican Leader Dole stating that you would disapprove the bill as now enrolled.

### Objectionable Provisions of Enrolled Bill

As enrolled, H.R. 2 contains the following objectionable features:

- Excessive authorizations for highways and transit projects which exceed the administration's proposal by \$10.1 billion over five years. In particular, authorizations for mass transit total \$17.8 billion over five years, compared to \$8.7 billion requested by the administration.
- Funding for numerous special interest transit and highway projects. Examples include: (1) a requirement for DOT to provide up to \$870 million in additional transit funding for the Los Angeles, California, Metrorail project; (2) expansion of the Boston Interstate highway projects which would increase the Federal costs of completing the Interstate System by at least \$1.1 billion; (3) funding of \$1.4 billion over five years (on top of States' allocation



of Federal highway funds) for 152 so-called "demonstration" projects, of which \$890 million would not be subject to an otherwise applicable spending control. The total costs of these projects is estimated at \$5.5 billion.

- Continuation of inequitable and inappropriate procedures for allocating transit trust funds which target disproportionate amounts of transit funds to relatively few cities. The enrolled bill would also continue:  
(1) discretionary grants (used to fund the start of new projects which are often overly-expensive and cost ineffective) and operating subsidies, both of which the administration had proposed to curtail sharply because they encourage projects which are not economically sound, and (2) existing matching requirements (e.g., only a 20 to 25 percent local share for certain grants).
- Expansion of existing domestic content requirements for mass transit projects from 50 percent to 60 percent by the end of the enrolled bill's authorization period, and the application of new restrictions to the purchase of foreign-made buses and railcars.

The above provisions are the core objectionable features of H.R. 2 and warrant your disapproval of the enrolled bill.

Other objectionable features of the bill include:

- Failure to repeal current exemptions from fuel taxes and other highway user fees for gasohol, bus operators, and State and local governments, resulting in a loss of revenues to the Highway Trust Fund of \$3.5 billion over five years.
- An estimated \$150 million increase in authority to obligate funds for highway projects not subject to an otherwise applicable spending control.
- An increase in the Federal matching share and the waiver of non-Federal matching requirements for highway projects in certain cases.
- A general prohibition on the use by States of sealed bids and automatic acceptance of the lowest bidder on architectural and engineering contracts.
- Establishment of liability of the Federal Government for actions of the National Academy of Sciences taken in connection with the Strategic Highway Research Program.

- The addition of new definitions and requirements under the Uniform Relocation Act, which governs Federal payments for relocations required by federally funded projects, that would increase Federal costs and restrict State and local flexibility in administering their responsibilities under the Act.

### Agency Views

In its enrolled bill views letter, the Department of Housing and Urban Development (HUD) recommends that H.R. 2 be vetoed because of its Uniform Relocation Act (URA) provisions, which are described in general above. HUD states that these provisions "might result in additional unnecessary costs and administrative burdens" to public housing authorities and the Federal Government and that existing law governing relocations is adequate. Accordingly, HUD has provided language for inclusion in a veto message objecting to the URA provisions.

We do not believe that the URA provisions should be a basis for the disapproval of H.R. 2. The URA provisions -- although objectionable in the respects already noted -- do reflect the efforts of this Office, DOT, and HUD over recent years to have the URA amended. The provisions in H.R. 2 are the result of that effort and reflect the best compromise with Congress that was achievable. Vetoing the bill because of its URA provisions would not, in our opinion, be appropriate. We also note that HUD's enrolled bill views letter is the first time that the Department has objected to these provisions.

The Small Business Administration (SBA) also recommends the disapproval of H.R. 2 because of its provisions related to DOT's Disadvantaged Business Enterprise (DBE) program. This program, which H.R. 2 would continue, concerns the set aside of highway construction funds for socially and economically disadvantaged persons. H.R. 2 would make women eligible for this program and limit participation to firms with annual average receipts of \$14 million or less. SBA advises that these provisions do not affect SBA directly, but believes that they could have implications when changes to its own DBE regulations are considered in the future. Accordingly, SBA recommends disapproval. We do not believe that the SBA concern should be a basis for disapproving H.R. 2.

The Department of Justice, in its enrolled bill views letter, also comments on the bill's DBE provisions. The Department reiterates its position that preferences accorded individuals based on race, gender, or ethnicity are constitutionally suspect. The Department points out, however, that the Secretary of Transportation has the discretionary authority under the bill's DBE provisions to ensure that no funds are expended on the basis of these constitutionally impermissible criteria. Justice also objects to the "Buy America" provisions in H.R. 2 and has provided language for inclusion in a veto

message addressing these provisions. Although Justice's proposed language has not been used, the veto message that we have prepared for your consideration does address this matter.

### Conclusion

The administration has consistently supported legislation to authorize funds for legitimate highway and transit projects and transmitted its own bills to Congress during January to accomplish this purpose. H.R. 2, however, is a fiscally irresponsible bill with excessive authorizations that is riddled with special interest provisions. During fiscal years 1987-1991, the enrolled bill would increase the deficit by \$10.5 billion when compared to your 1988 budget proposal. Moreover, the bill establishes future liabilities by authorizing special projects that may have an ultimate Federal cost of many additional billions of dollars. Furthermore, in designating these special projects for funding, the Congress has chosen to ignore, and in many cases to override, the existing project selection mechanism that relies on the expertise of State and local officials in making such decisions.

The Congress has chosen to present you with H.R. 2 notwithstanding all of our previously expressed objections to the bill's troublesome features. In light of those features and Congress' clear failure to accommodate the administration's concerns, we believe the enrolled bill should be vetoed.

We have prepared a veto message (Attachment B), in consultation with the Department of Transportation, for your consideration. The message emphasizes your eagerness to sign a bill that would permit the States to undertake important and legitimate projects as the 1987 construction season commences. The message also highlights the fiscally irresponsible nature of the enrolled bill and urges the Congress to enact legislation that you can sign. The message generally delineates the type of bill that would be acceptable and states that you have directed the Secretary of Transportation to work closely with Congress to address satisfactorily the objectionable provisions of H.R. 2.

Compared to H.R. 2, which exceeds your 1988 Budget by \$10.1 billion in authorizations during the period 1987-1991, we estimate that a possible compromise with the Congress would exceed the administration's original proposal by about \$5.6 billion in authorizations.

I join the Departments of Transportation and the Treasury in recommending that you veto H.R. 2.

  
James C. Miller III  
Director

Enclosures



Description of Enrolled Bill's TitlesTitle I -- "Federal-Aid Highway Act of 1987"

Title I would authorize appropriations from the Highway Trust Fund totaling \$68.8 billion during fiscal years 1987-1991 for highway programs. Specific authorization levels are specified for thirteen programs making up the Federal-Aid Highways program. The five largest programs are the Interstate 4R Program (resurfacing, restoration, rehabilitation, and reconstruction), the Federal-Aid Primary System, the Federal-Aid Secondary System, the Federal-aid Urban System, and the Bridge Replacement and Rehabilitation Program. The remaining eight include programs for the elimination of hazards, Indian reservation roads, forest highways, public lands highways, parkways and park highways, Federal Highway Administration highway safety programs, Federal Highway Administration highway safety research and development programs, and the elimination of railroad crossings program.

In addition to detailing procedures to be followed in apportioning these funds and prescribing miscellaneous requirements for grantees, the title makes the Boston projects eligible for Interstate highway funds and specifically authorizes 170 "demonstration projects." Eighteen of these projects would be funded from States' formula based allocations of Federal highway funds. For the remaining 152 demonstration projects, fifty percent of their costs would be funded with "new" Federal-aid funds (specifically authorized at \$178 million annually and not subject to annual spending controls); thirty percent (\$107 million annually) would be earmarked from highway discretionary funds; and twenty percent would be derived from State and local funds.

Title II -- The "Highway Safety Act of 1987"

Title II authorizes appropriations totaling \$861 million from the Highway Trust Fund for the activities of the National Highway Traffic Safety Administration during fiscal years 1987-1991. This is \$141 million more than requested in your 1988 budget. The title also sets forth various requirements for safety-related studies and reports, many of which the administration has opposed as unnecessary.

### Title III -- "Federal Mass Transportation Act of 1987"

Title III authorizes appropriations totaling \$17.8 billion for mass transit activities during fiscal years 1987-1991, and details procedures to be followed in apportioning these funds. The title also prescribes various programs, studies, and requirements (including an expansion of existing "Buy America" requirements), and includes provisions benefiting specific localities (including the costly Los Angeles Metrorail project, as previously described).

This title does not include major reforms proposed in the 1988 Budget. The use of Highway Trust Fund fuel tax revenues to finance transit discretionary grants is continued (over 80 percent of these funds, collected from all fifty States, currently benefit fewer than 20 cities). Although the administration proposed to increase the local matching share on capital grants to 50 percent (from the current 20 to 25 percent), the title includes no increase in the local matching share. The title also continues operating subsidies for urban areas with populations of 200,000 or more, rather than eliminating them as proposed by the administration.

### Title IV -- "Uniform Relocation Act Amendments of 1987"

Title IV revises current standards and procedures for providing relocation assistance to persons and entities displaced by federally financed activities. The title specifies that the Department of Transportation is to serve as the "lead agency" for activities conducted pursuant to the Uniform Relocation Act and requires the Department to issue government-wide regulations for the implementation of the title's provisions. It includes several new definitions affecting eligibility and benefits under the act; adjusts certain assistance levels, including residential and business moving assistance payments; and prescribes new procedural requirements related to relocation planning and assistance.

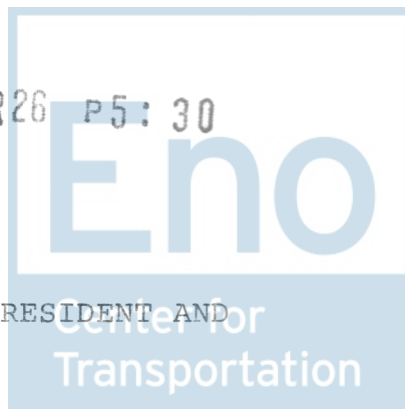
Problematic provisions in this title include those eliminating the President's current authority to designate the lead agency; defining "comparable replacement dwelling" in a manner which will increase relocation costs and decrease State and local flexibility; mandating new requirements for "relocation planning" which will increase costs and paperwork for States, localities, and Federal agencies and result in project delays; and permitting any Federal agency providing covered assistance to withdraw certification of a State's procedures for implementing the Act.



THE WHITE HOUSE

WASHINGTON

March 26, 1987 97 MAR 26 P5:30



MEMORANDUM FOR DAVID L. CHEW  
DEPUTY ASSISTANT TO THE PRESIDENT AND  
STAFF SECRETARY

FROM: JAY B. STEPHENS  
DEPUTY COUNSEL TO THE PRESIDENT

SUBJECT: Highway Bill Veto Message

As requested, this office has reviewed the Memorandum for the President from the Director of the Office of Management and Budget concerning H.R. 2, the so-called "Highway Bill." We have also reviewed the draft veto message prepared by OMB/DOT.

We have no legal objection to the OMB Director's memorandum, and concur in his recommendation that the President veto H.R. 2.

Our preliminary review of H.R. 2 indicates that its 129 pages contain many more objectionable provisions than those pointed out in the OMB/DOT veto message. Because any such message cannot hope to list comprehensively all of the objectionable provisions of the bill, its purpose must be to persuade those Members of Congress leaning our way, and the general public, of the need to sustain the President's veto. This is best accomplished at a fairly general level. The OMB/DOT veto message, however, alludes to several technical provisions of the bill -- such as a presumed distinction between "special" projects and "priority" projects -- which can have little persuasive effect on one who is not a technical expert. We recommend the veto message be revised to reduce the technical language and to bolster the more generally applicable persuasive language outlining objections to the bill.

Thank you for submitting the enrolled bill and accompanying documents for our review.



United States Department of State

Washington, D.C. 20520

MAR 24 1987

Eno

Center for  
Transportation

Dear Mr. Miller:

I am responding to a March 18 memo from Mr. James M. Frey requesting the Department of State's view on Enrolled Bill H.R. 2, "Surface Transportation and Uniform Relocation Assistance Act of 1987".

The Department of State has followed closely the development of Section 507 of the bill that would apply a currently existing Heavy Vehicle Use Tax to Canadian trucks that enter and operate in the United States. We received several expressions of concern from the Government of Canada regarding this proposal which was included in a Senate amendment to the bill. We understand, however, that the language contained in the final bill applying this tax at a rate of 75% of that applicable to American trucks has, for the most part, resolved Canada's concerns on this issue. The Department of State therefore has no objection on foreign policy grounds to Presidential assent to this bill.

With best wishes,

Sincerely,

J. Edward Fox  
Assistant Secretary  
Legislative and Governmental Affairs

The Honorable  
James C. Miller, III, Director,  
Office of Management and Budget.