

APPROVED
NOV 24 1975

Signed
11/24

THE WHITE HOUSE
WASHINGTON
November 20, 1975

ACTION
Last Day: November 24

Per [unclear]
11/24/75
To Archives
11/25/75

MEMORANDUM FOR THE PRESIDENT
FROM: JIM CANNON
SUBJECT: Enrolled Bill H.R. 8365 - Department of Transportation and Related Agencies Appropriation Act, 1976

Attached for your consideration is H.R. 8365, sponsored by Representative McFall, which appropriates \$4,859,587,714 in new budget authority for 1976 and the transition quarter and \$90,059,000 in advance 1977 budget authority for the activities of the Department of Transportation, the United States Railway Association, the Civil Aeronautics Board, the Interstate Commerce Commission, the Panama Canal, the National Transportation Safety Board and the Washington Metropolitan Area Transit Authority.

A detailed discussion of the enrolled bill is provided in Jim Lynn's memorandum and the enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Chapman) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 8365 at Tab B.







EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

NOV 18 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 8365--Department of Transportation and Related Agencies Appropriation Act, 1976

Last Day for Action: November 24, 1975 - Monday.

<u>Appropriations (in millions of dollars)</u>	<u>Budget Estimate</u>	<u>Enrolled Bill</u>	<u>Congressional Change</u>
1976.....	3,954.9	3,888.9	-66.1
Transition Quarter.....	997.5	970.7	-26.8
1977.....	<u>90.1</u>	<u>90.1</u>	<u>--</u>
Total.....	5,042.5	4,949.7	-92.9

Outlay Effect: +\$511 million in 1976; +\$305 million in the transition quarter; +\$1.3 billion in 1977.

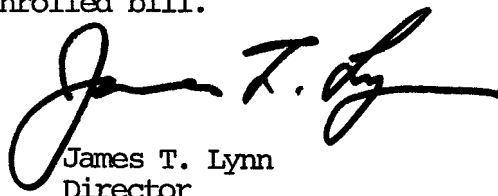
Highlights:

- Section 316 of the bill contains a \$9 billion limitation on certain highway programs. The inclusion of this limitation provides a very desirable foundation for controlling outlays for highway programs--not only this year but in future years.
- Funds for railroad maintenance-of-way jobs, included initially by the Senate at \$240 million, are in the bill at less than half that amount--\$108 million--and are not available until authorizing legislation becomes law. You have announced your intention to veto the authorization now being considered in the Congress.
- The longer memorandum explains the seemingly anomalous relationship between budget authority decreases and outlay increases, as well as all Congressional changes to the budget requests.

Recommendation:

The two major problems that would have caused Secretary Coleman and me to recommend that you veto this bill--the limitation on highway programs and the appropriation for railroad maintenance-of-way jobs--were both acceptably ameliorated in the conference.

I recommend that you sign the enrolled bill.


James T. Lynn
Director



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

NOV 18 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 8365 - Department of
Transportation and Related Agencies Appro-
priation Act, 1976
Sponsor - Representative McFall (D), California

Last Day for Action

November 24, 1975 - Monday

Purpose

Appropriates \$4,859,587,714 in new budget authority for 1976 and the transition quarter and \$90,059,000 in advance 1977 budget authority for the activities of the Department of Transportation, the United States Railway Association, the Civil Aeronautics Board, the Interstate Commerce Commission, the Panama Canal, the National Transportation Safety Board, and the Washington Metropolitan Area Transit Authority.

Agency Recommendations

Office of Management and Budget	Approval
Affected agencies	Approval (informally)

Discussion

Total Amounts in the Bill
Compared with your Budget Requests

The total new budget authority provided in this bill, \$4,949.6 million, is \$66.1 million below your requests for 1976 and \$26.8 million below your requests for the transition quarter--an overall decrease of \$92.9 million.

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The effect of the enrolled bill on outlays is a product not only of these budget authority changes, but also of changes the Congress made to your limitation and liquidating cash proposals and of our recommendation to drop a user charge against which the Congress has lodged an objectionable "coming into agreement" provision. The effect of all these changes is to increase 1976 outlays by \$511 million, increase transition quarter outlays by \$305 million, and increase 1977 outlays by \$1.3 billion. These estimates include, for Federal-Aid Highways and the Highway Safety Construction Programs, outlay increases of \$350 million in 1976, \$300 million in the transition quarter and \$1.3 billion in 1977 to your budget requests. As discussed below, we believe these increases to be far less than would materialize in 1976 if an obligation limit had not been included in this enrolled bill and, therefore, believe they should be accepted.

Comparison to 1975 Funding Levels

In total, your 1976 appropriation requests for the programs included in this bill were \$304.5 million above 1975 funding levels. The Congress has concurred in an overall increase from the 1975 level but in a lesser amount--\$238.4 million. Attached to this memorandum is a more detailed comparison of your recommendations for level-of-funding changes from 1975 to 1976 and the Congress' response to your requests.

Limitation on Certain Highway Programs

Section 316 of the enrolled bill contains--for the first time--a limitation on the level of obligations which may be incurred by the Department of Transportation for Federal-Aid Highways and the Highway Safety Construction Programs. The inclusion of the limitation provides a very desirable foundation for controlling outlays for highway programs--not only this year but in future years. As you know, in the past this control has been either exercised (before the Impoundment Control Act) or proposed (in 1975, the first year under the Act) by the Executive. In 1975, your proposed deferral of \$9.1 billion in highway funds was overturned by the Congress. The establishment of this 1976 limitation offers a much better means of controlling highway funds.

Under the limitation in the enrolled bill, obligations incurred for these programs during 1976 and the transition quarter cannot exceed \$9 billion. Without the limitation, the more than \$11 billion now available could be obligated. Further, if the Congress extends the non-Interstate contract authorizations and provides additional authorizations for the transition period, the total funds available for obligation could rise to \$16 billion. Thus, although the limitation is \$2.5 billion above the level you proposed, we believe it is a major victory both for forestalling further 1976 Congressional increases for highway programs and for future control of highway outlays.

Perspective on the Enrolled Bill

The two major problems that would have caused Secretary Coleman and me to recommend that you veto this bill were both acceptably ameliorated in the conference:

- The highway limitation, initially provided by only the Senate, was included in the bill in the form described above.
- Funds for railroad maintenance-of-way jobs, included initially by the Senate at \$240 million, are in the bill at less than half that amount--\$108 million--and are not available until authorizing legislation becomes law. You have announced your intention to veto the authorization now being considered in the Congress.

These two results, together with the overall acceptable level of funding provided, prompt our recommendation that you sign the enrolled bill.

Major Changes to Requested Amounts

The major changes made by the Congress to the amounts of budget authority requested for 1976 and the transition quarter follow:

- Although the enrolled bill nominally includes \$108 million for a program the Administration has firmly opposed since last spring, your approval of the enrolled bill will not make the funds available. The funds--for rail transportation improvement and employment--become available only when appropriate authorizing legislation becomes law. You have already announced your intention to veto S. 1730, the authorizing legislation now being considered by the Congress.

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- An unrequested \$10 million is included in the enrolled bill for access highways to public recreation areas on certain lakes. Authorized by the Federal Aid Highway Amendments of 1974, these funds would implement a national program--funded on a 70 percent Federal and 30 percent local basis--to improve the maintenance of roads leading to public recreational areas.
- An unrequested payment of \$9 million to the Alaska Railroad would provide for maintenance--most of which has been previously deferred--of roadbeds, track, structures, and equipment.
- The enrolled bill includes an unrequested \$6 million for the implementation of a national program for the construction and operation of bike paths and bikeways.
- Two minor increases total \$1.2 million.

Major Decreases

- Decreases to your requests for the Federal Highway Administration total \$36.5 million and are distributed as follows:
 - o The Congress has denied your entire request--\$10.9 million--for rail crossing demonstration projects. This program, which involves the elimination or upgrading of all public ground-level rail-highway crossings in Greenwood, South Carolina, and along the Washington-Boston passenger corridor, has been progressing slowly. New funding was not included in this bill because significant amounts of previously appropriated but unobligated funds are available. These amounts should be sufficient to fully fund this program in 1976 and the transition quarter.
 - o Construction funds for the Darien Gap Highway through Columbia which will link the Central and South American highway systems have been reduced by \$8.6 million. This reduction reflects problems being encountered on the project. Until problems



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concerning the control of hoof and mouth disease are resolved, construction on the Columbian segment is being delayed. The appropriation provided (\$4.9 million) should enable this program-- which does not have strong Congressional support-- to proceed at a reasonable rate.

- Because the required final agreement between the United States and Canada has not been reached, your \$8 million request for reconstruction of the Canadian segment of the Alaska Highway has been denied.
- Several minor decreases to your requests for highway funds total \$9.0 million.
- Decreases to your requests for the Federal Railroad Administration total \$75.9 million and are distributed as follows:
 - Rail service assistance subsidies for so-called "light density" lines are reduced by \$26.9 million. Your request would have funded, for all of 1976 and the transition quarter, a new program of continuation subsidies on a 70 percent Federal, 30 percent State/local basis for rail lines slated for elimination under the Regional Railroad Reorganization Act. Since the final system plan for the reorganization will not be approved until February, 1976, the Congress has provided funds only for the last four months of fiscal year 1976 and for the transition quarter. The appropriation is \$33.6 million.
 - Grants to the National Railroad Passenger Corporation (AMTRAK) are reduced by \$25.3 million. The reduction reflects a growing Congressional concern over the rapid increase in AMTRAK operating subsidies. The \$440 million appropriation provided for 1976 is \$163.5 million more than was provided for 1975.
 - Your \$72 million request to provide interim cash assistance to the bankrupt railroads covered under the Regional Rail Reorganization Act of 1973 has been reduced by \$12 million. This reduction may



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pose problems in maintaining operation of the bankrupt railroads through late February, 1976, when ConRail--under terms of the final system plan for railroad reorganization--will assume administrative responsibility for them. If the potential problems materialize, we will recommend that you ask the Congress for supplemental appropriations.

- Your requests for railroad research and development (\$83.6 million) have been reduced by \$8.8 million, most of the decrease being in programs for freight car management, tunneling, and assessment of and potential solutions to other industry problems.
 - Other minor reductions to your requests for railroad funds total \$2.9 million.
- Reductions to your requests for the Federal Aviation Administration (FAA) total \$43 million and are distributed as follows:
- The \$1,944.7 million requested for the operation and maintenance of air traffic control and air navigation systems has been reduced by \$23.7 million. Most of this decrease represents a reduction in new personnel positions requested and a reduction in funds requested for an air traffic second career program, a legislatively-required program to retrain disabled air traffic controllers.
 - Your request for FAA's research, engineering, and development programs is reduced by \$17.7 million. This reduction represents a House/Senate compromise on the appropriate level of funding (\$85.4 million) for development efforts related to the Microwave Landing System and the Discrete Address Beacon System/Intermittent Positive Control.
 - Other minor decreases total \$1.6 million.
- Reductions to your requests for the Coast Guard total \$22.5 million and are distributed as follows:
- The Congress has reduced your requests (\$184.3 million) for acquisition, construction, and improvement programs by \$12.0 million. Most of this

reduction (\$10.9 million) represents a denial of funds for the purchase of long lead-time components for the Gulf of Mexico and East Coast Loran-C navigation systems, pending development of an integrated national plan for navigational systems.

- A \$6.9 million reduction for operating expenses includes reduced space rental payments to the General Services Administration, a reduced operation allowance for new shore facilities (based on anticipated delays in achieving fully operational status), and a lower allowance for the Coast Guard's recruiting efforts.
- Other minor reductions total \$3.6 million.
- Reductions to your requests for the Urban Mass Transportation Administration total \$22.9 million and include a decrease of \$19.8 million to the \$85.2 million requested for research, development, and demonstration activities--mostly for additional projects involving advanced technology transit systems--and other minor decreases totaling \$3.1 million.
- Reductions of \$11.1 million are applied against the various programs of the Office of the Secretary. Most of the decrease (\$8.6 million) reduces levels of funding for transportation planning, research, and development.
- The Congress has reduced your requests (\$62.9 million) for the Interstate Commerce Commission by \$7.9 million. Payments to railroads directed to provide emergency rail service will be reduced from the levels you requested.
- Other minor decreases to your requests for related agencies--all under \$5 million each--total \$7.9 million.

Appropriations to Liquidate Contract Authorizations

In addition to the new budget authority discussed above, the bill contains \$8.82 billion in appropriations to liquidate contract authorizations, a reduction of \$18.3 million from the budget estimate. Current estimates

indicate, however, that an additional \$2 billion will have to be provided in supplemental liquidating appropriations during 1976 and the transition quarter to meet commitments that will fall due during that time. The commitments are made under authorizations contained in substantive bills and include the payments made from the Highway Trust Fund for the Federal-aid highway programs, from the Airport and Airway Trust Fund for airport grants-in-aid, for highway traffic safety programs, and from the Urban Mass Transportation Fund.

Language Provisions

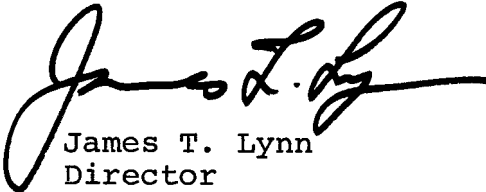
In addition to the section 316 limitation on certain highway programs discussed earlier, the following language provisions of the enrolled bill warrant mention:

- Section 312 of the bill includes a "coming-into-agreement" provision which would, in effect, prohibit the Federal Aviation Administration from using any funds appropriated in the Act for instituting administratively a user fee system for aviation certifications and licenses, unless "the appropriate committees of the Congress" review and approve the system. Approval solely by Congressional committees of an Executive action, such as instituting the user fee system, has been unacceptable to a long line of Presidents as a violation of the separation of powers doctrine. We recommend that we avoid subjecting this user fee system to committee approval simply by not implementing it this year. The effect of this recommendation is to increase outlays by \$35 million in 1976 and \$9 million in the transition quarter. The alternative--asking the Congress to remove the restriction--has no realistic chance of success.
- Section 306 of the bill places, as requested, a limitation on the obligations which may be incurred by the Urban Mass Transportation Administration for administrative expenses. Funds for assistance to cities for mass transit programs, however, are excluded from this provision. This exclusion, which was not part of the Administration's proposal, results in a \$125 million increase to 1976 outlays.

- The language of the enrolled bill also provides "That the permanent positions authorized under the Alaska Railroad Revolving Fund shall be established at 902 and excluded from staffing limitations otherwise applicable." We had recommended a total end-of-year 1976 permanent staffing level of 758 for the Alaska Railroad, 144 fewer than the bill allows. Congressional determination of an activity's total staffing level violates the flexibility needed by--and traditionally extended to--the Executive Branch as it seeks to control Federal employment levels through the establishment of end-of-year employment ceilings.

Recommendation

I recommend that you sign the enrolled bill.



James T. Lynn
Director

Attachment



H. R. 8365, DEPARTMENT OF TRANSPORTATION
AND RELATED AGENCIES APPROPRIATION ACT, 1976
Change in Level of Funding, 1975 to 1976

(Budget authority in thousands of dollars)

<u>Organization/item</u>	<u>Change from 1975--Ad- ministration request</u>	<u>Change from 1975--Con- gressional action</u>	<u>Congressional action on Ad- ministration request</u>
Office of the Secretary...	6,572	-2,443	-9,015
Coast Guard.....	149,670	132,382	-17,288
Federal Aviation Adminis- tration.....	-70,109	-104,407	-34,298
Federal Highway Adminis- tration.....	-7,975	-19,755	-11,780
National Highway Traffic Safety Administration....	1,276	-4,024	-5,300
Federal Railroad Adminis- tration:			
Rail transportation improvement and employ- ment.....	-5,000	85,000	90,000
Other.....	<u>187,703</u>	<u>136,928</u>	<u>-50,775</u>
Total, Federal Rail- road Administration..	(182,703)	(221,928)	(39,225)
Urban Mass Transporta- tion Administration.....	32,090	13,290	-18,800
Other related agencies....	<u>10,226</u>	<u>1,412</u>	<u>-8,814</u>
Total.....	304,453	238,383	-66,070*

*Consisting of:

Increases denied by the Congress.....	-103,525
Decreases denied by the Congress.....	5,000
Congressional initiatives.....	<u>32,455</u>
	<u>-66,070</u>

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1005

Date: November 19

Time: 1100am

FOR ACTION: Steve McConahey *lh*
 Max Friedersdorf *oh* cc (for information): Jack Marsh
 Ken Lazarus *oh* Jim Cavanaggh
Jim Fall

FROM THE STAFF SECRETARY

DUE: Date: November 20

Time: 500pm

SUBJECT:

H.R. 8365 - DOT and related agencies appropriation Act, 1976

ACTION REQUESTED:

- | | |
|---|---|
| <input type="checkbox"/> For Necessary Action | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

Date: November 19

Time: 1100am

FOR ACTION: Steve McConahey
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh

Jim Fall (metro section)

FROM THE STAFF SECRETARY

OK
[Signature]

DUE: Date: November 20

Time: 500pm

SUBJECT:

H.R. 8365 - DOT and related agencies appropriation Act, 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President

Date: November 19

Time: 1100am

FOR ACTION: Steve McConahey
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: November 20

Time: 500pm

SUBJECT:

H.R. 8365 - DOT and related agencies appropriation Act, 1976

ACTION REQUESTED:

___ For Necessary Action

___ For Your Recommendations

___ Prepare Agenda and Brief

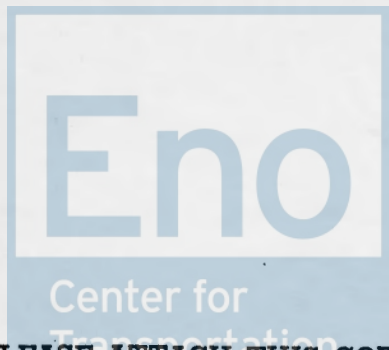
___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing



*Concern
Steve M
This includes significant
variances, namely highway
ceiling, & within Admin
budget, & limitation on
railroad jobs proposal.*

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James H. Cavanaugh
For the President

THE WHITE HOUSE

WASHINGTON

November 20, 1975

MEMORANDUM FOR: JIM CAVANAUGH
FROM: MAX L. FRIEDERSDORF *M.L.*
SUBJECT: H.R. 8365 - DOT and related agencies
appropriation Act, 1976

The Office of Legislative Affairs concurs with the agencies
that the subject bill be signed.

Attachments



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 1005

Date: November 19

Time: 1100am

FOR ACTION: Steve McConahey
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh

FROM THE STAFF SECRETARY

DUE: Date: November 20

Time: 500pm

SUBJECT:

H.R. 8365 - DOT and related agencies appropriation Act, 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection.

Ken Lazarus

by D.C.



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cavanaugh
For the President